VOLUME ONE OF FOUR

STATE OF SOUTH CAROLINA

In The Supreme Court

APR 29 2005
S.C. SUPREME COURT

APPEAL FROM BERKELEY COUNTY

R. Markley Dennis, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JESSIE WAYLON SAPP,

APPELLANT

RECORD ON APPEAL

JOSEPH L. SAVITZ, III
Acting Chief Attorney

South Carolina Office of Appellate Defense
1205 Pendleton Street, Room 306
Columbia, SC 29201
(803) 734-1330

Attorney for Appellant

HENRY DARGAN MCMASTER
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Assistant Deputy Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

RALPH E. HOISINGTON
Solicitor, Ninth Judicial Circuit
101 Meeting St., Ste. 400
Charleston, SC 29401-2214
fax (843) 740-5858
(843) 958-1900

Attorneys for Respondent

INDEX

INDEX i

TRIAL TRANSCRIPT 1

OCTOBER 18, 2002

MOTION FOR SUBSTITUTION OF COUNSEL 14

MAY 2, 2003

MOTIONS 26

TESTIMONY

JOHN GARRISON 44

MAY 9 – 17, 2003

JURY POOL QUALIFICATION 76

INDIVIDUAL VOIR DIRE 384

OPENING STATEMENT BY THE STATE 1048

OPENING STATEMENT BY DEFENSE 1056

TESTIMONY

PATRICK WAYNE SIGWALD 1072
TONY CANANT 1124
BRYAN DEWITT 1142
ROY B. BARWICK, III 1162
STEVE GRAINGER 1195
JOHN TUTTLE 1217
DEAN KOKINDA 1222
MICHAEL LEWIS 1245
SUSAN SMITH 1253
ALLAN BENNETT 1258
MARK TILLMAN 1273
JILL CLARK 1285
CHARLES SCIARROTTA 1309
DIANE BODIE 1325

KENNETH L. BOGAN 1369
JOSEPH D. POWELL 1379
VELLO PAAVEL 1408

CLOSING STATEMENT BY THE STATE 1503

CLOSING STATEMENT BY DEFENSE 1523

CLOSING STATEMENT BY THE DEFENDANT 1545

JURY CHARGE 1546

VERDICT 1584

OPENING STATEMENT BY THE STATE 1604

OPENING STATEMENT BY DEFENSE 1609

TESTIMONY

DEBORAH BRADLEY 1616
DOROTHY BUSH 1622
GREG FRIDAY 1626
ISAAC LADSON 1636
JOHN B. GARRISON 1643
JAMES A. WOODS 1679
KATHRYN BOLES 1689
DENNIS TURNER 1718
BRIAN ADAJAR 1724
DOUG MURRELL 1737
JAMES RAMSEY 1742
MARK BOLES 1745
JOHN BEARDEN 1758
TIM JOHNSON 1766
MELISSA JOHNSON 1775
DAVID J. BAGGETT 1793
CHARLES PASCIEN 1805
DAVID EPPS 1812
SUSAN LANTZ 1820
CATHY CATCHINGS 1834
JAMES CATCHINGS 1845

CLOSING STATEMENT BY THE STATE 1853

CLOSING STATEMENT BY DEFENSE 1863

CLOSING STATEMENT BY THE DEFENDANT 1869

JURY CHARGE 1875

VERDICT 1893

SENTENCING 1902

PRETRIAL HEARING DATED JULY 29, 2002 1906

PRETRIAL HEARING DATED MARCH 26, 2003 1922

INDICTMENTS 1961

NOTICE OF EVIDENCE IN AGGRAVATION 1973

NOTICE OF INTENTION TO SEEK THE DEATH PENALTY 1974

STATUTORY INSTRUCTIONS 1975

FINDING OF AGGRAVATING CIRCUMSTANCES 1977

RECOMMENDATION OF DEATH SENTENCE 1979

AFFIRMATION OF DEATH SENTENCE 1981

SENTENCE 1982

CERTIFICATE OF COUNSEL 1983

STATE OF SOUTH CAROLINA	)COURT OF GENERAL SESSIONS
	)02-GS-08-1146, 1683, 1685,
COUNTY OF BERKELEY	)1687, 03-GS-08-686

STATE OF SC,	)
vs.	) TRANSCRIPT OF RECORD
JESSE WAYLON SAPP,	) VOLUME I OF IV
DEFENDANT.	)

ORIGINAL

October 18, 2002
May 2, 2003
May 9-17, 2003
Moncks Corner, SC

B E F O R E:

THE HONORABLE R. MARKLEY DENNIS, JR., JUDGE; and a jury.

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

RALPH E. HOISINGTON, SOLICITOR
BLAIR C. JENNINGS, DEPUTY SOLICITOR
Attorneys for the State

PAUL C. ARCHER, ESQ.
ROBERT JOHNSTON, ESQ.
Attorneys for the Defendant

KAREN MARTIN, RPR, CRR
Official Court Reporter

INDEX OF WITNESSES

JOHN GARRISON

Direct By Mr. Jennings 44

Cross By Mr. Archer 64

PATRICK WAYNE SIGWALD

Direct By Mr. Hoisington 1072

Cross By Mr. Archer 1104

Redirect By Mr. Hoisington 1118

Recross By Mr. Archer 1120

TONY CANANT

Direct By Mr. Jennings 1124

Cross By Mr. Archer 1134

Redirect By Mr. Jennings 1139

Recross By Mr. Archer 1140

BRYAN DEWITT

Direct By Mr. Jennings 1142

Cross By Mr. Archer 1154

Redirect By Mr. Jennings 1161

ROY B. BARWICK, III

Direct By Mr. Hoisington 1162

Cross By Mr. Archer 1179

Redirect By Mr. Hoisington 1194

STEVE GRAINGER

Direct By Mr. Hoisington 1195

Cross By Mr. Archer 1207

Redirect By Mr. Hoisington 1211
JOHN TUTTLE
Direct By Mr. Jennings 1217
DEAN KOKINDA
Direct By Mr. Jennings 1222
Cross By Mr. Johnston 1229
Redirect By Mr. Jennings 1235
Recross By Mr. Johnston 1236
MICHAEL LEWIS
Direct By Mr. Jennings 1245
SUSAN SMITH
Direct By Mr. Hoisington 1253
ALLAN BENNETT
Direct By Mr. Hoisington 1258
Cross By Mr. Archer 1265
Redirect By Mr. Hoisington 1270
Recross By Mr. Archer 1272
MARK TILLMAN
Direct By Mr. Jennings 1273
Cross By Mr. Archer 1281
JILL CLARK
Direct By Mr. Jennings 1285
Cross By Mr. Johnston 1293
CHARLES SCIARROTTA
Direct By Mr. Hoisington 1309

Cross By Mr. Johnston 1311
DIANE BODIE
Direct By Mr. Jennings 1325
Cross By Mr. Johnston 1351
KENNETH L. BOGAN
Direct By Mr. Jennings 1369
Cross By Mr. Archer 1376
JOSEPH D. POWELL
Direct By Mr. Jennings 1379
Cross By Mr. Johnston 1390
VELLO PAAVEL
Direct By Mr. Jennings 1408
Cross By Mr. Johnston 1452
Redirect By Mr. Jennings 1480
DEBORAH BRADLEY
Direct By Mr. Jennings 1616
DOROTHY BUSCH
Direct By Mr. Jennings 1622
GREG FRIDAY
Direct By Mr. Jennings 1626
Cross By Mr. Archer 1634
Redirect By Mr. Jennings 1635
ISAAC LADSON
Direct By Mr. Hoisington 1636
Cross By Mr. Archer 1640

JOHN B. GARRISON

Direct By Mr. Hoisington 1643

Cross By Mr. Archer 1665

Redirect By Mr. Hoisington 1672

Recross By Mr. Archer 1673

JAMES A. WOODS

Direct By Mr. Hoisington 1679

KATHRYN BOLES

Direct By Mr. Hoisington 1689

Cross By Mr. Archer 1713

Redirect By Mr. Hoisington 1716

DENNIS TURNER

Direct By Mr. Jennings 1718

Cross By Mr. Archer 1723

BRIAN ADAJAR

Direct By Mr. Jennings 1724

Cross By Mr. Archer 1732

Redirect By Mr. Jennings 1735

DOUG MURRELL

Direct By Mr. Jennings 1737

Cross By Mr. Archer 1741

JAMES RAMSEY

Direct By Mr. Jennings 1742

MARK BOLES

Direct By Mr. Hoisington 1745

Cross By Mr. Archer 1757
JOHN BEARDEN
Direct By Mr. Hoisington 1758
Cross By Mr. Archer 1763
TIM JOHNSON
Direct By Mr. Hoisington 1766
MELISSA JOHNSON
Direct By Mr. Hoisington 1775
DAVID J. BAGGETT
Direct By Mr. Archer 1793
Cross By Mr. Hoisington 1801
CHARLES PASCIEN
Direct By Mr. Archer 1805
Cross By Mr. Jennings 1808
DAVID EPPS
Direct By Mr. Archer 1812
Cross By Mr. Jennings 1816
Redirect By Mr. Archer 1819
SUSAN LANTZ
Direct By Mr. Archer 1820
Cross By Mr. Jennings 1831
Redirect By Mr. Archer 1833
CATHY CATCHINGS
Direct By Mr. Archer 1834
JAMES CATCHINGS

Direct By Mr. Archer 1845

» › o ‹ «

Opening Statement by Mr. Jennings 1048

Opening Statement by Mr. Archer 1056

Closing Statement by Mr. Jennings 1503

Closing Statement by Mr. Johnston 1523

Closing Statement by The Defendant 1545

Jury Charge 1546

Verdict 1584

Opening Statement by Mr. Hoisington 1604

Opening Statement by Mr. Johnston 1609

Closing Statement by Mr. Hoisington 1853

Closing Statement by Mr. Archer 1863

Closing Statement by The Defendant 1869

Jury Charge 1875

Verdict 1893

Sentencing 1902

STATE'S EXHIBITS

NO	DESCRIPTION	ID	EV
1	38 Smith & Wesson	1023	1204
2	40 Caliber Glock	1023	1092
3	40 Caliber Glock	1023	1204
4	40 Caliber Glock	1023	1173
5	Sapp Bullet	1023	1214

1	6	Check	1023 1214
2	7	Casing	1023 1214
3	8	Casing	1023 1214
4	9	Casing	1023 1214
5	10	Casing	1023 1214
6	11	Casing	1023 1214
7	12	Casing	1023 1214
8	13	Casing	1023 1214
9	14	Casing	1023 1214
10	15	Casing	1023 1214
11	16	Casing	1023 1214
12	17	Casing	1023 1214
13	18	Casing	1023 1214
14	19	Casing	1023 1214
15	20	Casing	1023 1214
16	21	Casing	1023 1214
17	22	Casing	1023 1214
18	23	Casing	1023 1214
19	24	Casing	1023 1214
20	25	Casing	1023 1214
21	26	Casing	1023 1214
22	27	Casing	1023 1214
23	28	Casing	1023 1214
24	29	Casing	1023 1214
25	30	Casing	1023 1214

31	Bullet	1023	1214
32	Victim Bullet	1023	1214
33	Casing	1023	1214
34	Casing	1023	1214
35	40 Caliber Smith & Wesson	1023	1171
36	40 Caliber Clip	1023	1171
37	380 Magnum Clip	1023	1214
38	380 Magnum Clip	1023	1214
39	40 Caliber Clip	1023	1214
40	Holster	1023	1214
41	Holster	1023	1214
42	Flashlight	1023	1093
43	Bag w/ Bullet Proof Vest	1023	1095
44	Bag w/ Reflective Vest & Uniform	1023	1094
45	40 Caliber Clip	1023	1204
46	Johnson Gunshot Residue Test	1023	1214
47	Sapp Gunshot Residue Test	1023	1214
48	Bag w/ Dewitt's Shirt	1023	1153
49	Bag w/ Sapp's Jeans	1023	1214
50	Swab from Trigger Guard	1023	1214
51	3 Swabs from Sapp Gun	1023	1214
52	Sapp Blood Sample	1023	1214
53	Sapp Fingerprint	1023	1214
54	Fingerprint from Clip	1023	1214
55	Drugs	1023	1214

56	Fanny Pack	1023	1214
57	Digital Scale	1023	1214
58	Pill Divider	1023	1214
59	Pill Cutter	1023	1214
60	Backpack	1023	1214
61	Leather Backpack	1023	1214
62	Backpack	1023	1214
63	Visor	1023	1093
64	Sapp Driver's License	1023	1085
65	Sigwald Video	1023	1101
66	Grainger Video	1023	1137
67	Barwick Video	1023	1135
68	Transparency	1023	1214
69	Photograph	1023	1214
70	Photograph	1023	1214
71	Photograph	1023	1214
72	Photograph	1023	1214
73	Photograph	1023	1096
74	Photograph	1023	1214
75	Photograph	1023	1214
76	Photograph	1023	1178
77	Photograph	1023	1214
78	Photograph	1023	1214
79	Photograph	1023	1214
80	Photograph	1023	1178

81	Photograph	1023	1214
82	Photograph	1023	1214
83	Photograph	1023	1214
84	Photograph	1023	1214
85	Photograph	1023	1214
86	Photograph	1023	1214
87	Photograph	1023	1214
88	Photograph	1023	
89	Diagram	1066	1097
90	Photograph	1066	1084
91	Diagram	1239	1337
92	EMS Report	1248	
93	Conventional Rifling Diagram	1422	
94	Polygonal Rifling Diagram	1422	
95	40 Caliber H & K Gun	1595	1633
96	Bersa 380 Gun	1595	1752
97	Hipoint 9 Millimeter Gun	1595	1752
98	Bersa 380 Gun	1595	1752
99	CCDC Log Sheet	1595	
100	Bullet from House 887	1595	1741
101	Bullet from Kitchen of Lot 56	1595	1730
102	Bullet from Yard of Lot 56	1595	1731
103	Bullet from Buick Century	1595	1741
104	Indictment No. 99-GS-10-2637	1595	1626
105	Indictment No. 99-GS-10-0243	1595	1626

106	Dottie Busch Letter	1595	1625
107	Deborah Bradley Letter	1595	1620
108	SC Trooper Summer 2002	1595	1686
109	Backpack	1595	1752
110	Photograph	1595	1727
111	Photograph	1595	1727
112	Photograph	1595	1727
113	Photograph	1595	1727
114	Photograph	1595	1727
115	Photograph	1595	1738
116	Photograph	1595	1738
117	Photograph	1595	1738
118	Photograph	1595	1738
119	Photograph	1595	
120	Photograph	1595	
121	Photograph	1595	1632
122	Photograph	1595	1629
123	Photograph	1595	1619
133	Evidence Bag with Scales & Marijuana	1722	1722
132	Magazine	1722	1722
134	Compact Disc	1736	1759
135	Videotape of the Funeral	1852	

DEFENDANT'S EXHIBITS

NO	DESCRIPTION	ID	EV
1	Photograph	1023	1191
2	Photograph	1023	1191
3	Photograph	1023	1191
4	Photograph	1023	1191
5	Diagram	1023	1214
6	Photograph	1023	1214
7	Bryan DeWitt's Statement	1160	
8	Photograph	1461	1461
9	Photograph	1475	1475

COURT'S EXHIBITS

NO	DESCRIPTION	ID	EV
1	Letter	404	
2	Juror Summons & Questionnaire	1021	
3	Jury Note	1580	

All exhibits were retained by the Clerk of Court.

Friday, October 18, 2002

THE COURT: Please let the record reflect that Mr. Sapp is present.

Mr. Sapp, we are present here today based on your motion for substitution of counsel. Prior to having -- bringing you in, we have had a status conference because the Court was somewhat concerned about how an attorney became involved with you that is not appointed -- already appointed counsel for you. So we have had some discussions in chambers concerning that fact.

THE DEFENDANT: Yes, sir.

THE COURT: I have discussed with them my position on your motion and have discussed with them that I would consider your motion and consider appointing them but I would not approve any expenses for time spent from travel from their offices --

And I'm not sure, Mr. Johnston, is your office likewise in Pawleys Island, sir?

MR. JOHNSTON: No, sir, it is a few miles north of Pawleys Island.

THE COURT: So I would not approve any travel expenses from their offices to -- are you still in Charleston?

THE DEFENDANT: Yes, Your Honor.

THE COURT: I would not approve any travel

expenses. I would approve expenses spent with you at the jail as any attorney would be. But I would not approve that because I understand your motion. And the reason I'm going through this is I want to find out after we have determined on Mr. Archer and Mr. Johnston's position whether you want me to entertain the motion further.

There are -- assuming just for the sake of this discussion you are dissatisfied with both of your attorneys at this point, there are a number of attorneys in Charleston and Berkeley Counties who are approved and have been certified by the Supreme Court to act as first chair in a capital murder case. So I'm not the least bit concerned about the ability to have someone, should you be entitled to substitute counsel, from this circuit. However, you specifically requested attorneys.

THE DEFENDANT: Yes, sir.

THE COURT: I'm not bound by that request but I'm prepared to honor the request. But I wanted to disclose to the attorneys the arrangement under which I would honor it, that I would approve it but I would not approve travel time.

So I understand now that Mr. Archer and/or Mr. Johnston wish to respond on the record. And they are -- for the record, they are responding individually of being considered as being appointed but they are not responding

as attorneys for Mr. Sapp.

They are not your attorneys; is that correct, Mr. Sapp?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Have you paid them any money?

THE DEFENDANT: I seek counsel from them, yes, my family has.

THE COURT: I understand that you have conferred with them. But you have not retained either of them, have you?

THE DEFENDANT: I'm not quite sure, Your Honor.

THE COURT: Well, retain means simply you haven't paid them any monies to represent you.

THE DEFENDANT: Honestly, Your Honor, my family handled it, so --

THE COURT: All right.

Mr. Archer and Mr. Johnston, you indicated you wished to respond to the arrangement I discussed?

MR. ARCHER: The only thing, I have done many, many assignments from Pawleys Island to Conway. The last case I just tried was the killing of a police officer in Conway and I was paid for my time for travel. I have never run into a situation where I have never been paid for any travel.

THE COURT: Okay.

MR. ARCHER: And if you are telling me that I cannot be paid for my travel and Mr. Sapp wants me as his attorney -- of course, he knows I'm well qualified and I do death penalty cases. I am certified by the Supreme Court of South Carolina as death penalty certified. I have done many murder cases. And I am the attorney of his choice but I'm not retained. And I don't see how I could possibly take this case if you are not going to allow the Indigent Defense to pay me for my travel time. And Indigent Defense clearly states you are entitled to travel time but, of course, Your Honor has to approve that.

THE COURT: That's correct.

MR. ARCHER: If you are telling me you won't approve it --

THE COURT: I'm telling you for this reason, Mr. Archer, because I can't justify it at this point. Now, if you want to wait in the wings while I go through the lawyers that are more closely connected with this locale, I'll be happy to consider your request later if that's what you wish. But if you want to take this case now, I would not approve it because there is more than one, there are several competent counsels who likewise are death penalty certified. They are very able to handle this case.

MR. ARCHER: I'm quite aware of that.

THE COURT: So that's the rationale for it, sir. I am not just arbitrarily doing that.

MR. ARCHER: I appreciate that.

THE COURT: If you will do me a favor, it will help the record, too. I'll be finished in a minute and then I'll be happy to hear from you further, but please don't interrupt me.

MR. ARCHER: I'm sorry.

THE COURT: When you were last appointed, sir you were in Horry County and you were practicing in Horry County. And most certainly, your travel would be approved as any other attorney's would be. For instance, if Mr. Sapp is somewhat, for some reason, housed after -- before trial in Horry County, then his appointed counsel will certainly be paid travel to Horry County. At this point, I cannot justify that because there is counsel available here for that reason. So that's my rationale for it, sir. And you don't have to agree with it. I understand that. Now, do you want to respond further?

MR. ARCHER: All I'm saying is that I live in Pawleys Island. And the trials that I have had and the murder cases and death penalty cases situated in Conway were an hour way. I timed it down here. It is the same, hour and a half. If you are not going to pay for that, then I will just withdraw. I have no interest --

THE COURT: Just so we know, we aren't talking about hours. Tell me the circuit in which you practice.

MR. ARCHER: Mostly in Horry County.

THE COURT: What's the circuit?

MR. ARCHER: Fifteenth.

THE COURT: This is the Ninth Circuit.

MR. ARCHER: I understand. As I said --

THE COURT: It has nothing to do with where you live, sir. It is where you practice. And you are out of our circuit. Now, if you tell me you have joined the Bar in Charleston, I'll be happy to consider it.

MR. ARCHER: It is not where I live. My office is in Pawleys Island and I live in Pawleys Island. But like I said, I have no interest in this case.

THE COURT: Very well. So you are withdrawing.

Mr. Johnston, do you likewise withdraw?

MR. JOHNSTON: Yes, sir.

THE COURT: Mr. Sapp, do you want me to consider your motion any further?

THE DEFENDANT: Yes, Your Honor.

THE COURT: What's the reason for it, sir?

THE DEFENDANT: Up until this point, Your Honor, I just -- I have a very strong lack of confidence and I don't feel I'm going to receive a fair trial with present counsel.

THE COURT: Let me address some of the issues. First of all, your concern about the attorneys being involved with the solicitor's office, I can't imagine where you would learn more about strategy of the prosecution of a case of this nature than working in the solicitor's office.

I can tell you a number, right now, of very qualified attorneys who are excellent defense attorneys who have been prosecutors in this state. Andy Savage, who is recognized as certainly an incredibly fine defense attorney in criminal court, worked in the solicitor's office before becoming -- before he took up his practice as a criminal lawyer. There are many, many more. Richard Harpootlian, who was a prosecutor for Columbia for years likewise, is an excellent criminal defense lawyer. So that, I don't find any merit in that.

The physical responses or characteristics that you have attributed to certain lawyers, at this point I'm going to assume that was just a misunderstanding and you really are reacting to something that I can't really put a lot of credence in. Now, I'll be happy -- you haven't been with these lawyers long enough to really know what's going on yet, I don't think. How long have you had them as retained counsel?

THE DEFENDANT: Probably two months.

THE COURT: You have just begun, sir.

What's your position, Mr. Churchill or -- and/or Mr. Beck?

MR. BECK: Your Honor, I think I can speak for both of us. And I would take strong exception to many of the items in Mr. Sapp's affidavit as well as the way this was handled. However, we are willing to accept Mr. Sapp's wishes or if the Court deems to continue us on the case. We are ready and willing and able to continue a vigorous defense of Mr. Sapp's case.

THE COURT: All right. What I'm going to do, gentlemen and Mr. Sapp, is this. I'm going to hold your motion open. It will not deal with Mr. Archer or Mr. Johnston at this point. However, I would ask that you talk with your lawyers further concerning some of your concerns to see if there is any possibly that maybe it was just a misunderstanding on your part or whether there is truly some problem with communication or some lack -- and supportable and justifiable lack of trust in their abilities. Thus far, what I have seen in the affidavit, I don't -- there's nothing in there that would suggest to me that what the Court knows from their personal experience as lawyers, my personal dealings with them as a trial judge, and I will concede that primarily I have seen them -- although I have seen Mr. Churchill and Mr. Beck on

the civil side, I haven't seen them in any felony cases thus far to my knowledge, I don't think there have been any felonies. There was a PCR that Mr. Churchill was involved in. But I have tried murder cases with Mr. Churchill, I know that, a number of them. So there is no question of his ability and his knowledge of the law when it comes to this area, no question about that.

THE DEFENDANT: Yes, Your Honor.

THE COURT: He deserves his certification. But all that aside, the bottom line, sir, is that your wishes I will consider. I won't necessarily give you the choice, but I will consider it. I will be happy at the appropriate time, if you feel it cannot be resolved, we'll have a hearing. You ask your attorneys to simply -- why don't we do this. I'm going to mark this motion as heard because it deals specifically -- it's a specific motion dealing with the appointment of Mr. Archer. But I'm going to ask you to talk with your attorneys. If you can't resolve the impasse or if there is an impasse, then I'm going to ask you, through your attorneys, to file a motion to possibly consider substitution of counsel.

THE DEFENDANT: Yes, Your Honor.

THE COURT: Let me tell you another reason because right now the Supreme Court -- it has not been decided per se on a case. But there was a ruling last

year concerning a hybrid defense; and that is where a person has an attorney and then files a pro se motion, which you have done here. Because Mr. Archer could not file that motion for you and I don't consider that he has -- he or Mr. Johnston has, because that would have been inappropriate. They can't be retained when you already have counsel. I could have just simply ignored the motion because it really is of no consequence because it is hybrid. But the cause of the nature of this case I chose to bring you here to hear it.

But I'm going to ask, sir, that you just simply work with your attorneys. If you want to have them removed, they can file a motion to have that accomplished. That's not a problem.

THE DEFENDANT: Yes, Your Honor.

THE COURT: All right?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Yes, sir.

MR. HOISINGTON: Your Honor, would the Court instruct the defendant that the switching of lawyers won't necessarily provide him with a continuation in this case or an extension of time? Sometimes defendants get it in their head they can delay this indefinitely.

THE COURT: I appreciate that, Solicitor. This is early enough where I don't even read that into it. I

will tell you now, for the sake of those present, Mr. Churchill, I believe you and Mr. Beck have been kind enough to respond that you are ready to move forward with it from our last status conference.

I am looking at this point the month of May of 2003. More than likely it will be the second and third weeks. We have a term of criminal court on one of those that have been scheduled. It will simply mean to have to change a common pleas to a criminal term, or it may go the third and the forth weeks. But that's what I'm looking at at this point. All right?

MR. HOISINGTON: Thank you, Judge.

MR. JENNINGS: Your Honor, we had filed -- State had filed two motions that we'd like to schedule. A Schmerber hearing to obtain a sample of the defendant's blood as well as a motion for the Court to order the release of his patient records that are held at Charter of Charleston. And the notice we had put for the week of October 28th, may we proceed to schedule that or would you like to put that off?

THE COURT: Let's do this. I'll be here the entire month of November. And we have a term of court, I think, the third week in November. Let's -- that will give Mr. Sapp at least a month, approximately a month to talk with his attorneys. If I'm going to appoint new

counsel for him, I'm going to need to allow them an opportunity to deal with this.

Gentlemen, I would ask that you meet with him as soon as possible. I know that you will.

MR. CHURCHILL: Yes, Your Honor.

THE COURT: If it does appear we are going to need to go forward with his motion, please just simply refile it. It will not be necessary, I have his affidavits now. It will not be necessary for you to submit any further affidavits for the purposes of justifying the reasons for it. And please, I'm not in any way -- at this point I'm not really dealing with whether all of the allegations in the affidavit are accurate or not. It's just simply that that is a concern that he has and that's my consideration of it at this point.

Mr. Sapp, please understand, I'm not passing judgment on your credibility at all, sir. I'm acknowledging that there appears to be a problem. But hopefully that problem can be remedied. We'll see how it goes.

Thank you very much.

(WHEREUPON, the pre-trial motion proceedings were concluded for the day to be reconvened on Friday, May 2, 2003.)

Friday, May 2, 2003

THE COURT: We are here in the matter of the State vs. Sapp. We have -- this was previously arranged. The purpose of this is to hear motions. Let the record reflect Mr. Sapp is present.

Good morning, Mr. Sapp.

Are there any motions on behalf of the State that have been filed? I know there is a matter concerning the statement of Mr. Sapp. And I understand that's to be dealt with as well. Any other motions?

MR. HOISINGTON: No, Your Honor.

THE COURT: Any motions that have been filed, Mr. Johnston, Mr. Archer, that need to be filed this morning?

MR. JOHNSTON: Well, we have a couple motions. One of them might not have been filed.

THE COURT: All right, sir.

MR. JOHNSTON: There's also a couple of things we'd like to briefly put on the record.

THE COURT: Absolutely.

MR. JOHNSTON: Your Honor's already ruled on the uniforms in the courtroom, so I won't bring that up.

THE COURT: Okay.

MR. JOHNSTON: The solicitors have agreed to provide the defendant's clothing on the day in question.

THE COURT: All right, sir.

MR. JOHNSTON: I believe we are going to get a preliminary witness list today. We should have ours available first of next week.

THE COURT: Okay.

MR. JOHNSTON: They have also agreed to allow us to bring in some photographs that we took of the truck. And that's about all I need to put on the record.

THE COURT: All right, sir.

MR. JOHNSTON: We did have a brief discussion about there's a test bullet. I have a whole lot to do. It was suggested to me that maybe I should contact SLED, but after thinking about it I would make a motion to produce the test bullet. It is crucial to the comparison that SLED's going to testify to.

MR. HOISINGTON: We'll have the test bullet present when the expert testifies, Your Honor.

MR. JOHNSTON: Okay. Secondly, we'd make a motion to suppress the witnesses during this trial. Obviously, the case is going to receive --

THE COURT: That is no problem. I will sequester all witnesses though.

MR. JOHNSTON: Okay. Along those lines, Your Honor, the ultimate jurors that are going to be picked for this trial will be in this courtroom for two, three days,

whatever long that process is going to take. Obviously, you are not going to sequester 250 people. I would ask the Court to consider some sort of a gag order for that two- or three-day period. Most people are going to be going home every day. The news is going to be on. They are going to have publicity on this trial.

THE COURT: Well, let me ask you this question. We haven't seen any indication that anybody's talked about this case. There is no need to talk about this case. I don't -- I honestly have never imposed a gag order. And I tried two in Myrtle Beach where the Sun News -- and no disrespect to the Sun News, they cover court in Conway pretty regularly -- never a problem. I don't see a problem in this case, don't plan to have any. There's nothing going to happen in the first three days about this case any way that's going to be anything to talk about. I'm not going to do that. The jurors are going to be brought in in groups of probably six. And they all won't be here together at one time. It won't be in this courtroom either. They'll be kept in another room.

MR. JOHNSTON: Okay.

THE COURT: The only time they will be totally here is when we qualify them. And then after we do that, we'll draw the panels and we'll advise them when to return.

MR. HOISINGTON: I'm sure when the entire panel is voir dired you can admonish them not to read anything in the papers.

THE COURT: I will be admonishing them constantly about that. And quite frankly, the gag order, again, doesn't assure anything anymore than just instructing them that they are not to read that. And obviously, if it does, it happens. It's a risk we run with any trial and we'll have to deal with it if that happens. But I note your request but at this point I'm not going to impose a gag order. But I'm going to ask that -- not that there's any problem with talking, but I think we all know what happens when we do that. And the press is certainly entitled to report what they feel is proper news. And the best way to do that is simply that I'm required to do, I can't talk about it.

MR. JOHNSTON: That's fine.

THE COURT: I would just take the position there is no need to talk about it. But that's up to you. I'm going to leave that to your discretion at this point.

MR. JOHNSTON: Thank you. Your Honor, I don't know what you can do to help in this situation. Maybe the solicitor can help. And I'm not drawing any conclusions and I'm not pointing any fingers. I've been over to the jail a couple times to see Mr. Sapp. And the staff over

there has been extremely courteous and professional. I have had two conversations with Sergeant Riley and he's been extremely accommodating, but I have an obligation to bring this to someone's attention. I sent Mr. Sapp a stack of blank papers and stamped envelopes. And I asked him to communicate with me on a regular basis and anyone else that he's felt is necessary. His ability to write, which is access to an ink pen, has been extremely limited. At this point in time it's crucial that he be able to send letters. And I don't know what can be done. He told me the last time there was a lot of pencils two days ago. But we are really running out of time. If he needs to write a letter on any day I would like for him to have the ability to do that.

THE COURT: What's the -- are they not allowed ink pens?

How about have whoever I need to speak to here. I need to have them here to do whatever is necessary to accomplish that, please, sir.

DEPUTY PIPKIN: Yes, sir.

MR. JOHNSTON: Thank you. Your Honor, while they are doing that, there is one matter that we would like to approach off the record in your office. It will just take a minute.

THE COURT: All right.

MR. JOHNSTON: Just if we can approach.

THE COURT: Approach for a side bar, please, and we'll see whether --

Let me ask, Mr. Sapp, you are in agreement with my having this discussion without you being present?

THE DEFENDANT: Yes, sir.

THE COURT: Thank you.

(WHEREUPON, a bench conference was held.)

THE COURT: Thank you very much for calling that to the Court's attention. We have had a side bar concerning some materials that were obtained during the discovery process. The materials have been shared with the Court. It is my understanding that neither side anticipates any motions at this point.

Is that correct from the State?

MR. HOISINGTON: Yes, sir, Your Honor.

THE COURT: Is that correct from Mr. Sapp's position?

MR. JOHNSTON: Yes, sir.

THE COURT: Very well. Anything else that needs to be placed on the record in this case concerning the side bar?

MR. JOHNSTON: Actually, I have an inquiry. I understand there is some -- not on the side bar.

THE COURT: Okay. So this is moving on to

another matter?

MR. JOHNSTON: Yes, new matter.

THE COURT: New matter.

MR. JOHNSTON: I understand that something is scheduled for on the 9th?

THE COURT: Yes.

MR. JOHNSTON: I'm not clear what it is.

THE COURT: I'll be happy to address that. To facilitate and make certain that we had all the -- the majority and really all of the returns in that we could go and share with you, the clerk -- I have asked the clerk to meet on Friday at 2:30 to go over those returns at that time. There are a number of persons, and I'm in constant communication, who have an exemption by law and I have indicated to her to just make that notation. They are preparing affidavits, sworn affidavits in each situation which will be provided to you. At that point I will hear from either side as to any objection to excusing that person who wishes to exercise their exemption. That's the purpose of that meeting, solely for that. Nothing more than that.

MR. JOHNSTON: Okay. Thank you.

MR. HOISINGTON: In regard to jurors, I might ask a question. The ones that do not return the questionnaire, do you anticipate giving it to them on the

morning of the general --

THE COURT: I can do whatever you want us to do in that regard. It would be of some benefit to you. But also you will have an opportunity if that person's selected to inquire at your -- to the depth you feel necessary on any of those areas.

MR. HOISINGTON: You might extend the individual voir dire on those?

THE COURT: Absolutely. In fact, I will tell you now, on the individual voir dire with the exceptions of rulings which I think go beyond that and contemplated by the law, the length of it, gentlemen, will be up to you, obviously, however long you think it is necessary. It's been my experience in the prior ones that as we go through it, the process, it seems the questions are fewer. And I don't know whether that means we just simply are getting to those areas where we don't have to ask the questions as much. But whatever it is, but I will not restrict you.

MR. HOISINGTON: Do you anticipate giving the jury panel the three types of jurors?

THE COURT: Yes.

MR. HOISINGTON: And additionally, in the order of the voir dire, will it be the State first?

THE COURT: Yes, State first. I will

probably -- I don't know that we'll get into the specific guideline. I typically will -- certainly, I will ask the initial questions, then you, then Mr. Sapp will have the opportunity for his attorneys to ask questions. If either side wishes -- if something that I bring up prompts another question, then I will probably permit that, much as we do in direct and redirect but will give Mr. Sapp the final opportunity to ask any questions. If you ask any additional as a result of theirs, that he will have a chance to follow up that.

MR. JOHNSTON: Your Honor, these people that you'll be excusing because they are exempt, are these statutory exemptions such as age and just those things?

THE COURT: Just those things.

MR. JOHNSTON: I don't anticipate we'll object to that.

THE COURT: I understand that, but just out of an abundance of caution I need to put all that on the record and that's the purpose of that. There will be some, for instance, teachers. The statute says, but there is a question, are they necessary? Is it critical? And those are matters that I really will see whether you wish them to be -- if you want to grant that exemption, that's fine. If not, then I'll bring those persons in and further examine them in your presence relative to those

issues. So primarily, this is to give you notification of those persons, why they are excused, so that you'll have for the weekend benefit before you start on Monday; and secondly, to allow us an opportunity to tell those people they aren't required to come in. And we have sort of tentatively indicated to them it is a statutory exemption, more than likely they will be excused. But we've also indicated as I understand it, you are simply telling them we'll confirm that on Friday. Okay?

MR. ARCHER: Just to follow up, did you say there was 250 going out?

THE CLERK: Four hundred.

MR. ARCHER: Four hundred. I know I discussed this with Blair, I would like to get whatever came back before that --

THE COURT: You can have all of it. In fact, the -- as I understand --

THE CLERK: They are being mailed to him.

THE COURT: Did she indicate she prepares a notebook for everybody or is it just me?

THE CLERK: She just prepared one for you.

THE COURT: Thank you.

MR. JOHNSTON: Have they already been mailed then?

THE CLERK: Pardon me?

MR. JOHNSTON: The have they already been mailed?

THE CLERK: Yes, we mailed some out this week.

THE COURT: Please call me if you don't and I'll try and follow up.

MR. ARCHER: All right.

THE COURT: Thank you. Anything else, Mr. Johnston or Mr. Archer?

MR. JOHNSTON: No, Your Honor, that's it.

MR. HOISINGTON: Judge, there are a couple of little matters to clarify. We anticipate at the week of trial we'll probably be in agreement on the admissibility of all the photographs and all the evidence. We'll premark those with the court reporter. And any that are not in agreement we'll just mark those for ID until we can qualify them and let the Court rule.

THE COURT: All right.

MR. HOISINGTON: Additionally, I presume the Court is going to sequester the jurors that are picked for the jury?

THE COURT: You mean once they are selected?

MR. HOISINGTON: Yes, sir.

THE COURT: I'm not -- I have done it both ways as we are selecting them. I'm not going to sequester them as they are selected, as they are indicated that they will

be accepted in the pool. Once they have been selected and we have gone through the process, then they will be sequestered for the balance of the trial, yes, sir.

MR. HOISINGTON: And we, I believe, are providing a witness list to the defense today. I presume they will have a witness list on Monday morning of trial so the jury can be asked if they know any of these people.

THE COURT: Is that correct?

MR. JOHNSTON: I think I told the Court I was expecting to have it ready this coming Monday.

THE COURT: That's fine, just by that Monday will be fine. If you wish to add some, certainly, you are free to do that, Mr. Johnston.

MR. HOISINGTON: Additionally, Your Honor, just so I understand. We have already instructed the Highway Patrol that any of the people coming to observe the trial and everything, we would prefer, and as a matter of fact the Court has directed they not been in uniform unless -- because principally they are here to watch. Does that extend to the testimony of the three Highway Patrol witnesses that were on duty the night this occurred?

THE COURT: Frankly, my feeling about it is this, Solicitor. Certainly, if they are on duty, I understand they have a right and are probably required to be in uniform. My whole purpose -- and I'm not suggesting

by any of this that anyone has any motive or design or scheme to influence the jury. It's simply out of an abundance of caution to simply just not have that because of the nature of this -- of one of the aggravating circumstances in this case. We don't -- just don't need to have that added to it. So I would ask as an accommodation to the Court that they not. But if they are on duty, then that's fine.

MR. HOISINGTON: Well, obviously, Your Honor's requests carry a lot of weight with the State. Let me ask you one additional bit of guidance then. If we get to the point of the penalty phase in this, it would occur to me and it would seem there's obviously a different set of rules at that point. And the impact on the community, the impact on his co-workers, the impact on everybody then becomes of some relevance. Do you have a problem with them appearing at that point in uniform?

THE COURT: I think that any display of that could be considered to be coercive and unnecessary. This case is going to be decided on what's testified to, not what occurs in the courtroom and that's my feeling for that.

MR. HOISINGTON: Thank you, Judge. I understand that.

THE COURT: I have gone so far -- and I

appreciate very much Sheriff DeWitt and his staff, I think there may be uniformed persons on the door, I believe, but that will be the only uniform, those persons that are manning doors for the sheriff, they will not be Highway Patrolmen, anyone here, security that will be necessary for -- I understand the procedure concerning Mr. Sapp, will be in plain clothes. So there won't be a row of uniformed Officers seated behind you. Again, only because, Solicitor, I want this case decided -- and again, please don't misinterpret, I'm not accusing you or suggesting that you would do anything other than what's proper.

MR. HOISINGTON: I understand that. Let me extend this one step.

THE COURT: Sure.

MR. HOISINGTON: I anticipate having one of his better friends from the Highway Patrol to testify during the penalty phase about the impact it has on his co-workers and the patrol. I would like him to be in uniform.

THE COURT: At that point I will certainly entertain that if we get to that point.

MR. HOISINGTON: Yes, sir.

THE COURT: And I'll be happy to entertain that and we can place on the record anything --

MR. HOISINGTON: But beyond that I'm sensitive to what the Court's concerned with.

THE COURT: Thank you. Anything else?

MR. JENNINGS: Your Honor, Sergeant Riley from the detention center is here.

THE COURT: Sergeant, good morning.

SERGEANT RILEY: Good morning.

THE COURT: And I'm sorry to bother you, sir, but I need your assistance. In this case it appears that Mr. Sapp's attorneys have afforded him some writing material to assist him in communication both with them and anyone else. And I understand -- I think I can understand, I don't profess a complete knowledge, but I can understand why you would want to restrict instruments such as pens because of their use.

SERGEANT RILEY: Yes, sir.

THE COURT: I need your assistance now until this matter is tried, he needs to have access to pens, please.

SERGEANT RILEY: Are we looking at an hour a day, would that suffice?

THE COURT: I really don't want to restrict it. I think that we just need to give him access. Now, you know, obviously, he can't have it totally. And I'm not going to expect you to sit with him around the clock and

at 12 o'clock at night. But during a normal day I think he ought to have access to it.

SERGEANT RILEY: Yes, sir, we can make that happen.

THE COURT: If you can, I would appreciate it, sir.

SERGEANT RILEY: Yes, sir.

MR. JOHNSTON: Thank you.

THE COURT: Anything else, Mr. Johnston, Mr. Archer?

MR. JOHNSTON: No, sir, that concludes everything we have.

MR. JENNINGS: Your Honor, at the March 26th status conference there were a number of items the State said we would have available today. One of those is a preliminary potential witness list that we've -- this is the guilt phase as well as any potential penalty phase.

THE COURT: Let the record reflect those have been given to Mr. Sapp.

MR. JENNINGS: We would like to reserve the right if anything comes up we may add some witnesses by Monday.

THE COURT: Any objection by Monday adding any additional witnesses?

MR. JOHNSTON: None, Your Honor.

MR. JENNINGS: We have also -- I have copies of all the criminal records of any civilian witnesses that may be called. We didn't, just for economy's sake, not run, obviously, the police officers, doctors, anybody that wouldn't be in their profession if they had a criminal record.

THE COURT: Very well. Those have been provided as well.

MR. JENNINGS: And we also said we have an updated disk of phone calls that Mr. Sapp made from the Charleston County Detention Center. There's a printed out list of numbers and dates. And I have highlighted the two known calls that we would intend to use potentially in a penalty phase.

THE COURT: Very well.

MR. JENNINGS: And the final thing, I have provided them with copies, there were some procedural items that we corrected in the indictment and presented that to the April Grand Jury, true-billed indictment was returned. We served that -- two copies on Mr. Sapp as well as provided copies to his attorneys. And that would be the indictment that we'd proceed on at trial and that indictment was 2003-GS-08-0686. As I told him, there were no factual changes made just some procedural language added.

THE COURT: Any objection from Mr. Sapp?

MR. ARCHER: No, sir. We did receive that.

THE COURT: Very well. Thank you.

MR. JENNINGS: At this point, unless we hear differently, we will proceed on all the charges pending against Mr. Sapp, the drug charges as well as the murder and the carrying of an unlawful pistol.

THE COURT: If you would just give me those sometime so I could go ahead and start preparing the appropriate charge.

MR. JENNINGS: Yes, sir.

MR. JOHNSTON: Did I hear him say or not say about a stolen vehicle?

MR. JENNINGS: And the stolen vehicle. Any charges that are pending is what we are going to try him on to this incident.

THE COURT: Okay.

MR. JENNINGS: And the final incident, they were discussing the evidence. It is my understanding since we will be proceeding on the drug charges that we will certainly -- the witnesses we are going to call are going to establish the chain of custody. But they are not requiring us to call every single witness to completely complete the chain.

THE COURT: Is that correct, Mr. Johnston?

MR. JOHNSTON: There is going to be a great deal of stipulating.

THE COURT: Very well. Thank you.

MR. JENNINGS: I think the only other thing we have is the Jackson Denno hearing.

THE COURT: All right. I'll be happy to hear from you concerning that matter.

MR. JENNINGS: Thank you, Your Honor. The State calls Agent John Garrison.

JOHN GARRISON, after being duly sworn, testified as follows:

THE CLERK: Please be seated. State your full name and spell your last name.

THE WITNESS: My name is John B. Garrison, G-A-R-R-I-S-O-N.

DIRECT EXAMINATION

BY MR. JENNINGS

Q Agent Garrison, you are employed with SLED?

A Yes, sir, I am.

Q In what capacity?

A I'm a senior agent assigned to the criminal division in Charleston.

Q And what are some of your duties and responsibilities?

A Duties are the investigation of crimes that SLED

would be called in to investigate which would include anything from financial fraud or white-collar crime to assisting agencies in pretty much anything they can request.

Q I believe SLED's responsible for the investigation of any shootings involving state officials?

A Yes, sir. The policy is that any shooting involving a state employee, SLED would come in to investigate unless it was involving a SLED employee himself.

Q And that would include the South Carolina Highway Patrol?

A Yes, sir, it does.

Q And how many years of law enforcement experience do you have?

A Approximately 25 years.

Q I believe 13 of that was spent with the Charleston County Sheriff's Department?

A Yes, sir, but the Charleston County Police Department and when it changed to the Charleston County Sheriff's Office, I stayed on.

Q And I would imagine over that 25 years you have had the opportunity to do countless interviews of suspects and witnesses in crimes?

A Yes, sir, I have.

Q I would turn your attention to July 7th of 2002.

Were you notified that morning about an incident that occurred in Berkeley County?

A Yes, sir, I was notified at my home to respond to College Park Road in reference to a shooting that involved a Highway Patrol officer.

Q And when you got to the scene, were you aware of the identity of that patrolman?

A I was not until I got there. Once I got there I was informed who the Officer was, yes.

Q Who was that?

A Kenneth Johnson.

Q Was he still at the scene or had he been transported somewhere when you arrived?

A At the time I arrived he had already been transported by EMS.

Q Did you subsequently find out that he had been killed as a result of the injuries he sustained?

A Yes, sir. Not long after I had arrived someone had come up and told me he had passed away from his wounds.

Q Were you also aware that there was a suspect in this case?

A Yes, sir, I was.

Q And what was his name?

A His name is Jesse Sapp.

Q Was he at the scene when you arrived?
A No, sir, he had already been transported away. It was my understanding at that point that he had been injured and he had also been transported to a hospital.
Q Did you make any attempts to contact him on the morning or the day of July 7th?
A No, sir, I did not.
Q What were you waiting for until you made contact with him?
A Mr. Sapp, we understood that his wounds were severe, at that point did not know if they were life threatening. There was no attempt on our part to make any contact with him until he was in a better physical condition to speak with us.
Q And on July the 9th of 2002, were you informed that he had been moved out of intensive care?
A Yes, sir, we were notified that he had been taken from intensive care to a private room at the Sumter Medical Center and he was under watch by the Charleston County detention officers.
Q Did you come into contact with Mr. Sapp on the 9th?
A Yes, sir, I did.
Q Was anybody with you?
A Yes, sir, Lieutenant Buster Edwards also of SLED was

with me.

Q And what time did you see Mr. Sapp that morning?

A On the morning of the 9th of July, we arrived at the hospital at approximately 9 a.m.

Q And did you see Mr. Sapp?

A Yes, sir, we did.

Q Do you see Mr. Sapp in the courtroom today?

A Yes, sir, I do.

Q Can you identify him for the Court, please?

A He is the one sitting between the two attorneys. He is in an orange or red suit.

Q Thank you. And what did you provide him -- obviously, he was in custody at that point. Did you provide him with Miranda warnings?

A No, sir, at that point we did not. As far as being in custody, he was, again, being watched by detention officers. But he had IV fluids and there was no handcuffs or any physical restraints used.

Q Did you attempt to question him in any way that morning?

A No, sir, we did not.

Q Can you describe for the Court what your interaction with Mr. Sapp was that morning?

A We first met with the medical staff and, of course, informed them who we were. And we met with Mr. Sapp

in his room. We both provided our credentials, identified ourselves as SLED Officers. He stated that he understood who we were and he understood what SLED stood for and who SLED was. At that point he made some unsolicited comments that we did not question him.

Q What were the comments that he made?

A Primarily, in reference to a young lady that was with him or that had been in the vehicle during the incident and he stated that she had nothing to do with it. And that's a quote and stated that the she he was referring to was Kathryn Boles which he referred to as Kat.

Q Were you aware who he was referring to, who Ms. Boles was?

A Yes, sir, I was.

Q Who was she?

A Kathryn Boles was a female who was present at the time of the incident when it took place on College Park Road. In his company, I guess would be a good way to put it.

Q Did he make any other statements to you relating to the incident?

A He made some comments that he had told her that -- and it was mostly in reference to Ms. Boles, that he

told her he had a new truck and asked her to drive and had stated, quote, Everything in the truck was mine and she knew nothing about that. She didn't know what -- she didn't know that I was going to get in a shoot out. Also Mr. Sapp stated again that I was by myself which was indicating that at the time of the actual shooting that she was in a different physical location, she was not by his side at that time.

Q And you documented these comments in a record of an interview?

A Yes, sir, I did.

Q Were any of these comments in response to any questions that you asked Mr. Sapp?

A No, sir, they were spontaneous.

Q At any point on the morning of the 9th, did you ask him any questions relating to the incident?

A No, sir.

Q How did the -- how did that meeting terminate?

A Mr. Sapp -- at that point we informed him that we were there to investigate the shooting. Of course, we showed our credentials and informed him he would be served with warrants at a later time depending on his physical condition. The interview was terminated basically at his request.

Q At any point on the 9th, did he tell you that he wanted to talk with an attorney before he spoke with you again?

A No, sir, he did not.

Q Did you tell him if you would come back and see him again in the future or --

A Yes, sir, we mentioned that we'd probably be back to see him again. And there was no response from him.

Q At any point did he say he didn't want to talk to you again?

A No, sir, he did not.

Q Did you have an opportunity to see Mr. Sapp again on the 10th of July?

A Yes, sir, we did.

Q And what time was that?

A That interview occurred at the same hospital room, it was approximately 8:25 a.m.

Q And was Lieutenant Edwards with you again?

A Yes, sir, he was.

Q And describe that meeting for the Court if you would, please.

A That particular meeting Mr. Sapp appeared to be in a much better physical condition, more alert, seemed to be in less pain than he was on the day of the 9th. Again, we showed our credentials, identified

ourselves. And he stated that he had remembered who we were and also stated to me that either the late night of the 9th or early morning of the 10th, sometime during the nighttime period that he had requested for someone there at the hospital to contact us, that he wanted to talk to us. We never received that request but he did mention that he was trying to reach us that night to talk to us.

Q And did you talk with him at all that day regarding the incident?

A As far as questions, no. There was again some statements made when he was talking about trying to get a hold of us. He again reiterated the fact that the girl had nothing to do with the shooting, the girl referring to Ms. Boles. And then in speaking to no one particular while just sitting in the bed stated that a person who had been shot four times should not be alive. And he wasn't speaking directly to me or directly to Lieutenant Edwards or directly to anyone at that point. He was just making a statement.

Q But he made it clear to you that he tried to get in touch with you the night prior?

A Yes, sir. We left our business cards on the first visit on the morning of the 9th. And they were on

his bedstand and he said he tried to contact us.

Q And on the morning of the 10th, did you ask him any questions or attempt to interrogate him in any way regarding the shooting?

A No, sir. This was a shorter interview. It concluded approximately 8:44. So it was approximately a 19-minute visit that we had at the hospital. And he stated to us that he might wish at a later date to give a statement but he did want to see his attorney first. And that -- at that point we asked who his attorney was. He refused to tell us and the interview was concluded at that point.

Q And based on your training, once a suspect tells you that he does not want to give another statement or talk to you without an attorney present, what did that mean to you in your investigative background?

A Once he requested an attorney, there would be no further contact initiated by law enforcement to Mr. Sapp. And we had no reason to go see him anymore at that point.

Q So on the morning of the 10th, did you have any plans to reapproach Mr. Sapp in an attempt to interview him?

A No, sir, in an attempt to interview, no, absolutely not.

Q And at that point he had not been formally charged?
A No, sir, he was still in the hospital and had not been formally charged at that point.
Q And obviously, you would have known you would have had to have contact with him in the future to serve him with murder warrants and any other arrest warrants?
A Yes, sir, I knew we would have further contact with him but no interrogation.
Q Were you notified on the 10th, later that evening, that he was being transported to the Charleston County Detention Center?
A Yes, sir, I was called at my home. I live in Summerville which is not far from the medical center. And I was notified he was being transferred from the Summerville Medical Center to the Charleston County detention facility which has a medical unit. At that point I responded from my home to the hospital just to escort the vehicles from the hospital to the jail providing security. But there was no contact between myself and Mr. Sapp during that point in time. I just was an escort vehicle.
Q But you had no personal contact with him?
A No, I did not.
Q Return your attention to the 11th of July. I believe

that was the day you served him with the warrants for murder and unlawful carrying of a pistol?

A Yes, sir, I did.

Q And a bond hearing was also arranged that morning?

A Yes, sir, it was.

Q Did you receive any message from officers at the detention center upon your arrival at the detention center?

A Yes, sir. Just prior to the bond hearing beginning, detention officers came out and stated that Mr. Sapp wanted to speak with me. The bond hearing was about to begin so what I did was I stepped back to what they call the holding room just outside the courtroom. And I saw Mr. Sapp and told him at that point that the bond hearing would have to take place before we could talk. He said he wanted to speak with me. He said that he wanted to -- for us to come and talk to him, indicating myself and Lieutenant Edwards. But there was no interview at that point. The bond hearing had to take place first.

Q And at that point was he clearly aware of what charges he was being accused of?

A Yes, sir, I think so.

Q Had he been served with the warrants?

A At that point he had not. I mean, right after I had

spoken to him in the holding room he was brought into the courtroom. He was served with the warrants. They were read to him and at that point he would have been fully aware, yes, sir.

Q And that first meeting or that meeting that morning between you and Mr. Sapp was initiated by who?

A By Mr. Sapp.

Q Had he not informed the detention guards that he wanted to talk to you, would you have approached him that morning other than to serve him with the warrants?

A No, sir, we did not come intending to interview Mr. Sapp at all.

Q And the bond hearing was held that morning. And he was served with the warrants for murder and unlawful carrying of a pistol?

A Yes, sir.

Q Did you have an opportunity to meet with Mr. Sapp again after the bond hearing?

A Yes, sir. After the bond hearing myself and Lieutenant Edwards met with him in the holding cell which is adjacent to the bond hearing courtroom.

Q And was there anything that you wanted to make particularly sure with Mr. Sapp before you discussed this case with him?

A Yes, sir. As I note in my notes, at 11:42 I advised Mr. Sapp of his rights under Miranda. They were read from a SLED form that we use. And he -- again, I told him at that point that we could not speak with him unless it was at his insistence. And he needed to understand that any interview that was conducted would have to come from him, from him asking to speak with us, that we could not speak with him. And he made it very clear that he wanted to talk to us at that point.

Q Okay. That morning you made clear to him that based on his requesting an attorney the day before, unless it was at his initiation, you could not talk with him?

A Yes, sir, absolutely.

Q In your opinion did he clearly understand that fact?

A Yes, sir, there was no doubt in my mind.

Q If you could, what rights did you advise Mr. Sapp of?

A These -- excuse me, one second. I have a copy. Should I just publish them to the Court?

Q Please.

A It is my duty to advise you that you are under investigation by SLED, and it was for the charges that he had just been served papers for. Number one right is you have the right to remain silent. The

number two was anything you say will be used against you in court. You have the right to have a lawyer and consult with him before and while answering any questions. And if you cannot afford a lawyer, one will be provided to you without cost. Now, these were read to him individually and asked if he understood as we went through them. I did not go through all of them at once. The form that we were using is a SLED form which uses the -- it is the same rights, it is a little bit different verbiage but they were also provided at that time also. And he stated that he understood and he also stated that -- let me see, he stated that he understood and that he had heard it before and that he wanted to speak with us.

Q And were you comfortable that he understood those rights?

A Yes, sir, there was no indication there was any confusion about the Miranda.

Q Did he agree to waive those rights and talk with you?

A Yes, he did.

Q At any point that morning did he say that he would like to have an attorney present before he spoke with you?

A No, sir, and we had mentioned that a couple of times

during the interview about the attorney.

Q Okay. And of course, you had known that on the day before he had in fact invoked one of the rights that he is afforded under Miranda?

A Yes, sir. The day before he clearly stated that he wanted to speak with an attorney before we spoke with him again.

Q And based on his initiating the contact with you on the 11th, you were comfortable that he understood his rights?

A Yes, sir, completely.

Q In your 25 years of experience in law enforcement, have you had the opportunity to deal with people who were under the influence of alcohol or drugs?

A Yes, sir, I have.

Q And were you aware that Mr. Sapp had been receiving pain medication for his injuries?

A Yes, sir.

Q Did you make an effort to find out when the last time was that he had been given any medication?

A Yes, sir, I was.

Q And when was the last time?

A The last pain medication was given at 10 something that night before. So it had been several hours since he received -- I mean, 2 in the morning and one

prior to that was at 10 o'clock so it had been several hours.

Q So when y'all were speaking at 11:45 or so, the last time he received medication was 9 or 10 hours prior?

A Yes, sir.

Q Was Mr. Sapp showing any indications that he was under the effects of any medication or alcohol or drugs?

A No, Mr. Sapp was obviously in discomfort and pain from the moving around. He was being moved in a wheelchair and it was obvious that he was in some discomfort. But there was no indication of him being under the influence of medication.

Q Did you have any problems communicating with him?

A No, sir, communication was very easy. It was very flowing. He was very aware of date, place and time while we were there, who we were and what the conversation was about.

Q And he was coherent when he spoke with you?

A Yes, sir.

Q Did you or Lieutenant Edwards or anybody else in your presence promise Mr. Sapp anything in return for him giving a statement?

A No, sir, there was no promises.

Q Did you or anybody in your presence threaten him in

any way?

A No, we did not.

Q Did you prevent him from taking any breaks, whether he needed to stop to use the restroom or anything else, did you prevent him from doing that during his conversation with you?

A No, sir. During our conversation there was a couple of times he was allowed to take breaks for bathroom breaks. He also received a pain medication during that time.

Q And then I believe following all this, you had an opportunity to have a conversation with Mr. Sapp?

A Yes, sir, we did.

Q And I believe you took notes during that conversation?

A Yes, I did.

Q Could you relate to the Court what the nature of your conversation was with Mr. Sapp?

A Yes, sir. Like I said, the conversation took place in the detention facility medical unit where he was in a private room which is located just outside the desk on the unit. He was not restrained at any time. He was allowed to move around and he was sitting up or propped up in bed at that time. He began by describing involvement that he had in the trafficking

of large amounts of narcotics. He mentioned specifically about bringing drugs through Texas, Georgia, Florida, New York, South Carolina and then stated that in the not too distant past that he had brought in up to 5 kilos of cocaine. At that point I interrupted him and I informed him that we weren't there to speak about the drugs, that we were there more to speak about the incident where the shooting was involved. At that point he was allowed to relay the story without interruption. And I did put it down in my notes if you would like for me to continue.

Q And in your notes, whose words are you writing down?

A I'm writing down Mr. Sapp's -- basically considering this was from my notes, any quotes that I thought were relevant were put down in quotations.

Q Okay.

MR. JENNINGS: May we approach, Your Honor?

THE COURT: Sure.

(WHEREUPON, a bench conference was held.)

Q You did have a conversation with Mr. Sapp regarding the incident?

A Yes, sir, we did.

Q And at some point then, did you realize that medication was taking effect and terminated the

interview?

A Yes, sir. He had received a pain medication during a bathroom break at 12:09 p.m., slightly after noon. And it was sometime after that that the medication was starting to take effect. And at that point the interview was concluded.

Q And there was no point at which the statement could be reduced to writing?

A No, sir. At that point due to the fact that the medication had taken effect and there was no opportunity -- because it would have taken so long, due to his -- or the medication taking effect it was not possible to reduce it to writing.

Q You mention the medication. At any point did that medication in your opinion begin to affect the voluntariness of his statement in any way?

A No, sir, the medication was given after the initial statement had been given and was given to him only during the second phase when we were going through to clear up issues and get more detail.

Q But he never began having problems communicating with you?

A No, sir, there was no indication that there was any problems communicating or understanding whatsoever.

Q Okay. You just in an abundance of caution terminated

the interview?

A Yes, sir. At that point when the medication started to take effect, he had been up quite a long time. It was our choice to terminate the conversation.

Q Were you aware of any facts that affected the voluntariness of his statement?

A No, sir.

Q Were you aware of anything that would have made the statement that Mr. Sapp made to you involuntary or against his will?

A No, sir.

MR. JENNINGS: That's all I have, Your Honor. Thank you.

THE COURT: You may cross-examine, Mr. Archer, Mr. Johnston.

CROSS-EXAMINATION

BY MR. ARCHER

Q Sir, I'm Paul Archer. The first time you interviewed which would be July 9th, let's go backwards.

A Yes, sir.

Q You didn't Mirandize him at that time; is that correct?

A That's correct, we did not.

Q And isn't it true that he stopped the conversation because he said he was feeling the medication?

A I don't recall. I remember we terminated the conversation. I remember he didn't want to speak anymore. I don't recall if he said what the reason was but I don't recall it specifically.
Q But in the statement that I received, it says that he terminated it?
A Correct.
Q If you look in there it says that he stopped it because he was feeling the medication.
A Yes, sir, he terminated the conversation, yes, sir.
Q And on the 10th, you didn't give him his Miranda warnings either at that time?
A No, sir, we did not.
Q Okay. And in any of these statements that he gave on the 9th or 10th he did not implicate himself in any crime. He was just talking about Kathryn Boles had nothing to do with this; is that correct?
A His conversation primarily was about Ms. Boles, yes, sir, that she was not involved.
Q Right. So there was nothing that he said that had anything to do with his involvement in the crime?
A Interpretation-wise you might conclude that. I mean, he did state at one time that any person shot four times should not be alive, that she had nothing to do with it, that she did not know the truck was stolen.

So the indication was that he was speaking of the incident itself, yes, sir.

Q But he was speaking about that he was shot. He made no implication that he shot anybody, correct?

A No, talking about himself being shot.

Q Let's go to the next date which was, what, the 11th?

A At the bond hearing?

Q Yes.

A Yes, sir.

Q And at that time you gave him the Miranda warnings?

A Yes, sir, we did.

Q Did he sign anything to that effect?

A Not with me. I think he had signed the form when the judge had advised him during the bond hearing. But not from me, no, sir.

Q Wouldn't that be standard practice that once you give him the warnings, wouldn't you have some form there for him to sign?

A We had the form, yes, sir, we did. And that would come at the end of the statement normally when we get into the statement. In this case it just never -- we never had the opportunity to get him to sign the form.

Q But you gave him the Miranda warnings?

A Yes, sir, that's correct.

Q And you could have just handed him the form to sign, correct?

A And he was provided the form.

Q But he didn't sign it?

A No, he did not.

Q Okay. On that date also, you were stating that he received some medication, it was like 10 hours afterwards, etc.?

A He had received pain medication earlier that morning of the 11th.

Q But you don't know how much pain medication he received during that day?

A According to the staff, that was the last pain medication he had received prior to the bond hearing.

Q All right. And it was your opinion that at that time he wouldn't be under the influence of any pain medication?

A I don't know what he was taking. It was my opinion at that point that he did not appear to be under the influence of any medication. He was coherent. He was able to communicate freely. He was clearly in discomfort. So if there was pain medication, it wasn't doing a whole lot of good. Also, he was able to understand that the interview was conducted at his request. He was very coherent, very clear in his

conversation.

Q But that's your opinion?

A That's my opinion, yes.

Q And you are not a doctor so you don't really know what he was taking?

A I have no idea what he was taking.

Q And you would have no idea how long that would be in his system?

A I have none. I don't know what it was.

Q So in other words, it is just what your feeling is that he was not being affected by the pain medication?

A From my observations, yes, sir.

Q But by your observation as a layperson?

A Correct.

Q And at that time did he sign any statements?

A No, he did not.

MR. ARCHER: Thank you, sir.

THE COURT: Redirect?

MR. JENNINGS: No, sir.

THE COURT: You may come down, sir.

THE WITNESS: Thank you.

THE COURT: Any additional witnesses.

MR. JENNINGS: None from the State.

THE COURT: Any motions from Mr. Sapp concerning

the alleged statements?

MR. ARCHER: Just the motion to suppress it, Your Honor.

THE COURT: Solicitor, your response?

MR. JENNINGS: Do they intend to put up any testimony regarding that?

THE COURT: I assume -- do you have any testimony that you wish to offer at this point?

MR. JOHNSTON: We are obviously talking about the guilt phase of this. We haven't decided the he is going to testify or not.

THE COURT: I understand but at this juncture on the voluntariness of the statement, you don't wish to offer any testimony.

MR. JOHNSTON: No, no, no.

MR. JENNINGS: Then I would just leave it for Your Honor hearing the agent testify as far as the voluntariness, as far as the constitutional issue is him invoking his right to counsel and subsequently being interviewed. The State would rely on State vs. Aleksey which was a death penalty case that relies on the tenant from Edwards v. Arizona which I believe is the main case on this issue that clearly once Miranda is invoked, law enforcement must scrupulously honor that unless reapproached -- or the interview is reinitiated by the

suspect which was the case in -- was the situation in this case. They had no plans to reinterview Mr. Sapp, were honoring his request not to talk until he had an attorney.

On the morning of the 11th, then he approached the SLED officers first through the detention center staff saying that he wanted to talk with them. They confirmed that fact with him, made sure that he understood they could not talk with him unless it was at his initiation. And he confirmed that he did in fact want to talk with them which falls under State vs. Aleksey as well as Edwards vs. Arizona. I would also point out to the Court some language later in that case, the principle -- quoting from the Supreme Court, the principle underlying Michigan v. Moseley is that the suspect rather than the police controls the subject matter and the duration of the interrogation. And I would submit that is clearly the case here where the interview was under the control of Mr. Sapp as to whether there would be a subsequent -- or questioning. And I would submit to Your Honor that it is a constitutionally valid statement as well as voluntary.

THE COURT: Thank you very much.

Any reply, Mr. Archer?

MR. JOHNSTON: Just with the Court's indulgence for one second?

THE COURT: Sure, take your time.

MR. ARCHER: Your Honor, Jesse Sapp was severely injured. And he was under constant pain and constant pain medication. I think the two issues, here, number one, let's discuss the pain medication. I don't know if Mr. Sapp was competent or not to properly respond to the fact that he waives his Miranda rights, etc. And I think that the gentleman that testified is not a physician and he admitted he is not a physician. He doesn't even know what pain medicine he was taking.

And second of all, he doesn't even know how long that pain medication remains in the body. If Jesse Sapp was shot on the 7th and he is taking all this pain medicine from the 7th to the 11th, that's a lot of pain medicine in your body and it stays in your body.

I don't think there was any evidence up there that he was competent to waive his right. I didn't see any doctor on the stand. He was just giving his opinion. I think common sense would tell you that at that point, I don't believe, because of his pain medication that he would be competent to waive that right.

The second thing is I think he could have made an effort to at least have him sign at that time a form, which we all know there is such a form and could very easily -- and said he had the form with him, he could have very easily at that time said, Mr. Sapp, would you please

sign this form? He didn't even bother to do that.

And I think those would be my main concerns. Of course, he was in intensive care. He had major surgery. And I would just assume that he was not taking a minor amount of pain medicine. I would imagine he was taking a great dose of pain medicine at the time because of his severe injuries.

THE COURT: Thank you, sir.

Any reply?

MR. JENNINGS: I would just submit to the Court those go to the weight that a jury might afford those statements and not to their admissibility.

THE COURT: All right. At this point, of course, my finding is by the preponderance of the evidence and not beyond a reasonable doubt. And certainly those issues will be concerns that the jury will have to address as I will instruct them before they may consider any statement. I do find that in this particular instance, and I certainly understand your position, I can't though ignore for purposes of my findings the experience of the officer, his observations. Those are, I believe, matters that would be proper under 701 to be considered as based on his experience in dealing with persons in this situation as well as -- and that's further reflective, demonstrated by his own decision to cease the examination.

Because I believe his testimony was he said he began to notice the effects of the medication and discontinued the discussion.

Clearly, Mr. Sapp invoked a right under -- a protection provided under Miranda and that is the right to talk with counsel. But also by the preponderance of the evidence, it's clear that Mr. Sapp reinitiated and law enforcement did not institute the second opportunity or the discussion, that that was done solely by Mr. Sapp which is certainly his right to do. And that by doing so, he permits, under the law of the cases cited by the State, for the State to then interrogate him.

Clearly, prior to the interrogation, the Miranda rights including the right to remain silent, the right that anything that he said would be used against him, the right to have a lawyer and that if he couldn't afford one, one would be appointed for him, those were given. And it's clear at this point by the preponderance of the evidence that his decision based on the testimony was one that he made freely and voluntarily fully understanding his rights. And therefore, I would deny your motion to suppress. Of course, I will instruct the jury at the appropriate time should that become necessary as to the voluntariness issues and all those issues the jury must ultimately determine in making its decision. Thank you

very much.

MR. ARCHER: Thank you.

THE COURT: Anything else?

MR. HOISINGTON: One last bit so we could have some guidance. In regard to the sequestration of witnesses, that would not apply to the penalty phase witnesses during the guilt phase of the trial necessarily, would it, Your Honor?

THE COURT: At this point the sequestration applies to the guilt phase. We'll address that issue again at the penalty phase if it needs to be addressed.

MR. HOISINGTON: And I say that because there are some family members that need to be present.

THE COURT: And of course, I'm going to have a different basis upon which to grant or deny. There are other factors I have to consider. But as to the guilt phase, I think the sequestration is a proper motion.

MR. HOISINGTON: Thank you, Your Honor.

THE COURT: Now, of course, you may have your chief investigating -- you designate someone, that person may remain in the courtroom.

MR. HOISINGTON: Yes, sir.

THE COURT: Thank you very much.

MR. HOISINGTON: Thank you, Judge.

THE COURT: Anything else from Mr. Sapp at this

point?

MR. JOHNSTON: No, Your Honor.

MR. ARCHER: No, sir.

THE COURT: Gentlemen, thank you very much for coming. I hope it didn't inconvenience you too much and I look forward to seeing you a week from today.

Mr. Sapp, see you next Friday.

This concludes this matter.

(WHEREUPON, the pre-trial motion proceedings were concluded for the day to be reconvened on Friday, May 9, 2003.)

Friday, May 9, 2003

THE COURT: Good afternoon. Thank you very much for being here.

Let the record reflect Mr. Sapp is present as well as his attorneys.

Gentlemen, Ms. Brown has prepared, and I think you have your information that she had forwarded you of the jury returns. The plans will be to go through them alphabetically. And as I understand it, we're not going to deal with them in groups of exemptions, we'll deal with each exemption as it comes up alphabetically. So that's how it will be organized so that you follow through so you won't be bouncing around looking for jurors, hopefully.

Also, Solicitor, have you handed out what you have submitted to the Court of proposed -- the three questions?

MR. HOISINGTON: Yes, sir, Your Honor.

THE COURT: The three questions are substantially those from the language that I have in my notebook and I intend to use. The only difference, as I told the solicitor when he handed it to me, the first one, Juror No. 1 happens to be the death penalty is appropriate no matter what the circumstances; No. 2 is the person who could never vote for the death penalty; 3 is the person that would consider the facts and circumstances.

I will include, however, and I think it's a good idea -- I assume there will be no objection from Mr. Sapp -- that we go ahead and put in now the life imprisonment without the possibility of parole so that language is already started. We'll start that process as we go through the questionnaire with the jurors. Any objection to adding that language? Instead of saying life imprisonment, I'm going to say life imprisonment without the possibility of parole. I certainly will further define that and explain that as required by law during the charge. But I think it's a good idea to go ahead and put that term into the process as early as possible. Any objection?

MR. ARCHER: No.

MR. JOHNSTON: No.

THE COURT: Any objection to any of the three questions or how it's posed? As I told you, my language is not -- what mine will be is -- and I understand what you're saying as the law allows. The law is going to allow either one, so I'm not going to make the distinction.

Mine that I've used in the previous ones, and let me just see if all sides are in agreement, the third type of juror is one who, although the guilt of the defendant has been determined, would not have his or her

mind made up in advance concerning punishment. This juror would need to hear the facts and circumstances in aggravation and in mitigation before making the decision regarding punishment. Therefore, this juror could bring in a verdict of life imprisonment without the possibility of parole or the death penalty, depending on the facts and circumstances presented.

I understand what you're talking about the law, but I think just simplifies it and breaks it down for something that's easier for me to talk with them. I don't quarrel with you or quibble with you about using the words. If you have any problem with that --

MR. HOISINGTON: We have no objection to that.

MR. ARCHER: I have no problem with the language.

THE COURT: Very well, that's how it will be presented. And certainly, I will provide you -- my secretary is off today, but I will have her retype this and we'll make -- we'll start the copying process and certainly provide you with a copy of it before we start the process.

MR. JOHNSTON: That's fine. Thank you.

THE COURT: Thank you. All right. Any other matters that we need to resolve before I turn it over to the clerk to start the process that brings us here today?

Anything from the State?

MR. JENNINGS: Yes, sir. We wanted to clarify a couple issues just for planning. One would be if we get to a penalty phase issue or if the defendant testifies in the guilt phase, he has convictions out of Charleston for possession with intent to distribute marijuana and a conviction out of Beaufort for possession of cocaine. And we just need to know if we need to have those clerks on standby to be prepared to testify about those convictions or if --

THE COURT: Do you have certified copies?

MR. JENNINGS: We have certified copies.

THE COURT: Any objection to the certified copies?

MR. ARCHER: I don't think we need the clerks. You can use a certified copy.

THE COURT: Thank you, Mr. Archer, appreciate it.

MR. JENNINGS: At this point, we are leaning towards just trying the murder and unlawful possession of a pistol, and during the trial would submit the evidence of the possession of the stolen vehicle and the drugs as possible motive evidence. Otherwise, we would go forward on those charges as well.

THE COURT: What's your position? Any position

at this point? I'm not going to hold you to it.

MR. ARCHER: I think at the trial I would like to use the same jurors, which, of course, we don't want to come back for a separate trial. But if he's found guilty of the murder, then maybe while he's still here there may be a plea at that time.

THE COURT: Hopefully, we can resolve that if that's the case.

MR. ARCHER: I don't think it would be proper for me to make a plea before.

MR. JENNINGS: And that's not my point. My point is just that if we go forward on the murder and we get in the middle of the trial, I don't want -- if there's going to be objection of the drugs coming in, that they're prejudicial, then we'll go forward on the drugs as well.

THE COURT: I understand your concern. And we're in, of course, an in limine situation. I'm not going to make any ruling on that. Mr. Archer says today, for instance, I'm not going to object. If he later decides that he, for whatever reason, chooses to raise an objection, I'm not going to restrict him from doing that. I will hear it fully at that time and make the necessary determinations. But it's your intention not to go forward on those charges at this time but rather to present the evidence as a part of the overall crime?

MR. JENNINGS: Yes, sir.

MR. ARCHER: That's fine.

THE COURT: Very well. Thank you. Anything else, Mr. Jennings?

MR. HOISINGTON: Let me speak with the attorneys one second, Your Honor, before we address this.

THE COURT: Sure.

MR. HOISINGTON: Judge, we are still wrestling a little bit on the issue -- one of the things that concerns me is I don't want to do a one-week trial and have the jury concerned about does the Highway Patrol not even care, is nobody here? And one of things I had proposed to the defense is that one of the penalty witnesses who will testify about the impact on the patrol who is always sitting with the family anyhow would be able to wear it and we would sanitize every other witness whether they were on duty or not. They're concerned that that is worse than a highway patrolman testifying in uniform as long as he was in uniform that night along with everything else. So I think where I am now is if they are on duty that day, the three that we've got, I will have wear uniforms if they -- beyond that, nobody wears them.

THE COURT: Let me say this to you, if you resolve it, I appreciate very much your resolving those issues. But if you cannot resolve it, that's what I guess

I'm here to do. So I'll make that call. I certainly will hear you fully. Just out of an abundance of caution, that person may want to bring a change of clothes when he comes and that way we've covered our bases.

MR. HOISINGTON: Thank you, Judge. And I will ask if he'll be sitting with the family the whole time. I do understand the defense's position that it would look like -- and it's just out of a hundred percent caution.

THE COURT: And let me assure you of something else. I doubt -- I wouldn't think they would, but if they should argue that to the jury, I will entertain an objection and I will give a specific instruction about that because at that point would allow me to discuss sympathy because that's really not a factor to be considered by them in their decisions.

MR. HOISINGTON: Yes, sir.

THE COURT: And I don't anticipate that they're going to argue that nobody on the patrol cares. I would hope they wouldn't. I don't think they would.

MR. JOHNSTON: I think we have about got it worked out.

THE COURT: Okay. Thank you. But anyway, we'll cross those bridges if we have to cross them and I'll try to make the decision. And certainly, as I say, to not delay it, if they'd just bring a change of clothes and

that takes care of it. They certainly -- if they're on duty, obviously, I expect them to come in uniform because they are required to do that as I understand the law and the regulations that apply to them. If they're on duty, they would have to get some special dispensation, I think, to come in here without being in uniform.

MR. HOISINGTON: Yes, sir.

THE COURT: Anything else from the State?

MR. HOISINGTON: No, sir, Your Honor.

THE COURT: Anything from Mr. Sapp before we start, gentlemen? I'm sorry, I didn't mean to interrupt you. Forgive me.

MR. JOHNSTON: No, Your Honor, we're fine.

THE COURT: Very well.

Ms. Brown, thank you very much. And as I understand, you have forwarded to each side the return information that we have received to date.

And has the State received that information?

MR. JENNINGS: Yes, sir.

THE COURT: Mr. Sapp has received that information as well?

MR. ARCHER: Yes, sir.

THE COURT: Very well.

And I will turn it over to you, Ms. Brown. And we're going through at this point, obviously, those

persons that have, I assume, requested of you that they be excused because they are exempted or some other reason; is that correct?

THE CLERK: Yes, sir. And maybe they haven't complied with what we asked.

THE COURT: Very well. Okay.

THE CLERK: Do you want me sworn, Your Honor?

THE COURT: Yes. Ms. Brown, if you would raise your right hand, place your left hand on the Bible.

MARY P. BROWN, after being duly sworn, testified as follows:

THE COURT: Thank you. Please state your full name and position for the record.

THE CLERK: My name is Mary P. Brown and I'm Clerk of Court for Berkeley County.

THE COURT: You may proceed.

THE CLERK: Juror No. 1 received a statement from -- it was addressed on the envelope from Florida stating that Mr. Abrams is deceased, but she did not state who signed the statement.

THE COURT: All right. We have not received any return other than that?

THE CLERK: No, sir. But the envelope did show from Florida and it's dated -- I forgot what month he died, April 7th of 2001.

THE COURT: Anyone from the State care to challenge the information provided that the person is either a nonresident or is deceased?

MR. HOISINGTON: No, Your Honor.

THE COURT: Anything from Mr. Sapp?

MR. ARCHER: No, I imagine if they say he's deceased, he's deceased.

THE COURT: Very well. I find that Juror No. 1 is deceased.

THE CLERK: Thank you. Juror No. 3, the sheriff's office was unable to serve. Do I need to say the name or just the number is sufficient? Addison.

THE COURT: If you would, Anthony Addison.

Any further action requested from the State as to this juror?

MR. HOISINGTON: No, Your Honor.

THE COURT: Any request from Mr. Sapp?

MR. ARCHER: No, Your Honor.

THE COURT: Very well. Tell the sheriff he does not need to do anything further concerning Juror No. 3.

THE CLERK: Okay. Juror No. 4 is Esther G. Aitkens. They are over 65 years, requests to be excused and we have excused.

THE COURT: Any objection from the State?

MR. HOISINGTON: No, Your Honor.

THE COURT: Any objection from Mr. Sapp?

MR. JOHNSTON: No, Your Honor. In fact, for all the over 65, we have no objection.

THE COURT: It's automatic?

MR. JOHNSTON: Yes, sir.

THE COURT: Very well.

THE CLERK: I don't need to state those?

THE COURT: You need to just simply state those in the record when we get to them as being over 65 and it's requested and that would be sufficient.

THE CLERK: Okay.

THE COURT: Is that agreeable with the State?

MR. HOISINGTON: Yes, sir.

THE COURT: Is that agreeable with Mr. Sapp?

MR. ARCHER: Yes, sir.

THE COURT: Thank you.

THE CLERK: Juror No. 8, forwarding time has expired. We tried using -- we used the public information that was provided with the county and could not find another address to locate this person.

THE COURT: Any further action requested of the State?

MR. HOISINGTON: No, Your Honor.

THE COURT: Any further action requested by Mr. Sapp?

MR. ARCHER: No, Your Honor.

THE COURT: Okay. On that person, you need not make any further inquiries of Juror No. 8.

THE CLERK: Juror No. 12, the sheriffs are still attempting to serve. They still have the affidavit and we hope we will hear something by Monday morning. I will give you their report.

THE COURT: Let me go ahead and broach this subject concerning any jurors in that class. Obviously, you need for your purposes the information in the return.

We have 180, as I understand it?

THE CLERK: 188. But I have this many, about 25 to 30 that if they sent the summons, they didn't send the questionnaire; if they sent the questionnaire, they didn't send the summons that Monday morning we're going to try to, you know --

THE COURT: But we have 188 who have responded appropriately?

THE CLERK: Yes, sir. They've either responded or been personally served.

THE COURT: All right. My feeling about those jurors, it gives me great concern that both sides have not had a reasonable opportunity to do whatever they need to do concerning those jurors. I would be inclined -- I will not do this until Monday, I just wanted to share this with

you because the statute allows me specifically 14-7-840 to excuse any person for just cause if I determine it to be just cause. To me, not responding gives the Court great concern. Furthermore, it gives me concern that neither side has adequate opportunity to make an investigation as to that juror, to give you the information necessary to make an intelligent determination as to how you proceed with that juror. I'm more than likely going to excuse those jurors from participation in this or transfer them to another term.

So I just want to share that with you. I don't ask for you to make a ruling right now, but that's probably what I'm going to do unless there is some significant reason given for their failure to respond and they can provide you with the information prior to their being selected on a panel.

MR. HOISINGTON: Yes, sir. In regard to the ones that the sheriff hasn't been able to serve at all, I would think that we have an adequate number that have been served, so the sheriff wouldn't need to go out and look for anymore. In regards to the ones that have been served that have not sent back the questionnaire, the only thing I would ask the Court is to do what you're doing, to defer that decision until we see how many exclude themselves by knowing something about it and say they can't be fair.

THE COURT: I really am not -- because the ones that haven't sent back the questionnaire that have been served, they will be here. I mean, that's not my concern. It's those persons who the sheriff may be trying to serve this weekend.

MR. HOISINGTON: I won't bother with them.

THE COURT: And will serve them. It's a very limited class, would be if he's able to effect service on some juror Saturday or Sunday of this weekend.

MR. HOISINGTON: Right.

THE CLERK: We do also have some that are reporting. We expect them to report but don't have the questionnaire or summons. But we will try to have those as early as we can and you'll know which ones they are, Your Honor.

THE COURT: Okay. All right. Continue, please.

THE CLERK: Okay. Juror No. 13 is not a U.S. citizen and sent a copy of their green card.

THE COURT: They would not be qualified to serve under the law. That juror is excused.

Any objection from the State?

MR. HOISINGTON: No, Your Honor.

THE COURT: Objection from Mr. Sapp?

MR. JOHNSTON: No, Your Honor.

THE CLERK: Juror No. 15, Francis Aubrey, is

over 65 and wishes to be excused and has been excused.

THE COURT: They are excused.

THE CLERK: Juror No. 21 would apply to the sheriff's office. I would tell him to take no further action?

THE COURT: That is correct. Why don't we do this, so that we can expedite it. Unless I hear from either side concerning the actions suggested, that way I won't have to go through each juror, we will assume and the record will so reflect that the State is in agreement with the action taken by the Clerk and Mr. Sapp is in agreement with the action taken by the Clerk.

Is that acceptable for the State?

MR. HOISINGTON: Yes, sir.

THE COURT: Is that acceptable for Mr. Sapp?

MR. ARCHER: Yes, sir.

THE COURT: Okay.

THE CLERK: Juror No. 22, Sandra Batton, forwarding time expired per the post office. Juror No. 24, sheriff's office attempted, but the mother called and said that the juror lives in Texas. But we have nothing in writing, just a phone conversation.

THE COURT: Nonresident, not eligible.

THE CLERK: Juror 25, Francis Beaufort, is over 65 and excused. Juror 26, Cathleen A. Bell, forwarding

time expired. Juror No. 27, the sheriff's office tried to attempt to serve but when Ms. Benekin opened it, she realized it was for her son instead of her husband. She does not know where her son is. That was per a conversation and the sheriff's office verified it verbally.

THE COURT: Okay. No further action required.

THE CLERK: Juror No. 29, Lester F. Bevil, 65, and has been excused.

THE COURT: Okay.

THE CLERK: Juror 31, Nathan J. Bileck, forwarding time expired.

THE COURT: Ms. Brown, I appreciate it, but if you would allow me an opportunity to flip through them because they may need the same.

THE CLERK: That's fine. I thought you were trying to get me to rush a while ago.

THE COURT: No, ma'am, I was just going to minimize the exchange.

MR. JENNINGS: I just had a question, Your Honor, about 27. My forwarding shows --

THE CLERK: Ollie was trying to tell me something, but I couldn't understand what she was trying to tell me.

THE COURT: Small children.

THE CLERK: I'm sorry, I read it wrong. It's the small children, received request to be excused. It's notarized. She works at night and the mother keeps the child during the day.

And I'm sorry, Mr. Jennings.

THE COURT: Given the circumstances of being sequestered in this case, I would excuse her for small children as the exemption provides in 14-7-840 of the code of laws.

THE CLERK: Okay. And y'all have 29, over 65, excused?

THE COURT: All right. Any objection? None heard. Excused.

THE CLERK: Juror 31, Nathan J. Bileck, forwarding time expired.

THE COURT: No action required -- no further action required.

THE CLERK: Juror 34, Terri L. Blau, is not -- stated in her thing, not a U.S. citizen but have not received verification or notarized statement.

THE COURT: Does the State wish that person to appear for further inquiry by the Court?

MR. HOISINGTON: No, Your Honor.

THE COURT: Does Mr. Sapp wish that person to appear for further inquiry?

MR. JOHNSTON: No, Your Honor.

THE COURT: That person is excused because they are not eligible. Let me correct my statement, I said 840, it's 14-7-860 for small children.

THE CLERK: Thank you, sir. Juror No. 35 is one of the ones that the sheriff's office will take no action, Clyde A. Bostick.

THE COURT: Okay.

THE CLERK: Juror No. 36, Thomas Bowman, Jr., states that he has a health problem. However, we did not receive a doctor's statement. We told him to report.

THE COURT: Very well. He needs to report.

THE CLERK: Juror No. 37, Syavella Brantley. It's one of those that the sheriff's office will take no further action.

THE COURT: Very well.

THE CLERK: Juror No. 38 is the sheriff's office is unable to serve and also the post office returned it saying forwarding time expired. And that's on Tawnya P. Brazel.

THE COURT: No further action required.

THE CLERK: Juror No. 39, Johanne K. Bridges, received a statement wanting to be excused. She is a teacher. But we told her we needed a notarized statement and have not received a notarized statement.

THE COURT: She'll need to report. I need to make further inquiry concerning her teaching responsibilities.

THE CLERK: Sir?

THE COURT: She'll need to report because I'll need to make further inquiry concerning her teaching responsibilities.

THE CLERK: Yes, sir. Juror No. 40, Mark D. Briones, the deputy said that his father said and his former wife and brother called to say that he is in Kuwait right now.

THE COURT: He is excused.

THE CLERK: Juror No. 41, Gloria K. Britt. She says work is a conflict. She's the one in California, will be there until July. She is presently still there. They have forwarded her -- family forwarded her statement to her. We received a notarized statement stating that she's out of state. But she's not moved there, she is just on a temporary assignment with her work.

THE COURT: This is the one you and I talked about earlier?

THE CLERK: Uh-huh.

THE COURT: I instructed Ms. Brown earlier that I did not think it would be necessary to have her return to South Carolina to respond. Any objection from the

State -- while she is technically a resident, any objection from the State of her being allowed to remain in California to complete her work assignment?

MR. HOISINGTON: No, Your Honor.

THE COURT: Any objection from Mr. Sapp?

MR. ARCHER: No.

THE COURT: Very well.

THE CLERK: Let me correct that, Ms. Tucker said I said 48, and that was 41.

THE COURT: 41, yes.

THE CLERK: Okay. Juror No. 43, Latonia H. Brothers. She's a teacher, says that they're doing PACT testing, hardship, and we received a notarized statement.

THE COURT: I'm going -- I'm aware that they are doing PACT testing now in the school system. Any objection from the State for exercising the exemption?

MR. HOISINGTON: No, Your Honor.

THE COURT: Any from Mr. Sapp --

MR. JOHNSTON: No, Your Honor.

THE COURT: -- for teachers? Let me ask you now and I'll -- you can change your mind, that's fine, but any problem with teachers requesting it, the exemption?

MR. HOISINGTON: No, Your Honor.

MR. JOHNSTON: No.

THE COURT: Unless we hear otherwise, the

teachers will be in the same category as the 65 year olds.

MR. JENNINGS: Your Honor, if I --

THE COURT: Yes.

MR. JENNINGS: I had 42, Ms. Brooks as being the one in California.

THE CLERK: I think you are correct. It is 42, Ms. Brooks is the one in California.

THE COURT: And not 41?

THE CLERK: No, sir.

MR. ARCHER: But 41 is excused, though, right?

THE CLERK: No, sir, 42 is the one excused. 41, we are expecting to report.

THE COURT: Wait a minute. 41, you have is returning? Yes. Okay.

THE CLERK: Yes, sir.

THE COURT: 41, as far as you know --

MR. ARCHER: So we went from 38 and then 42; is that correct?

THE CLERK: 38 was -- couldn't serve and 39 is the teacher that has got to report because she didn't send a notarized statement.

THE COURT: 40 was the one according to this in the Marine Corp.

THE CLERK: Yes, in Kuwait.

MR. ARCHER: So 40. 41 has to report and 42

does not?

THE CLERK: That's correct.

THE COURT: Yes, sir.

THE CLERK: And then 43 was the teacher and it was excused, hardship.

THE COURT: Excused.

THE CLERK: 44, Mary G. Brown, is over 65. Excused. Also for 45, Robert Brown, Jr., over 65 and excused. Juror No. 46, Stephen E. Brown, we received a statement saying he was a student, no verification and we did not receive a notarized statement.

THE COURT: Very well. I have -- according to 46, there's a letter from the Associate Dean from the Medical University.

THE CLERK: Yes, sir.

THE COURT: The College of Pharmacy.

THE CLERK: It just wasn't notarized, Your Honor.

THE COURT: Any objection to that juror exercising the exemption and being excused from this process?

MR. HOISINGTON: No, Your Honor.

MR. JOHNSTON: Is the only thing lacking is the notarization?

THE COURT: Yes.

MR. JOHNSTON: We can't object to that.

THE COURT: I can require him to come and place him under oath and have that verified, but you do not object? If Mr. Sapp wants it, that's fine.

MR. JOHNSTON: That's fine. He's excused.

THE COURT: He's excused, very well.

THE CLERK: Juror No. 48, Carlos A. Bryant, would be one of the ones the sheriff's office will take no further action.

THE COURT: Just one second. Okay. You said 48 or 49?

THE CLERK: I show 48. The sheriff's office still has the paperwork.

THE COURT: Okay. I see. Okay. No further action required.

THE CLERK: Juror No. 50, Algernon B. Burgess, that's also the sheriff's office will take no further action.

THE COURT: Okay.

THE CLERK: Since I worked on it at 11 o'clock, the sheriff's office has advised he has been served, so he should be reporting, Juror No. 50.

THE COURT: Okay.

THE CLERK: Juror No. 52, David Butler, 65, is excused.

THE COURT: Okay.

THE CLERK: Juror No. 53, Amanda L. Callahan, she has a three-week-old child. She's not working outside and we received a notarized statement.

THE COURT: She is excused.

THE CLERK: Juror No. 56, sheriff's office -- Charles E. Carpenter, was unable to make contact to serve notice.

THE COURT: Okay.

THE CLERK: Excused?

THE COURT: Yes. No further action required.

THE CLERK: Juror No. 58, Kevin M. Carroll, has moved. The sheriff's office stated there was no forwarding address.

THE COURT: No further action required.

THE CLERK: Juror No. 60, Deborah L. Casselman, received a doctor's excuse but it was not notarized.

THE COURT: Just one second. Any objection to her being excused from the State based on Dr. Shoeman's letter?

MR. HOISINGTON: No, sir.

THE COURT: Any objection from Mr. Sapp?

MR. JOHNSTON: No, Your Honor.

THE COURT: Ms. Casselman is excused.

THE CLERK: Juror No. 62, Mona R. Chandler, does

not work outside the home and asked to be excused for child care and received a notarized statement.

THE COURT: She's excused.

THE CLERK: Juror No. 63, Corine Chavis, over 65, and excused.

THE COURT: Yes.

THE CLERK: I'm just trying to watch you flip through.

THE COURT: No, That's fine. On the 65's, as long as you read in that she's over 65 and that's been verified by your office.

THE CLERK: Yes, sir, it has. Juror 64, Ebony T. Chestnut, sheriff's office states now in Florida State.

THE COURT: She's in Florida State, okay.

THE CLERK: We're not sure if it's the school or just living there, it said Florida State.

THE COURT: No further action required.

THE CLERK: Juror No. 65, Tanya L. Christopher, sheriff's office unable to locate. No one was ever at home.

THE COURT: No further action required.

THE CLERK: Juror No. 66, Laurie H. Clanton, Jr., received a notarized statement stating they live in Charleston County.

THE COURT: 66?

THE CLERK: Yes, sir.

THE COURT: Okay. She would not be eligible to serve on a jury in Berkeley County. She's excused.

THE CLERK: Juror No. 67, Karen M. Coffey, received a notarized statement stating she lives in Greenville, South Carolina.

THE COURT: She is excused. She is not eligible to serve on a jury in Berkeley County.

THE CLERK: Juror No. 69, Jamie L. Collins, sheriff's office unable to serve. No further action?

THE COURT: None required.

THE CLERK: Juror No. 70, George S. Cook, forwarding time expired.

THE COURT: No further action required.

THE CLERK: Juror No. 72, Lillie E. Copeland, sheriff's office attempted to serve, could not locate someone home. No further action?

THE COURT: Correct.

THE CLERK: Juror No. 73, Cecil L. Courtright, we received a hardship notarized statement. But he was told to appear unless you state otherwise.

THE COURT: 73?

THE CLERK: Yes, sir.

THE COURT: Okay. He needs to appear.

THE CLERK: Juror No. 74, Philip L. Cox,

sheriff's office attempted to serve, unable to locate. No further action?

THE COURT: No further action required.

THE CLERK: Juror No. 75, Wesley L. Craven, sheriff's office attempted to serve, was not able to make contact. No further action required?

THE COURT: That's correct.

THE CLERK: Juror No. 76, Karen L. Crawford, she is a probation officer with arresting powers for Charleston County.

THE COURT: She is not eligible to serve. I worked with her in this court.

THE CLERK: In this County?

THE COURT: Yeah, she's in Berkeley County.

THE CLERK: I'm sorry.

THE COURT: That's all right.

THE CLERK: Juror No. 78, Sidney R. Dalton, forwarding time expired.

THE COURT: No further action required.

THE CLERK: Juror No. 80, Jason D. Darby, forwarding time expired.

THE COURT: No further action required.

THE CLERK: Juror No. 83, Sebastian M. Davis, forwarding time expired.

THE COURT: No further action required.

THE CLERK: Juror No. 85, Ruth L. Deane, over 65 and excused.

THE COURT: Okay.

THE CLERK: Juror No. 86, Alfred S. Deleon, attempted to serve, could not locate someone at the house. No further action?

THE COURT: Very well. No further action is required.

THE CLERK: Juror No. 88, Frederick Devereux, is over 65 and excused. Juror No. 90, Joseph H. Dixon, forwarding time expired.

THE COURT: No further action required.

THE CLERK: Juror No. 91, Norene R. Douglas, is over 65 and excused.

THE COURT: Correct.

THE CLERK: Juror No. 92, Roland O. Downing, Jr., forwarding time expired.

THE COURT: All right. No further action is required.

THE CLERK: Juror No. 93, Patsy J. Drexel, sheriff's office stated she moved and did not leave a forwarding address.

THE COURT: That's fine. They don't have to take any further action.

THE CLERK: Juror No. 95, Samantha L. Driggers,

received a doctor's excuse and it was notarized.

THE COURT: She's excused for illness.

THE CLERK: Juror No. 97, Deborah H. Dye, she's a teacher and we received a notarized statement asking to be excused.

THE COURT: She is claiming the exemption and is excused.

THE CLERK: Juror No. 98, Jason S. Dyer. I'm not sure -- we need a notarized statement but the address that he gave us is Dorchester County, 1341, is that the one?

THE COURT: John's Avenue?

THE CLERK: Yes.

THE COURT: It appears he's going to -- all of his school is in Dorchester County. So obviously, it appears that -- all right. He's excused, No. 98, as a nonresident, therefore excused.

THE CLERK: Okay. Juror No. 99, Juanita L. Eakins, small children, does not work outside of the home. We received a notarized statement and she is presently eight and a half months pregnant and her children are two and five.

THE COURT: She is excused under small children.

THE CLERK: Juror 100, Kelly B. Eckert, sheriff attempted to serve, unable to make contact.

THE COURT: No further action is required.

THE CLERK: Juror 101, Stephen R. Edwards, had a vacation, which would be leaving May 15th and he sent us -- we received copies of his package.

THE COURT: This is the Disney World person?

THE CLERK: Yes, sir.

THE COURT: Any objection to him continuing his plans for his vacation from the State?

MR. HOISINGTON: Would they typically be transferred to another term or be just excused?

THE COURT: Given the fact that he has apparently spent money and arranged for this, I would probably transfer him.

MR. HOISINGTON: Thank you, no objection.

THE COURT: I would not excuse him, I would just postpone it. But any objection the from Mr. Sapp?

MR. JOHNSTON: No objection.

THE COURT: Very well, he is --

THE CLERK: Transferred?

THE COURT: I assume on these -- let me be sure because the statute allows them to postpone the students and the teachers. When we say -- find out from those persons whether they wish to serve during the summer. Many of them are year round and there would be no useful purpose to postpone it because the same problem will

present itself. But if any of them do wish to serve, we'll simply postpone their term, but they would not be required to participate in this particular term.

THE CLERK: We will do that, Your Honor, teachers and students if they wish to serve at a later time in the summer.

THE COURT: Yeah. Because the exemption is really the postponement of jury service, not necessarily be excused from jury service, that's 14-7-845.

THE CLERK: Okay. So Juror 101, we will transfer to another term. Juror 103, Terrell M. Ellis, sheriff's office attempted to serve. Sheriff's office verified -- said they moved, no forwarding address.

THE COURT: No further action is required.

THE CLERK: Juror 104, Darin R. Elwood, forwarding time expired.

THE COURT: No further action is required.

THE CLERK: Juror 106, Susan H. Farley, said that she had a criminal record.

THE COURT: Do you have a --

MR. JENNINGS: She was showing a 1974 had been convicted of distributing prescription drugs.

THE COURT: That would prevent her from serving. And I assume -- I can have her come to find out if she's taken any further action to have it -- a pardon. But if

there's none been developed, I don't see any useful purpose in bringing her. But do you wish her to be present -- Mr. Sapp, wish her to be present to verify this information?

MR. JOHNSTON: That's not necessary.

THE COURT: Very well. She is not eligible to serve because of prior conviction.

THE CLERK: Juror 107, Maxie G. Farmer, forwarding time expired.

THE COURT: No further action required.

THE CLERK: Juror 108, Dennis P. Farrell, forwarding time had expired and the post office stated they moved to Texas.

THE COURT: Very well. No further action is required.

THE CLERK: Juror 109, Donald J. Feasel, has moved to a new address but is still in Goose Creek. The new address is the Gainesborough Drive.

THE COURT: And I assume he's continuing to try to serve him?

THE CLERK: We're attempting to serve at the new address. Is that no further action?

THE COURT: Attempting to serve and was unable to?

THE CLERK: They attempted to serve at the new

address after we received the new address and they still haven't been able to contact him at the new address.

THE COURT: Continue to try over the weekend. We'll see what happens.

THE CLERK: Okay. Juror 111, Linda A. Fennell, doctor's excuse received and it was notarized.

THE COURT: She is excused for illness.

THE CLERK: Juror No. 112, Kenneth L. Ferdon -- Is that the one with the criminal record?

This is the one that stated he had mental and physical conditions, but did not send in any verification and we requested that he report.

THE COURT: Very well. I will discuss that with him on Monday.

THE CLERK: Thank you. Juror No. 115, Angel A. Fleming, we received a statement saying she's a student at Charleston Southern University and it was notarized.

THE COURT: Very well. She is postponed, does not have to appear.

THE CLERK: Okay. Juror No. 120, we have not heard from them. They have served them on 5/5, but this juror is over 65 years of age.

THE COURT: That juror is excused unless she -- they appear and --

THE CLERK: And want to serve.

THE COURT: Exactly. If a juror appears and they're over 65, they are obviously not claiming the exemption.

THE CLERK: Okay. Juror 125, Heather A. Garza, forwarding time expired.

THE COURT: No further action is required.

THE CLERK: Juror No. 126, Dennis D. Gee, forwarding time expired.

THE COURT: No further action is required.

THE CLERK: Juror 127, Henry Gelman, is over 65 and excused.

THE COURT: Very well.

THE CLERK: Juror 128, John R. Gentry, Jr., over 65 years and excused.

THE COURT: Okay.

THE CLERK: Juror 130, Mark T. Gilbert, forwarding time expired.

THE COURT: No further action required.

THE CLERK: Juror 133, Michael W. Goettsch, says he has a criminal record. And I think we attached copies of his criminal record that was in Berkeley County, a copy of his sentencing sheet.

MR. JENNINGS: Your Honor, he has -- we showed convictions in '97 for burglary third and a conviction in 2001 for ABHAN.

THE COURT: He would be ineligible for prior convictions. He's excused.

THE CLERK: All right, sir. Juror No. 135, Paul A. Gourdine, the sheriff's office attempted to serve but he has moved with no forwarding address.

THE COURT: No further action is required.

THE CLERK: Juror No. 136, Theodore C. Grafton, we receive two doctor's statements but neither one was notarized.

THE COURT: It appears he had a surgical procedure scheduled Friday the 16th. Any objection to the Court transferring that juror from the State?

MR. HOISINGTON: No, Your Honor.

THE COURT: Any objection from Mr. Sapp?

MR. JOHNSTON: No, Your Honor.

THE COURT: Very well. That juror is transferred until probably -- let's do it towards the latter part of the year.

THE CLERK: I will, yes, sir. Juror No. 137, Henry L. Grainger, Jr., states that he has a criminal record.

MR. JENNINGS: He has a 1974 conviction for house breaking and grand larceny; and also '99, unlawful conduct towards a child and misprison of a felony.

THE COURT: Which would carry?

MR. JENNINGS: Ten years on the unlawful conduct.

THE COURT: Ten-year sentence. He is excused. He is not eligible under the law for prior convictions.

THE CLERK: Juror 138, Tanis S. Grant, received a doctor's excuse and it was notarized.

THE COURT: She is excused for illness.

THE CLERK: Juror No. 139 is in active duty but has not been shipped out. Received a letter from the attorney, I think, for the Navy or whoever but he is still in the area, Anthony Q. Graves.

THE COURT: I've been -- in fact, there was some discussion about the legislature taking some action concerning those persons on active duty or who've been called. And I have taken the position that they are serving already and I'm not going to require them to come.

Any objection from the State?

MR. HOISINGTON: No, Your Honor.

THE COURT: Any objection from Mr. Sapp?

MR. JOHNSTON: No, Your Honor.

THE COURT: That person is excused from participation in this proceeding.

THE CLERK: Juror No. 142, Luke V. Greene, the sheriff's office said that he moved and no forwarding address.

THE COURT: No further action is required.

THE CLERK: Juror 143, Dorothy B. Grooms, over 65 and excused.

THE COURT: Correct.

THE CLERK: Juror 145, Mildred F. Gross, over 65 and excused.

THE COURT: Correct.

THE CLERK: Juror 151, Ralph C. Hamer, over 65 and excused.

THE COURT: Correct.

THE CLERK: Juror 152, Mildred Hardee, over 65 and excused.

THE COURT: Very well.

THE CLERK: Juror 153, Alex E. Harley, childcare. He does not work outside the home but he -- his wife does but he goes to school at night and his children are ages nine and two.

THE COURT: So he takes care of them --

THE CLERK: During the day, yes, sir.

THE COURT: During the day. He is excused for small children.

THE CLERK: Juror 156 was a post office box. We did not receive a response and unable to locate because of the post office box.

THE COURT: No further action is required.

THE CLERK: Juror 158, Martie R. Hayes, says she is a resident of Charleston County. Did not receive a notarized statement -- no, received a notarized statement saying she's not a resident of Berkeley.

THE COURT: Okay. It appears there's also a citation that she was issued showing a Charleston address.

THE CLERK: That is correct, yes, sir.

THE COURT: So she is nonresident.

THE CLERK: Juror 162, Frankie N. Herndon, over 65 and excused.

THE COURT: Very well.

THE CLERK: Juror No. 163, Jerome Heyward, sheriff's office verified this address is not a Berkeley County address.

THE COURT: Excused, nonresident Berkeley County.

THE CLERK: Juror No. 164, Earline Hill, received a notarized statement that they moved to Texas.

THE COURT: Nonresident, excused.

THE CLERK: Juror 170, Melody H. Howard, forwarding time expired.

THE COURT: No further action is required.

THE CLERK: Juror 171, Nancy M. Howell, forwarding time expired.

THE COURT: No further action is required.

THE CLERK: Juror 172, Jeffrey T. Hurst, forwarding time expired.

THE COURT: No further action is required.

THE CLERK: Juror No. 173, Vivian N. Jackson, over 65 and excused.

THE COURT: Very well.

THE CLERK: Juror 179, Roxanne L. Jobe, forwarding time expired.

THE COURT: No further action is required.

THE CLERK: Juror 181 is a Goose Creek Police Department and received a notarized statement.

THE COURT: Not eligible, he is excused.

THE CLERK: Juror 182, the forwarding time expired and this person is over 65 years of age.

THE COURT: That person is excused.

THE CLERK: Juror 184, Patricia Johnson, forwarding time expired.

THE COURT: No further action is required.

THE CLERK: Juror 185, Thelma Johnson, over 65 and excused.

THE COURT: Correct.

THE CLERK: Juror 187, Vanessa B. Jouett, she is a registered nurse with the school, did not receive a notarized statement, told to report.

THE COURT: If she reports, I'll deal with that

when we deal with the exemptions.

THE CLERK: Juror 188, forwarding time expired and the sheriff verified they were unable to locate.

THE COURT: No further action is required.

THE CLERK: Juror 189, Hazel A. Karr, over 65 and excused.

THE COURT: Very well.

THE CLERK: Juror 193, Spencer T. Kerce, a work conflict hardship. A notarized statement was sent.

THE COURT: Let me see -- 193?

THE CLERK: Yes, sir, last name of Kerce. Self-employed is what Ollie is telling me.

THE COURT: He needs to come.

THE CLERK: Okay. Juror 194, James E. Kerr, over 65 and excused.

THE COURT: He's excused.

THE CLERK: Juror 197, sheriff's office unable to make contact.

THE COURT: No further action is required.

MR. JENNINGS: Your Honor, what did we do with 193?

THE COURT: He is going to have to come.

MR. JENNINGS: Okay.

THE CLERK: Juror 199, Luther S. Kinloch. This is the juror that the mother said that it's her son and

that she does not know where he is. And the sheriff's office verified that verbally.

THE COURT: No further action is required.

THE CLERK: Juror 200, Jason R. Kirk, sheriff's office said they moved. No forwarding address.

THE COURT: Nothing further required.

THE CLERK: Juror No. 202, Christopher K. Konopka, not a county resident and sent a certified copy of his driver's license with his new address.

THE COURT: Yes, Dorchester County apparently. He is a nonresident of Berkeley County. He is therefore excused.

THE CLERK: Juror 205, Mukesh C. Lakhani, no further action necessary by the sheriff's office.

THE COURT: That is correct.

THE CLERK: Juror 206, Christopher J. Lang, the sheriff's office verified he moved and no forwarding address.

THE COURT: Nothing further required.

THE CLERK: Juror No. 207, Royce E. Larose. This lady is -- received a notarized statement that she is nine months pregnant.

THE COURT: She is excused.

THE CLERK: Juror 208, Christine L. Lavelle, forwarding time expired.

THE COURT: No further action is required.

THE CLERK: Juror 209, Catherine C. Laurens, we did receive a doctor's excuse but it was not notarized.

THE COURT: Any objection from the State excusing this juror?

MR. HOISINGTON: Was it on a prescription or some kind of official --

THE COURT: The letter is from Brian West who is with Charleston Psychiatry.

MR. HOISINGTON: No objection.

THE COURT: Any objection from Mr. Sapp?

MR. ARCHER: No, sir.

THE COURT: Very well. She is excused for physical condition.

THE CLERK: Juror No. 210 is over 65. We haven't received a response but he was -- they are over 65 and they have moved.

THE COURT: They're excused.

THE CLERK: Juror 211, Catherine J. Leal, child care. It's notarized and does not work outside the home.

THE COURT: She's excused for small children.

THE CLERK: Juror 212, Derrick Lebeau, is a student. I think that's the one who has a Medical University thing stating they are a student.

THE COURT: Nursing. Transfer -- well, postpone

if he wishes to serve.

THE CLERK: Okay.

THE COURT: But will not be required to appear.

THE CLERK: Okay. Juror No. 215, Elaine L. Ling, over 65 and excused.

THE COURT: Very well.

THE CLERK: Juror 216, Myrtle I. Lucas, over 65 and excused. Juror No. 222, Linda S. Mahrer, Dr. Hodges sent a statement that was notarized for a doctor to be excused.

THE COURT: She's excused for illness.

THE CLERK: Juror 224, Jeffrey J. Malmgren, no further action. Sheriff's office's unable to make contact.

THE COURT: Very well.

THE CLERK: Juror 226, Patrick S. Mannarino, sheriff's office no further action. Unable to serve.

THE COURT: None required.

THE CLERK: Juror 227, Rosemarie J. Mapes, over 65 and lives in New York and excused.

THE COURT: She is excused.

THE CLERK: Juror 231, Chester L. Mayers, says that it's --

I have two statements here, Ollie, hardship --

Let me check this one. I think we told him to

appear.

THE COURT: He's got to come.

THE CLERK: Okay. That's the single father that says his child is 8 years old or something of that nature.

THE COURT: I'll entertain that. I don't know when -- I don't think the governor signed it yet, I understand it's on his desk. There is a proposal to excuse persons who have -- adults who are incapable of caring for themselves. And I will consider that given the fact that will become an exemption very shortly. But I'm not making any determinations until they appear.

THE CLERK: This one is the father that's single, says a hardship and has an eight-year-old child.

THE COURT: He just needs to come and I'll talk with him.

THE CLERK: I will. Juror 232, sheriff's office unable to locate. No further action required?

THE COURT: None required.

THE CLERK: Juror 234 is Kenneth V. McAlpine, is no further contact, sheriff's office unable to make contact.

THE COURT: Correct.

THE CLERK: Juror 235, Hoyt L. McBroom, received some statements from doctors but they were not notarized -- no, we didn't receive --

THE COURT: I don't see it.

THE CLERK: Ollie's correct. No doctor's statement, we told him to appear. They were supposed to send a doctor's excuse but we never received one.

THE COURT: Apparently, there's some question about having an appointment. They sent that.

THE CLERK: It was just a statement --

THE COURT: He'll need to appear.

THE CLERK: Okay. Juror 237, Erskine E. McCollugh, sheriff's office attempted, but no further action.

THE COURT: None required.

THE CLERK: Juror 242, Cassel G. McKenzie, forwarding time expired.

THE COURT: No further action required.

THE CLERK: Juror 248, Mary E. Meadows is a student. It was not notarized but she stated she was a student, was told to report since we didn't have a verification.

THE COURT: Let me see, she needs to report because it says USC. Graduation for USC is Saturday. So she'll be out of school.

THE CLERK: We told her to report. We'll follow up, Your Honor. Juror 249, Lynn C. Meppen, sheriff's office unable to make contact. No further action taken.

THE COURT: None required.

THE CLERK: Juror 251, Kevin P. Meyer, has moved to Charleston County, verified by the sheriff's office.

THE COURT: Excused, he's a nonresident of Berkeley County.

THE CLERK: Juror 252, Deborah A. Middleton, doctor's excuse received and notarized.

THE COURT: Excused for illness.

THE CLERK: Juror 253, Louis W. Migliaro.

THE COURT: He is excused. I sentenced Mr. Migliaro myself.

THE CLERK: Okay. Juror 254, Eugene Miller, Jr., sheriff's office stated he moved and no forwarding address.

THE COURT: None required.

THE CLERK: Juror 260, Gerald P. Mosseau, over 65 and excused.

THE COURT: Very well.

THE CLERK: Juror 263, Charles T. Murray, sheriff's office attempted to serve. No further action.

THE COURT: None is required.

THE CLERK: Juror 264, Cindy P. Murrian, work conflict and notarized statement, but I'm not sure what it stated.

THE COURT: She'll need to come.

THE CLERK: Okay. Juror No. 268, Rose M. Myers, over 65 and excused.

THE COURT: Very well.

THE CLERK: Juror 269, Hisayo Nalley, over 65 and excused. Juror 270, Margie P. Nault, forwarding time expired.

THE COURT: No further action required.

THE CLERK: Juror 272, Tracy M. Nesbitt, sheriff's office attempted to serve. No further action necessary?

THE COURT: Correct.

THE CLERK: Juror 274, Cynthia F. Norman, the post office stated on the envelope that she's moved to Indiana.

THE COURT: She is excused for nonresident.

THE CLERK: Juror 275, Brian E. Norris, there's a doctor's excuse with the Medical University, I think. And his child has had two strokes and I think is still under severe doctor's care.

THE COURT: I'm going to excuse Mr. Norris.

THE CLERK: Juror 282, Willis D. Paulk, II, sheriff's office attempted to serve. No further action taken?

THE COURT: None required.

THE CLERK: Juror 287, Lyle N. Peterson, over 65

and excused.

THE COURT: Very well.

THE CLERK: Juror 289, Edwin B. Piedmont, over 65 and excused.

THE COURT: Yes.

THE CLERK: Juror 291, Sylvia E. Pipkin, doctor's excuse and it was notarized.

THE COURT: She is excused for illness.

THE CLERK: Juror 296, Gloria W. Pope, received doctor's statement and it was notarized.

THE COURT: Excused for illness.

THE CLERK: Juror 299, Latasha S. Price, sheriff's office said that -- wrote juror has moved to Georgetown County.

THE COURT: Nonresident of Berkeley County, excused.

THE CLERK: Juror 300, Eric S. Priester, I think has a criminal record.

THE COURT: Is that verified?

No. 300.

THE CLERK: Yes, sir, 300, Priester.

MR. JENNINGS: Just a second, Your Honor.

THE CLERK: I think we put a copy of a sentence sheet in there, but I don't know if he has any further.

MR. JENNINGS: Yes, sir, he has a conviction for

grand larceny and resisting arrest in 1994 and discharging a firearm in a dwelling in 1996.

THE COURT: He would be excused for prior convictions, not eligible.

THE CLERK: Juror 301, Wyatt E. Propst, over 65 and excused.

THE COURT: Yes.

THE CLERK: Juror 302, Mark D. Rabon, forwarding time expired.

THE COURT: No further action required.

THE CLERK: Juror 303, Christina C. Rachkoski. Let me see, I can't read my handwriting. She is a stay-at-home mom and not sure of the age of the child because she didn't fill out the questionnaire. Am I right?

THE COURT: Yes. Her affidavit states that the child is under seven.

THE CLERK: Okay.

THE COURT: Do you wish that person to appear to further verify that from the State?

MR. HOISINGTON: No, sir.

THE COURT: Does Mr. Sapp?

MR. JOHNSTON: Mr. Sapp does, Your Honor.

THE COURT: Does want her to appear?

MR. JOHNSTON: Yes, sir.

THE COURT: Very well. Have her appear.

THE CLERK: Juror 304, Jacqueline P. Rash, over 65 and excused.

THE COURT: Okay.

THE CLERK: Juror 306, Patricia U. Reaves. She has vacation plans to go to, I think, it's New Jersey. She leaves after the week or the end of the week of May 12th. And it was a notarized statement I think stating that.

THE COURT: What's the State's desire concerning this juror?

MR. HOISINGTON: No objection, Your Honor. Excuse them.

THE COURT: Any objection to transfer from Mr. Sapp?

MR. JOHNSTON: No objection.

THE COURT: Very well. The juror is transferred.

THE CLERK: Juror 307, Frances K. Reed, there's a doctor's statement that states she takes care of her husband.

THE COURT: That's one of those situations she'll need to come. I'll have to talk with her.

THE CLERK: Juror 308, Michael P. Requidan, has moved to Charleston County.

THE COURT: Nonresident of Berkeley County, excused from participation.

THE CLERK: Juror 310, Phillip M. Rice, is not a county resident, states that it's in North Charleston. We haven't received a notarized statement.

THE COURT: He has his current address as Atlantic Palms?

THE CLERK: In North Charleston, yes, sir. We wrote and asked him to send us a notarized statement with that.

THE COURT: The juror is excused, nonresident.

MR. JENNINGS: That was 310, Your Honor?

THE CLERK: Yes, sir.

THE COURT: Yes.

THE CLERK: Juror 312, Michael J. Richardson, forwarding time expired.

THE COURT: No further action required.

THE CLERK: Juror 314, Arthur L. Rivers, over 65 and excused.

THE COURT: He is excused.

THE CLERK: Juror 318, Sheryl D. Robinson, sheriff's office stated moved with no forwarding address.

THE COURT: No further action is required.

THE CLERK: Juror 319, Richard K. Rodriguez, his forwarding time expired.

THE COURT: No further action is required.

THE CLERK: Juror 320, Erica K. Rogers, has moved to Charleston County. I'm not sure if we got verification on that.

THE COURT: One second.

THE CLERK: Post office stated they moved on the envelope.

THE COURT: Yeah, I see that. Nonresident of Berkeley County, he's excused.

THE CLERK: Juror 321, Porschee R. Rogers, sheriff's office stated they moved with no forwarding address.

THE COURT: No further action is required.

THE CLERK: Juror 323, Athena A. Rosenberg, sheriff's office stated they moved with no forwarding address.

THE COURT: No, we have --

THE CLERK: That's the wrong one? That's 324?

THE COURT: Yes, 323 has a return.

THE CLERK: Okay. 324 is James W. Rouse is the one that the sheriff's office said moved.

THE COURT: North Carolina. He's excused as a nonresident.

THE CLERK: Okay. Juror 325, Eleanor M. Ruiz, sheriff's office -- no further action needed, unable to

locate.

THE COURT: Correct, no further action needed.

THE CLERK: 326, David W. Russell, not a county resident and notarized statement received.

THE COURT: He is excused, a nonresident of Berkeley County.

THE CLERK: Juror 327, William J. Sarvis, Jr. -- Sr. He is an officer at Lieber and we've excused him.

THE COURT: Yeah. Any objection? This is an exemption, but I'm going to excuse any officer from participation.

MR. HOISINGTON: No objection.

MR. JOHNSTON: No objection.

THE COURT: Very well. He is excused.

THE CLERK: Juror 328, John H. Savage, no further action needed by the sheriff's office.

THE COURT: Correct.

THE CLERK: Juror 330, April R. Scott, forwarding time expired.

THE COURT: No further action is required.

THE CLERK: Juror 331, Louvenia D. Scott, over 65 and excused.

THE COURT: Correct.

THE CLERK: Juror 332, Jennifer Sensenig, is not a resident of Berkeley County and sent a copy of the

driver's license for the address in Summerville.

THE COURT: She is excused as being a nonresident.

THE CLERK: Juror 335, Robert L. Shuler, the forwarding time had expired but the post office wrote on there that he's deceased.

THE COURT: Very well. No further action is required.

THE CLERK: Juror 338, Vernell Simmons, forwarding time expired.

THE COURT: No further action is required.

THE CLERK: Juror 341, William B. Singleton, over 65 and excused.

THE COURT: Correct.

THE CLERK: Juror 343, Leon E. Smalls, says he's an officer at McDougal. We haven't received a notarized statement but he stated he was an officer.

THE COURT: He's excused.

THE CLERK: Juror 344, Sam Smalls, over 65 and excused.

THE COURT: Correct.

THE CLERK: Juror 347, Michael T. Snodgrass, Jr., forwarding time expired.

THE COURT: No further action is required.

THE CLERK: Patricia P. Southard, we received a

doctor's excuse that she takes care of her father and the doctor's statement was not notarized.

THE COURT: She'll need to appear.

THE CLERK: Juror 351, Gwendolyn Spurlock. She is not a county resident. It came back on the envelope that she is from South Jersey -- New Jersey.

THE COURT: She is excused as a nonresident.

THE CLERK: Juror 354, Patricia L. Stepherson, no forwarding, time expired.

THE COURT: No further action is required.

THE CLERK: Juror 356, Olin D. Stokes, over 65 and excused.

THE COURT: That is correct, excused.

THE CLERK: Juror 358, Heather R. Swanson, forwarding time expired.

THE COURT: No further action is required.

THE CLERK: Juror 360, Rosa G. Tallon, over 56 and excused.

THE COURT: Correct.

THE CLERK: Juror 362, Ruby P. Taylor, is over 65 but we have not heard from them.

THE COURT: Well, if she appears, she -- and if she's otherwise qualified, she'll be eligible to serve.

THE CLERK: Yes, sir. Juror 363, H. L. Thomas, over 65 and excused.

THE COURT: Correct.

THE CLERK: Juror 364, Keith H. Thomas, it's a hardship with three children financially. I think they sent a notarized statement.

I think it was just a financial hardship, correct?

THE COURT: He needs to appear.

THE CLERK: Juror 365, Alden O. Thompson, sheriff's office states that they now live in Florida.

THE COURT: Nonresident, excused.

THE CLERK: Juror 366, Judy K. Todd, sheriff's office stated that they've moved and no forwarding address.

THE COURT: No further action is required.

THE CLERK: Juror 368, Leife T. Tuala, no further action needed by the sheriff's department?

THE COURT: Correct.

THE CLERK: Juror 370, Patricia H. Turner, is saying there's a work conflict with Mississippi, that her husband -- that she is presently in Mississippi, works with her husband with FEMA but the statement was not notarized.

THE COURT: She is there now?

THE CLERK: I have to ask Ollie. She's in Mississippi.

THE COURT: Apparently, they work for FEMA. Does the State wish me to have her return to the State?

MR. HOISINGTON: No, sir.

THE COURT: Does Mr. Sapp?

MR. JOHNSTON: No, Your Honor.

THE COURT: Very well. She's excused.

THE CLERK: Juror 373, Thomas A. Upshaw, post office said is no forwarding address but not a resident -- no, postmarked Florida, is not a county resident.

THE COURT: Very well, he is a nonresident. He is excused.

THE CLERK: I need to go back to 371, on Donald W. Twiggs, he's active duty in the Navy.

THE COURT: He is excused.

THE CLERK: Okay. And now back to 374, Shelvie J. Vanallen, is over 65 and excused.

THE COURT: Correct.

THE CLERK: Juror 375, David A. Vanwey, sheriff's office unable to serve. No further action?

THE COURT: That is correct.

THE CLERK: Juror 377, Peter C. Vierd, forwarding time expired. No further action?

THE COURT: None required.

THE CLERK: Juror 378, Jan M. Walkaraj, she's a schoolteacher and it was a notarized statement. Transfer?

THE COURT: Transfer, postpone it.

THE CLERK: But ask her. Juror 379, Mary B. Walker, sheriff's office states that this person is deceased; is that correct? Deceased per daughter.

THE COURT: Very well. No further action is required.

THE CLERK: Juror 381, Gregory N. Warren, sheriff's office could not make contact. No further action necessary?

THE COURT: None required.

THE CLERK: Juror 383, Rose M. Watson, sheriff's office attempted to serve, could not contact. No further action?

THE COURT: Correct.

THE CLERK: Juror 384, Larry A. Westbrook, II, sheriff's office attempted, unable to make contact. No further --

THE COURT: No further action.

THE CLERK: Juror 386, Rose H. Whetsell, sheriff's office stated they moved, no forwarding address.

THE COURT: No further action required.

THE CLERK: Juror 388, Shene C. White, a teacher, notarized statement. You want me to ask about transfer?

THE COURT: Yes.

THE CLERK: Juror 389, Teresa L. Wiggins, forwarding time expired. No further action?

THE COURT: Correct.

THE CLERK: Juror 392, John H. Wilson, forwarding time expired. No further action?

THE COURT: Correct.

THE CLERK: 394, Cheryl D. Wintlend, sheriff's department states moved, no forwarding address.

THE COURT: No further action is required.

THE CLERK: Juror 395, Robert A. Wolf, sheriff's department attempted to serve, could not make contact. No further action necessary?

THE COURT: Correct.

THE CLERK: Juror 397, Emory L. Wray, sheriff's office stated they moved, no forwarding address.

THE COURT: Very well. No further action is required.

THE CLERK: Juror 398, Mary J. Wright, is a teacher with a notarized statement. I will ask about transfer.

THE COURT: That would be fine.

THE CLERK: Juror 399, Stephanie M. Wright, is not a Berkeley County resident, states that the new address is 2274 Ashley River Road, Apartment 504, Charleston, 29414.

THE COURT: She is excused as a nonresident of Berkeley County.

THE CLERK: And that's all I have, Your Honor.

THE COURT: Anything further from the State concerning the jurors and the reports?

MR. HOISINGTON: No, Your Honor.

THE COURT: Anything further from Mr. Sapp concerning the jurors and reports?

MR. ARCHER: I'm just curious if she knows how many are left in the pool.

THE COURT: Just one second. We'll get that.

THE CLERK: I'm sorry, what was his question?

THE COURT: How many jurors are in the pool that will be reporting?

THE CLERK: We are hoping 188 is supposed to report with a couple added to that. So we'll probably get 190, 191, I'm not sure how many is told to appear, provided everyone appears.

One other juror needed to be picked up, Your Honor. Juror 285 has requested -- Shirley A. Pearson is requesting from Sangaree transportation. And due to so many courts and the number of jurors, I was going to ask -- the sheriff's office said they would transport if necessary and wanted to know if there was any objections from the State or defense.

THE COURT: Ms. Brown is asking about this -- the only persons we have to transport are the sheriff's office. I'm confident there would be no discussion. However, we have 190 jurors. I believe I would rather transfer that juror than to run the risk of that juror being -- of course, once they are sequestered, we don't have a problem. But we would have the problem -- I don't know what her name is or what group she'd be in, but there would be that problem. Do you want her to be brought here initially?

MR. JOHNSTON: No, Your Honor.

MR. ARCHER: What number was that?

THE CLERK: 285.

THE COURT: 285. I would prefer to transfer her to a term when transferring -- transportation wouldn't be such a problem, potential problem.

MR. JOHNSTON: We have no objection to the transfer.

THE COURT: Transfer?

MR. JOHNSTON: Yes, sir.

THE COURT: Very well. She will be transferred so the sheriff's office wouldn't be required to transport her.

THE CLERK: Thank you.

MR. JOHNSTON: Your Honor, can we go back to 399

for a minute, please, sir?

THE COURT: Sure, yes, sir. 399?

MR. JOHNSTON: Yes, sir. What was the status on that?

THE CLERK: She stated that she was not a Berkeley County resident. It's not notarized but she gave the new address.

THE COURT: The address she listed is Ashley River Road. That is in Charleston County.

MR. JOHNSTON: Did she give any proof of the address? She just said she's moved?

THE COURT: That's all she said. But I'll be happy to bring her in and place her under oath if you would wish her to be present.

MR. JOHNSTON: The defendant does, Your Honor.

THE COURT: Very well. Have her report.

THE CLERK: Okay.

MR. JENNINGS: Your Honor, if I could address one thing. I know it's your normal practice with convictions that those are generally addressed in your general qualification.

THE COURT: Yes.

MR. JENNINGS: And I've reviewed up to number 140 and had some others that have convictions to disqualify them. Do you want to do that at this time or

on Monday?

THE COURT: Let's go ahead and do that now so Mr. Sapp will be on notice of those persons as well. Which ones?

MR. JENNINGS: Okay. No. 87, Abdullah Denmark.

THE COURT: Yes.

MR. JENNINGS: He has a conviction from 1994 for possession with intent to distribute crack cocaine.

THE COURT: I will -- of course, if he responds, that will be fine. If he doesn't, we'll bring him forward. I've certainly encountered in the past, wouldn't be the first time, where for some reason it was not this individual.

MR. JENNINGS: Yes, sir, correct.

THE COURT: We'll review that. What was the conviction?

MR. JENNINGS: Possession with intent to distribute crack.

THE COURT: Okay.

THE CLERK: No. 89, Richard Dickerson. We show a conviction in 1983 for possession of cocaine.

THE COURT: Okay.

MR. JENNINGS: Juror 121, Janet M. Fryar, has a 2002 conviction for assault and battery of a high and aggravated nature.

THE COURT: Okay, ABHAN.

MR. JENNINGS: And Juror 140, Antonia Green, has a 1981 conviction for house breaking and 1990 breach of trust. And I will review the rest over the weekend.

THE COURT: Very well.

Anything else from the State?

MR. HOISINGTON: No, Your Honor.

THE COURT: Anything further from Mr. Sapp before we recess?

MR. JOHNSTON: No, Your Honor.

THE COURT: Thank you all. I appreciate you being here. See you Monday morning.

MR. ARCHER: May I just say something off the record?

THE COURT: Sure.

(There was a discussion off the record.)

THE COURT: The jury return is at 9:30. At 9:30 we'll start.

MR. HOISINGTON: Thank you, Judge.

THE CLERK: Your Honor, I'm not going to get the mileage or anything. I'm going to do it all on the record.

THE COURT: That will be fine.

THE CLERK: Is that okay?

THE COURT: Yes, let's do that.

(WHEREUPON, the pre-trial motion proceedings were concluded for the day to be reconvened on Monday May 12, 2003.)

Monday, May 12, 2003

THE COURT: Ladies and gentlemen, good morning to you. And let me go ahead and move this. I just told my court reporter, normally, I stand up when I talk to you and qualify the jury. This morning I'm going to sit here because it's very important that each of you hear what I'm going to say this morning. Not that it's not important every time, but it's exceptionally important this morning.

My name is Markley Dennis. I'm a Circuit Court Judge from this circuit, which is the Ninth Circuit. And the Ninth Circuit is the judicial circuit comprised of Charleston and Berkeley Counties. I've been assigned this week to conduct a term, and it's a two-week term, of General Sessions. General Sessions is one side of circuit court, Common Pleas being the other. Common Pleas is civil. General Sessions is criminal. That means that we are dealing with matters of criminal disputes. And really, that's what a jury trial is. It's a process of dispute resolution. And you have been selected to assist us in resolving the case or cases that we may have this term.

This term is a term, though, that is somewhat different in the sense that in this particular week we are going to deal with a case in which the State has served a Notice of Intention to Seek the Death Penalty. And you,

of course, have been selected to assist us in resolving that dispute as well. In just a moment, we are going to go through the roll call and Ms. Brown will have some questions of you. You have already, most of you have filled out a questionnaire. Hopefully, if you haven't had a chance to do so, Ms. Brown will provide you with a copy. I requested that questionnaire accompany your summons for the reason that there is some information in that questionnaire that's helpful to the Court and it's helpful to both sides involved in this process of dispute resolution.

One of the things that you will note today is I'm going to ask the bailiffs and ask you to accommodate us in that we hold down any movement and, certainly, we don't permit any talking during this qualification process. Because again, it's very important that you hear what the Court is saying, Ms. Brown is saying, as well as that we hear your responses. I would ask you that when you are given an opportunity or find it necessary to respond, that you speak loudly so that we can all hear you. That will be extremely helpful not only in obtaining the information, but in making sure that we have an accurate response from you. Also, I would remind you and I'm sure they have reminded you, they, being the bailiffs -- and you will see persons from time to time

this week who are wearing red coats. They are bailiffs. They are employed by Ms. Brown, our Clerk of Court. And I thank her for that among other things. But they are here to assist the Court and to assist you. Certainly, they will be, I think, very, very helpful to you, probably have already assisted you in some respect. Please do not hesitate to contact them or ask them any questions that you may have. If there are questions that you need of me, they are here to help you with that as well. They can bring that to my attention and I will certainly attempt to answer any questions that you may have.

Also, I would remind you -- and I have to remind myself -- I just finished a seminar last weekend and the Chief Justice as a part of that seminar, my boss, spoke to us. And one of the things that she, after becoming Chief, issued an order requiring that we not permit any cell phones in the courtroom. Because, as we all know, those beepers or cell phones, and they have some wonderful tones, but the Chief felt it would be somewhat disruptive. And certainly, you maybe have been in some things and it's kind of distracting. So we have asked that you not -- if you have a cell phone, make sure that it's off or it's in the vibrate mode. Because if it goes off, the Chief as a part of that order has directed me to declare that to be contempt of court and to deal with you accordingly. And I

assure you, I have made that mistake, too. I understand that. So it eliminates that little problem and I would appreciate it as well. I would state, it was interesting during our talk, I think I counted three phones that went off. I thought, boy, that's not wise. But nevertheless, I appreciate you taking care of that. That would apply to beepers as well.

Ladies and gentlemen, I look forward to talking with you and talking about this process more in just a moment and explain to you when we talk about a trial in which it's called a capital murder trial, and I will discuss that with you, explain that to you in much more detail in just a few moments. But at this point, I'm going to turn it over to our Clerk of Court. And I say our because all of you are residents of Berkeley County as I am a resident of Berkeley County. And I'm proud to turn it over to our Clerk of Court, Ms. Brown, who is -- she and I have kind of been together for quite some time but neither one will say how long. But she's a wonderful Clerk of Court and I appreciate all that she's done to facilitate your presence here today. And you may not be as glad as I am that you are here, but we'll talk about that after she calls the roll. But I thank you. And I think you probably have already found and you will find she is a very, very able and professional Clerk of Court

and I thank her for that professionalism.

Ms. Brown, I will turn it over to you.

THE CLERK: Thank you, Your Honor. I'm waiting for my list.

THE COURT: Okay. I will talk with you further then. We'll talk about the process more when I have a chance to speak to you more. There are a number of questions that are asked. I hope that none of you have felt that it was in any way an invasion of your privacy. If you feel that way, I certainly respect your right. And you can use -- we can use for -- Ms. Wiggins, these seats here up on either side, we can just use those and that way we can maybe not crowd everyone.

THE BAILIFF: Yes, sir.

THE COURT: I apologize for the tightness of the quarters. Hopefully, we will not be here as long as maybe some of you anticipate or think you might be. After Ms. Brown calls the roll, I will move into the qualification process where I will be asking you a number of questions to determine your qualifications to serve as a juror this week. If any of you have to stand during this process, I apologize for that. But again, hopefully, it will not take too terribly long.

Once we have completed the qualification process, what we will be doing is we will be proceeding in

a fashion that is not exactly the same -- and again, I will explain that to you in more detail, but we will be selecting panels of jurors, probably six in number. And they will be asked to return periodically until we select a jury. And this will be explained to you as well. So hopefully, once we have qualified you and we start identifying the panels, the numbers, we will be reducing the numbers and you'll have more space. And forgive me for the crowded quarters right now. Again, this is not your normal situation in that we don't have these types of cases every week. So we don't design courtrooms to accommodate that and I hope you all understand that.

MR. JOHNSTON: Your Honor, would you like this now?

THE COURT: Yes, that would be very helpful.

MR. JOHNSTON: Your Honor, your copy -- I see we have made notes on your copy but I have scratched them out.

THE COURT: Thank you, Mr. Johnston. Appreciate it, sir.

One of the important matters, we have to make sure -- and, of course, the security issue that you encountered when you arrived, it would be wonderful if we lived in a world where security was not a problem. But we live in a real world. And I want to assure you that the

security that you encountered, you will encounter every time you come into this building. And that is for your benefit and mine and everyone else. And so I apologize for the inconvenience that you may have encountered, but realize it's much like flying on a plane.

My son this week is going to visit his brother, who lives in Houston, and his wife. And I remember not too long ago he was visiting them, the Christmas holidays, and he was complaining about the delay. And I said, well, there is no assurance that once that flight takes off that everybody is clean and there are no problems. But if it takes two hours to help assure that, then I'm willing to wait. And I hope you will be, too. And I think hopefully we all have to change our view somewhat and deal with those things. But I do apologize.

Are those all the jurors now?

THE BAILIFF: I'm not sure, Your Honor.

THE COURT: I don't want to start -- well, we can start the roll call, I guess. And that way we'll have a chance to finish with allowing those to come in. Those of you that are standing in the rear, if we can maybe find some chairs for them and we don't clutter it too much after we start the process, we might can get you a seat. If we could just put them in the aisle, Ms. Wiggins, once we get them in here. I see Mr. Pontiff coming. Maybe

that's a sign that that's all at the door.

All right, Ms. Brown, you have your list?

THE CLERK: Yes, sir, Ms. Tucker's advised me that some just started coming in so we might have to check in a little bit.

THE COURT: No problem. Not a problem. I'm going to turn it over to you, Ms. Brown.

THE CLERK: Okay.

(WHEREUPON, the roll of the jury was called.)

(WHEREUPON, the following bench conference was had in the presence of the jury but out of the hearing of the jury.)

THE COURT: How old is your child?

THE POTENTIAL JUROR: One.

THE COURT: You are a stay-at-home mom?

THE POTENTIAL JUROR: Yes.

THE COURT: You have an exemption. You will be excused.

THE POTENTIAL JUROR: Yes.

THE COURT: You are free to leave, ma'am, thank you.

THE BAILIFF: This is Ms. McKenzie.

THE COURT: Good morning.

THE POTENTIAL JUROR: Morning.

MR. JENNINGS: 243.

THE CLERK: 243, yes, sir.

THE COURT: Ms. McKenzie, you can't hear me?

THE POTENTIAL JUROR: I can read lips.

THE COURT: Do you wish to serve or do you want to be excused?

THE POTENTIAL JUROR: I do not want to serve.

THE COURT: You do not want to serve. Ms. McKenzie, thank you for coming. You are excused. Thank you, ma'am. Have a nice day. You are free to leave.

243 excused for cause, medical disability. All right. Now, we can bring those others in and we'll bring up others after that.

(WHEREUPON, the bench conference was concluded.)

(WHEREUPON, the roll call was continued.)

THE BAILIFF: We have a juror that you did not call.

THE CLERK: Okay.

THE BAILIFF: 224.

THE COURT: Is it my turn?

THE CLERK: Yes, sir.

THE COURT: Ladies and gentlemen, thank you very much. I think we have obtained this information, but let me now again verify, are there any members of the jury panel who have not completed the questionnaire provided by

Ms. Brown, please stand.

All right, sir. Your name and number?

THE POTENTIAL JUROR: My name is Ken Ferdon. I think my number is 111.

THE COURT: No. 111. We'll get you a questionnaire at the first break.

THE POTENTIAL JUROR: I have some medical records.

THE COURT: I'll talk to you about that in just a moment, sir.

Anyone else?

Yes, ma'am?

THE POTENTIAL JUROR: I didn't fill out a questionnaire.

THE COURT: You did not? What is your number, please?

THE POTENTIAL JUROR: 277.

THE COURT: We'll make sure that you get one from the clerk at the first break, please, ma'am. If you could complete it for us and get it back for us, we'd appreciate it very much.

Are there others?

Yes, ma'am?

THE POTENTIAL JUROR: 121.

THE COURT: Yes, ma'am.

THE POTENTIAL JUROR: I didn't fill out the questionnaire.

THE COURT: No. 121, your name, please?

THE POTENTIAL JUROR: Janet Fryar.

THE COURT: All right, Ms. Fryar, we'll get you a questionnaire and get you to complete it as soon as you can for me, please, ma'am.

Any others?

(There was no response.)

THE COURT: All right. There appear to be none.

All of you who have indicated by your silence that you have completed your questionnaire and returned it, do each of you stand by the answers that you have placed? And that means that you do not now wish to change any answer given on the questionnaire. If you do wish to change an answer, please stand.

(There was no response.)

THE COURT: Thank you. There are none.

THE CLERK: Judge?

THE COURT: Yes?

THE POTENTIAL JUROR: I've moved.

THE COURT: You've moved?

THE POTENTIAL JUROR: Yes.

THE COURT: Where do you live?

THE POTENTIAL JUROR: In the same apartment

building, just a different apartment.

THE COURT: All right. If you will make that notation at the first opportunity, first break, I would appreciate it.

Yes, ma'am, your name --

Excuse me, what was your name and number, ma'am?

THE POTENTIAL JUROR: My number is 117, Diana Foster.

THE COURT: Yes, Ms. Foster.

THE POTENTIAL JUROR: The address that I put on my questionnaire, I have now gone back to my original, the one it was mailed to.

THE COURT: And what is that address?

THE POTENTIAL JUROR: 5864 North Rhett is the correct.

THE COURT: That is correct now?

THE POTENTIAL JUROR: Yes.

THE COURT: All right. If you will make sure that information is reflected on your questionnaire at the first break, I would appreciate it.

THE POTENTIAL JUROR: To whom do I go to?

THE COURT: To Ms. Brown or her designee.

And your name and number, please?

THE POTENTIAL JUROR: 236, Cynthia Mccaslin.

THE COURT: Yes, ma'am?

THE POTENTIAL JUROR: My number is 217, I got married.

THE COURT: Okay. 217? Your name is not now Ms. Lucas?

THE POTENTIAL JUROR: No, sir.

THE COURT: What is your last name?

THE POTENTIAL JUROR: Ravenel.

THE COURT: Ravenel. Thank you very much.

Yes, ma'am?

THE POTENTIAL JUROR: Stephanie Wright, 399. There is a medical history that I didn't put on there that I should have.

THE COURT: Okay. If you will make that correction to yours -- to your questionnaire as soon as you can, we'll appreciate it.

THE POTENTIAL JUROR: Thank you.

THE COURT: Thank you.

Are there others?

(There was no response.)

THE COURT: Thank you. There now appear to be none.

Is the information that each of you provided accurate and truthful? If it is not, I need for you to stand.

(There was no response.)

THE COURT: Thank you. There are none.

All right, ladies and gentlemen, at this point the Court now will qualify you to serve as a juror. There are a number of qualification questions that I have to ask of you. Each of these questions are required by our legislature, they are part of the Code of Laws of this state. And some of them may sound somewhat unusual to you.

The first question, I will tell you, that I will ask you is an interesting question. It's required as all of them are. I've been serving in this capacity now for nine and a half years. I have never had anyone that didn't meet this qualification. I finally figured it out. I'm sure many of you would have understood why early on but it finally dawned on me. I doubt I will ever find anyone that doesn't have this or meet this qualification. Because, quite frankly, if you didn't have at least one of these there would be no way for us to get your name. So you have received a summons so I'm quite confident you meet this first one.

But I share that with you because don't scratch your head and say I wonder why in the world he's asking that. Again, these are statutes that I'm required to ask of you. And there are a number of questions that you may find -- and I will give you an opportunity and discuss

those with you in just a moment. But you may find them to be somewhat intrusive or invasive of your privacy and I respect that. I will give you an opportunity, rather than to respond as we have been doing this morning, to come forward and share that with me, with the attorneys and the court reporter. But it is important that you respond.

First, I need to ask each of you now if each of you will solemnly swear or affirm that your responses to the Court's questions will be the truth? Indicate that by saying I will. And I have often said I don't know whether everybody answered. If there is anyone who refuses to take that oath, please stand.

Yes?

THE POTENTIAL JUROR: Yes, I refuse to take that oath.

THE COURT: You refuse to take the oath? You refuse to promise to tell the truth?

THE POTENTIAL JUROR: I will tell the truth but --

THE COURT: What is your name and number?

THE POTENTIAL JUROR: My name is Antonia Green, 140.

THE COURT: Mr. Green, it is my understanding that you refuse to swear or affirm but you promise your responses will be truthful?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. You may take your seat.

Anybody else?

(There was no response.)

THE COURT: Thank you. All persons present have responded to the Court's questions concerning the truthfulness of their responses to the following questions.

Are there any members of the jury panel who are presently not -- they presently do not have a highway department identification card, a driver's license or a voter's registration certificate? You don't have to have all three of them. You only have to have one. You don't have to have them with you, you just have them at some point in time. Does that apply to any person present, please stand.

(There was no response.)

THE COURT: There are none.

Are there any members of the jury panel who have not reached their 18th birthday? If so, please stand.

(There was no response.)

THE COURT: There are none.

Are there any members of the jury panel who are not citizens of the United States? If so, please stand.

(There was no response.)

THE COURT: There are none.

Are there any members of the jury panel who are not residents of Berkeley County? Please stand.

Yes, your name and number, please?

THE POTENTIAL JUROR: 399, Charleston County.

THE COURT: 399, your name's Charleston County?

THE POTENTIAL JUROR: No, I live in Charleston County. Stephanie Wright.

THE COURT: I'm sorry. Please -- I'm sorry that you had to be the brunt of that one. You used to live at 1015 Galaxie Drive?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: But you don't live there anymore?

THE POTENTIAL JUROR: No, sir.

THE COURT: Did you move after you received your summons?

THE POTENTIAL JUROR: I moved before.

THE COURT: I wanted to be sure you just didn't move to -- where do you presently live, Ms. Wright?

THE POTENTIAL JUROR: West Ashley off of Highway 61.

THE COURT: Is that address now at least as close as possible a permanent location for you?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And you plan to return there when I excuse you?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And you will be there at the end of the next two weeks?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Okay. Ms. Wright, I find that you are now a resident of Charleston. If I happen to be holding court there, maybe I'll have an opportunity to work with you there. But you will not be able to serve on this jury. Thank you. You are excused.

Yes, ma'am?

THE POTENTIAL JUROR: Juror No. 84.

THE COURT: Just one second. Let me get to that. You are Wendy Davis?

THE POTENTIAL JUROR: Yes.

THE COURT: Ms. Davis, you don't live at -- well, this says Charleston, South Carolina. So you live in --

THE POTENTIAL JUROR: I live in North Charleston.

THE COURT: North Charleston. Is 5506 Meadow Avenue.

THE POTENTIAL JUROR: Been there for the last six years.

THE COURT: And that's a Charleston address?

THE POTENTIAL JUROR: That's in Charleston.

THE COURT: Well, I declare. We're sorry, but thank you for coming. And if I see you again, I'll say I remember you, Ms. Davis. Thank you. Have a good trip.

THE POTENTIAL JUROR: Bye.

THE COURT: Are there any others?

(There was no response.)

THE COURT: There are none.

Are there any members of the jury panel who are county officers or persons employed within the walls of any courthouse which would include but certainly not be limited to clerks or deputy clerks of court, constables, sheriffs, probate judges, county commissioners, council persons, magistrates, or any other county officer? If so, please stand.

(There was no response.)

THE COURT: There are none.

Are there any members of the jury panel present who have a law enforcement commission, that means you are empowered to arrest someone in general? Now, I say that because certain times security guards do have -- are empowered to arrest someone on specific premises. That would not prevent you from serving. But do you have a general commission? If so, please stand.

Yes?

THE POTENTIAL JUROR: Yes, sir, 376, Santee Cooper Law Enforcement Security.

THE COURT: And you have the power to arrest someone outside of -- off the premises of Santee Cooper, do you not?

THE POTENTIAL JUROR: On the dikes, yes, sir.

THE COURT: On the dikes. Is yours issued by the Governor or SLED?

THE POTENTIAL JUROR: SLED.

THE COURT: No. 376?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: You're Obie Varner?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Mr. Varner, I will excuse you from participation. Thank you.

Anyone else?

(There was no response.)

THE COURT: Thank you. There are none.

The next group of questions, ladies and gentlemen, if these questions apply to you, I will give you an opportunity to come forward in just a few moments to discuss these with me. It is important, however, that you respond, but we'll delay that response for just a few moments. Again, all of these are statutorily required.

But if there are members of the jury panel who presently are unable to read, write, speak or understand the English language to the extent that they would feel uncomfortable serving on a jury panel, I will need to talk with you about that in just a moment.

Also, if there are any members of the jury panel who do not have the equivalent of a sixth grade education, I will need to discuss that with you as well in just a few moments.

Also, if there are persons who have some medical or physical infirmity that they wish to discuss with me that would affect their ability to serve on this jury panel, I will be happy to talk with you about that in just a few moments as well.

And if there are persons who have ever been convicted in a court of record, that would be a state court or a federal court, of a crime that carried a potential punishment of more than one year, you would not actually have had to have been sentenced to more than one year, only the potential for a sentence of greater than one year, and you have not had your civil rights restored by pardon or amnesty, you are not eligible to serve. And I will tell you now that while there has been some legislation pending to limit the effectiveness of that, at this point, it would not matter whether it was 20 or 30

years ago. If you've ever been convicted and you have not taken an action to have that matter removed, then it will prevent you from serving and I'll need to talk with you about that in just a few moments.

Also, at this point, I will also discuss with any juror any reason that they wish to submit for why they should not serve this week. Some persons may have some business reason or some family reason that they wish to discuss with me. I will tell you now that I will be very restrictive about transferring jurors. But I will be happy to listen to you. I hope that you understand that there are a number of categories and exemptions, but if you don't fall within those, you'll most probably have to serve.

I mention the term exemptions because some of you are exempted from serving. That means there are a limited group of persons for whom the legislature has provided an exemption. That doesn't prevent you from serving. If you've met and will meet the other qualifications, you're eligible to serve. But if there are persons who are now remaining who have reached their 65th birthday and wish to claim an exemption, please stand.

(There was no response.)

THE COURT: There are none.

Are there persons, and I didn't hear any of these, who are employed with the Department of Corrections as an officer or some employee and you wish to claim your exemption, please stand.

Yes, sir?

THE POTENTIAL JUROR: I'm work with the military and I worked at the new consolidated Brig in Goose Creek.

THE COURT: But that's not Department of Corrections. Your name and number, please?

THE POTENTIAL JUROR: My name is Carlos Bryant and my number is 48.

THE COURT: Thank you, sir.

There are none. Are there persons -- you already saw me excuse one person who had a small child. Are there persons who have the care, custody and control of a child or children under the age of seven years, you do not work outside of the home or have not been able to make suitable arrangements to provide for the care to your child -- for your child or children to permit you to serve and you wish to claim that exemption, please stand.

Yes, your name and number?

THE POTENTIAL JUROR: Yvette Ravenel, 217.

THE COURT: Yes?

THE POTENTIAL JUROR: I have a three-year-old child. She just got out of Headstart last Friday and my

last day was Friday.

THE COURT: So you are now at home with her?

THE POTENTIAL JUROR: Yes.

THE COURT: Totally?

THE POTENTIAL JUROR: Yes, our last day was Friday.

THE COURT: All right. Your number?

THE POTENTIAL JUROR: 217.

THE COURT: We have an affidavit in your -- that we can get for her to sign? She's under oath now but -- it doesn't have to be done right now.

You'll have to make sure that you see Ms. Brown or go to the person that she designates and fill out an affidavit to that effect. No. 217, Ms. Ravenel, is excused for small children. You are under oath at this point and you will complete an affidavit to confirm that which you have disclosed on the record. Ms. Ravenel, you are free to leave.

There was another one. Yes, ma'am?

THE POTENTIAL JUROR: My name is Jalila Robinson, No. 316.

THE COURT: Just one second, Ms. Robinson. Yes, Ms. Robinson?

THE POTENTIAL JUROR: I have a two-year-old daughter --

THE COURT: Yes?

THE POTENTIAL JUROR: -- that I'm watching and I also have -- watching my mother's four foster children while she's working.

THE COURT: Well, that one wouldn't work, but let's go back to your daughter. Your daughter is how old?

THE POTENTIAL JUROR: Two.

THE COURT: And you are there around the clock with her?

THE POTENTIAL JUROR: That's right.

THE COURT: You did not fill out an affidavit to that effect. You're under oath.

THE POTENTIAL JUROR: I didn't have time to. When I was served papers, I was on a cruise.

THE COURT: Well, that's good. I'm glad you had -- I hope you had a good cruise. I will excuse you, Juror No. 316, because of the exemption of small children. You, as well, like Ms. Ravenel, need to go to Ms. Brown's office and make sure you complete an affidavit to that effect. But you stated that under oath this morning; is that correct, ma'am?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: You are excused.

Any others?

(There was no response.)

THE COURT: We don't think this will apply because we've checked, but each of you that remains with us, whether you actually serve on the jury or not, will earn something today that will be extremely beneficial. Under our law, we can't require you to serve in circuit court, now, that doesn't apply to federal court and that doesn't apply to magistrate's court or municipal court because those don't earn the exemption, but you can't be called to serve and forced to serve in circuit court but every three years. Within a three-year period, if you're called, you can claim your exemption and be excused if you wish. As I stated, it doesn't prevent you from serving, but you can have a chance to not serve if you choose to. We don't believe there are any, but does anyone here have a different recollection that you've served in a circuit court, either in civil court or criminal court, within the last three years? Please stand.

(There was no response.)

THE COURT: Thank you. There are none.

All right, ladies and gentlemen, those are all of the exemptions provided by law. And frankly, I'm glad. There were many more exemptions when I first started practicing law in '73 --

Is there a hand? Yes, ma'am?

THE POTENTIAL JUROR: I'm a student. Is there

any way --

THE COURT: Thank you. I thought we covered all of those. But you're probably one that didn't get -- what is your name and number?

THE POTENTIAL JUROR: I'm 65, Tanya Christopher.

THE COURT: You are a student where?

THE POTENTIAL JUROR: Miller Motte.

THE COURT: And when is your school year finished?

THE POTENTIAL JUROR: It's all year. It's a technical college.

THE COURT: I'm sorry?

THE POTENTIAL JUROR: It's a tech.

THE COURT: And you're going around the clock?

THE POTENTIAL JUROR: Uh-huh, Monday through Thursday.

THE COURT: We're not in between?

THE POTENTIAL JUROR: Yeah, I'm supposed to be there right now.

THE COURT: Oh, you are?

THE POTENTIAL JUROR: Yeah.

THE COURT: Okay. I need for you to complete an affidavit, but you are desirous of claiming your student exemption?

THE POTENTIAL JUROR: Uh-huh.

THE COURT: And you're going to be going year round.

THE POTENTIAL JUROR: Yes, sir.

THE COURT: All right. Well, normally, we would transfer you to another term. But that seems -- how long are you going to be going?

THE POTENTIAL JUROR: Till next year.

THE COURT: Well, that doesn't help me.

THE CLERK: She's No. 65?

THE COURT: No. 65?

THE POTENTIAL JUROR: I think.

THE COURT: Your name, again?

THE POTENTIAL JUROR: Tanya Christopher.

THE COURT: Yes, it is. You are excused, ma'am.

Are there any persons here --

And I thank you for reminding me because I failed to state this one. There is one more exemption.

If you are a teacher, a student or necessary employee with some organization that deals with education of persons in this state and your duties as a teacher, a student or necessary employee will conflict with your responsibilities as a juror and you wish to claim your exemption and be transferred possibly to a term that doesn't conflict, or excused as with Ms. Christopher, where it wouldn't serve a useful purpose to transfer her,

and you wish to claim that exemption, the education exemption, please stand.

Yes?

THE POTENTIAL JUROR: I home school my eight-year-old son.

THE COURT: That's one -- that's not an institution. I appreciate what you're doing. But I can't expand the exemption to that. I'll talk with you about that if you want to be transferred.

THE POTENTIAL JUROR: I'm disabled, too.

THE COURT: Well, I'll talk about that in just a few moments.

Yes, sir?

THE POTENTIAL JUROR: Thomas McKinney, Juror 244. I'm an instructor at the Nuclear Power Training Unit out in Goose Creek.

THE COURT: I'll have to talk with you about possibly transferring. I don't think that qualifies under the exemption.

THE POTENTIAL JUROR: I know it kind of falls under two different things, defense and --

THE COURT: Yeah, it really does. I'll talk with you about it as a possible transfer, but we'll have to talk about that on an individual basis, sir. So just in a few minutes if you wish to come forward.

Yes, ma'am?

THE POTENTIAL JUROR: Juror 117, Diana Foster. I'm a full-time student at Trident Technical College. Right now we're on break. Our summer semester is going to start, I believe, the 26th or 27th of June.

THE COURT: Well --

THE POTENTIAL JUROR: I mean, of May, I'm sorry.

THE COURT: Of May?

THE POTENTIAL JUROR: Of May.

THE COURT: We'll be finished this term at that time. Do you wish to remain?

THE POTENTIAL JUROR: I do then, thank you.

THE COURT: Thank you so much. And I look forward to working with you possibly.

Yes, ma'am?

THE POTENTIAL JUROR: I'm a student at University of South Carolina. Our classes haven't started yet, but I live in Columbia.

THE COURT: Okay. You're living there only for school purposes, though?

THE POTENTIAL JUROR: Right, I live there for school, but I'm there --

THE COURT: That's okay. And we're in between right now, is that right? Because graduation was just this past Friday?

THE POTENTIAL JUROR: Right. I'm taking summer classes, but I'm living in Columbia.

THE COURT: And when do your classes start?

THE POTENTIAL JUROR: In June.

THE COURT: We're good to go. What's your name and number?

THE POTENTIAL JUROR: Mary Meadows, I believe my number is 246.

THE COURT: And when you say --

THE POTENTIAL JUROR: My parents live here, but I live in Columbia.

THE COURT: Yeah, but you only live in Columbia because you're in school, right?

THE POTENTIAL JUROR: Well, I'll graduate in August and I'm going to stay in Columbia. I have a job.

THE COURT: I appreciate it. But until you move out, right now, you're going to have to take the residence of your parents. Okay? My son lives in Chapel Hill, too. But he's now living at home, strangely enough.

Are there others?

(There was no response.)

THE COURT: Anyone else?

(There was no response.)

THE COURT: Thank you.

Now, ladies and gentlemen, let me run back

through those qualifications that I'll be happy to talk with any person now who has some physical or mental infirmity that affects their service; you've ever been convicted for a crime more than a year and not had your civil rights restored by pardon or amnesty; who are unable to speak, read or understand the English language sufficiently to permit you to serve; less than a sixth grade education or its equivalent; and those persons who have some personal reason, be it personal or business reason, for wanting a transfer, I'll see you now.

And gentlemen, you may approach as well.

(WHEREUPON, the following bench conference was had in the presence of the jury but out of the hearing of the jury.)

THE COURT: Everyone that's waiting to come forward, you can just be seated and as a space is provided, you can come forward so you don't have to stand up totally.

THE BAILIFF: No. 186, Herbert Jordan.

THE COURT: He has a prior record. I sentenced him, I think.

MR. JENNINGS: Yes.

THE POTENTIAL JUROR: Good morning, Your Honor.

THE COURT: You can come on forward, sir.

THE POTENTIAL JUROR: Good morning to you. It's

good to see you.

THE COURT: Good to see you, also. You have a prior conviction?

THE POTENTIAL JUROR: Well, in the past, sir.

THE COURT: Okay. I understand.

THE POTENTIAL JUROR: And --

THE COURT: You have not had your civil rights restored by pardon or amnesty, have you?

THE POTENTIAL JUROR: I have had my rights restored, yes, sir.

THE COURT: You have, okay. All right.

THE POTENTIAL JUROR: For a short period of time and this is a medical report here, sir. And I have cancer of the bladder, sir.

THE COURT: Any objection?

MR. JOHNSTON: No, sir.

MR. JENNINGS: No, sir.

THE COURT: Mr. Jordan, Juror No. 186, is excused for medical reasons. And we'll file this with the record. Thank you very much. Good luck to you, sir.

THE POTENTIAL JUROR: Thank you, sir. I appreciate it kindly.

THE COURT: Take care, sir.

THE BAILIFF: No. 96, Christian Dutton.

THE COURT: Mr. Dutton, yes, sir?

THE POTENTIAL JUROR: I pled no contest to contributing to the delinquency of a minor for purchasing beer.

THE COURT: Contributing to the delinquency, that carries three, doesn't isn't?

MR. JENNINGS: Yes, sir.

THE COURT: So that would prevent you from serving. You haven't taken any action then?

THE POTENTIAL JUROR: No, Michael O'Neal is my attorney in the process of doing the --

THE COURT: The pardon?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: No. 96 is excused for statutory reasons.

Thank you, Mr. Dutton.

THE BAILIFF: 129, David Gilbert.

THE COURT: Mr. Gilbert?

THE POTENTIAL JUROR: I sent in some medical forms but they didn't receive them so I had to fill out another questionnaire this morning. I have ADD and I didn't know if it would affect from y'all's point of view.

THE COURT: Let me just say this to you, I'm not uncomfortable with that if you're not uncomfortable with that. It's -- we are focused. It's -- we'll give you breaks. If you're having a problem, you just stop and

say -- I mean, we can take those kind of things and work through that if you're comfortable with working through it.

THE POTENTIAL JUROR: Um, I just don't know --

THE COURT: You're going to be sequestered, I will tell you that.

THE POTENTIAL JUROR: That's not a problem, my focus will stay at about -- a 15-minute span is about -- sometimes I do well, sometime I don't.

THE COURT: What is your number again?

THE POTENTIAL JUROR: Just wanted to bring that to your attention. 129.

THE COURT: All right.

THE POTENTIAL JUROR: I sent in some documentation from the psychologist. But it didn't --

THE COURT: I understand. But you would feel uncomfortable?

THE POTENTIAL JUROR: Yes.

THE COURT: Any objection to excusing him?

MR. JOHNSTON: No, Your Honor.

MR. JENNINGS: No, sir.

THE COURT: I'm going to excuse No. 129 for medical reasons.

Thank you, sir.

THE POTENTIAL JUROR: Thank you.

THE COURT: Good luck to you, sir.

THE BAILIFF: No. 286, Lisa Pellum Henderson now.

THE COURT: Yes, ma'am?

THE POTENTIAL JUROR: My baby is due in July and I just can't sit for a long period of time. I have to go to the bathroom a lot but I would like to be transferred so that I could come another time maybe after July.

THE COURT: The problem is after July, then you'll have a small child so you can be excused.

THE POTENTIAL JUROR: I'm not a stay-at-home mom. I'll be going back to work.

THE COURT: All right.

THE POTENTIAL JUROR: I go back to work next September.

THE COURT: I'm going to take into consideration your situation as well as sequestration. No. 286, I'm going to excuse for medical reasons at this point. She does wish to be transferred to a term after July. She indicates that after the child is born, she's not going to be stay-at-home.

So, say, November?

THE POTENTIAL JUROR: That would be fine.

THE COURT: Maybe November of this year. Thank you, ma'am.

THE POTENTIAL JUROR: Thank you.

THE COURT: Good luck. I hope everything goes well.

Any objection?

MR. JOHNSTON: No, sir.

MR. JENNINGS: No, sir.

THE COURT: Okay.

THE BAILIFF: No. 10, Jody Ard.

THE COURT: Mr. Ard?

THE POTENTIAL JUROR: How are you doing? I would like to try to get out of this if I can. I own my own business and we've been pretty slow and now we are really jammed up. It's only me and another guy own a painting company. If possible, I would maybe at the end of the summer, anywhere after that would be fine, if possible. If not, I guess I can, but...

THE COURT: Mr. Ard, I'm going to -- that doesn't help me. I understand that. But if you'll just step back just a moment.

Any objection from Mr. Sapp? You want him to stay?

MR. JOHNSTON: Judge, so far we're losing everybody.

THE COURT: I don't have a problem, just tell me what you want to do. I don't have a problem.

MR. JOHNSTON: I hate to get rid of him the way we're losing them. If we want to decide after we go through the line. But we're sure going through these fast.

THE COURT: Well, fortunately, that's why we have 188. I think we'll have enough. I'm not concerned about that.

MR. JOHNSTON: I won't object. You can excuse him.

THE COURT: What's the State's position?

MR. HOISINGTON: We'd just as soon keep him.

THE COURT: Mr. Ard, thank you very much. If you'll take a seat. We'll -- hopefully, we'll see how it comes out.

THE POTENTIAL JUROR: All right.

THE COURT: Only 14 of you will actually serve. If that helps anybody. Probably doesn't.

THE BAILIFF: Judge, we just had two of the defendant's family members go to the restroom. And we have jurors out front. I wanted you to be aware. What do I need to do?

THE COURT: They need to go to the restroom?

THE BAILIFF: Two of the family members with the defendant went to the restroom.

THE COURT: That's okay.

THE BAILIFF: They have drawn it to my attention.

THE COURT: That's okay.

THE BAILIFF: No. 292, Jeffrey Pitcock.

THE COURT: Yes, sir?

THE POTENTIAL JUROR: Good morning.

THE COURT: Good morning, sir.

THE POTENTIAL JUROR: Medical reasons. I was injured in a car accident 15 years or so ago. If I have to sit for an extended period, I get migraines and get physically ill. If I can get up and move around, I'm okay.

THE COURT: Well, we take breaks. That shouldn't be a problem.

THE POTENTIAL JUROR: Every couple hours?

THE COURT: Generally, about every hour and a half or so.

THE POTENTIAL JUROR: Okay.

THE COURT: Thank you very much.

No. 292 will remain with us.

THE BAILIFF: No. 16, Mary Austin.

THE COURT: Yes, ma'am, Ms. Austin?

THE POTENTIAL JUROR: I'm the primary caregiver for my 81-year-old mother. She's hospitalized and I don't know what day she'll be discharged, but she needs total

care.

THE COURT: All right. That's the one the legislature's about to pass an act on.

MR. JENNINGS: We don't have any objection.

MR. JOHNSTON: Neither do we.

THE COURT: The legislature is about to prove -- and Mrs. Austin, I'm going to have an opportunity -- the bill is pending on the governor's desk now or about to arrive to provide an exemption for persons who are primary caregivers for persons who are of age. It's my understanding you are the primary caregiver for such a person?

THE POTENTIAL JUROR: My mother.

THE COURT: Very well. I will -- and you wish to claim that?

THE POTENTIAL JUROR: Yes.

THE COURT: No. 16 is excused.

Thank you, ma'am.

THE POTENTIAL JUROR: Thank you.

THE BAILIFF: No. 122, George -- 121, I'm sorry, Janet Fryar.

THE COURT: Thank you. Yes, ma'am?

THE POTENTIAL JUROR: I have a conviction.

THE COURT: For assault and battery of a high and aggravated nature?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Okay. That would prevent you --

THE POTENTIAL JUROR: In this courtroom.

THE COURT: No. 121 is excused for statutory reasons.

Have a good day, Ms. Fryar.

THE BAILIFF: No. 187, Vanessa Jouett.

THE COURT: Ms. Jouett?

THE POTENTIAL JUROR: I'm a registered nurse and I work in the school system at a high school. And I'm the only one there who provides medical care. I had sent in a notarized statement.

THE COURT: All right. And your school year is up in June?

THE POTENTIAL JUROR: Uh-huh, the children's last day is May 23rd.

THE COURT: All right. And your number again is?

THE POTENTIAL JUROR: 187.

THE COURT: Okay. And you wish to claim your exemption?

THE POTENTIAL JUROR: Yes.

THE COURT: Will you be working in the summer?

THE POTENTIAL JUROR: No.

THE COURT: Do you wish to serve in a term in

the summer?

THE POTENTIAL JUROR: Yes.

THE COURT: We'll transfer No. 187. She has an exemption as a necessary employee with the school district. She's the nurse there on campus. She will not be working during the summer so we will put her on a term sometime during the summer months when it doesn't conflict.

Thank you, ma'am. Look forward to seeing you then.

THE BAILIFF: No. 383, Rose Watson.

THE COURT: Hi, Ms. Watson.

THE POTENTIAL JUROR: You asked if I'm a United States citizen, I'm not.

THE COURT: You're not a citizen?

THE POTENTIAL JUROR: But I'm applying for it.

THE COURT: So you're not a citizen?

THE POTENTIAL JUROR: Not yet.

THE COURT: Not yet, but you're in the process. Well, good luck in that process.

No. 383 is excused for statutory reasons.

Thank you, ma'am.

THE POTENTIAL JUROR: Thank you.

THE BAILIFF: No. 87, Abdullah Denmark.

THE COURT: Mr. Denmark, how are you, sir? Yes,

sir?

THE POTENTIAL JUROR: I was convicted in '94.

THE COURT: In '94?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And that was for what crime?

THE POTENTIAL JUROR: It was possession.

THE COURT: Okay. And you haven't had any -- you haven't taken any action to have your rights restored?

THE POTENTIAL JUROR: No, sir.

THE COURT: Okay.

Mr. Denmark is excused for statutory reasons.

Thank you, Mr. Denmark. Have a good day, sir.

THE BAILIFF: No. 140, Antonia Green.

THE COURT: Mr. Green?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: What's your situation?

THE POTENTIAL JUROR: I'm a deacon in the faith and I don't feel like I would be okay with this to judge --

THE COURT: Let me ask you a question, Mr. Green. I'm glad to hear that. But are you also the Green that was convicted of breech of trust?

THE POTENTIAL JUROR: Yes.

THE COURT: And housebreaking?

THE POTENTIAL JUROR: Well, yes, I was.

THE COURT: Thank you.

No. 140 is excused for statutory reasons.

Thank you, sir. Have a good day, sir.

THE POTENTIAL JUROR: Thank you, sir.

THE BAILIFF: No. 89, Richard Dickerson.

THE COURT: Mr. Dickerson, good morning, sir.

THE POTENTIAL JUROR: How are you doing, sir? Couple years back, about 20 years ago, I did have a felony. And then another thing, I got a speech problem.

THE COURT: Let me tell you something, I do, too. And I can feel for you. And I understand that. That's not a problem. That wouldn't prevent it, but the other one does. And your number?

MR. JENNINGS: 89. Possession of cocaine.

THE COURT: And you haven't made any action to restore that?

THE POTENTIAL JUROR: No.

THE COURT: Mr. Dickerson is excused for statutory reasons.

Have a good day, sir. Good luck, sir.

THE BAILIFF: No. 174, Roland Jaeger.

THE COURT: Mr. Jaeger?

THE POTENTIAL JUROR: I can't really read or write well.

THE COURT: Okay.

THE POTENTIAL JUROR: I'm a widower.

THE COURT: Let me just say this to you insofar as the reading and writing, where have you worked?

THE POTENTIAL JUROR: I have worked for a construction company, Hightower Construction.

THE COURT: And you've worked how long?

THE POTENTIAL JUROR: Ever since -- 28 years it is.

THE COURT: And you manage your own personal affairs?

THE POTENTIAL JUROR: I have help doing it.

THE COURT: I understand that. And that's the beauty of a jury, you'll have help. The main thing as a juror is you use your common sense. And I think you have enough education to do that. You have jurors who can assist you in reading anything that you want read. So from that standpoint, I wouldn't find you not qualified. Okay? Thank you.

Mr. Jaeger, No. 174, will remain with us.

Thank you very much, sir.

THE BAILIFF: No. 122, George Fulmer, II.

THE COURT: How are you, sir?

THE POTENTIAL JUROR: Doing pretty good. I have several medical problems. I have sleep apnea, I have blood clots in my leg that I'm seeing a doctor for. I had

gastric bypass seven months ago. I'm on medication. I have them in my pocket. I have to use the bathroom frequently during the day.

THE COURT: Okay. We can probably accommodate most of those things.

But given all of the situations, does the State have any objection?

MR. JENNINGS: No, sir.

MR. JOHNSTON: No, Your Honor.

THE COURT: All right. We'll go ahead. I think we could work with you, but just out of an abundance of caution, I think it would be good to let you be free from all that.

Mr. Fulmer, will be excused for medical reasons.

Thank you.

THE POTENTIAL JUROR: Thank you.

THE BAILIFF: No. 231, Chester Mayers.

THE COURT: Yes, sir, how are you, sir?

THE POTENTIAL JUROR: Fine, sir. I'm a single father of one, responsible for dropping off and picking up my daughter every day.

THE COURT: How old is she?

THE POTENTIAL JUROR: She's eight. And I have no way of having her picked up by 6 o'clock on Ashley Phosphate Road. Plus, as of Friday at 5 o'clock, I was

relieved of my job.

THE COURT: Where are you going?

THE POTENTIAL JUROR: Where am I going?

THE COURT: Yes, sir, you said you were relieved of your job?

THE POTENTIAL JUROR: I was relieved of my job as of Friday at 5 o'clock, so I'm out of a job and I need to find one very quickly.

THE COURT: I understand that, but that doesn't --

THE POTENTIAL JUROR: Not the job part, but picking up my daughter does. Her mother's a nurse and she works night hours.

THE COURT: If you make arrangements with somebody, a friend, that's all we'll have to do if you're selected.

THE POTENTIAL JUROR: I don't know who I can get, sir.

THE COURT: Well, at this point, I can't excuse you. We'll talk about that and I'll let you know. I understand your hardship situation, but it doesn't rise to the level at this point. Thank you, sir. You can take your seat.

We'll revisit that one.

THE BAILIFF: No. 213, Tom Levangie.

THE COURT: Yes, sir?

THE POTENTIAL JUROR: I'm a severe asthmatic and I'm on a breathing machine like three or four times a day.

THE COURT: That's not a problem. We can work with that. That's not a problem even if you have to do it while you're sitting in the courtroom.

THE POTENTIAL JUROR: Okay.

THE COURT: No. 213 has some medical situations, but we are going to work with him on that.

Thank you, sir.

THE BAILIFF: No. 147, Jerald Hackworth.

THE COURT: Yes, sir?

THE POTENTIAL JUROR: Morning, Your Honor.

THE COURT: Good morning, Mr. Hackworth.

THE POTENTIAL JUROR: Sir, I had my adenoids removed and I have extreme dryness and it affects my speech and dryness. After a time without a drink -- and water doesn't help it, I have to have Pepsi-Cola. Water makes it worse.

THE COURT: We have Pepsi-Cola. We can work with you. Thank you, sir.

THE POTENTIAL JUROR: Thank you.

THE BAILIFF: No. 348, Patricia Southard.

THE COURT: Hello, Ms. Southard. How are you?

THE POTENTIAL JUROR: Hello. I didn't lie on my

thing. My mother died last year and I'm the total caretaker of my father. And I brought a list of what's wrong with him. He's in bad shape. They give him three months last year and I kept him alive.

THE COURT: And you staying with him?

THE POTENTIAL JUROR: I stay with him every minute.

THE COURT: I'm going to treat this the same as the last one. Any objection?

MR. JOHNSTON: No, sir.

MR. JENNINGS: No, sir.

THE COURT: Ms. Southard is excused. She also is caring for an elderly person and that will be become an exemption. So I'm going to excuse her at this time.

Have a good day. I hope things go well.

THE POTENTIAL JUROR: Thank you.

THE BAILIFF: No. 221, Virginia Magee.

THE COURT: Yes, ma'am?

THE POTENTIAL JUROR: I had a personal reason, but I also have a medical one. I'm hypoglycemic. If I don't eat every two or three hours, my body produces too much --

THE COURT: Not a problem.

THE POTENTIAL JUROR: Okay, but I have to get something right now.

THE CLERK: We have some orange juice for you.

THE COURT: We have some orange juice.

Make sure that this person gets some orange juice as quickly as possible.

THE POTENTIAL JUROR: Too, my personal reason is my daughter is about to have a baby in Florida.

THE COURT: When is that?

THE POTENTIAL JUROR: The doctor said any day. She went Saturday because she thought her water broke and they sent her home telling her she'd be back very soon.

THE COURT: What is your number, please?

THE POTENTIAL JUROR: 221, I think.

THE CLERK: It's 221.

THE COURT: All right. Well, I understand that. But that's -- I mean -- were you going to stay with her?

THE POTENTIAL JUROR: Yes, and take care of my other granddaughter.

THE COURT: All right. I'm going to consider yours as with the other gentleman shortly, but I'm going to ask you to stay with me for now..

THE POTENTIAL JUROR: Can I get something?

THE COURT: Yes. She'll take care of you, okay?

THE BAILIFF: No. 169, Steven Horne.

THE COURT: Yes, sir?

THE POTENTIAL JUROR: Hello, Judge.

THE COURT: How are you, sir?

THE POTENTIAL JUROR: I'm fine. I have a conviction.

THE COURT: What was it?

THE POTENTIAL JUROR: Simple possession. It could have been more than a year. I wasn't sentenced for more than a year, but you said if there was a possibility.

THE COURT: Yeah, that's right.

THE POTENTIAL JUROR: Simple possession.

THE COURT: But you were convicted of simple possession?

MR. JENNINGS: Of cocaine.

THE COURT: Okay. All right. That would prevent you from serving. And your number is?

THE POTENTIAL JUROR: 169.

THE COURT: No. 169 is excused for statutory reasons.

Thank you, Mr. Horne.

THE POTENTIAL JUROR: Thank you.

THE BAILIFF: No. 264, Cindy Murrian.

THE COURT: Yes, ma'am?

THE POTENTIAL JUROR: I sent a letter to the Court. I own my own company and I am 50 percent of the work force and it would be a huge loss. I mean 1,500 to 2,000 a week without me in it.

THE COURT: Well, I'll do as I did with the other gentleman. I'll look and see where we are and we'll revisit this after we have finished the process. At this point, I can't transfer you.

THE POTENTIAL JUROR: Okay. Thanks.

THE COURT: No. 264 will remain at this point.

THE BAILIFF: No. 307, Frances Reed.

THE COURT: Yes, ma'am, Ms. Reed?

THE POTENTIAL JUROR: I would like to be excused because of my husband needing attention most times. He's had a stroke. And sometimes he's in a good mood, sometimes he's bad mood. And if he sits down, I have to help him up. And he doesn't do much for himself.

THE COURT: Okay. Well, can he do for himself?

THE POTENTIAL JUROR: What can he do?

THE COURT: No, can he provide for himself?

THE POTENTIAL JUROR: Well, he can't go get a drink of water without spilling it.

THE COURT: So you stay with him around the clock?

THE POTENTIAL JUROR: Yes, sir, I do. And if he sits down in a chair, I still have to help him get up most of the time.

THE COURT: All right. No. 307 I'm going to excuse caring for an elderly person.

Thank you, ma'am.

THE POTENTIAL JUROR: Thank you, sir. And I feel privileged that my name was called, but I'm sorry.

THE COURT: All right. I understand. Thank you.

Any objection from the State?

MR. JENNINGS: No, sir.

MR. JOHNSTON: No.

THE BAILIFF: No. 353, Robert Stephens.

THE COURT: All right, sir.

THE POTENTIAL JUROR: I have training classes for work, part of one last week and the continuation is this week. It's the last time they're offering it this calendar year. It's Wednesday and Thursday. That's the letter from my employer. I don't know, I was going to see if I could be rescheduled possibly till after the classes were complete.

THE COURT: At this point I'm going to have to tell you no. But we'll see where we are. We will revisit it. Thank you. You are requesting a hardship.

THE POTENTIAL JUROR: Thank you.

THE BAILIFF: No. 23, David Beasley.

THE COURT: Yes, sir?

THE POTENTIAL JUROR: Morning, sir. I'm a Coast Guard Reservist. I have been recalled. I'm on night

shift. I wanted to inform the Court that I might be sleepy on a couple of days.

THE COURT: Well, you won't have to worry, because in this case you're going to be sequestered. As long as they understand you won't be available.

THE POTENTIAL JUROR: Okay. Is that -- as long as I can contact them before --

THE COURT: You will. You'll have a chance to do that. But they will allow you to serve; is that correct?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: I'm asking.

THE POTENTIAL JUROR: He said it would be all right if I did both.

THE COURT: Well, you will be sequestered. So we're going to assume that you can serve if you are selected.

THE POTENTIAL JUROR: Right, they'll find somebody else.

THE COURT: Very well. Thank you.

THE POTENTIAL JUROR: Thank you.

THE COURT: No. 23 will remain be with us.

THE BAILIFF: No. 290, Leroy Pinckney.

THE POTENTIAL JUROR: How you doing?

THE COURT: I'm fine, Mr. Pinckney. Let me find

you on my list. Yes, sir?

THE POTENTIAL JUROR: I'm from Cross, South Carolina, but I commute, I work in Augusta, Georgia. I work with the Corp of Engineers. I'm not here but some weekends, so I'm not here.

THE COURT: Yeah, but your home is here?

THE POTENTIAL JUROR: Yeah.

THE COURT: Right. You are a resident. Thank you, sir.

Mr. Pinckney will remain with us.

THE BAILIFF: No. 193, Spencer Kerce.

THE COURT: Just one second, sir.

THE POTENTIAL JUROR: Okay.

THE COURT: Okay.

THE POTENTIAL JUROR: Yes, sir, I'm self-employed, sole provider for my family, wife and five kids.

THE COURT: I understand that, but that's not -- those are like a lot of people. As I told some of these that are requesting hardships, I'll wait and see. I'll have to revisit it, but at this point I cannot excuse you, sir.

THE POTENTIAL JUROR: Thank you, sir.

THE COURT: No. 193 is not excused at this point. He's requesting a hardship determination. We'll

revisit that at a later point.

THE BAILIFF: No. 337, John Simmons.

THE COURT: Mr. Simmons, hold on just one second, sir.

THE POTENTIAL JUROR: Yes, sir.

THE COURT: All right, sir, what is your situation?

THE POTENTIAL JUROR: My education is not that great.

THE COURT: What education do you have?

THE POTENTIAL JUROR: One through 12.

THE COURT: Okay.

THE POTENTIAL JUROR: And I'm also disabled, too. Right now I take medicine.

THE COURT: A disability wouldn't prevent you from serving.

THE POTENTIAL JUROR: Okay.

THE COURT: Mr. Simmons, before becoming disabled, what did you do for a living?

THE POTENTIAL JUROR: Forklift operator.

THE COURT: And you took care of running, operating a business and -- your business affairs and that sort of thing?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: I think you're qualified.

No. 337 is qualified and will remain with us. Thank you, sir.

THE BAILIFF: No. 105, Richard Evans.

THE POTENTIAL JUROR: How are you doing today, sir?

THE COURT: I'm well, thank you. Let me flip to that page. Bear with me. Yes, sir?

THE POTENTIAL JUROR: I want to make sure the information you gave out about the one year. In 1987, I had a DUI and got 10 days.

THE COURT: First offense?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: That wouldn't prevent you.

THE POTENTIAL JUROR: I wasn't sure. I just wanted to check.

THE COURT: No, sir, thank you very much. That's exactly -- you're one of the examples of why I think the jury system works. People worry about those things. Thank you, sir.

THE POTENTIAL JUROR: Yes, sir.

THE COURT: You're qualified.

THE BAILIFF: No. 39, Johanne Bridges.

THE COURT: Yes, ma'am?

THE POTENTIAL JUROR: I have a child under the age of six that I pick up after school. And I also work

for the school district, too.

THE COURT: So you have a child that you take care of under six?

THE POTENTIAL JUROR: Yes, sir, I have two children, but one under the age of seven.

THE COURT: So you wish to claim that exemption?

THE POTENTIAL JUROR: Yes.

THE COURT: Then you can be excused. That's what you want to do?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: No. 39 is excused for small children.

Thank you, Ms. Bridges. Have a good day.

THE POTENTIAL JUROR: Thank you.

THE BAILIFF: No. 235, Hoyt McBroom.

THE COURT: Yes, sir?

THE POTENTIAL JUROR: I sent this in. It's -- I got an MRI scheduled on May 20th for a back injury. I have some bone spurs and I'm currently on these medications. I didn't know if this was going to be over by May 20th?

THE COURT: Well, I don't know. But we can reschedule that one. I think if you were selected, they probably would be able to reschedule that.

THE POTENTIAL JUROR: That would be fine.

THE COURT: And your medication, it doesn't affect your ability to function, does it?

THE POTENTIAL JUROR: No, I guess not.

THE COURT: Well, I'm asking. I don't know.

THE POTENTIAL JUROR: It's pain medication.

THE COURT: And you're able to function on a day-to-day basis taking it?

THE POTENTIAL JUROR: Yes, but I do need to make this appointment here.

THE COURT: Well, you'll have an opportunity -- we are just starting the process and I'll explain that in just a few moments. At the end, if you are selected, you will have an opportunity to make those calls. Thank you, sir.

Mr. McBroom will remain with us.

THE POTENTIAL JUROR: Thank you, sir.

THE BAILIFF: No. 288, Janice Petrilla.

THE COURT: Yes, ma'am?

THE POTENTIAL JUROR: Hi, sir. I have epilepsy and sleep apnea, so I'm known to fall asleep just sitting there for a long period of time.

THE COURT: If someone punches you, that would be all right?

THE POTENTIAL JUROR: I'm liable to scream out.

THE COURT: Do you work?

THE POTENTIAL JUROR: Not presently. I'm hoping to start a job this week actually. But I'm busy when I'm working.

THE COURT: Well, you'll be busy here. That's not a problem. It's not a situation where you are not going to be busy. Have you worked outside of the home before?

THE POTENTIAL JUROR: Yes, sir, I have.

THE COURT: And you functioned with that situation?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: For how long?

THE POTENTIAL JUROR: I was just diagnosed with the sleep apnea last year.

THE COURT: So you've been functioning for a year?

THE POTENTIAL JUROR: Yes, I have.

THE COURT: What is your number?

THE POTENTIAL JUROR: 288.

THE COURT: No. 288 will remain with us. Thank you.

THE BAILIFF: No. 244, Thomas McKinney.

THE COURT: Yes, sir?

THE POTENTIAL JUROR: Morning, Your Honor.

THE COURT: How are you?

THE POTENTIAL JUROR: I stated before, I work at a training company. I also have a letter from my commander asking for an exemption.

MR. JOHNSTON: I have no objection.

THE COURT: Any objection? His problem is due to the situation in Iraq and the reduction in force.

MR. HOISINGTON: We have no objection.

THE COURT: I'm going to take the position this person is on active duty. And presently, because of the situation in which our country finds itself, we will excuse you. Good luck. Thank you, sir.

THE POTENTIAL JUROR: Thank you, Your Honor.

THE COURT: Appreciate your assistance, sir.

THE BAILIFF: No. 112, Kenneth Ferdon.

THE COURT: Let me get there in just a second, sir.

THE POTENTIAL JUROR: All right, sir.

THE COURT: You've been patient. I appreciate it. Yes, sir?

THE POTENTIAL JUROR: I'm retired on total disability.

THE COURT: What's your disability?

THE POTENTIAL JUROR: I can't do any bending, stooping, climbing. I can't sit or stand for long periods of time. I've already been sitting there too long

already. That's from my doctor there that says I can't sit for long periods of time.

THE COURT: Do you care to read this?

MR. JOHNSTON: No, sir.

THE COURT: State have an objection?

MR. HOISINGTON: No, sir.

THE COURT: No. 112 is excused.

We need to keep this, Mr. Ferdon, for medical reasons. Thank you very much.

THE POTENTIAL JUROR: Thank you, sir.

THE COURT: Good luck to you, sir. Hope you feel better.

THE BAILIFF: No. 71, Jerry Cooper.

THE COURT: Yes, sir?

THE POTENTIAL JUROR: Good morning, sir.

THE COURT: Good morning.

THE POTENTIAL JUROR: I'm an Army Reservist. I'm on alert status right now. We were taken up to Charlotte a couple weeks ago for anthrax. I don't know when we'll be off of alert status.

THE COURT: Given the fact that the commanding officer is returning some people, I think right now that -- while I appreciate your alert status, I think you still will be okay to go with us. So Mr. Cooper, I'm -- that would not prevent me from keeping you here. Thank

you, sir.

MR. JOHNSTON: Could I ask?

THE COURT: He's on alert status. He's a reservist and they placed his unit on alert status but haven't called him. And given the winding down, I think we probably -- I hope they won't, but appreciate it.

MR. JOHNSTON: That's fine.

THE COURT: Thank you for serving in that capacity, sir. Pleasure to work with you, sir.

THE POTENTIAL JUROR: All right.

THE BAILIFF: No. 390, Marie Williams.

THE COURT: Just one second, Ms. Williams. I need to get to your number here.

THE POTENTIAL JUROR: Uh-huh.

THE COURT: All right.

THE POTENTIAL JUROR: I'm going to a doctor with this chronic pain I have in my stomach and I have got to go to East Cooper on the 19th of next month. And it's real excruciating. Sometimes I don't know if I can sit.

THE COURT: Well, I think if you have a problem, we can take a break. That won't be a problem. We can work through that.

THE POTENTIAL JUROR: You think so?

THE COURT: Oh, yes, ma'am, not a problem.

THE POTENTIAL JUROR: All right.

THE COURT: 390 will remain.

THE BAILIFF: No. 396, Lauren Mims.

THE POTENTIAL JUROR: My problem is two-fold. I know I have a very unusual job situation. I'm the only therapist in my clinic. And I only have someone who can cover very occasionally. She is covering for me today but she cannot cover and this is my problem year around. And also, I have two kids while my husband works night shift and --

THE COURT: How old are you kids?

THE POTENTIAL JUROR: Nine and 11. And I have no one -- I have to get them by 6 from their day care. And I understand that, but my clinic can very easily fold if I don't have anyone to treat my patients.

THE COURT: Well, at this point I'm going to -- you're requesting a hardship. I can't grant you that relief at this point. We'll revisit that shortly.

THE POTENTIAL JUROR: Thank you.

THE COURT: No. 396 is requesting a hardship. At this point I've declined it.

THE BAILIFF: No. 345, Lorraine Smith.

THE COURT: Yes, ma'am?

THE POTENTIAL JUROR: I don't want to do this because --

THE COURT: I'm sorry?

THE POTENTIAL JUROR: I want to be dismissed because I'm the only one working at home. My husband just lost his job.

THE COURT: Ma'am, I appreciate that, but that doesn't allow me to transfer you or excuse you. I understand you're requesting a hardship, but I can't grant it at this point.

THE POTENTIAL JUROR: Oh.

THE COURT: We will revisit that and see where we are later.

THE POTENTIAL JUROR: All right.

THE COURT: Thank you.

No. 345 will remain with us.

THE BAILIFF: No. 277, Kimberly Orvin.

THE COURT: Yes?

THE POTENTIAL JUROR: I'm not sure if this would count, but I have a rape case that's still open.

THE COURT: I'm sorry?

THE POTENTIAL JUROR: I have a rape case. I was raped earlier. It's still going on.

THE COURT: In this circuit?

THE POTENTIAL JUROR: Yeah, it's in this county.

THE COURT: So this solicitor's office is investigating that?

THE POTENTIAL JUROR: I'm not sure if it's

allowed or not.

THE COURT: Well, I'm going to take the liberty and excuse this one right now if there is a pending case. What is your number?

THE POTENTIAL JUROR: 277. I didn't know, I would like to but --

THE COURT: I understand. Why don't we do this, No. 277, I'm going to transfer her to --

Do you have any problem serving in a Common Pleas term, which is civil term?

THE POTENTIAL JUROR: No.

THE COURT: Transfer her to a term of Common Pleas in a couple of months.

We'll send you another notice. Thank you, ma'am.

THE POTENTIAL JUROR: Thank you.

THE BAILIFF: No. 116, Anna Floyd.

THE COURT: Yes, ma'am?

THE POTENTIAL JUROR: Okay. I'm employed by the Post & Courier. And I -- it would be hard to -- for me to see an impartial case or an unbiased case.

THE COURT: Well, I don't know about that. Just because -- I'm not going to take that position. I don't think you want me to have that printed either. I don't think just because you work for the newspaper makes you

necessarily biased or prejudiced. So I think right now, we're just beginning. There's another level that we'll be talking about and we'll see where we are there.

THE POTENTIAL JUROR: Okay.

THE COURT: Thank you, Ms. Floyd.

No. 116 will remain with us at this point.

THE BAILIFF: No. 350, Lashuna Spells.

THE COURT: Just one second, Ms. Spells. All right?

THE POTENTIAL JUROR: Yes, my mom is disabled and I'm the only one in the house taking care of her. I'm living with her.

THE COURT: And you are staying there around the clock with her?

THE POTENTIAL JUROR: Around the clock.

THE COURT: All right.

350 is excused caring for an elderly adult, primary caregiver.

THE POTENTIAL JUROR: Thank you.

THE BAILIFF: No. 247, Kathleen McNair.

THE COURT: Yes, ma'am?

THE POTENTIAL JUROR: I told Ms. Brown, I have 95 percent lost vision in my right eye. And I have to use my eye drops four times a day.

THE COURT: Okay.

THE POTENTIAL JUROR: And my foot was just broken and I have a doctor's appointment tomorrow. I would like to serve but --

THE COURT: Well, at this point I think we can work with you. You can probably be able to get to your doctor's appointment tomorrow. And we'll work around that as well. So I don't think that would prevent you from serving.

THE POTENTIAL JUROR: I understand.

THE COURT: Okay?

THE POTENTIAL JUROR: Okay.

THE COURT: Thank you, Ms. McNair.

No. 247 will remain with us at this point.

THE BAILIFF: No. 102, Jettie Ruth Ellington.

THE COURT: Yes, ma'am?

THE POTENTIAL JUROR: I have a back problem, I can't sit for so long. And I have had epidural to try to correct the problems. And when it gets so bad, I can hardy move.

THE COURT: Well, one of the things is that we all have problems. Do you work outside the home?

THE POTENTIAL JUROR: Uh-huh.

THE COURT: Well, however you deal with it in your workplace, we can deal with it here. Not a problem.

THE POTENTIAL JUROR: Okay. But I can't sit but

so long, can I stand?

THE COURT: Absolutely. Mr. Johnston has back problems as well and I've already given him permission to stand. If you're in the jury and you need to stand, you can do so.

MR. JOHNSTON: We won't stand together.

THE POTENTIAL JUROR: Okay.

THE COURT: No. 102 will remain.

THE BAILIFF: No. 364, Keith Thomas.

THE COURT: 364?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: All right, sir. What's your situation?

THE POTENTIAL JUROR: My wife just got diagnosed with MS last month and we've got three small children. And due to the fact that she has been off work, we have used all of our savings up. And if I'm not working, I'm not making money.

THE COURT: I understand.

THE POTENTIAL JUROR: And I need to be at work.

THE COURT: I understand that. You're requesting a hardship. I will wait and see how many jurors we have and we'll see where we are. I can't grant it at this point.

THE POTENTIAL JUROR: Thank you.

THE COURT: No. 364, likewise, is requesting a hardship. We will revisit his situation a little bit later. At this point, I have denied it.

THE BAILIFF: No. 295, Samuel Polk.

THE COURT: Yes, sir?

THE POTENTIAL JUROR: The question you asked about the relations of officers and all, Berkeley County, I do have a brother that works for the jail, the detention center.

THE COURT: Would that affect you in this matter at all?

THE POTENTIAL JUROR: No, I don't believe so. I can be unbiased.

THE COURT: Thank you, Mr. Pope. Appreciate it.

THE BAILIFF: No. 12, Jamal Asey.

THE COURT: Yes, sir, Mr. Asey?

THE POTENTIAL JUROR: The policeman who got killed, he be my neighbor.

THE COURT: He was your neighbor?

THE POTENTIAL JUROR: Yes, two doors from me.

THE COURT: Okay. I'll go ahead and take the liberty of excusing you. And it would affect your ability?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: No. 12 is excused from this case.

Thank you very much.

THE CLERK: I think he wants to speak with you.

THE COURT: Come on down, sir. What is your name and number?

THE POTENTIAL JUROR: Donald Mills, 255.

THE COURT: Morning, sir.

THE POTENTIAL JUROR: I have a couple of medical problems. It have sleep apnea and when I sit for extended periods of time, it causes me to drop off to sleep. And also, I take a fluid tablet, which I did not take today.

THE COURT: Well, one of the good things, as you've already heard maybe me talking to some jurors, we can work with you on those situations. We can take breaks if we want to.

THE POTENTIAL JUROR: My fluid tablet, I have to go every 15 minutes.

THE COURT: Every 15 minutes?

THE POTENTIAL JUROR: Yes, sir, every 15 minutes. But I can skip it for a day at the time, but then my feet and legs start to swell.

THE COURT: All right. What's your number again?

THE POTENTIAL JUROR: 255.

THE COURT: Any objection?

MR. JOHNSTON: No objection.

THE COURT: Any objection?

MR. HOISINGTON: No objection.

THE COURT: 255 is excused for medical reasons.

Thank you, sir. You're free to leave.

Yes, sir, you can come on down. I'm sorry. What is your name and number?

THE POTENTIAL JUROR: Marvin Henderson, 159.

THE COURT: Just one second.

THE POTENTIAL JUROR: I don't know if it would make a difference, just a second DUI.

THE COURT: Second DUI, no more than that?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: That wouldn't carry the potential of one year and that would not prevent you from serving, but thank you very much.

THE POTENTIAL JUROR: Yes, sir.

THE COURT: No. 159 will remain with us.

Are there any others?

(There was no response.)

THE COURT: No. 225, Mr. Mancinnotti, if you could come forward, please, sir. I just need to ask you a question. How are you, sir?

THE POTENTIAL JUROR: Okay.

THE COURT: Good. Mr. Mancinnotti, according to the information we have, we are showing a conviction for

criminal sexual conduct second degree for you. Is that you?

THE POTENTIAL JUROR: Uh-huh.

THE COURT: Have you had your civil rights restored by pardon or amnesty?

THE POTENTIAL JUROR: I had probation.

THE COURT: But you haven't taken any action to have it removed?

THE POTENTIAL JUROR: No.

THE COURT: That would prevent you from serving. So No. 225 is excused for statutory reasons. Thank you, sir.

THE POTENTIAL JUROR: Thank you.

MR. JENNINGS: 245.

THE COURT: No. 245, Cynthia McKnight. How are you doing?

THE POTENTIAL JUROR: Hi.

THE COURT: You were convicted for unlawful neglect of a child?

THE POTENTIAL JUROR: Uh-huh.

THE COURT: And you haven't taken any action to have that removed, have you?

THE POTENTIAL JUROR: Huh-uh.

THE COURT: That would prevent you from serving. It carries a potential 10-year sentence. So you are

excused.

No. 245 is excused for statutory reasons.

Have a good day, ma'am.

THE POTENTIAL JUROR: Thank you.

THE COURT: Mr. Mizell, Walter Mizell, No. 259. Mr. Mizell, were you convicted of perjury?

THE POTENTIAL JUROR: No, that wasn't part of it. Aiding and abetting.

THE COURT: Aiding and abetting?

THE POTENTIAL JUROR: Yeah.

THE COURT: That would carry more than a year.

THE POTENTIAL JUROR: Zero to 18 months.

THE COURT: That's more than a year, so that would prevent you from serving.

No. 259 is excused for statutory reasons.

Have a good day, sir.

THE POTENTIAL JUROR: Thank you.

THE COURT: Any others?

MR. JENNINGS: No, sir, the other two didn't answer.

THE COURT: Okay. Y'all want to take a break?

MR. HOISINGTON: Sure.

MR. JOHNSTON: Yes, sir.

THE COURT: Ladies and gentlemen, at this point, I would love to tell you we are halfway, but we're not.

We're going to take a break, though, and give you a chance to stretch. And I appreciate your patience. If you will be back in your seats at about five after 12, we'll continue the process. Thank you very much.

(WHEREUPON, a short break was taken.)

THE COURT: Come forward, please, Mr. Pinckney. I'm advised that you arrived after we qualified you?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: You can stay right there. Mr. Pinckney, are you a resident and citizen of Berkeley County?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And a resident -- and citizen of the United States?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: You are over 18?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And you have a driver's license?

THE POTENTIAL JUROR: Yes.

THE COURT: Okay. You're not employed in the courthouse, are you?

THE POTENTIAL JUROR: No, sir.

THE COURT: And you have not been convicted of any crimes carrying a punishment greater than a year?

THE POTENTIAL JUROR: No, sir.

THE COURT: You obviously appear to be in good physical condition?

THE POTENTIAL JUROR: I believe so.

THE COURT: I'm glad and grateful for that, too. You can hear fine and you speak well?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: You don't have -- you don't have a law enforcement commission, do you?

THE POTENTIAL JUROR: No, sir.

THE COURT: You haven't served in the past three years on a jury?

THE POTENTIAL JUROR: No, sir.

THE COURT: What is your employment?

THE POTENTIAL JUROR: I work for the Army Corp of Engineers.

THE COURT: And Wanda indicated that while you are temporarily living in Savannah --

THE POTENTIAL JUROR: Augusta, Georgia.

THE COURT: Excuse me, Augusta, Georgia. But your residence and home is in Cross?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: All right, Mr. Pinckney. Thank you very much. And let me ask you a question, you may not have been here when I administered the oath. Do you solemnly swear or affirm that your responses to my

questions were the truth?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: What is your mileage from Cross?

THE POTENTIAL JUROR: I guess 15, 20 miles. I don't know.

THE COURT: Not from Augusta, though?

THE POTENTIAL JUROR: No.

THE COURT: Thank you, sir.

THE CLERK: We need to see you at the next break for a questionnaire.

THE POTENTIAL JUROR: I've already filled it out.

THE COURT: You've already filled it out?

THE POTENTIAL JUROR: I've mailed it in.

THE COURT: He says he mailed it in. They say they don't have it. There are a number of them that we've had some problems. If you wouldn't mind redoing that, I would appreciate that at the break. Thank you, Mr. Pinckney.

Ms. Wiggins?

THE BAILIFF: This is Juror No. 48, Carlos Bryant.

THE COURT: Carlos Bryant, come forward, please. Mr. Bryant, as I understand you presented a card that indicated you were on active duty and you're seeking to be

excused for that reason. Where are you serving?

THE POTENTIAL JUROR: I work at the prison, sir.

THE COURT: At the prison?

THE POTENTIAL JUROR: Yes, I do.

THE COURT: But you haven't come forward with any hardship situation associated with that?

THE POTENTIAL JUROR: Well, as far as my job title, something I do there requires me to be there everyday, sir.

THE COURT: But there are other persons that can cover for you in your absence, aren't there?

THE POTENTIAL JUROR: Not certain. I can get information to show you.

THE COURT: How long have you worked in that capacity?

THE POTENTIAL JUROR: I've been there a year and five months, sir.

THE COURT: What is your responsibility at the prison?

THE POTENTIAL JUROR: I can't say it. Not just out like that, I can't say it.

THE COURT: Okay. You can't disclose it?

THE POTENTIAL JUROR: Right.

THE COURT: Approach, please, gentlemen.

(WHEREUPON, a bench conference was held in the

presence of the jury but out of the hearing of the jury.)

THE COURT: We had a bench conference concerning Mr. Bryant. We will place it on the record at the first opportunity.

Mr. Bryant, I'm going to excuse you from participation in this matter. Thank you very much.

THE POTENTIAL JUROR: Thank you, sir.

THE COURT: You're free to leave.

Ladies and gentlemen, we have reached a point in the process and now let me discuss with you the dispute for which we need your assistance. This dispute is framed by what I'm holding in my hands, and they are what they appear to you. They're pieces of paper, nothing more. We call these documents indictments. Indictment is simply a document that accuses or makes the accusations and frames the issue of the dispute. It's a document that is originated by the State in this particular situation and that's pretty much -- I think it's called pretty much the same. There may be other agencies that have the ability to generate this document in the United States, but typically, in South Carolina, it's the State of South Carolina. And basically, the indictment accuses generally a person of a criminal offense.

Now, I say accuses because the indictments are

not evidence. They should never be considered by you as evidence in any way whatsoever. They are nothing more than simply, as I said, an accusation. I need to share these indictments with you because there is certain information that I need to obtain and questions that I need to ask of you concerning your qualifications to serve in this dispute.

And let me just explain to you a little bit about what that means as well. Maybe some of you have served on a jury before. And if you have, I appreciate your service and commitment in that process. But our process of dispute resolution that we call a jury trial contemplates that there will be two judges that will work together in resolving that dispute. One judge has the responsibility of being the judge of the law. That is my responsibility. The Chief Justice has assigned me to preside this week and conduct this trial.

As the judge of the law, it's my responsibility to preside over the trial. It's my responsibility to make rulings on matters of law. Generally, that is done outside of the presence of the jury. You have just seen, I asked the attorneys to approach. We chatted over on the side. The intention of that was to discuss matters of law. Much as a jury when it decides its case, that is the factual issues -- because you see that's the jury's

responsibility -- they will decide that in a room we call a jury room and it will be out of the presence of everybody in this room. So our system is fairly similar in that respect. The judge of the law decides the legal issues generally out of the presence of the jury. The jury will decide the factual issues out of the presence of the judge and everyone else. Again, very important with this process of dispute resolution because you, as the jury, will become the judge of the facts of this case once you take an oath.

Each of you will take an oath that are selected to serve in this capacity. And basically, that oath in summary says that you will well and truly try this case, that you will decide the true facts from the evidence. And evidence consists, ladies and gentlemen, of the testimony of witnesses and exhibits that are introduced through that testimony and nothing else. It's very important that you understand and nothing else. Because you must confine that decision and must only consider evidence in making the decision of what you find to be the true facts of this dispute. I share that with you, again, because what I'm going to read now is not evidence. And again, you shouldn't consider it in that fashion.

A verdict, a decision of resolving this dispute process -- of this dispute will result when you, as a

jury, those of you that are impaneled will make a decision at the appropriate time and consider the evidence and decide what you believe to be the true facts. Then the second part of that commitment that you made, that is that you'll decide the case from the evidence, the factual part, you also commit to both sides in this dispute that you will take the law as I give it to you and apply that law fairly and impartially to those facts that you will ultimately determine and reach a decision which will speak the truth of this controversy. And that's what, in essence, a jury verdict means.

It's a very important service, ladies and gentlemen. I hope that none of you find it necessary to avail yourself of this process in your life; and that is, have a dispute resolved, whether it be criminal nature, a criminal dispute or a civil dispute. But if you do, I believe you would be -- just as those persons who come here today to seek your assistance at resolving this dispute, you would want to be able to look out like I have been this morning and look at persons just like you who would be willing to make that commitment and render that service to the community in which you live.

And that's, in essence, what jury service is all about. And I thank you for your willingness thus far to participate in the process. We've gone through some of

it. And I'm delighted to say that insofar as the qualifications part, you're qualified. Now, I understand some of you have requested some hardship determination and we'll revisit those at a later date. But that doesn't prevent you from being qualified to serve potentially in this process.

During the process, though, in the next group of questions, unlike the last ones, and specifically the qualification questions, these next questions are designed really to assist you and assist us, but primarily you, in making a determination that you have to look inward and say as to each question, is this something that would cause me a personal problem of being a fair and impartial judge in this case? There are no right or wrong answers to these questions. It's important that you understand that you honor the commitment that you've made to both sides and that is that you truthfully respond to all of these questions.

This dispute, as I mentioned to you, accuses Mr. Jesse Sapp -- and I'm going to ask Mr. Sapp to stand, he's been patiently seated at this table.

Good afternoon, Mr. Sapp. If you would stand, please, and just slowly make a turn so all the jurors can see you.

(The defendant complied.)

THE COURT: Thank you, Mr. Sapp, you may take your seat.

Mr. Sapp has been accused in these documents -- and I'm going to go through the offenses. But before I do so, I need to ask you are there any members of the jury panel who are related by blood or marriage to Mr. Sapp, have any business dealings with him, socially or casually acquainted with Mr. Sapp, have any connection at all, please stand.

(There was no response.)

THE COURT: Thank you. There are none. Mr. Sapp has been accused in these indictments of the following, and I'm going to share this with you and if you bear with me, there are a number of accusations. I want to go through them with you so I can ask you some questions. Mr. Sapp is accused that he, in Berkeley County, on or about July 7th, 2002, unlawfully possessed a pistol, to wit: A Smith and Wesson 40 caliber handgun in violation of the laws of this case.

He's also accused that on July 7th, 2002, of willfully and unlawfully receiving, possessing, concealing, selling or disposing of a motor vehicle belonging to another described as a 1990 Dodge Dakota pickup having a value in excess of $5,000; and that Mr. Sapp, not being entitled to the possession of the

vehicle and knowing the vehicle to be stolen, converted under the circumstances which constituted a crime in violation of the laws of this state.

Mr. Sapp is also accused that on July 7th of knowingly being -- knowingly manufacturing, distributing, dispensing, delivering, purchasing or aiding, abetting or attempting or conspiring to manufacture, distribute, dispense, deliver or purchase or possess with the intent to distribute, to do those functions, a controlled substance, namely morphine sulfate, which was likewise allegedly in violation of the laws of this state.

He's also accused at that time of being in possession of another controlled substance, Xanax. And likewise, in violation, that possession -- he's accused of violating the laws of this state.

He's also accused on that date of manufacturing, distributing, dispensing, delivering, purchasing or aiding and abetting and attempting or conspiring to manufacture, distribute, dispense, deliver or purchase or possessing with the intent to do those things a controlled substance, namely Ecstasy, likewise in violation of the laws of this state.

He's also accused on that time of being in possession or manufacturing, distributing, dispensing, delivering, purchasing, aiding, abetting or attempting or

conspiring to do those things of a controlled substance, namely cocaine, likewise in violation of the laws of this state.

He's also accused that on that day, on July 7th, that he feloniously, willfully and unlawfully with malice aforethought killed and murdered South Carolina Highway Patrolman Trooper Kenneth Johnson by means of a gunshot wound and that Trooper Johnson did die in Berkeley County as a proximate result of the gunshot wound on that day of July 7th, 2002.

I share those accusations with you, ladies and gentlemen, to find out if any member of the jury panel has heard anything about this alleged dispute, read anything about this alleged dispute, you have any prior knowledge at all, I need for you to stand. All right. I'm going to ask you to not -- when I go around the room, I'm going to ask you to identify yourself and ask you the questions -- the following questions. I want you to disclose what you've heard -- not what you've heard. Where you heard it, from what source, when you heard it and would it affect your ability to be fair and impartial in deciding these cases. And by that, I mean, you will take an oath to set aside whatever it is you considered and you will decide this case based on the evidence in this trial, and only you know whether you can do that or not.

So at this point, we'll start here. If you will give us your name and number. Give us a few minutes to make sure we find your name on the list we'll start the process.

What is your name and number?

THE POTENTIAL JUROR: Kelley L. Sinclair, 339.

THE COURT: Just one second. No. 339, Ms. Sinclair. All right, Ms. Sinclair, you've read something, heard something or what?

THE POTENTIAL JUROR: I just saw it on the news and I read it in the newspaper when it happened. That was it.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: And you would set aside whatever you heard and decide this case fairly on the evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Your decision would be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, ma'am. You may take your seat.

Next?

THE POTENTIAL JUROR: No. 369, Adeline Tucker.

THE COURT: No. 369, is that right, Ms. Tucker? And I'm going to need for you to speak very loudly so my court reporter can hear you. Ms. Tucker?

THE POTENTIAL JUROR: Also heard it on the news and in the newspaper when it actually happened, not very much recently. And it would not affect me.

THE COURT: Your decision would not be influenced by that in any fashion? You would decide this case based on the evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And your decision, Ms. Tucker, would be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: You may take your seat.

THE POTENTIAL JUROR: Juror 280, Brenda Parker.

THE COURT: Just one second. 280? All right.

THE POTENTIAL JUROR: Mr. Johnson's children attend school with my children. They are friends. I do live in his neighborhood.

THE COURT: All right. And it would influence you?

THE POTENTIAL JUROR: I would hope not.

THE COURT: Would you set aside that relationship and decide this case solely on the evidence in this case?

THE POTENTIAL JUROR: Yes, I would.

THE COURT: And would your decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, it would.

THE COURT: No. 280, you may take your seat.

Next?

THE POTENTIAL JUROR: No. 380, Charlene Ward. And I saw it initially on Channel 4 News in the morning.

THE COURT: All right.

THE POTENTIAL JUROR: And I just remember that the incident happened. I don't know what occurred, who did what, just that a police officer was shot.

THE COURT: And would that influence or affect you in this case?

THE POTENTIAL JUROR: No, sir, not whatsoever.

THE COURT: And you would decide the case based on the evidence in this case that you heard from the witnesses?

THE POTENTIAL JUROR: That is correct.

THE COURT: And your decision would be fair to the State and to Mr. Sapp?

THE POTENTIAL JUROR: That is correct.

THE COURT: Thank you, Ms. Ward. You may take your seat.

Yes, ma'am?

THE POTENTIAL JUROR: Juror 396, Lauren Mims. I also saw it in the news and read it in the paper.

THE COURT: All right. Would that influence you, Ms. Mims?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would you decide this case based on the evidence in this case?

THE POTENTIAL JUROR: Yes.

THE COURT: And would your decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: You may take your seat.

THE POTENTIAL JUROR: Jody Ard, No. 10.

THE COURT: All right, Mr. Ard?

THE POTENTIAL JUROR: I saw it on the news. That's the only thing --

THE COURT: Would that affect or influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: And would your decision be based on the evidence and would that decision be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. You may take your seat.

Yes, sir?

THE POTENTIAL JUROR: Juror 124, Mark Garrison. Saw it on the news, word of mouth and the paper.

THE COURT: All right, sir. Would that affect or influence you in this matter, Mr. Garrison?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would your decision be based solely on the evidence in this case?

THE POTENTIAL JUROR: That's correct.

THE COURT: And would it be fair to the State and Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. You may take your seat.

THE POTENTIAL JUROR: Timothy Peagler, 283, newspaper, news, about 450 feet from it.

THE COURT: So you live near the place?

THE POTENTIAL JUROR: (The witness nodded.)

THE COURT: Did you go there on that evening?

THE POTENTIAL JUROR: I was in the lineup that was lined up.

THE COURT: Okay. I'm going to excuse Mr. Peagler from participation in this dispute.

Thank you, Mr. Peagler. You're free to leave, sir.

Yes, sir?

THE POTENTIAL JUROR: No. 238, sir, Lloyd McDaniel, Jr.

THE COURT: Yes, sir, Mr. McDaniel?

THE POTENTIAL JUROR: I heard it on the news and the newspaper, sir.

THE COURT: Would that affect you at all in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: You would decide the case based on the evidence in this case, sir?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And your decision, would it be fair to the State and Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. You may take your seat.

Yes, sir?

THE POTENTIAL JUROR: No. 315, James Roberson.

THE COURT: Just a second. 315?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: All right, sir.

THE POTENTIAL JUROR: Yes, sir, I have friends that are highway patrolmen and I don't think I could be --

THE COURT: So you would have trouble with it

then?

THE POTENTIAL JUROR: Yes.

THE COURT: Very well. Excuse Mr. Robinson from participation in this dispute.

Okay?

THE POTENTIAL JUROR: 359, Your Honor, William Sylvester.

THE COURT: All right, sir. Just one second, Mr. Sylvester. I tell you what, why don't we do this, all of you on this side, if you will take your seat and then I'll ask you to stand as we go through it. That way we'll start the process.

Mr. Sylvester?

THE POTENTIAL JUROR: Saw it in the newspaper and on TV.

THE COURT: Would that influence you, Mr. Sylvester?

THE POTENTIAL JUROR: Your Honor, I'm not really sure if it would or not.

THE COURT: Well, the question would be, would you be able to consider the case solely on the evidence and set aside what you've heard?

THE POTENTIAL JUROR: I would try.

THE COURT: Am I interpreting that to mean there may be some difficulty?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: I'm going to excuse No. 359 from participation in this dispute. You are free to leave, sir.

Next?

THE POTENTIAL JUROR: No. 2, Robbin Adams.

THE COURT: Ms. Adams, okay?

THE POTENTIAL JUROR: I saw it in the newspaper and also on the news.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: And your decision would be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: It would be based on the evidence in this case and not be influenced by what you saw or heard?

THE POTENTIAL JUROR: Yes.

THE COURT: Thank you, Ms. Adam. You may take your seat.

Okay?

THE POTENTIAL JUROR: No. 400, Marianne Yackulak.

THE COURT: Ms. Yackulak.

THE POTENTIAL JUROR: Newspaper and news, also.

THE COURT: Would that influence you in this

case, Ms. Yackulak?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would your decision be based on the evidence in this case and would be it be fair to the State and Mr. Sapp?

THE POTENTIAL JUROR: Yes.

THE COURT: Thank you. You may take your seat. Yes, ma'am?

THE POTENTIAL JUROR: 146, Joyce Guerry. I read it in the newspapers, saw it on TV. And Mr. Johnson was also a coach to my grandson's ball team.

THE COURT: Would that affect or influence you in this case?

THE POTENTIAL JUROR: No.

THE COURT: Your decision would be based on the evidence in this case?

THE POTENTIAL JUROR: Right.

THE COURT: And you could set all that aside and to consider this evidence and make those decisions that would be fair to the State and to Mr. Sapp?

THE POTENTIAL JUROR: Yes.

THE COURT: And you're No. 146, Ms. Guerry?

THE POTENTIAL JUROR: Yes.

THE COURT: Thank you. You may take your seat. Yes, ma'am?

THE POTENTIAL JUROR: No. 192, Sally R. Kennedy. I heard it on the news.

THE COURT: Would that affect you, Ms. Kennedy?

THE POTENTIAL JUROR: No, I don't think it would.

THE COURT: You could set that aside and base your decision solely on the evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would that decision on that evidence be fair to the State and to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You may take your seat. Yes, ma'am?

THE POTENTIAL JUROR: 334, Maebelle Shuler. I have heard it on the news.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would you base your decision solely on the evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And would that decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And you are what number?

THE POTENTIAL JUROR: 334.

THE COURT: No. 334. Thank you very much, Ms. Shuler.

Yes?

THE POTENTIAL JUROR: I seen it on the news and --

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: What is your name and number again?

THE POTENTIAL JUROR: I'm 36, Thomas Bowman, Jr.

THE COURT: Okay, sir. Would your decision then be based on the evidence in this case?

THE POTENTIAL JUROR: Yes.

THE COURT: Would that decision on the evidence be fair to the State and to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. You may take your seat.

Yes, sir?

THE POTENTIAL JUROR: Juror No. 295, Samuel M. Polk. I have seen it on television and newspapers.

THE COURT: Would that influence you in any way in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would your decision be based solely on the evidence as to the facts?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And would you -- your decision on the facts be fair to the State and to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: You may take your seat, Mr. Polk. Thank you, sir.

Yes, sir?

THE POTENTIAL JUROR: No. 213, Tom Levangie. I heard it on the news and the paper and I live across the street from where it happened.

THE COURT: Did you go there that evening?

THE POTENTIAL JUROR: Not that evening. Some people that were in the lineup I knew, the cars.

THE COURT: But you live near the scene?

THE POTENTIAL JUROR: Across the street.

THE COURT: I'm going to excuse you from participation out of an abundance of caution in this case. Thank you, sir. Excuse No. 213.

Yes, ma'am?

THE POTENTIAL JUROR: 229, Barbara Mason. I heard it on the news.

THE COURT: Would that affect or influence you in this case, Ms. Mason?

THE POTENTIAL JUROR: No, sir.

THE COURT: And your decision would be based on

the facts and evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would that decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, it would.

THE COURT: Thank you. You may take your seat.

Yes?

THE POTENTIAL JUROR: Cecil Courtright. I don't know what my number is.

THE COURT: I'll help you in just one second, Mr. Courtright. You're No. 73, Mr. Courtright.

THE POTENTIAL JUROR: I heard it on the news.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No.

THE COURT: Would your decision be based solely on the evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And would that decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. You may take your seat.

Yes, sir?

THE POTENTIAL JUROR: 180, Damian Johno. I was made aware of it by my wife that an officer had been shot

and killed.

THE COURT: And would that affect or influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: And would you set that information aside and decide this case solely on the evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And that decision on the facts, the true facts, would it be fair to the State and would it be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And you're No. 180?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. You may take your seat.

Yes, sir?

THE POTENTIAL JUROR: No. 68, Jason Coffman.

THE COURT: All right, sir. Just one second. All right?

THE POTENTIAL JUROR: I know I had seen it in the paper, but I don't really remember the details. I think I just looked at the headline.

THE COURT: Would that in any way influence you in this case?

THE POTENTIAL JUROR: No.

THE COURT: And would your decision be based on the evidence in this case?

THE POTENTIAL JUROR: Yes.

THE COURT: And that decision on what you find to be the true facts, would it be fair to the State and would it be fair to Mr. Sapp?

THE POTENTIAL JUROR: I believe so.

THE COURT: Thank you, sir. You may take your seat.

THE POTENTIAL JUROR: No. 47, Linda Brunson.

THE COURT: Ms. Brunson. Okay?

THE POTENTIAL JUROR: I read it in the newspaper and I saw it on television.

THE COURT: Would that in any way influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would you base your decision solely on the evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And would it be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You may take your seat, Ms. Brunson.

Okay, yes?

THE POTENTIAL JUROR: Juror No. 247.

THE COURT: 247?

THE POTENTIAL JUROR: Uh-huh.

THE COURT: Ms. McNair?

THE POTENTIAL JUROR: Yes.

THE COURT: All right.

THE POTENTIAL JUROR: I saw it on the television.

THE COURT: Would that affect or influence you, Ms. McNair?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would your decision be based solely on the evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would that decision be fair to the State and to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You may take your seat.

THE POTENTIAL JUROR: I stated my son-in-law is also a policeman.

THE COURT: Your son-in-law is a policeman?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would that influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: And would it in any way influence you in any of your decisions?

THE POTENTIAL JUROR: No, sir.

THE COURT: Thank you, Ms. McNair.

All right. We'll just start and shuffle on back down.

THE POTENTIAL JUROR: 279, Daniel Page. I heard it on the news and the newspaper.

THE COURT: All right. Mr. Page, would that affect you in any way in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would your decision in this case be based solely on the evidence?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would that decision be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. You may take your seat.

THE POTENTIAL JUROR: 183, Lynn Johnson.

THE COURT: Ms. Johnson?

THE POTENTIAL JUROR: I heard it on the news.

THE COURT: You heard it on the news?

THE POTENTIAL JUROR: And newspaper.

THE COURT: And would that affect or influence

you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: And would that in any way influence your decision on the facts?

THE POTENTIAL JUROR: No, sir.

THE COURT: Your decision would be fair to both sides?

THE POTENTIAL JUROR: That's correct.

THE COURT: Thank you, ma'am. You may take your seat.

Yes?

THE POTENTIAL JUROR: No. 14, Linda Ashe. I heard it on the television, also from my son, who is a State Trooper.

THE COURT: Would that affect you in this case, Ms. Ashe?

THE POTENTIAL JUROR: I'm afraid it would, sir.

THE COURT: And I appreciate that. And thank you very much for sharing. I will excuse you from participation in this case.

No. 14, Ms. Ashe, is excused.

Next one?

THE POTENTIAL JUROR: No. 276, Jennifer Oliver.

THE COURT: Okay.

THE POTENTIAL JUROR: I heard it on the news and

in the newspaper.

THE COURT: Would that affect you, Ms. Oliver?

THE POTENTIAL JUROR: No, it will not.

THE COURT: And your decision, would it be based on the evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And would that decision be fair to the State and would it be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You may take your seat. Okay?

THE POTENTIAL JUROR: 256, Donna Minter.

THE COURT: Ms. Minter?

THE POTENTIAL JUROR: I heard it on Channel 5 and in the newspaper, also.

THE COURT: Would that affect you or influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: And would your decision be based solely on the evidence in this case and would that decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, it would.

THE COURT: Thank you, Ms. Minter. You may take your seat.

Okay?

THE POTENTIAL JUROR: 271, April Hunt.

THE COURT: Ms. Nephew-Hunt, all right?

THE POTENTIAL JUROR: Newspaper, TV.

THE COURT: You need to speak really loud for me.

THE POTENTIAL JUROR: I read it in the newspaper, I saw it on TV. And my husband's a firefighter, so I heard it from him, also.

THE COURT: Would any of that influence you in this case?

THE POTENTIAL JUROR: No, I don't think so.

THE COURT: Well, would you set aside what you heard, would you set aside your relationship and not be influenced by the fact that your husband's a firefighter?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would your decision be fair to the State and would it be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You may take your seat.

THE POTENTIAL JUROR: No. 5, Marjorie Alexander. I heard it on the TV and newspaper.

THE COURT: Would that affect or influence you in this case?

THE POTENTIAL JUROR: (The juror shook her head.)

THE COURT: Would your decision be based on the evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would it be fair to both the State and to Mr. Sapp?

THE POTENTIAL JUROR: Yes.

THE COURT: Thank you, Ms. Alexander. You may take your seat.

THE POTENTIAL JUROR: No. 236, Cynthia McCaslin.

THE COURT: Okay. Yes, ma'am?

THE POTENTIAL JUROR: I heard about an officer involved in a shooting on the television. I don't remember anything else.

THE COURT: Would anything that you heard influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would you base your decision solely on the evidence?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And would that decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You may take your seat, ma'am.

Yes, sir?

THE POTENTIAL JUROR: 142.

THE COURT: 142, just one second. You're Mr. Green?

THE POTENTIAL JUROR: Yes.

THE COURT: Mr. Green, what did you hear, sir?

THE POTENTIAL JUROR: I heard it on the news.

THE COURT: All right. Would that affect or influence you in this case, sir?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would you decide this case solely on the evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And would that decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. You may take your seat.

Yes, ma'am?

THE POTENTIAL JUROR: Regina Vande-Linde, the number is 311. And I --

THE COURT: Hold on just a second, please. Okay.

THE POTENTIAL JUROR: I think I probably heard it on TV news and I talked with my boyfriend about it. He's a police officer.

THE COURT: Your boyfriend's a police officer?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would that affect or influence you in this case?

THE POTENTIAL JUROR: Probably so.

THE COURT: Thank you, ma'am.

No. 311 is excused.

Next?

THE POTENTIAL JUROR: No. 241, Audra Rourk.

THE COURT: Ms. Rourk, just one second. 241. Yes, ma'am?

THE POTENTIAL JUROR: I read an article about it on Charleston.net.

THE COURT: Would that influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would your decision in this case be based solely on the evidence?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would that decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You may take your seat, Ms. Rourk.

Yes?

THE POTENTIAL JUROR: 231, Chester Mayers.

THE COURT: All right, Mr. Mayers. Yes, sir?

THE POTENTIAL JUROR: My brother-in-law is a state trooper.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: I think it would.

THE COURT: All right, sir. Mr. Mayers, you're excused from participation in this case. No. 231.

Okay?

THE POTENTIAL JUROR: No. 219.

THE WITNESS: Alisha Mack.

THE COURT: Did you say 219?

THE POTENTIAL JUROR: Uh-huh.

THE COURT: Ms. Mack, what have you read or heard?

THE POTENTIAL JUROR: I heard the news and also read it in the newspaper.

THE COURT: Would that influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would that -- would you base your decision, Ms. Mack, solely on the evidence?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And would that decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You may take your seat. Okay?

THE POTENTIAL JUROR: Spencer Kerce. I don't recall the number.

THE COURT: Kerce with a K?

THE POTENTIAL JUROR: Yes, sir.

THE CLERK: 193.

THE COURT: You're 193, Mr. Kerce. All right, sir?

THE POTENTIAL JUROR: TV and newspaper.

THE COURT: You would be influenced?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Very well. I will excuse No. 193 from participation in this dispute.

THE POTENTIAL JUROR: Vincent Green, No. 141.

THE COURT: 141. All right, sir, Mr. Green? You heard about it, read about it, what?

THE POTENTIAL JUROR: In the newspaper and on TV.

THE COURT: Would that influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would your decision in this case be based on the evidence?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And would that decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. You may take your seat.

All right?

THE POTENTIAL JUROR: No. 82, Emily Davidson.

THE COURT: All right, Ms. Davidson?

THE POTENTIAL JUROR: I heard it on the news and read it in the newspaper.

THE COURT: Would that affect or influence you in this matter?

THE POTENTIAL JUROR: No.

THE COURT: Would your decision be based solely on the evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And would that decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You may take your seat.

THE POTENTIAL JUROR: Maxine Calvert, No. 54.

THE COURT: Thank you, Ms. Calvert, just one second. All right, Ms. Calvert?

THE POTENTIAL JUROR: I read it in the newspaper

and heard it on the television and I also heard indirectly from some of the family members. And I think I would be influenced.

THE COURT: All right, Ms. Calvert, I appreciate that. I'm going to excuse you from participation in this dispute. Thank you very much. You're free to leave.

Okay?

THE POTENTIAL JUROR: Bryan Keelin. I believe it's No. 187, but I'm not sure.

THE COURT: Just one second, Mr. Keelin. Mr. Keelin, it's 190. Yes, sir?

THE POTENTIAL JUROR: I saw it on the television.

THE COURT: Would that affect or influence you in this matter?

THE POTENTIAL JUROR: No, Your Honor.

THE COURT: And your decision, would it be based solely on the evidence?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would that decision on the facts be fair to the State and to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, Mr. Keelin. You may take your seat, sir.

Okay?

THE POTENTIAL JUROR: Anthony Addison, I'm Juror No. 3.

THE COURT: All right, Mr. Addison.

THE POTENTIAL JUROR: I followed this case closely on the news and on TV. But I was elected to go to the State Trooper Academy. And I did go to the Academy at a point and was not elected because of a medical problem at the time. So I -- there are a few state troopers I know at the time.

THE COURT: So you think you would be affected by that?

THE POTENTIAL JUROR: I believe so.

THE COURT: I'm going to excuse No. 3 from participation in this dispute.

Thank you, sir.

Okay?

THE POTENTIAL JUROR: Juror 117, Diana Foster.

THE COURT: All right, Ms. Foster?

THE POTENTIAL JUROR: Your Honor, I believe I heard it through some friends at my office. But I was a fairly new resident at the time. I don't know that it pertains to the same exact case in all honesty.

THE COURT: Assuming just for the purpose of our discussion that it was, would what you've heard influence you in any way in this case?

THE POTENTIAL JUROR: No, sir, it would not.

THE COURT: Would you decide, Ms. Foster, the case based on the evidence that you heard during the trial?

THE POTENTIAL JUROR: Yes, Your Honor, I would. And I do have family members that are police officers in the State of Florida, but it would not.

THE COURT: It would not influence you at all in any of your decisions?

THE POTENTIAL JUROR: No.

THE COURT: And your decisions on what you would find to be the true facts from the evidence, would it be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, Your Honor, they would.

THE COURT: Thank you, Ms. Foster. You may take your seat.

Okay?

THE POTENTIAL JUROR: Juror No. 30, Angela Biggs.

THE COURT: Just one second. Okay, Ms. Biggs?

THE POTENTIAL JUROR: Saw it on the news and the newspaper.

THE COURT: Would that affect or influence you in this matter?

THE POTENTIAL JUROR: No.

THE COURT: Would you decide the case based on the evidence that you heard during the trial?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would that decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You may take your seat, Ms. Biggs.

Yes, sir?

THE POTENTIAL JUROR: Derrick Singleton, 340.

THE COURT: 340?

THE POTENTIAL JUROR: (The juror nodded.)

THE COURT: All right, sir. What did you hear?

THE POTENTIAL JUROR: I heard it on the news.

THE COURT: You heard it on the news?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Sir?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Did you read it also in the newspaper?

THE POTENTIAL JUROR: Yes, I did.

THE COURT: Would that affect or influence you, Mr. Singleton?

THE POTENTIAL JUROR: No.

THE COURT: And your decision would be based solely on the evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would that decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You may take your seat, Mr. Singleton.

Yes, sir?

THE POTENTIAL JUROR: Robert Wingert, 393, I believe.

THE COURT: All right, Mr. Wingert.

THE POTENTIAL JUROR: I have seen it on TV and read it in the newspaper.

THE COURT: Okay. Would anything that you saw or read influence you in this case?

THE POTENTIAL JUROR: Yes, it would.

THE COURT: Very well, Mr. Wingert, I will excuse you from participation in this dispute.

THE POTENTIAL JUROR: No. 203, Sarah Kouns. Saw it on the news, read it in the newspaper.

THE COURT: 203?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would anything that you read or saw influence you in this case?

THE POTENTIAL JUROR: No, sir. I also live with a police officer.

THE COURT: You live with a police officer?

THE POTENTIAL JUROR: Yes.

THE COURT: Would that influence you in this case?

THE POTENTIAL JUROR: Actually, no.

THE COURT: Very well. Would your decision be fair to the State?

THE POTENTIAL JUROR: Absolutely.

THE COURT: Would it be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And you would decide the case based on the evidence that you heard during the trial?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, Ms. Kouns. You may take your seat.

Okay?

THE POTENTIAL JUROR: My name's Laura Bantens. I'm sorry, I do not know my number.

THE COURT: First name?

THE POTENTIAL JUROR: Laura Bantens.

THE COURT: Bantens?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Ms. Bantens, No. 19.

THE POTENTIAL JUROR: 19.

THE COURT: Okay?

THE POTENTIAL JUROR: I saw it on the news as well as read it in the newspaper.

THE COURT: Would that affect or influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Your decision, would it be fair to both the State and to Mr. Sapp?

THE POTENTIAL JUROR: To the best of my ability, yes, sir.

THE COURT: Well, I appreciate that. And the only reason I'm going to come back, I understand and that's all anybody can ask of anybody, but is there anything about what you saw or heard that in any way would affect your decision?

THE POTENTIAL JUROR: No, sir.

THE COURT: So you would decide and apply your common sense, your sense of reason and logic fairly in analyzing the evidence and then decide what you believe to be the true facts. And that decision you would find then to what you determine the facts, you would take the law as I gave it to you and apply that law to those facts so that your decision would be fair to the State and to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: You could do that?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Very well. Thank you, ma'am. You may take your seat.

THE POTENTIAL JUROR: No. 41, Gloria Britt. I saw it on the news, read it in the newspaper.

THE COURT: Anything you saw or heard influence you in this matter, Ms. Britt?

THE POTENTIAL JUROR: No, sir.

THE COURT: Your decision would be based solely on the evidence?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would that be fair to the State and to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir, it would.

THE COURT: Thank you. You may take your seat, Ms. Britt.

Yes?

THE POTENTIAL JUROR: Linda Garner. I forgot my number.

THE COURT: Gardener?

THE POTENTIAL JUROR: Garner.

THE COURT: No. 123, Ms. Garner.

THE POTENTIAL JUROR: I would be totally biased.

THE COURT: Very well, Ms. Garner. You've read

about it and seen it in the news?

THE POTENTIAL JUROR: Yes, sir, my husband was very much biased.

THE COURT: Very well, I will excuse No. 123 from participation in this dispute. Thank you very much. You're free to leave.

All right?

THE POTENTIAL JUROR: Juror No. 6, name is Patricia Allen.

THE COURT: Ms. Allen?

THE POTENTIAL JUROR: I heard it in the newspaper and on television.

THE COURT: Would that influence you in this case?

THE POTENTIAL JUROR: No.

THE COURT: Would your decision be based solely on the evidence?

THE POTENTIAL JUROR: Yes.

THE COURT: And would that decision be fair to the State and to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, Ms. Allen. You may take your seat.

Yes, ma'am?

THE POTENTIAL JUROR: 293.

THE COURT: Ms. Player?

THE POTENTIAL JUROR: Yes. I believe it was in the news. I do remember hearing about it. Not too familiar with it.

THE COURT: You don't recall specifically?

THE POTENTIAL JUROR: Huh-uh.

THE COURT: Would anything you've heard or read influence you in this case?

THE POTENTIAL JUROR: No.

THE COURT: Would your decision be based solely on the evidence?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Was that a yes response?

THE POTENTIAL JUROR: Yes.

THE COURT: Would your decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes.

THE COURT: Thank you. You may take your seat. Yes, ma'am?

THE POTENTIAL JUROR: No. 349, Sonja Spann.

THE COURT: 341?

THE POTENTIAL JUROR: 349.

THE COURT: Ms. Spann?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: All right.

THE POTENTIAL JUROR: I heard it on the TV and my husband used to be a police officer and a correctional officer. And it would bother me, yes.

THE COURT: It would bother you?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: You would be affected by it?

THE POTENTIAL JUROR: Uh-huh.

THE COURT: Very well, Ms. Spann. I'm going to excuse you from participation in this dispute.

Okay?

THE POTENTIAL JUROR: No. 33.

THE COURT: No. 33.

THE POTENTIAL JUROR: Delisa Blanton.

THE COURT: Ms. Blanton?

THE POTENTIAL JUROR: Yes. I heard it on the news, on the radio and also my husband works with the rescue squad. And I don't think I would be fair.

THE COURT: Very well, Ms. Blanton. I'm going to excuse you from participation in this dispute. Thank you. You're free to leave.

Now, I'm going to ask the other half of the room if they would stand, please, if you have read about it or heard about it. We'll start and go around. Okay?

THE POTENTIAL JUROR: 159, Marvin Henderson. I saw it on TV.

THE COURT: The fact that you saw it on TV, would that influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Sir?

THE POTENTIAL JUROR: No, sir.

THE COURT: And you would decide the case solely on the evidence?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And your decision would be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. You may take your seat.

Okay?

THE POTENTIAL JUROR: 201, Cheryl Kitts.

THE COURT: All right.

THE POTENTIAL JUROR: I read about it in the newspaper, heard it on TV and he coached under my husband as recreation director.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: You would decide this case solely on the evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And your decision would be fair to

the State and would it be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You may take your seat.

MR. JOHNSTON: Could we get that number, please?

THE COURT: That's No. 201.

MR. JOHNSTON: Thank you.

Yes, sir?

THE POTENTIAL JUROR: 176. First of all, I have a few friends that are police officers --

THE COURT: So you would be influenced?

THE POTENTIAL JUROR: -- and some correction officers. Yes, sir, I think so.

THE COURT: So you could not be fair and unbiased in this case?

THE POTENTIAL JUROR: Not with them being officers in Berkeley County.

THE COURT: I understand. You're No. 176, Mr. Jenkins?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: I'm going to excuse you from participation in this dispute.

Okay?

THE POTENTIAL JUROR: No. 336, Barbara Simmons.

THE COURT: All right, Ms. Simmons?

THE POTENTIAL JUROR: I heard it on the

television and my ex-husband is a police officer.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, it would not.

THE COURT: And your decision, would it be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: You may take your seat. You're No. 336?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Okay.

THE POTENTIAL JUROR: No. 317, Miriam Robinson.

THE COURT: Okay, Ms. Robinson?

THE POTENTIAL JUROR: I read it in the newspaper and saw it on TV.

THE COURT: Would that affect or influence you in this matter?

THE POTENTIAL JUROR: No, it won't.

THE COURT: Would your decision be fair to both sides?

THE POTENTIAL JUROR: Yes.

THE COURT: Thank you. You may take your seat. Yes, sir?

THE POTENTIAL JUROR: 32.

THE COURT: Okay.

THE POTENTIAL JUROR: I know the paramedics who

responded and I know the fire station that responded to that call.

THE COURT: Have you talked with them about the response?

THE POTENTIAL JUROR: No, I have not.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, I don't think so.

THE COURT: You heard nothing about it, you just know the persons that responded?

THE POTENTIAL JUROR: I haven't talked to them since the incident.

THE COURT: Very well. And the fact that you know them would not influence you?

THE POTENTIAL JUROR: No.

THE COURT: And your decision would be fair to both the State and to Mr. Sapp?

THE POTENTIAL JUROR: I believe so.

THE COURT: You believe so? I mean, you feel that you could do that?

THE POTENTIAL JUROR: My wife's a paramedic and I'm a retired fireman. I think I would be a little prejudiced, I think.

THE COURT: I thank you and that's why -- I appreciate it. You are number what?

THE POTENTIAL JUROR: No. 32.

THE COURT: I'm going to excuse you from participation in this dispute. Thank you, sir.

THE POTENTIAL JUROR: No. 240.

THE COURT: Okay?

THE POTENTIAL JUROR: I saw it on TV and read it in the paper. And I think I would have a problem.

THE COURT: Thank you, ma'am. You do not feel you could be totally fair?

THE POTENTIAL JUROR: I don't think so.

THE COURT: Thank you, ma'am. You're excused.

All right.

THE POTENTIAL JUROR: No. 218, Ian MacDougall. I just read it in the newspaper and saw it on the news.

THE COURT: Would that affect or influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Your decision would be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. You may take your seat, Mr. MacDougall.

Yes, sir?

THE POTENTIAL JUROR: Kenneth Driggers. I'm not sure what my number is.

THE COURT: No. 94, Mr. Driggers. All right,

sir?

THE POTENTIAL JUROR: I seen it on news and also have a couple of friends who are police officers.

THE COURT: Would any of those things influence you?

THE POTENTIAL JUROR: I believe it would.

THE COURT: Very well.

94 is excused from participation in this dispute.

MR. JOHNSTON: Judge, 94 or 96?

THE COURT: 94.

MR. JOHNSTON: Thank you.

THE COURT: Sure.

All right, sir?

THE POTENTIAL JUROR: No. 132, Dion Glenn.

THE COURT: Mr. Glenn?

THE POTENTIAL JUROR: I heard it on the news, newspapers, worked with some co-workers who knew the officer.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: Yes.

THE COURT: It would?

THE POTENTIAL JUROR: Yes.

THE COURT: You would not be able to be fair?

THE POTENTIAL JUROR: That's correct.

THE COURT: You're excused, sir.

MR. JOHNSTON: What was that number?

THE COURT: No. 132.

All right, sir?

THE POTENTIAL JUROR: 262, Hugh Murchison. Saw the newspaper reports and the news media at the time, don't remember much about it. I do have a co-worker that knew the victim's family.

THE COURT: Would any of that influence you, Mr. Murchison?

THE POTENTIAL JUROR: No.

THE COURT: Your decision would be based solely on the evidence in this case?

THE POTENTIAL JUROR: It would.

THE COURT: And would that decision on what you find to be the true facts be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes.

THE COURT: Thank you, sir. You may take your seat.

MR. JOHNSTON: Your Honor, please repeat what he said about the co-worker.

THE COURT: He has a co-worker that --

THE POTENTIAL JUROR: That knew the victims.

MR. JOHNSTON: Thank you.

THE COURT: All right. Start here and work our way back.

THE POTENTIAL JUROR: Juror 100, Kelly Eckert. Saw it on the television news.

THE COURT: Would that affect or influence you in this matter?

THE POTENTIAL JUROR: No, sir.

THE COURT: And would your decision be based solely on the evidence in this case?

THE POTENTIAL JUROR: Oh, yes, sir.

THE COURT: Would that decision, Ms. Eckert, be fair to all parties?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You may take your seat. Okay?

THE POTENTIAL JUROR: 116, Anna Floyd.

THE COURT: Ms. Floyd?

THE POTENTIAL JUROR: I saw it on TV and read the newspaper. And I feel that I would be biased.

THE COURT: You don't think you could be totally fair?

THE POTENTIAL JUROR: No.

THE COURT: Thank you, Ms. Floyd. You're excused.

Okay?

THE POTENTIAL JUROR: I believe I'm 58, but I'm not sure. Deborah Carter.

THE COURT: Just one second and we'll verify it. Almost. 59.

THE POTENTIAL JUROR: I was close. At the time I lived on Connecticut Drive, which was right off of College Park Road, so I heard the sirens. But I didn't know anything about it until I read about it in the newspaper and saw it.

THE COURT: The fact that you live nearby, would that affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: And what you read about it, would that influence you at all?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would you set all that aside and base your decision on the evidence in the trial?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And your decision would be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes.

THE COURT: Thank you, Ms. Carter. You may take your seat.

Yes?

THE POTENTIAL JUROR: Brenda Campbell. I'm not

sure what my number is.

THE COURT: No. 55, Ms. Campbell.

THE POTENTIAL JUROR: I heard it on the TV.

THE COURT: Would that influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would your decision be based solely on the evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would that decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You may take your seat. Okay?

THE POTENTIAL JUROR: 292.

THE COURT: Okay.

THE POTENTIAL JUROR: I read about it in the newspaper and we had several discussions about it at work.

THE COURT: Would that affect or influence you in this case?

THE POTENTIAL JUROR: I'm afraid I would be biased for the State.

THE COURT: Very well, sir. 292, you are Jeffrey Pitcock?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: You are excused, sir.

Okay?

THE POTENTIAL JUROR: Dewey Massey, I'm No. 230.

THE COURT: All right, sir, Mr. Massey?

THE POTENTIAL JUROR: I read about it in the Post & Courier and saw the coverage on the NBC station.

THE COURT: Would that affect or influence you in this case?

THE POTENTIAL JUROR: Well, the day I read about it in the paper, obviously, I was influenced. But I don't feel that -- I feel that I could be fair.

THE COURT: Well, my question is, would at any point would what you read influence your decision or affect your decision on what you believe to be the true evidence in this case?

THE POTENTIAL JUROR: No.

THE COURT: Or the true facts of this case?

THE POTENTIAL JUROR: It's just that I get my news from the paper, so I tend to believe that.

THE COURT: I understand that. My question is simply this. I understand what you're saying to me. My question is, you're going to hear the evidence.

THE POTENTIAL JUROR: Right. I could be fair.

THE COURT: And you're going to have to set aside everything that you --

THE POTENTIAL JUROR: I don't really remember it.

THE COURT: All right, sir. Mr. Massey, thank you, sir. You may take your seat.

Okay?

THE POTENTIAL JUROR: I believe my number is 181, Laura Jernigan.

THE COURT: Yes?

THE POTENTIAL JUROR: I read -- I saw it on the news and read it in the paper, but I got most of my information from my husband. He's a Berkeley County dispatcher. Several friends are officers.

THE COURT: He's a dispatcher here?

THE POTENTIAL JUROR: Uh-huh.

THE COURT: And your number again?

THE POTENTIAL JUROR: I believe it's 181.

MR. JENNINGS: 178.

THE COURT: You're Laura Jernigan?

THE POTENTIAL JUROR: Yes.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: Yes, it would.

THE COURT: Thank you, Ms. Jernigan. You're excused.

Okay?

THE POTENTIAL JUROR: Richard Tolle, 367.

THE COURT: All right, sir?

THE POTENTIAL JUROR: TV, newspaper, family and friends.

THE COURT: Would that influence you in this case?

THE POTENTIAL JUROR: Yes, it would.

THE COURT: Mr. Tolle, No. 367, is excused. Okay?

THE POTENTIAL JUROR: No. 261, Bradford Moultrie. I think I read it in the paper.

THE COURT: Would that affect or influence you in this case, sir?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would you base your decision solely on the evidence that you heard at the trial?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And would that decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, Mr. Moultrie. You may take your seat. Okay?

THE POTENTIAL JUROR: No. 147, Jerald Hackworth.

THE COURT: All right, Mr. Hackworth?

THE POTENTIAL JUROR: I read it in the paper and

heard it on the news.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: What I read about the drugs and all, I'm extremely prejudiced towards drugs.

THE COURT: All right, sir. Thank you, sir. You're excused.

Okay?

THE POTENTIAL JUROR: 174, Roland Jaeger.

THE COURT: Mr. Jaeger?

THE POTENTIAL JUROR: Heard it on the news this morning.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: Yes, it would, sir.

THE COURT: No. 174, Mr. Jaeger -- so you could not be fair and impartial, sir?

THE POTENTIAL JUROR: No, sir.

THE COURT: Thank you, sir. You're excused.

THE POTENTIAL JUROR: Thank you, sir.

THE BAILIFF: 191, Cara Kelly.

THE COURT: All right, Ms. Kelly?

THE POTENTIAL JUROR: I live a couple doors down from the Johnson family and have friends in the department.

THE COURT: It would affect you?

THE POTENTIAL JUROR: Uh-huh.

THE COURT: You're excused, Ms. Kelly. Thank you very much.

Okay?

THE POTENTIAL JUROR: I'm Carlos Masauding, Juror 228.

THE COURT: Just one second, sir. All right, sir?

THE POTENTIAL JUROR: I saw it on TV and read it in the newspaper.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No.

THE COURT: You would decide the case solely on the evidence?

THE POTENTIAL JUROR: Yes.

THE COURT: And would your decision be fair to both sides?

THE POTENTIAL JUROR: Yes.

THE COURT: Thank you, sir. You may take your seat.

Okay?

THE POTENTIAL JUROR: 105, Richard Evans. Saw it on the newspaper -- saw it in the newspaper and on the TV. I guess it caught my eye because I had a fellow co-worker with the last same name, last name. But I don't think it has anything to do with this.

THE COURT: Wouldn't influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would you set all of your prior -- what you've heard, set that aside and decide it on the evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would your decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. You make take your seat.

Okay?

THE POTENTIAL JUROR: Lillie Copeland, No. 72.

THE COURT: All right, Ms. Copeland.

THE POTENTIAL JUROR: Saw it on the television briefly one morning getting dressed for work.

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

THE POTENTIAL JUROR: Saw it on the television one morning, Channel 5.

THE COURT: Would that affect or influence you in this case?

THE POTENTIAL JUROR: No.

THE COURT: Would your decision be based solely on the evidence in this case?

THE POTENTIAL JUROR: Yes.

THE COURT: And your decision would be fair to the State and to Mr. Sapp?

THE POTENTIAL JUROR: Yes.

THE COURT: Thank you, Ms. Copeland. You may take your seat.

Okay?

THE POTENTIAL JUROR: Charles Lail, 204.

THE COURT: 204?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: All right, sir.

THE POTENTIAL JUROR: Television, radio and through a brother who is a deputy sheriff.

THE COURT: WOuld any of that influence you?

THE POTENTIAL JUROR: No, sir.

THE COURT: Your decision would be fair to both the State and to Mr. Sapp?

THE POTENTIAL JUROR: Yes.

THE COURT: And would be based solely on the evidence, sir?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, Mr. Lail. You may take your seat.

THE POTENTIAL JUROR: 173, Colrey Holmes.

MR. JENNINGS: 168, Your Honor.

THE COURT: Colrey Holmes?

THE POTENTIAL JUROR: Yes.

THE COURT: It's 168, Mr. Holmes.

THE POTENTIAL JUROR: Oh, I'm sorry.

THE COURT: That's all right.

THE POTENTIAL JUROR: I heard it on the news and heard it from a couple of people on the scene.

THE COURT: You heard from people who were on the scene?

THE POTENTIAL JUROR: Yeah, and on the news.

THE COURT: Would that influence you in this case?

THE POTENTIAL JUROR: More than likely.

THE COURT: Thank you, sir.

Excuse No. 168 from participation in this dispute.

Okay?

THE POTENTIAL JUROR: 387, Cynthia White. Heard it on the news.

THE COURT: Hold on just a second. Okay.

THE POTENTIAL JUROR: Heard it on the news.

THE COURT: Would that affect or influence you in this case, Ms. White?

THE POTENTIAL JUROR: No.

THE COURT: Would you set aside what you heard and decide the case solely on the evidence that you hear

during trial?

THE POTENTIAL JUROR: Yes.

THE COURT: Would that decision, Ms. White, be fair to all parties?

THE POTENTIAL JUROR: It would.

THE COURT: Thank you. You may take your seat. Okay?

THE POTENTIAL JUROR: 221, Virginia Magee.

THE COURT: Okay?

THE POTENTIAL JUROR: I heard it on the news and the radio. And my husband is a former employee of the City of Goose Creek and we've discussed it.

THE COURT: Would any of that influence you?

THE POTENTIAL JUROR: It already has.

THE COURT: It already has. Thank you, Ms. Magee. I'm going to excuse you from participation. Have a good day.

Okay?

THE POTENTIAL JUROR: 148.

THE COURT: All right, Ms. Haines.

THE POTENTIAL JUROR: My boyfriend was Trooper Johnson's brother.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: Uh-huh.

THE COURT: Thank you, Ms. Haines. You're

excused.

THE POTENTIAL JUROR: 284, James Peak. Seen it on the news, read it in the paper.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: And would your decision be based solely on the evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And would it be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: You're James Peak.

THE POTENTIAL JUROR: Peak, P-E-A-K.

THE COURT: No. 284. Thank you. You may take your seat.

THE POTENTIAL JUROR: 319, Albert Schwartz. Saw it on the local news coverage, media. But, Your Honor, several years ago I had two friends of mine that worked for Kershaw County Sheriff's Department that got killed in the line of action and it's parallel to this.

THE COURT: So you would be influenced by it?

THE POTENTIAL JUROR: Yes, sir. Thank you.

THE COURT: Thank you, sir. You're No. 329.

THE POTENTIAL JUROR: Was it 329?

THE COURT: Yes, sir. You're excused, sir. Thank you.

Okay?

THE POTENTIAL JUROR: No. 77, Deborah Crim. And I saw it on the news.

THE COURT: Would that affect or influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: And would your decision be based solely on the evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And it would be fair to the State and to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You may take your seat, Ms. Crim.

THE POTENTIAL JUROR: Thank you.

THE COURT: Okay?

THE POTENTIAL JUROR: Juror No. 28, Natalie Bennett. I heard about it on the news, too.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No,. sir.

THE COURT: And would your decision be based solely on the evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would it be fair to both the State and to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, Ms. Bennett. You may take your seat.

Okay?

THE POTENTIAL JUROR: Juror No. 18, Barbara Baker.

THE COURT: All right, Ms. Baker?

THE POTENTIAL JUROR: I read it in the newspaper and heard it on television.

THE COURT: Would anything that you heard or read influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would you base your decision solely on the evidence?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would that decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You may take your seat.

THE POTENTIAL JUROR: No. 250, Kenneth Mercer.

THE COURT: 250. Mr. Mercer?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Yes, sir?

THE POTENTIAL JUROR: I volunteer for the Charleston County Rescue Squad and have since 1984. And

when this happened, I was the deputy chief there so had a lot of dealings with the highway patrol and other agencies during that time and since then.

THE COURT: You think you would be influenced?

THE POTENTIAL JUROR: I know I would.

THE COURT: You do not believe you could be fair and impartial?

THE POTENTIAL JUROR: No.

THE COURT: Thank you, Mr. Mercer. I'll excuse you from participation in this dispute.

Okay?

THE POTENTIAL JUROR: 257.

THE COURT: All right, Ms. Mire?

THE POTENTIAL JUROR: Saw it on TV and talked with my ex-husband who is in law enforcement about it.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: I would like to say no, but it might.

THE COURT: Well -- and I appreciate that. And that's precisely the reason why I say there are no right or wrong answers. The question is whether you personally could be fair and impartial, and you're telling me that you do not think you could; is that correct?

THE POTENTIAL JUROR: That's correct.

THE COURT: You are excused, Ms. Mire.

257 is excused.

Okay?

THE POTENTIAL JUROR: Yes, sir, my name is Richard Wheeler. I think my number is 396.

MR. JOHNSTON: 385.

THE COURT: 385.

THE POTENTIAL JUROR: Okay, sir. My residence is actually within a mile radius of where this happened. I saw it on the road before I saw it on the news. And I have dealings with people that I don't particularly care for of this nature. And I'm just afraid that if I --

THE COURT: You'd be biased?

THE POTENTIAL JUROR: Very much.

THE COURT: Very well. You're excused, sir.

THE POTENTIAL JUROR: Thank you.

THE COURT: 385.

Okay?

THE POTENTIAL JUROR: 235.

THE COURT: Excuse me?

THE POTENTIAL JUROR: 235.

THE COURT: 235? All right, sir.

THE POTENTIAL JUROR: The news media.

THE COURT: Would that affect or influence you, what you heard in this case or read?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would you base your decision solely on the facts in this case?

THE POTENTIAL JUROR: Yes, I would.

THE COURT: And would that decision be fair to both sides?

THE POTENTIAL JUROR: Yes, it would.

THE COURT: Thank you, Mr. McBroom. You may take your seat.

THE POTENTIAL JUROR: 264, Cindy Murrian.

THE COURT: Just one second. All right, Ms. Murrian?

THE POTENTIAL JUROR: Followed it in the newspaper and on TV and I couldn't be biased.

THE COURT: You couldn't be fair?

THE POTENTIAL JUROR: No.

THE COURT: So you could be biased and would be biased?

THE POTENTIAL JUROR: That's correct.

THE COURT: Okay. Thank you. You're excused, Ms. Murrian.

THE POTENTIAL JUROR: 113.

THE COURT: Thank you, sir. Fischer?

THE POTENTIAL JUROR: Yes. I believe I heard about it on the news.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would you set aside that information, decide it solely on the evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And would your decision on what you find to be -- found to be the true facts be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. You may take your seat, Mr. Fischer.

Okay?

THE POTENTIAL JUROR: 353.

THE COURT: All right, sir. You are Mr. Stephens?

THE POTENTIAL JUROR: Yes, sir. Primarily, I heard about it from family members. I have family members in law enforcement. And I think I would probably be biased for the State.

THE COURT: Very well. You don't think you can be fair?

THE POTENTIAL JUROR: No.

THE COURT: Thank you, Mr. Stephens. You're excused.

Okay?

THE POTENTIAL JUROR: 224, Jeff Malmgren.

THE COURT: All right, sir?

THE POTENTIAL JUROR: I saw it on the news.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would you base your decision solely on what you found to be the true facts?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would that decision -- and that would be based on the evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would that decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. You may take your seat, Mr. Malmgren.

MR. JOHNSTON: Your Honor, what's the juror's number?

THE COURT: No. 224, Jeffrey Malmgren.

Okay?

THE POTENTIAL JUROR: 118, Diane Fowler.

THE COURT: Ms. Fowler?

THE POTENTIAL JUROR: My nephew works with the corrections over here. He is security. I'm acquainted with Mr. Bay, who is the son-in-law.

THE COURT: So you would be influenced?

THE POTENTIAL JUROR: Yes, I would.

THE COURT: Thank you, Ms. Fowler. You're excused.

No. 118.

Okay?

THE POTENTIAL JUROR: 195, Sheila Kidwell. I heard it on the news.

THE COURT: Would it affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: And would you decide the case solely on what you heard in evidence and what was introduced into evidence in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And your decision on what you found to be the true facts, would it be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You may take your seat. Ms. Kidwell?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Okay.

THE POTENTIAL JUROR: 391. I heard it on the news.

THE COURT: What is your name?

THE POTENTIAL JUROR: Lisa Williamson.

THE COURT: Ms. Williamson, what you've heard, would that affect or influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: And would you decide the case solely on the evidence that you heard during the trial?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would that decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You may take your seat, Ms. Williamson.

Okay?

THE POTENTIAL JUROR: 361.

THE COURT: All right, sir?

THE POTENTIAL JUROR: I have not heard anything about this on the news, but I am an acquaintance of the victim's wife.

THE COURT: So you feel you would be influenced?

THE POTENTIAL JUROR: I don't think it would influence me at all, sir.

THE COURT: You would set that aside?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And you're an acquaintance with the victim's wife in this case?

THE POTENTIAL JUROR: Yes, sir. She works for a company I service copy machines for.

THE COURT: All right. And that professional association wouldn't influence you at all?

THE POTENTIAL JUROR: No, sir.

THE COURT: And you would set all that aside and decide this case solely on the evidence?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And your decision would be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And your name and number again?

THE POTENTIAL JUROR: Brian Taylor, 361.

THE COURT: Thank you very much, Mr. Taylor. Okay?

THE POTENTIAL JUROR: No. 71.

THE COURT: I'm sorry, 71?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Okay. You're Jerry Cooper?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Mr. Cooper?

THE POTENTIAL JUROR: I heard it on the news, saw it in the newspaper and my best friend is a police officer. I heard it from him.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: You couldn't be fair and impartial?

THE POTENTIAL JUROR: No.

THE COURT: No. 171 is excused. Thank you, sir -- excuse me, 71, I'm sorry, I misspoke. Jerry Cooper.

Okay? Yes, sir?

THE POTENTIAL JUROR: No. 239.

THE COURT: 239?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: All right, Mr. McDonald?

THE POTENTIAL JUROR: I read it in the newspaper. And I really don't think I could give the defendant a fair trial.

THE COURT: You don't think you could be fair?

THE POTENTIAL JUROR: No.

THE COURT: Thank you, Mr. McDonald. You're excused.

Okay?

THE POTENTIAL JUROR: I think it's No. 7, Karen Altman.

THE COURT: 7? Just one second. Okay?

THE POTENTIAL JUROR: Newspaper, television and my daughter is a classmate of the deceased's son.

THE COURT: Would all that affect you in this

case?

THE POTENTIAL JUROR: No, sir.

THE COURT: It would not?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: You could be fair and impartial?

THE POTENTIAL JUROR: Right.

THE COURT: You would set aside those external influences and decide this case solely on the evidence; is that right?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And that decision would be fair to the State and would be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes.

THE COURT: Your name and number again?

THE POTENTIAL JUROR: Karen Altman, 7.

THE COURT: Thank you, Ms. Altman. You may take your seat.

THE POTENTIAL JUROR: 149, Bruce Hallows.

THE COURT: All right, Mr. Hallows?

THE POTENTIAL JUROR: I seen it on the news this morning.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: And you would set that aside and decide this case solely on the evidence that you heard

during the trial?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And your decision would be fair to the State and would be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, Mr. Hallows. You may take your seat.

Okay?

THE POTENTIAL JUROR: No. 233, Devand Mazyck.

THE COURT: Ms. Mazyck?

THE POTENTIAL JUROR: I heard about it on the news and I don't think I could be fair because I've already made my decision.

THE COURT: And you feel that you would be biased in this case?

THE POTENTIAL JUROR: Right.

THE COURT: Thank you, Ms. Mazyck. You're excused.

233.

Yes?

THE POTENTIAL JUROR: 345, heard it on the news and newspaper.

THE COURT: Excuse me, 345?

THE POTENTIAL JUROR: Uh-huh.

THE COURT: Just one second. Are you Ms. Smith?

THE POTENTIAL JUROR: Uh-huh.

THE COURT: All right.

THE POTENTIAL JUROR: I think I would be influenced.

THE COURT: You feel you would be influenced?

THE POTENTIAL JUROR: Uh-huh.

THE COURT: All right. Ms. Smith is excused for personal bias.

THE POTENTIAL JUROR: 278.

THE COURT: Yes, ma'am, Ms. Pace?

THE POTENTIAL JUROR: Seen it on the news.

THE COURT: You heard it on the news?

THE POTENTIAL JUROR: (The juror nodded.)

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would you decide this case based on the evidence in the trial that you heard during the trial?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And would your decision be fair to the State?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And would it be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, ma'am. You may take your seat.

Yes, ma'am?

THE POTENTIAL JUROR: Erica Myers.

THE COURT: 266, I think, but I'm going to verify that. Yeah, Erica Myers. Ms. Myers?

THE POTENTIAL JUROR: Heard about it on the news.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No.

THE COURT: Your answer's no?

THE POTENTIAL JUROR: No.

THE COURT: I can see you, but the court reporter needs to be sure to get your response as well. Would you set aside what you heard -- would you set what you heard aside and decide the case solely on the evidence?

THE POTENTIAL JUROR: Yes.

THE COURT: Would your decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes.

THE COURT: Thank you, Ms. Myers. You may take your seat.

Are there any others?

(There was no response.)

THE COURT: Thank you very much. In this case, ladies and gentlemen, the State is seeking the penalty of

death. We call this a capital murder case. And you'll be instructed concerning what circumstances must exist and the law that would apply before you could return a verdict which would impose a sentence of death. You would have an option in the case, and this is only in the indictment for the murder and I will go into much more detail with you about that, they are called aggravating circumstances. And then you will also be instructed concerning mitigating circumstances. And if you find that they were present, you would find there are aggravating circumstances, then you would be asked to consider whether there were any mitigating circumstances in deciding what the appropriate punishment should be. And in that case, you would have the option of imposing the sentence of death by electrocution or lethal injection or life imprisonment without the possibility of parole.

I share that with you to find out is there anything about the nature of this dispute and the fact that you will be dealing or may be dealing with the penalty that we've discussed that would affect your ability to be fair and impartial in this matter? If so, please stand.

Okay. I'm going to ask those persons to come forward and you can approach, please. Obviously, I'm not going to excuse these people. We have to go through

individual voir dire and give you all -- so you can make your notations at that point.

MR. JOHNSTON: Sure.

(WHEREUPON, the following bench conference was had in the presence of the jury but out of the hearing of the jury.)

MR. ARCHER: Isn't there a law that there wasn't a 30 year also with that?

THE COURT: No, not in this case -- well, it would be if they found no aggravating circumstances. But I said if you find aggravating circumstances.

MR. ARCHER: Okay. I misunderstood what you said.

THE COURT: That's okay. No problem. But we can clarify that also.

MR. ARCHER: Okay.

THE BAILIFF: Diane Foster, No. 117.

THE POTENTIAL JUROR: As a Christian, I cannot send a man to die.

THE COURT: Okay. Well, I appreciate that and I will give you an opportunity to -- if you're selected in a group, we'll ask you more questions about that because there will be an opportunity to talk with you individually about that feeling. But you have some personal feelings about that --

THE POTENTIAL JUROR: I do.

THE COURT: -- at this point? Thank you, Ms. Foster.

Ms. Foster may take her seat.

THE BAILIFF: 276, Jennifer Oliver.

THE COURT: Hi, Ms. Oliver.

THE POTENTIAL JUROR: I'm not comfortable, like, with all this. I've never been --

THE COURT: I understand that and I appreciate that. And if you're selected, you'll have an opportunity, because we'll go through an individual account, we'll talk to you individually and we'll explore that a little bit more. But I wanted to get a feeling at this point. Your number is 276?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: No. 276 may take her seat.

THE BAILIFF: 266, Erica Myers.

THE COURT: Yes, ma'am?

THE POTENTIAL JUROR: I wouldn't want -- I wouldn't want to be responsible for someone's life or death.

THE COURT: All right, Ms. Myers. And I appreciate you sharing that. If you're selected in the group, we'll have an opportunity to talk with you more about that and we'll discuss that with you.

MR. JOHNSTON: Judge, I didn't hear her first sentence. And I'm struggling to hear all these people.

THE POTENTIAL JUROR: I said I wouldn't want to be responsible for someone's life.

THE COURT: But we'll have a chance to speak much louder.

MR. JOHNSTON: Yeah.

THE POTENTIAL JUROR: Take a seat?

THE COURT: Yes, all of these will take their seats.

THE BAILIFF: 337, John Simmons.

THE COURT: I just wanted y'all so you can go ahead and get your notations.

Mr. Simmons, come on forward, sir.

THE POTENTIAL JUROR: I am of the ministry and I think that would take an effect on me.

THE COURT: We'll have a chance to talk with you specifically about that. If you're selected, there'll be an opportunity to talk with you individually. And we'll explore that a little more. Thank you very much. You may take your seat.

THE BAILIFF: 290, Leroy Pinckney.

THE COURT: Yes, sir, Mr. Pinckney?

THE POTENTIAL JUROR: I don't have a problem being fair. I'd have a problem if you call somebody for

the death penalty. I don't want to be a part of that.

THE COURT: I understand. And we'll talk with you more in detail if you're selected. They'll individually voir dire where we ask you questions and we'll explore that a little more. What's your number again?

THE POTENTIAL JUROR: 290.

THE COURT: Okay.

THE BAILIFF: No. 35, Clyde Bostick.

THE COURT: Mr. Bostick?

THE POTENTIAL JUROR: My problem is I don't believe in the death penalty.

THE COURT: Okay. Well, I appreciate that. And if you're selected, we'll discuss that with you in much more detail where we'll be talking with you more if you are selected about that. But I just wanted to get a feel right now. Your number is 35?

THE POTENTIAL JUROR: 35, Clyde Bostick.

THE COURT: Thank you, Mr. Bostick. You may take your seat.

THE BAILIFF: No. 390, Marie Williams.

THE COURT: Yes, ma'am?

THE POTENTIAL JUROR: I might have a problem with sentencing him to death. I don't believe in that.

THE COURT: You just have a personal feeling

about that?

THE POTENTIAL JUROR: Yeah.

THE COURT: We'll be talking with you. If you are selected, we'll be asking you some more questions about that, but thank you very much. Your number again, please?

THE POTENTIAL JUROR: 390.

THE COURT: Thank you, ma'am.

THE BAILIFF: No. 157, Roosevelt Hatcher.

THE COURT: Mr. Hatcher? Yes, sir?

THE POTENTIAL JUROR: I have a problem if it come to the death penalty because of my religious beliefs.

THE COURT: All right. Well, I appreciate that and we'll have a chance to talk with you about that if you're selected individually. And we'll explore that with you at that time. But right now, your religion could give you some concerns?

THE POTENTIAL JUROR: Yes.

THE COURT: Thank you, sir. You need to take your seat.

THE BAILIFF: 238, Lloyd McDaniel.

THE COURT: Mr. McDaniel?

THE POTENTIAL JUROR: At this time I'm moving forward like that I think I would have a problem with the death penalty.

THE COURT: Okay. And you have some personal feelings about it?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: I appreciate that. And I will certainly -- if you're selected in the group, there will be an opportunity to talk with you individually more about that.

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And we'll explore that with you at that point. Thank you so much.

THE POTENTIAL JUROR: Thank you, sir.

THE BAILIFF: No. 400, Marianne Yackulak.

THE COURT: Hi, Ms. Yackulak.

THE POTENTIAL JUROR: Hi. I just feel that I would have a problem being responsible for the death of someone.

THE COURT: And I appreciate that. And we will go into much more detail about that if you are selected when we ask you individually about it. But you at this point have some reservations about it?

THE POTENTIAL JUROR: Yes.

THE COURT: Thank you, Ms. Yackulak. You may take your seat.

THE BAILIFF: No. 2, Robbin Adams.

THE COURT: Yes, ma'am, Ms. Adams?

THE POTENTIAL JUROR: Hello, sir. I wouldn't want to put somebody to death.

THE COURT: I understand that. And I appreciate the way you couched that. We'll talk with you about that more when we -- we're going to be selecting individuals, we'll talk with you individually and we'll explore that at that time. Thank you, Ms. Adams. Appreciate it.

THE POTENTIAL JUROR: Okay.

THE BAILIFF: No. 183, Lynn Johnson.

THE COURT: Yes, Ms. Johnson?

THE POTENTIAL JUROR: I need to express that I could never vote for the death penalty.

THE COURT: Okay. And I appreciate that. And if you're selected, we'll explore that with you a little more, a little more in depth. But thank you for sharing that.

THE POTENTIAL JUROR: Uh-huh.

THE BAILIFF: No. 61, Herman Causey.

THE COURT: Yes, sir?

THE POTENTIAL JUROR: I can be fair all the way across at trial. It's just the death penalty is kind of -- I'm undecided about that.

THE COURT: I appreciate that. We'll have a chance to talk about that in more detail if you're selected.

THE POTENTIAL JUROR: Everything else I can be fair on.

THE COURT: That's great. And we'll explain it to you and you'll have a chance to answer some questions from the attorneys. Thank you, sir. You may take your seat.

THE BAILIFF: No. 73, Cecil Courtright.

THE COURT: Yes, sir?

THE POTENTIAL JUROR: I'm just afraid I'm going to have a hard time with this. My son and my daughter both are paramedics and, you know --

THE COURT: Yours doesn't have anything to do with the death penalty, it's just your relationship with --

THE POTENTIAL JUROR: Yeah, it's maybe too hard line. I don't think I could be fair.

THE COURT: And what's your number again?

THE POTENTIAL JUROR: 73.

THE COURT: No. 73, not for the question given, No. 73 has had thoughts and has expressed some concerns about family members that are involved in a close relationship with law enforcement and has expressed a personal bias. No. 73 is excused from participation in this case.

THE POTENTIAL JUROR: Thank you.

THE COURT: At this point, ladies and gentlemen, in this case Mr. Sapp is being represented by Mr. Archer and Mr. Johnston.

Gentlemen, good afternoon. If you would please identify yourselves for me, please, and anyone that may be assisting you.

MR. ARCHER: My name is Paul Archer. I'm from the Myrtle Beach area. And I will be representing Mr. Sapp.

THE COURT: Thank you, Mr. Archer.

Mr. Johnston?

MR. JOHNSTON: My name is Robert Johnston. I practice out of Surfside at Myrtle Beach. And I, too, will be representing Mr. Sapp.

THE COURT: Thank you, Mr. Johnston. Appreciate it.

Are there any members of the jury panel related by blood or marriage to Mr. Archer or Mr. Johnston, have any business dealings with them, socially or casually acquainted with them, have any connection at all, ever been represented by either or both of them, please stand.

(There was no response.)

THE COURT: Thank you. There are none. In this matter the State is represented by the chief prosecuting officer for this circuit, our Solicitor.

And I will turn it to you, Mr. Hoisington, to introduce yourself and anyone that may be assisting you.

MR. HOISINGTON: Thank you, Your Honor. I'm Ralph Hoisington. I'm the Solicitor for the Ninth Circuit. Deputy Solicitor Blair Jennings from Berkeley.

THE COURT: Thank you.

Are there any members of the jury panel related by blood or marriage to Mr. Hoisington or Mr. Jennings, have any business dealings with either or both of them, socially or casually acquainted with them, ever been represented by either Mr. Hoisington or Mr. Jennings, have any connection at all, please stand.

Yes?

THE POTENTIAL JUROR: I have been to a couple of functions with the solicitor, dinner functions.

THE COURT: Dinner functions. So you've had a social acquaintance with him?

THE POTENTIAL JUROR: Yeah, I mean, we didn't chat a long time but I got introduced to him.

THE COURT: Would that affect or influence you in this case?

THE POTENTIAL JUROR: No, Your Honor.

THE COURT: Would your decision be fair -- be based on the evidence and the law and be fair to both the State and to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Your name and number, please?

THE POTENTIAL JUROR: Bryan Keelin, 190.

THE COURT: Thank you.

Yes, sir?

THE POTENTIAL JUROR: Juror No. 86.

THE COURT: No. 86?

THE POTENTIAL JUROR: Yes, sir. Mr. Hoisington had represented our company when he was in private practice.

THE COURT: He doesn't represent them now?

THE POTENTIAL JUROR: No, sir.

THE COURT: The fact that he represented your company in the past, would that affect or influence you in this matter?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would your decision be based on the evidence and the law and would it be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Your name and number again?

THE POTENTIAL JUROR: Alfred DeLeon, Juror No. 86.

THE COURT: Thank you, Mr. DeLeon.

Anyone else?

(There was no response.)

THE COURT: There appear to be none.

Are there any members of the jury panel who or a member of your immediate family are presently or formerly employed with the Solicitor's Office for the Ninth Judicial Circuit in its location in Charleston or here in Berkeley County? If so, please stand.

(There was no response.)

THE COURT: Thank you. There appear to be none.

I'm going to identify a number of individuals, ladies and gentlemen. If you or any member -- if you are related by blood or marriage to any of these persons, if you have any business dealings with them, socially or casually acquainted with any of them, have really any connection at all, you need to stand and share that information with us. Trooper Patrick Sigwald, Trooper Steve Grainger, Trooper Roy Barwick, Lieutenant Jim Woods, all of whom are with the South Carolina Highway Patrol; Tony Canant; Bonnie Dandridge; Jason Claxton; Jason Trotter; Bryan DeWitt; Kathryn Boles; Michael Lewis with the Berkeley County EMS; Dr. Susan Smith from Trident Medical Center; Dr. Allan Bennett, MUSC; Sergeant Mark Tillman, Sergeant Dean Kokinda, both of whom are with the Berkeley County Sheriff's Office; Agent Diane Bodie, Agent Vello Paavel, Agent Kenneth Bogan, Agent Joe Powell, Agent

Jill Clark, Agent John Garrison, Agent Patti Ruff, all of whom work with the South Carolina Law Enforcement Division also known as SLED; Deputy William Tisdale, Charleston County Detention Center; Anthony Cutroneo with the Roswell Sheriff's Office; Greg Friday with the Savannah Police Department; Jason Pye; Detective Dennis Turner with the Hanahan Police Department; Deputy Isaac Ladson with the Charleston County Detention Center; Adam McGrew; Jimmy Sleight with the South Carolina Department of Corrections; Brian Adajar; Joshua Adajar; Crystal Romanski; Amy Pitts; Debbie Bradley; Dottie Busch; Melissa Johnson; Tim Johnson; Mark Boles; James Ramsey; Agent Mike Laudermilk with ATF; Krista Lewandowski; Doug Murrell; Sergeant John Bearden with the Charleston County Detention Center; John Tuttle; Charles Sciarotta with the North Charleston Police Department; Carla Locklear; Vanessa Kathryn Leeperrine; Mark D. Fielder, M.D.; John Steven Ashwood; David Baggett, M.D; Cathy Phillips; Mallory Phillips; Ellsworth Lantz; Susan Lantz; David Epps; Cathy Epps; May Williams; Barbara Sapp; Robert Sapp; Heather Huckabee; Charles Pascien; Jennifer Brown; Michael Yale; Cristy Holmes; Jamie Phillips; Donald Yale; Melissa Dawson; Brian DeWitt Stewart; Tony Canant; Karry Shepard; Cathy Catchings; Robert Catchings; Jason Richard Trotter; Teresa Hernandez. Any of those persons?

MR. JOHNSTON: May I approach?

THE COURT: Yes, sir.

Yes, ma'am?

THE POTENTIAL JUROR: I'm No. 82, Emily Davidson. I know Dr. Allan Bennett.

THE COURT: You know Dr. Bennett?

THE POTENTIAL JUROR: Yeah, I work in pathology where he's a pathologist.

THE COURT: The fact that you work with him professionally, would that influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: If Dr. Bennett should testify would you consider Dr. Bennett's testimony the same as any other witness?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would your decision be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Your name and number again?

THE POTENTIAL JUROR: Emily Davidson, No. 82.

THE COURT: Thank you, Ms. Davidson.

MR. JOHNSTON: Your Honor, these three are possibilities.

THE COURT: Yes, sir, Mr. Polk?

THE POTENTIAL JUROR: 295, Samuel M. Polk. I

went to school with Roy Barwick.

THE COURT: The fact you went to school with him, would that affect you in this case?

THE POTENTIAL JUROR: No, sir. I haven't had contact with him really since we left high school.

THE COURT: If Mr. Barwick should testify, would you consider his testimony the same as any other witness?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Would your decision be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, Mr. Polk. You may take your seat.

Yes, ma'am?

THE POTENTIAL JUROR: No. 236, Cynthia McCaslin. I went to school and grew up with a Locklear.

THE COURT: With Locklear?

THE POTENTIAL JUROR: Teresa Locklear.

THE COURT: Teresa Locklear?

THE POTENTIAL JUROR: I don't know if they're related.

THE COURT: All right. If you -- if they are related would that affect or influence you?

THE POTENTIAL JUROR: No, sir.

THE COURT: And if the Locklear testifies, would

your growing up with this person cause you to consider that testimony any differently?

THE POTENTIAL JUROR: No, sir. I haven't seen her in almost 30 years.

THE COURT: So you would consider that testimony the same as any other testimony?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And would your decision be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Your number again?

THE POTENTIAL JUROR: 236.

THE COURT: Thank you, ma'am.

Anyone else?

THE POTENTIAL JUROR: Also knew Roy Barwick -- my children knew him, I really didn't. You said any connection.

THE COURT: I understand. And I appreciate that. And you're doing exactly what I asked you. Would that affect or influence you in this case?

THE POTENTIAL JUROR: No, it would not.

THE COURT: Would your decision be based solely on the evidence?

THE POTENTIAL JUROR: Yes, it would.

THE COURT: And if Mr. Barwick should testify,

would you consider his testimony the same as any other witness?

THE POTENTIAL JUROR: Yes, I would.

THE COURT: And your decision would be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir.

MR. ARCHER: Could we have his number again?

THE POTENTIAL JUROR: 262.

THE COURT: 262.

Anyone else?

(There was no response.)

THE COURT: Thank you. There appear to be none.

Also, ladies and gentlemen, Charles Long, M.D; Gordon Cambrell, Ph.D. with Psychology Associates; or Patrick McCartha, M.D. Any of those persons?

Yes?

THE POTENTIAL JUROR: Dr. Cambrell, I had a child. I'm in fostercare and had a child testify.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No.

THE COURT: If Dr. Cambrell should testify, would you consider the testimony Dr. Cambrell is saying as any other witness?

THE POTENTIAL JUROR: Yes.

THE COURT: Your name and number, please.

THE POTENTIAL JUROR: Sarah Kouns, 203.

THE COURT: Thank you, Ms. Kouns.

Obviously, ladies and gentlemen, you can probably glean from the questions that you've heard me ask over and over and over again, you probably are tired of hearing it, would that affect your decision. But that truly is the essence of our whole process. As I mentioned to you, it's our intent and desire to impanel a jury that is capable of listening to the testimony and the evidence presented, capable of deciding what that juror believes, and capable then of taking the law as I give it to that juror and applying that law fairly and impartially to those facts that you determine and thereby reaching a decision which would truly be fair to the State and would be fair to Mr. Sapp.

A qualified juror is one who will conscientiously apply the law and find the facts. A qualified juror is one who is capable of returning a verdict in this case which is consistent with the evidence and the law. A qualified juror is one capable of setting aside his or her own personal opinions and life's experiences and deciding this matter basically very methodically, very deliberately, very cautiously and carefully after what you find to be the true facts.

Now, neither side expect you to not apply your common sense, your sense of logic. Quite honestly, that's why you're selected. Because each side wants that type of person that I've just described, someone who will conscientiously and carefully set aside any of life's experiences. To the extent that you've heard me ask, would that unduly influence you, not that you haven't had some experiences but you would not be affected or influenced to the point that you can't be fair and impartial in making the decision of what you find to be credible and believable.

And then, of course, once you decide that -- and remember that you, as a judge of the facts, will have that sole responsibility, no one else. But once you determine the facts, it would be then your responsibility to take the law as I gave it to you and apply that law to those facts fairly and impartially. And that's what both sides seek in seating and impaneling the judges of the facts in this particular case.

Is there any members of the jury panel based on what we have discussed thus far and the persons I have identified that you believe because of your life's experiences, your philosophy or your connection with any of these persons that you could not fairly and impartially apply your common sense, your sense of logic and reason?

If so, please stand.

(There was no response.)

THE COURT: Thank you. There are none.

We have heard a number of you mention your connection -- some of you in response to questions have indicated some connection with law enforcement. I'm going to ask you again, for those persons who haven't had a chance, if there are members of the jury panel who have some family member or connection now or formerly with law enforcement. If so, please stand.

And we'll start here and work our way back.

And again, on this side, if you want to take your seat and I will ask you to stand.

On the right side, we'll start on the left. If you would identify yourself, your juror number and the connection.

THE POTENTIAL JUROR: Juror No. 339, Kelly Sinclair.

THE COURT: Ms. Sinclair?

THE POTENTIAL JUROR: My stepfather was a Berkeley County Police Officer, Hanahan Police Officer, Chief of Police of Edisto Beach. I think that's all. But he is deceased now. He died last year, July of 2002.

THE COURT: Would that affect or influence you in this case?

THE POTENTIAL JUROR: No, sir, it would not.

THE COURT: Thank you, Ms. Sinclair. You may take your seat.

Yes, ma'am?

THE POTENTIAL JUROR: Adeline Tucker, 369.

THE COURT: All right, Ms. Tucker?

THE POTENTIAL JUROR: I have a good friend and neighbor who is a retired forensics investigator from Florida.

THE COURT: Would that affect or influence you in this case?

THE POTENTIAL JUROR: No.

THE COURT: Thank you, Ms. Tucker. You may take your seat.

Yes, ma'am?

THE POTENTIAL JUROR: Charlene Ward, No. 380. I have a friend who was a former South Carolina State Trooper who is now a U.S. Marshall; also, a good friend who is a retired city policeman.

THE COURT: Would any of that influence you in this case?

THE POTENTIAL JUROR: No, it would not, sir.

THE COURT: Thank you. You may take your seat.

THE POTENTIAL JUROR: Jody Ard, No. 10. I have an uncle who is a deputy sheriff in Georgetown.

THE COURT: Would that affect you, Mr. Ard?

THE POTENTIAL JUROR: It could, sir.

THE COURT: All right. Mr. Ard, you feel it would influence your ability to be fair and impartial?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. I'm going to excuse No. 10 from participation in this dispute.

Yes, sir?

THE POTENTIAL JUROR: Mark Garrison, 124.

THE COURT: Okay.

THE POTENTIAL JUROR: My father was a deputy sheriff in Wheeling, West Virginia. He's deceased now.

THE COURT: Would that affect or influence you, Mr. Garrison?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would your decision be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. You may take your seat.

Yes, sir?

THE POTENTIAL JUROR: Algernon Burgess, No. 50. I have an uncle who is chief of police down in Florida.

THE COURT: Would that influence you in this case?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: It would?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Very well. So it would affect your ability to be fair and impartial?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: All right. No. 50, Mr. Burgess, is excused.

Thank you, sir.

Yes, sir?

THE POTENTIAL JUROR: No. 238. I have a cousin who used to work for the sheriff's department, Andy McDaniel, and I think he moved on as the police chief.

THE COURT: Would that affect you?

THE POTENTIAL JUROR: Yes, sir, it would.

THE COURT: It would influence your ability to be fair and impartial?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: You're No. 238?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: No. 238 is excused.

Thank you.

Okay. Yes, ma'am?

THE POTENTIAL JUROR: 192.

THE COURT: All right.

THE POTENTIAL JUROR: I have a cousin that's retired from the New Jersey State Police and his son is an active State Police Trooper in New Jersey, also.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, it would not.

THE COURT: And your decision would be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You may take your seat.

Yes?

THE POTENTIAL JUROR: 295, Samuel M. Polk. My brother-in-law is employed by the Berkeley County Corrections. I have acquaintances that work with the wildlife department and sheriff's department.

THE COURT: Would any of that influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Your decision would be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, Mr. Polk. You make take your seat, sir.

Yes?

THE POTENTIAL JUROR: 180, Damian Johno. My brother-in-law just recently became a Dorchester County

sheriff.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would your decision be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. Your number again?

THE POTENTIAL JUROR: 180.

THE COURT: Thank you very much.

Yes?

THE POTENTIAL JUROR: No. 68, I have a brother-in-law who is a Charleston County Sheriff's Deputy and he's currently working doing the crime scene investigation.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No.

THE COURT: And your decision would not be influenced by that?

THE POTENTIAL JUROR: It would not.

THE COURT: And you would be fair to both sides?

THE POTENTIAL JUROR: Yes.

THE COURT: Number again?

THE POTENTIAL JUROR: 68.

THE COURT: Thank you, sir. You may take your seat.

Yes, ma'am?

THE POTENTIAL JUROR: 102, Jettie Ruth Ellington. I have a son who is a correctional officer.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, it won't.

THE COURT: And your decision would be fair to both sides, Ms. Ellington?

THE POTENTIAL JUROR: Yes.

THE COURT: Thank you. You may take your seat.

THE POTENTIAL JUROR: 256, Donna Minter. I have a brother and a brother-in-law that both used to be in police enforcement in North Carolina. And both of them are out of police enforcement.

THE COURT: And that would not affect you?

THE POTENTIAL JUROR: No, sir.

THE COURT: Thank you, Ms. Minter. You may take your seat.

Yes, ma'am?

THE POTENTIAL JUROR: I'm 276, Jennifer Oliver.

THE COURT: Ms. Oliver?

THE POTENTIAL JUROR: I have -- my best friend is a correctional officer.

THE COURT: Your best friend is a police officer?

THE POTENTIAL JUROR: Corrections.

THE COURT: Corrections officer?

THE POTENTIAL JUROR: Yes.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would your decision be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And your number again?

THE POTENTIAL JUROR: I believe it's 276.

THE COURT: Your name is Oliver?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Jennifer?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: That's correct, 276.

Yes, ma'am?

THE POTENTIAL JUROR: 271, April Nephew-Hunt.

THE COURT: Yes, ma'am?

THE POTENTIAL JUROR: My brother-in-law is a police officer in North Carolina.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No.

THE COURT: Thank you, Ms. Nephew-Hunt. You may take your seat.

Yes, ma'am?

THE POTENTIAL JUROR: 236, Cynthia McCaslin. My

ex-brother-in-law is a North Charleston Police Officer, a lieutenant, I believe.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: I haven't talked to him in over two years.

THE COURT: So it would not?

THE POTENTIAL JUROR: No.

THE COURT: Thank you. You may take your seat. All right?

THE POTENTIAL JUROR: Diana Foster, 117.

THE COURT: Yes, Ms. Foster?

THE POTENTIAL JUROR: Your Honor, this pertains to Florida. I have a cousin, very close cousin that is a Bombay sheriff. And I have a best friend that is a Palm Beach County sheriff. I also applied at the West Palm Beach Police Department in Florida.

THE COURT: You did?

THE POTENTIAL JUROR: I did.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: Not at all.

THE COURT: And you would fair?

THE POTENTIAL JUROR: Absolutely.

THE COURT: Thank you. Your number again, Ms. Foster?

THE POTENTIAL JUROR: 117, Your Honor.

THE COURT: Thank you.

Yes?

THE POTENTIAL JUROR: I'm 294. I have several friends who are police officers and also I saw Trooper Johnson and I think I would be impartial.

THE COURT: You think you would be impartial or you would be influenced by that?

THE POTENTIAL JUROR: I would be influenced.

THE COURT: You would be influenced. And your number again?

THE POTENTIAL JUROR: 294.

THE COURT: No. 294 is excused from participation in this dispute.

Yes, ma'am?

THE POTENTIAL JUROR: No. 81.

THE COURT: Okay?

THE POTENTIAL JUROR: I have two friends that are correctional officers and one who's a patrol officer.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: It probably would.

THE COURT: All right, Ms. Davenport, you're excused. No. 81.

THE POTENTIAL JUROR: No. 86, Your Honor.

THE COURT: Yes, sir?

THE POTENTIAL JUROR: My former brother-in-law

is the Sheriff of Berkeley County.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: And would your decision be fair to both sides?

THE POTENTIAL JUROR: Yes.

THE COURT: Thank you.

MR. ARCHER: Was that 86, Your Honor?

THE COURT: That is Mr. DeLeon, No. 86, yes.

Yes, sir?

THE POTENTIAL JUROR: Juror No. 157. I have a brother-in-law that's a North Charleston police officer.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: Not that particular part.

THE COURT: All right, sir. Thank you, sir. Thank you very much. You would not be unduly influenced by that then?

THE POTENTIAL JUROR: No.

THE COURT: Thank you, sir.

Yes?

THE POTENTIAL JUROR: 201, Cheryl Kitts. I have an uncle who is a retired highway patrolman from North Carolina.

THE COURT: Ms. Kitts, would that affect you?

THE POTENTIAL JUROR: No, it would not.

THE COURT: Any others?

THE POTENTIAL JUROR: My husband's a Special Deputy for Berkeley County Sheriff's Department under Parks and Recreation.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Thank you. You may take your seat. Yes?

THE POTENTIAL JUROR: 336, Barbara Simmons. My ex-husband was a police officer with the Marine City in Ohio. And I'm also casually acquainted with officers from Northwoods Mall.

THE COURT: Would that affect or influence you in this case?

THE POTENTIAL JUROR: No, it would not.

THE COURT: Thank you, ma'am, Ms. Simmons.

MR. ARCHER: What number is that?

THE COURT: No. 336, Ms. Simmons.

THE POTENTIAL JUROR: Juror 100.

THE COURT: Yes, ma'am?

THE POTENTIAL JUROR: I have two distant cousins with the North Charleston Police Department.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: And your decision would be fair to

both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. Your number again?

THE POTENTIAL JUROR: 100.

THE COURT: Okay?

THE POTENTIAL JUROR: No. 59, Deborah Carter. My father was a deputy sheriff in Georgia before I was born. My uncle was a Dekalb County police officer in Georgia and recently retired from the Georgia Bureau of Investigations. And my mother-in-law used to be a corrections officer in Florida.

THE COURT: Would any of that influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Your decision would be fair to both the State and to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Your number again, Ms. Carter?

THE POTENTIAL JUROR: 59.

THE COURT: Thank you. You may take your seat. Okay?

MR. JOHNSTON: Our biggest problem is keeping up with the numbers.

THE COURT: No problem. That is No. 59 and I apologize.

MR. JOHNSTON: No problem.

THE COURT: Okay?

THE POTENTIAL JUROR: Juror 265.

THE COURT: Just one second. Yes, sir?

THE POTENTIAL JUROR: My father-in-law belongs to the North Charleston Police Department.

THE COURT: Would that affect or influence you in this case?

THE POTENTIAL JUROR: No, it wouldn't.

THE COURT: Thank you, sir. You may take your seat.

Okay. Yes, sir?

THE POTENTIAL JUROR: Juror 9, William Andrews.

THE COURT: All right, Mr. Andrews?

THE POTENTIAL JUROR: I have a friend on the FBI.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Thank you, Mr. Andrews. You may take your seat.

Yes, sir?

THE POTENTIAL JUROR: Juror 261, Brad Moultrie.

THE COURT: One second, Mr. Moultrie. All right, sir?

THE POTENTIAL JUROR: Former correction officer,

former vocation rehabilitation officer at Coastal Work Release.

THE COURT: You had friends who were or you were involved?

THE POTENTIAL JUROR: I was.

THE COURT: You were?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: But not anymore?

THE POTENTIAL JUROR: Years ago.

THE COURT: Years ago?

THE POTENTIAL JUROR: Years ago.

THE COURT: Would that affect or influence you in this case?

THE POTENTIAL JUROR: No.

THE COURT: Would your decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Definitely.

THE COURT: Thank you, sir. You may take your seat, Mr. Moultrie.

All right. Yes, sir?

THE POTENTIAL JUROR: 267. I have a brother-in-law on Charleston County Police.

THE COURT: Would that affect you in this case, Mr. Myers?

THE POTENTIAL JUROR: No, sir.

THE COURT: And your decision would be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. You make take your seat.

THE POTENTIAL JUROR: No. 61, I have a best friend --

THE COURT: Hold on just a second. You're Mr. Causey?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: All right, sir.

THE POTENTIAL JUROR: My best friend's brother-in-law is a Mount Pleasant Police Officer. And I also was acquainted with William Bell, the one that was struck and killed in 2002. I worked with him 29 years.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: Not at all.

THE COURT: And your decision would be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: You may take your seat.

THE POTENTIAL JUROR: No. 77, Deborah Crim.

THE COURT: No. 77, Ms. Crim. Yes, ma'am?

THE POTENTIAL JUROR: Yes, sir, I have a few acquaintances that are police officers.

THE COURT: Would any of that influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Your decision would be fair to the State and to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, Ms. Crim. You may take you seat.

Yes, ma'am?

THE POTENTIAL JUROR: No. 28, Natalie Bennett. I have a close friend that's a Berkeley County detective.

THE COURT: Berkeley County detective?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: And you're Ms. Bennett?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Ms. Bennett, would that influence or affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Thank you. You may be seated.

Okay?

THE POTENTIAL JUROR: 195. I have a cousin that's a DEA agent.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: And your decision, Ms. Kidwell, will

be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You may take your seat. Yes?

THE POTENTIAL JUROR: 154.

THE COURT: All right, sir?

THE POTENTIAL JUROR: I have several friends who work in the Berkeley County Sheriff's Department, several who are State Troopers in South Carolina and two other friends that are U.S. Marshals.

THE COURT: Would that influence you, Mr. Harris?

THE POTENTIAL JUROR: No, sir.

THE COURT: It would not?

THE POTENTIAL JUROR: No, sir.

THE COURT: And your decision would be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, Mr. Harris. You may take your seat.

THE POTENTIAL JUROR: 224.

THE COURT: Yes, sir?

THE POTENTIAL JUROR: My brother-in-law is an Atlanta police officer.

THE COURT: Would that affect or influence you

in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: And your decision, Mr. Malmgren, would be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. You may take your seat.

Okay?

THE POTENTIAL JUROR: No. 113, Paul Fischer.

THE COURT: All right, Mr. Fischer?

THE POTENTIAL JUROR: My wife is employed with the U.S. Customs Service.

THE COURT: Would that affect or influence you at all in this case, Mr. Fischer?

THE POTENTIAL JUROR: No, sir.

THE COURT: And would your decision be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. You may take your seat.

THE POTENTIAL JUROR: No. 23, David Beasley. I have several law enforcement officers with the Highway Patrol, North Charleston, City of Charleston, who are in my reserve unit. I haven't heard any of them discuss this case.

THE COURT: Would any of that influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: It wouldn't affect your ability to be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: It would not affect me.

THE COURT: Thank you, Mr. Beasley. You may take your seat.

Yes, ma'am?

THE POTENTIAL JUROR: No. 7, Karen Altman.

THE COURT: Ms. Altman?

THE POTENTIAL JUROR: I have a good friend employed at the detention center here and also a cousin who is the Chief of Police of Pawleys Island.

THE COURT: Would any of that influence you?

THE POTENTIAL JUROR: No, sir.

THE COURT: And your decision would be fair to all parties?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you.

Ms. Foster?

THE POTENTIAL JUROR: Your Honor, I'm sorry, I do have a friend locally through our bible study that is an undercover FBI agent.

THE COURT: Would any of that influence you?

THE POTENTIAL JUROR: Not at all.

THE COURT: And your number again?

THE POTENTIAL JUROR: 117.

THE COURT: Thank you.

Yes, ma'am?

THE POTENTIAL JUROR: I'm Lauren Mims. I'm No. 396. And I didn't really think about it because they're not personal friends. But I do treat in my occupation, medicine practice, many police officers including those that work at McDougal, Lieber.

THE COURT: The fact that you have that professional relationship, would any of that influence you in this case?

THE POTENTIAL JUROR: No.

THE COURT: And your decision would be fair to all parties?

THE POTENTIAL JUROR: (The witness nodded.)

THE COURT: And your number again?

THE POTENTIAL JUROR: 396.

THE COURT: Thank you.

Anyone else?

(There was no response.)

THE COURT: Thank you. There appear to be none.

Has any member of the jury panel expressed or formed an opinion about this case in any way? If so,

please stand.

(There was no response.)

THE COURT: Thank you. There are none.

Is there any member of the jury panel that is conscious at this point of any bias that they would have toward the State or towards Mr. Sapp in this particular case? If so, please stand.

(There was no response.)

THE COURT: Thank you. There are none.

Some of the law, ladies and gentlemen, that you would hear, one of it is a fundamental aspect of our law. And it's not only in this state but in every state in the United States. And that is this, that persons who are accused of committing criminal offenses are never, I repeat, never, required to prove anything at all or disprove anything at all. Our law says that when an agency or body charges another, that entity has the responsibility of proving all of the elements of that particular charge to the satisfaction of the jury, which would be beyond a reasonable doubt.

And I will tell you now just briefly that beyond a reasonable doubt -- I will give you a much greater detail -- a much greater explanation during the trial. But it's that type of doubt that would cause an honest, conscientious, sincere juror who is searching for the

truth in a case to hesitate to act or take some action. And the law says that the State has to prove each element to that standard before a jury may return a verdict of guilty. The person who is accused is not required to put up any evidence. The person accused is not even required to say anything if they choose not to. That's a person's right. Because the duty and the responsibility is solely on the State to prove its case. A person who is accused of an offense is presumed to be innocent until and unless the State proves that person guilty beyond a reasonable doubt and proves that by your satisfaction of establishing every element.

Is there any member of the jury panel present that would have any difficulty at all following that instruction and applying that law to this case? If so, please stand.

(There was no response.)

THE COURT: Thank you. There are none.

Is there any member of the jury panel conscious of any reason that you could not give the State and Mr. Sapp a fair and impartial trial in this matter? If so, please stand.

(There was no response.)

THE COURT: At this point, ladies and gentlemen, we've been going for a little bit longer. I'm going to

take another break. I ask you to please stretch. I ask you to please be back in your seats at 2:20. We'll continue the examination at that time.

(WHEREUPON, a short break was taken.)

THE COURT: Ladies and gentlemen, thank you for your patience, and I mean that sincerely. And I am cognizant of the hour. You didn't know that you were going to have the diet plan of how to lose weight on Monday. I do appreciate your patience and we will not be doing this process much longer. And I thank you very much on behalf of the State and Mr. Sapp. Because this is extremely important to the State. It's important to the process. It's important to the parties in this matter. And I just thank you for your commitment to that process.

Mr. Archer, do you want me to wait for Mr. Johnston to return?

MR. ARCHER: No, sir, we can proceed.

THE COURT: That's fine. And I don't mind doing that, sir.

MR. ARCHER: That's fine.

THE COURT: Thank you so much.

Are there any members of the jury panel or member of your immediate family that have been the victim of a violent crime? If so, please stand.

Okay. We'll ask you to come forward and we'll

do that in private up here.

(WHEREUPON, the following bench conference was had in the presence of the jury but not in the hearing of the jury.)

THE COURT: The bench conference that we had on Mr. Carlos -- Mr. Carlos Bryant concerned Mr. Bryant's employment. He was active, but he also worked I think basically in the Brig and sounded very similar to the Department of Corrections, so I excused him for that reason. Any objection from the State?

MR. HOISINGTON: None.

MR. JENNINGS: No, sir.

MR. ARCHER: No, sir.

THE COURT: Any objection from Mr. Sapp? Thank you.

THE BAILIFF: 364, Keith Thomas.

THE COURT: All right, Mr. Thomas. Yes, sir?

THE POTENTIAL JUROR: My uncle was arrested for molesting a little child.

THE COURT: Okay.

THE POTENTIAL JUROR: And got 20 years --

THE COURT: 20-year sentence?

THE POTENTIAL JUROR: Yes.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, it wouldn't.

THE COURT: Would your decision be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, it would.

THE COURT: Thank you, sir. You may take your seat, Mr. Thomas.

THE BAILIFF: No. 263.

THE COURT: Yes, sir?

THE POTENTIAL JUROR: Some 25 years ago, my mother-in-law was attacked coming home on Wednesday night from church. Gentleman followed her home and tried to rape her. Fortunately, she screamed and some neighbors heard. And he got away but was caught later.

THE COURT: Was caught later?

THE POTENTIAL JUROR: Yes.

THE COURT: Were you involved in that?

THE POTENTIAL JUROR: No, sir. As a matter of fact, we didn't live in the state at the time. We were up in West Virginia and didn't hear about it until later.

THE COURT: Would that affect or influence you in this case?

THE POTENTIAL JUROR: No.

THE COURT: Thank you, sir. You may take your seat.

THE BAILIFF: Diane Foster, 117.

THE COURT: Yes, ma'am?

THE POTENTIAL JUROR: My brother was killed in a violent car crash due to a driver that was on cocaine and drunk. And my first cousin, who I was very close with, was murdered by her husband and their child was also murdered by him.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: Nope.

THE COURT: And you could set that aside and be fair and impartial?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, Ms. Foster.

THE BAILIFF: 339, Kelly Sinclair.

THE COURT: Hi, Ms. Sinclair. What is your situation?

THE POTENTIAL JUROR: I have a brother-in-law who has been charged with domestic violence charges against my sister-in-law and her family.

THE COURT: Are you involved in any of that by way of testimony?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would any of that influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: And your decision would be fair to the State and be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, it would.

THE COURT: And it is still pending then? Is it still a pending charge?

THE POTENTIAL JUROR: No, sir.

THE COURT: It has been resolved.

THE POTENTIAL JUROR: Those have been resolved.

THE COURT: Thank you, ma'am. You may take your seat.

THE BAILIFF: 361, Brian Taylor.

THE COURT: Yes, sir, Mr. Taylor?

THE POTENTIAL JUROR: How are you?

THE COURT: I'm fine. What's your situation?

THE POTENTIAL JUROR: My daughter was sexually harassed March 24th of this year and the woman was found guilty.

THE COURT: Has the punishment already been imposed?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Was it here?

THE POTENTIAL JUROR: It was in Walterboro.

THE COURT: Would that affect or influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: And your decision would be fair to the State and to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. You may take your seat.

THE POTENTIAL JUROR: Thank you.

THE BAILIFF: 355, Kathy Stikeleather.

THE COURT: Yes?

THE POTENTIAL JUROR: I was a desk clerk at the Howard Johnson and was robbed twice at gunpoint.

THE COURT: You were robbed twice? And were you involved in any prosecution?

THE POTENTIAL JUROR: It was a lineup.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: And your decision would be fair to the State and would be fair to Mr. Sapp?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, ma'am.

MR. ARCHER: What was your number?

THE POTENTIAL JUROR: 355.

THE COURT: Thank you.

THE BAILIFF: 336, Barbara Simmons.

THE COURT: Yes, Ms. Simmons?

THE POTENTIAL JUROR: I had a brother-in-law that was robbed at gunpoint. It was a delivery man for potato chips. There was no conviction on it because he

couldn't identify the gentleman after --

THE COURT: Were you involved in that process at all?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would that affect or influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Your decision would be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, Ms. Simmons. You may take your seat.

THE BAILIFF: No. 86, Alfred DeLeon.

THE POTENTIAL JUROR: How are you doing, sir?

THE COURT: Yes, sir?

THE POTENTIAL JUROR: My sister was shot while she was a clerk at my father's restaurant.

THE COURT: And would that affect or influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Were you involved in any prosecution?

THE POTENTIAL JUROR: No, sir.

THE COURT: Thank you, sir. You may take your seat.

THE BAILIFF: No. 149, Bruce Hallows.

THE COURT: Mr. Hallows, yes, sir?

THE POTENTIAL JUROR: How are you doing? My sister was a teller where the bank was robbed.

THE COURT: Here?

THE POTENTIAL JUROR: In North Charleston.

THE COURT: North Charleston. Were you involved in any prosecution?

THE POTENTIAL JUROR: No, he was not caught.

THE COURT: And would that affect or influence you in this matter?

THE POTENTIAL JUROR: No, sir.

THE COURT: And your decision would be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, Mr. Hallows. You may take your seat.

THE BAILIFF: No. 7, Karen Altman.

THE COURT: Ms. Altman?

THE POTENTIAL JUROR: Hi. I was involved in a case where I was the victim. The charge was criminal -- well, it ended up being criminal domestic abuse. At first, it was assault and battery with intent to kill.

THE COURT: And it was dropped down to that?

THE POTENTIAL JUROR: Dropped down to that.

THE COURT: Would that affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Has the matter been concluded?

THE POTENTIAL JUROR: It has.

THE COURT: It was handled by what agency?

THE POTENTIAL JUROR: Right here in Berkeley County.

THE COURT: This office? How long ago was it?

THE POTENTIAL JUROR: Not long ago. The case was probably about two months ago, ended about two months ago. The incident happened last June.

MR. JENNINGS: I don't know anything about it.

THE COURT: Do you know the solicitor office --

THE POTENTIAL JUROR: Kristi Harrington, she's the person.

THE COURT: But it is not pending now?

THE POTENTIAL JUROR: No, it's not.

THE COURT: Would that affect or influence you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: And your decision would be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, Ms. Altman. You may take your seat.

THE BAILIFF: No. 35, Clyde Bostick.

THE COURT: Yes, sir, Mr. Bostick?

THE POTENTIAL JUROR: My brother was tried in this same courtroom for killing his wife. And I'm not doing good sitting in here today.

THE COURT: I bet. Were you involved in that process?

THE POTENTIAL JUROR: I was.

THE COURT: You feel this would affect you?

THE POTENTIAL JUROR: Right, yes, sir.

THE COURT: And you're 35?

THE POTENTIAL JUROR: 35, yes, sir.

THE COURT: Mr. Bostick is excused.

Thank you, Mr. Bostick.

MR. ARCHER: That's 35?

THE COURT: 35, Clyde Bostick.

THE BAILIFF: No. 180, Damian Johno.

THE COURT: Yes, sir?

THE POTENTIAL JUROR: I'm not sure if this is immediate family but I didn't want to have any doubts. My wife's grandmother was raped about six years ago.

THE COURT: Where was that? Here?

THE POTENTIAL JUROR: Yes, it was in Ladson.

THE COURT: Ladson. Were you involved in that trial?

THE POTENTIAL JUROR: No, sir, I wasn't. I was out of the -- I was in Greenville at the time.

THE COURT: Okay. Would that fact affect you in this case?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would your decision be fair to both sides?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. And your number again?

THE POTENTIAL JUROR: 180.

THE COURT: Thank you.

THE BAILIFF: 236, Cynthia McCaslin.

THE COURT: Yes, ma'am?

THE POTENTIAL JUROR: Judge, does a domestic violation count?

THE COURT: Yes, ma'am.

THE POTENTIAL JUROR: Myself and other family members.

THE COURT: You've been accuse of that?

THE POTENTIAL JUROR: No, I've been the victim.

THE COURT: Have those matters been resolved?

THE POTENTIAL JUROR: It was over 10 years ago.

THE COURT: Where was that?

THE POTENTIAL JUROR: In Arizona.

THE COURT: Would that affect or influence you

in this case?

THE POTENTIAL JUROR: No, sir. My daughter was recently involved, they put it down as domestic violence. It was an assault with a friend.

THE COURT: Here in Berkeley County?

THE POTENTIAL JUROR: It was in Berkeley County, but in Hanahan.

THE COURT: Hanahan. Okay. Thank you, Ms. McCaslin.

THE BAILIFF: No. 400, Marianne Yackulak.

THE COURT: Ms. Yackulak?

THE POTENTIAL JUROR: I don't know if you consider it a violent crime, but my daughter was hit by a drunk driver.

THE COURT: Sure.

THE POTENTIAL JUROR: We were told by police and the EMS and the doctors in the ER if she had not had her seat belt on, she would be dead.

THE COURT: Okay. Would that affect you in this case?

THE POTENTIAL JUROR: It would affect me if I believed that he had been drunk driving or taking drugs and that had influence what he had done.

THE COURT: Very well. And I don't know what the evidence is going to be.

THE POTENTIAL JUROR: And I don't either.

THE COURT: And I understand that. But given the nature of the charges, I'm going to out of an abundance of caution excuse you because you've expressed that it would affect you, that aspect of it.

THE POTENTIAL JUROR: Yes.

THE COURT: Very well. You're excused. No. 400 is excused.

THE BAILIFF: No. 6, Patricia Allen.

THE COURT: Yes, ma'am?

THE POTENTIAL JUROR: My grandfather was shot and killed several years ago.

THE COURT: All right. Were you involved in any way in the prosecution?

THE POTENTIAL JUROR: No.

THE COURT: Was there any prosecution?

THE POTENTIAL JUROR: I didn't know him very well and it was several years ago.

THE COURT: Was it here?

THE POTENTIAL JUROR: It was in New Mexico.

THE COURT: Would that affect or influence you in this case?

THE POTENTIAL JUROR: No.

THE COURT: You're No. 6?

THE POTENTIAL JUROR: 6.

THE COURT: Thank you, Ms. Allen.

THE BAILIFF: No. 124, Mark Garrison.

THE COURT: Mr. Garrison, yes, sir?

THE POTENTIAL JUROR: I had a cousin that was brutally murdered in Charlotte, North Carolina.

THE COURT: Okay. Has that matter been concluded? Was there prosecution involved in it?

THE POTENTIAL JUROR: They did catch the men; it was like a dozen of them.

THE COURT: Were you involved in any way in the trial?

THE POTENTIAL JUROR: No, sir.

THE COURT: Would that affect or influence you in this case?

THE POTENTIAL JUROR: I believe it would.

THE COURT: All right, sir. You feel it would affect your ability to be fair and impartial?

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Mr. Garrison, No. 124, is excused from participation in this dispute.

Any others?

(There was no response.)

THE COURT: Thank you very much.

(WHEREUPON, the bench conference was concluded.)

THE COURT: As I mentioned to you, ladies and

gentlemen, in this case as to one of the indictments, the State is seeking the death penalty against the defendant. This trial, therefore, will be bifurcated, that means divided into two parts. The first part, ladies and gentlemen, will be -- will deal -- we call the guilt phase. During this phase, the jury will decide whether or not the State meets its burden of proof and establishes and proves the defendant's guilt beyond a reasonable doubt. And that means, of course, provides evidence which would convince you as a juror beyond a reasonable doubt that each element of the crimes charged have been met.

If you then found guilt, and I'm not by making this statement giving you or indicating to you how you should decide or what your decision should be and don't construe in it that fashion, but should you decide guilt as to the offense of murder, then we would go into a second part which we call the penalty phase. And in this part, the jury would hear evidence and would decide what penalty should be imposed. I explain that to you to let you know how this process will run. So basically it's a two-part trial. And there may by law be required to have a waiting period of 24 hours between the guilt phase and, if necessary, to go into the penalty phase.

You will be sequestered if you're selected on the jury. And that sequestration will start when we

impanel the jury and will continue until the jury's services are completed.

Also, during this process, we will select -- I mentioned to some of you who have come forward and now I will share with all of you, while we have asked general questions of you individually, in just a few moments, I'm going to ask the clerk to select our panels. We will select panels probably -- at this point, I will advise Ms. Brown how many we want to do. If you're in a panel, what that will mean is this. Each -- the Court and each side can ask you certain questions. And it's important that we have an opportunity to do that. Some of the areas that you've mentioned may necessitate further examination. Again, not to determine anything, not to pry or invade your privacy, not at all; simply to make that determination and to help make the determination and for you to make the determination as to whether truly you can be a fair and impartial juror in this process. And that's the whole purpose of this separate questioning procedure.

We will select panels of six. And we will usually start -- we'll start -- we're going to break for lunch, believe it or not, and we are going to have a break. And then we will return with the first panel and we will probably have you returning within an hour and a half between panels. Now, I'll assure you before you get

upset, we're not going to go into the night to do this. We'll probably start our last panel at about 5:30, if need be, 5:30 or 6, but not any later than that. Then we'll schedule the next panel to start tomorrow at hour and a half increments and we'll break for lunch during the day. And then we'll go until we can select and find a pool of approximately 40 to 45 qualified jurors. And by that, I mean that we've gone through the entire process and you're eligible to serve in that as a potential juror.

Once we've selected that and obtained that number, if we finish all of it, I'm sure that we'll have that many. If we don't, then -- if we don't finish, then those that have not been examined will not be necessary, obviously, for you to come in. We'll call you and let you know. But that's the process that we'll take. You won't all have to be assembled in this room now. You'll come back, as I say, in small groups and we'll go through this process.

You have heard me mention to you a number of times and we went through a very what seemed to be laborious but it was not in any way, it was very important in asking you about what you have read or heard. And obviously, those of you -- some persons, as you recall, expressed some problem and indicated that they had made some predetermination or they had some bias or were

influenced by what they had read or heard and those persons were excused. Those of you that indicated you heard it and said it would not influence you, of course, you are remaining. I thank you for that because, obviously, it says something about you and the oath that you took. Because -- and I'm always reluctant and I'll just be candid with you. But you, again, confirm my belief in this process of dispute resolution. And what I'm about to say I think really confirms it. It wouldn't take somebody very long to figure out a way to just simply say, I can't do this. And you would be excused. But you didn't do that. You responded. You responded truthfully. You honored the oath and the commitment that you have made to the State and to Mr. Sapp. And for that, ladies and gentlemen, I thank you. And I appreciate your willingness to participate in this process.

Before we start drawing the panels, let me ask this general question -- well, before I ask that, are there any additional questions at this stage from the State?

MR. HOISINGTON: No, Your Honor. Thank you.

THE COURT: Any additional questions at this stage from Mr. Sapp?

MR. ARCHER: No, sir.

THE COURT: Thank you, Mr. Archer.

Is there anything that we've discussed now and this would not -- those persons that stood up and mentioned concerning the penalty issue, again, I mentioned to you we'll talk about that during the individual panel so I'm not asking you about that. That we understand and you placed that on the record in this case, those of you that responded. But is there anything other than that that would cause you as a juror any problem about your ability to make a commitment to the State and a commitment to Mr. Sapp that you would fairly and impartially determine the true facts of this case by considering the evidence at the appropriate time -- and I will talk about that in more detail once you're selected. Once you decide those facts, then you would fairly and impartially apply the law as I give it to you to those facts and reach a decision which would truly honor your oath, and that is would be fair to the State and would be fair to Mr. Sapp? If you feel you would have any difficulty making that commitment, please stand.

(There was no response.)

THE COURT: Thank you very much, ladies and gentlemen. There are none.

Okay. Go ahead and give me the first six and they will be Panel No. 1.

THE CLERK: Judge, you've got to give me time to

get them in the --

THE COURT: I'm going to give you as much time as you need.

Ladies and gentlemen, Ms. Brown is going to put --

Let me ask now, does the State waive having a blind person or a child draw?

MR. HOISINGTON: Yes, sir, we waive it.

THE COURT: Does Mr. Sapp waive that as well?

MR. ARCHER: We do, Your Honor. Believe it or not, they still do that in Horry County. They bring a blind man in. He's been doing it for a number of years.

THE COURT: I don't know whether it's the same one as in '95. He's a delightful gentlemen.

MR. ARCHER: Yes, he's been doing it for 20 something years.

THE COURT: He's a great guy.

That is a statute. Why is that, ladies and gentlemen? It further confirms that there is no one that's going to have anything to do with this process. Frankly, I used to tell people --

And I'm sorry, I know you're writing this, but I apologize.

See that person sitting over there? She's promised me -- she's known this assignment for quite some

time. There are a lot of roles and a lot of responsibilities that are involved in a trial. That's one of them I don't want to do. I had the pleasure of being a lawyer. I had -- I can't serve as a juror as you heard. I'm not qualified because I work in a courthouse so that eliminates me from the process. But one job that I definitely would not do is what she's doing right now. She has to take down verbatim everything that's happening in this courtroom. I can assure you, I don't want that job. She's already said she has a headache and I don't blame her. She probably does.

But one of the things that I've often said before we started talking about the lottery, and I'm not asking anybody to give me your feelings about that at all nor am I giving you mine. But I used to tell people, I'm afraid that we've been violating that law before it became legal for quite some time. Because there's a lottery that's about to occur right now.

Your names are in a drum and they've been pulled at random. And you're going to be placed on a list. Please remember that this process, we'll go through it. You'll be asked questions and you'll be asked to express yourselves -- I'm going to give each one of you when you come forward a sheet of paper. And that sheet of paper contains basically or describes three types of jurors.

And I want you for the first panel and those of you to follow, obviously, will have time, but the first panel, during your lunch break to read it quietly and decide which type best describes you. And it will help us and help you, I think.

One type, basically, and I'm summarizing it, says if you find in a situation where murder was established that the death penalty would always be the decision, the death penalty would be the only sentence. Another says, I never would do it under any circumstances. And the other basically says, I would have to hear the entire case, consider all of the evidence and the law and then I would take the law and apply that law to the facts that I determine. And if the circumstances and the law justified it, I could impose a death sentence. Or if I felt the law -- and felt in following the law the circumstances warranted, I would impose a life without the possibility of parole. Again, you consider that. I'm not, by discussing this, suggesting which type should apply to you. But it will help us as we go through in asking you certain questions.

So are we almost there?

THE CLERK: We're working at it.

THE COURT: Working diligently. And obviously, they can't make -- pull the pools until we've gone through

the process that we've gone through thus far.

THE CLERK: Judge, would you check your records for 141 and 142, whether they are on the list?

THE COURT: Sure. While they're doing that, let me address one other thing. 141 I have as reporting, and 142 I have as being excused.

THE CLERK: Okay.

THE COURT: Gentlemen, if y'all would approach, please, just for a moment.

(WHEREUPON, the following bench conference was had in the presence of the jury but out of the hearing of the jury.)

THE COURT: Trying to expedite this. Obviously, I don't know what -- how many are still not reported. Do you want to go forward with the selection process before we obtain that report as to those persons who didn't show up if there are any?

MR. ARCHER: I have no problem with that.

THE COURT: So you waive?

MR. ARCHER: Let's go forward.

MR. HOISINGTON: If we need any, we can add them to the end of it.

THE COURT: No problem from the State?

MR. HOISINGTON: No, sir.

THE COURT: Secondly, concerning those persons

that were excused that expressed a bias, any objection to the Court's decisions on those jurors from the State?

MR. HOISINGTON: No.

THE COURT: Any objections from Mr. Sapp?

MR. JOHNSTON: No.

THE COURT: Thank you very much.

MR. HOISINGTON: Are we going to go ahead and start every panel now?

THE COURT: Yes.

(WHEREUPON, the bench conference was concluded.)

THE COURT: Ladies and gentlemen, what we're going to do is obviously group those that are remaining in panels. And it's going to take a while to accomplish that. I would love to tell you to have lunch and then come back, but I don't think it's going to take that long to get it started, to get the first panel out so that panel can go ahead and start the lunch break. So bear with me, but I'm going to let you take a break now. I have received some input, you also didn't know that those of you that were smokers that you were going to have to learn to give up smoking today as well. Because I am cognizant of what 10 minutes is. I'm also aware of the facility and I apologize to you for that, but thank you again for your patience with the Court. And I will give you an opportunity now if you choose to to go out and

stretch and get a breath of fresh air. I would ask you to please be back in your seats by 3:15. Thank you very much.

(WHEREUPON, a short break was taken.)

THE COURT: Panel No. 1, and I'm going to ask those persons to come forward and just stand here with me. Juror No. 361, Brian Taylor; Juror No. 59, Deborah Carter; Juror No. 114, Lewis Flader; Juror No. 36, Thomas Bowman; Juror No. 203, Sarah Kouns; Juror 196, Samuel Kilgore. I'm going to ask that you exit, please, through this door with Mr. Pontiff. He will get certain information. These are the type jurors that we want you to read during lunch. You need to return, please, to the jury room by 4:30.

Please understand something that's very important now. And ladies and gentlemen, I'll state this to you as well. But each of you now has to understand it's very, very important that no one talk with you about this case; that you do not permit anyone to talk about it in your presence; that you do not read anything; that you do not listen to any accounts. You're to have no contact with anyone concerning this case, please. It's very, very important at this point. So when you're at lunch, if you have someone that you're going to have lunch with, do not in any way talk about this case. You need to report downstairs and they will bring you up. Rather than to

have everyone waiting, we can break for lunch at this point.

MR. HOISINGTON: If we draw them, they don't have to come back?

THE COURT: The problem is we've got to wait to do that.

Ladies and gentlemen, I'm going to ask you to do this, because it's going to take Ms. Brown -- obviously, she has to go through every one of you and place you on a panel. So some of you will be out earlier than others. But if you will give us until 4 o'clock, if you will be back in place, that will give you a chance to get a bite to eat. If you will be back in this room by 4 o'clock, we will give you your list and your assignment at that time and when you need to report. Do not, I repeat, do not talk about this case among yourselves, with anyone. Do not permit anybody to talk with you. Do not read anything about this case. Do not listen to any news account about this case. Do not permit anyone to talk about it in your presence. Please be back in your seats at 4 o'clock. Thank you very much.

(WHEREUPON, a lunch break was taken.)

THE COURT: Ladies and gentlemen, thank you very much. I hope you had -- the next will be Panel No. 2. Panel No. 2 consists of Juror No. 119, Gregory Franciscus;

Juror 342 -- and I'd ask you to please come forward at this time -- Sue Sisco; 165, Michele Hill; No. 380, Charlene Ward; 284, James Peak; and 247, Kathleen McNair. Ladies and gentlemen, you are Panel No. 2. Ms. Wiggins has -- be sure before you leave that you give certain information to the bailiff that they need to get from you. You will need to report at 9 o'clock in the morning. And you will report here and they will bring you upstairs and place you in the jury room. The list that -- each of you should take a sheet that has the three types of jurors. Please review that.

Tonight, please remember that you're not to discuss this case with anyone, that includes anyone that might be at home. Please understand it's very important that you not have any conversation with anyone about this case or permit anyone to talk with you about this case. You will be asked those questions. And again, you are under oath and I will remind you of that each time and we will ask you specifically whether you've honored that commitment that you made to the State and to Mr. Sapp. I look forward to seeing you in the morning. If you will be here at nine, we will get through the questions fairly promptly, hopefully, and have a good evening. Thank you.

(WHEREUPON, Jury Panel No. 2 was excused for the day at approximately 4:04 p.m.)

THE COURT: All right. The next panel will be Panel No. 3. Panel No. 3 consists of the following: Juror No. 279, Daniel C. Page; 336, Barbara Simmons; 160, Anthony Hendriks; 20, Linda Barnhill; 230, Dewey Massey; and No. 267, Michael Myers.

You, ladies and gentlemen, have been selected to be Jury Panel No. 3. Again, you will be given a list -- and I'm going to ask that you exit through the door. Ms. Wiggins will be there and you'll need to give her certain information. We are requesting that you report at 10:30 tomorrow. And you will come here and they will bring you up to the jury room and then we will bring you in one at the time and talk with you tomorrow. Please, again, do not allow anybody to talk with you and you're not to talk with anyone about this case. You're not to read anything about this case or listen to any news accounts about the case. Have a good evening. I would ask that you exit through that door and make sure that you give the bailiffs the information they need. Thank you and have a good evening.

(WHEREUPON, Jury Panel No. 3 was excused for the day at approximately 4:56 p.m.)

THE COURT: The next panel will be Jury Panel No. 4 consisting of the following: Juror No. 276, Jennifer Oliver; 297, William Potter; Juror 273, Priscilla

Nixon; 322, Bufford Rollins, Jr.; 166, Connie Hiott; and No. 86, Alfred DeLeon.

Ladies and gentlemen, you have been selected as Jury Panel No. 4. And, of course, tomorrow, we will -- you will have an opportunity to come in and we will ask you certain questions. Make sure that you pick up the list from the bailiff that identifies the three types of jurors. You remember that you're not to discuss this case with anyone or permit anyone to talk with you about this case. I would ask that you report, please, to the jury room at 1 o'clock tomorrow. Have a good evening. You will exit through that door. Make sure you talk with the bailiffs before you leave. Thank you very much.

(WHEREUPON, Jury Panel No. 4 was excused for the day at approximately 4:09 p.m.)

THE COURT: Jury Panel No. 5 will consist of the following: Juror 258, Clarence Mitchell; 218, Ian MacDougall; 201, Cheryl Kitts; 387, Cynthia White; 204, Charles Lail; 105, Richard Evans. You, of course, will be the fifth panel. And we will look forward to talking with you tomorrow. You are requested to report at 2:30. Please make sure when you leave you exit through the door. Make sure that you talk with the bailiffs and obtain the type of -- the three types of juror questions, review that list and we'll ask you questions about that and other

matters tomorrow. Do not permit anyone to talk with you. Of course, do not discuss this case with anyone. Do not read any newspaper accounts or listen to any TV accounts about it. We'll see you tomorrow at 2:30 and you'll report and they'll bring you upstairs to the jury room. Have a good evening. Thank you.

(WHEREUPON, Jury Panel No. 5 was excused for the day at approximately 4:11 p.m.)

THE COURT: The next one will be Jury Panel No. 6 consisting of the following: No. 157, Roosevelt Hatcher; 337, John Simmons; 280, Brenda Parker; 61, Herman Causey; 177, Sadie Jenkins; 372, Kenneth Ullery. Thank you very much.

You, of course, will be Jury Panel No. 6. We will schedule -- look forward to seeing you at 4 o'clock tomorrow. You will report to this -- to the jury room at that time. Then we will, of course, bring you in with each and examine you. Make sure you get a copy of the three types of jurors, make sure you talk with the bailiffs. Have a good evening. Do not permit anyone to talk with you about this case or talk about it in your presence. Do not read any newspaper accounts or listen to any television about it. Have a good evening and I will see you tomorrow at 4 o'clock. Thank you.

(WHEREUPON, Jury Panel No. 6 was excused at

approximately 4:13 p.m.)

THE COURT: The next panel would be Jury Panel No. 7 consisting of the following: Juror No. 113, Paul Fischer; No. 7, Karen Altman; No. 265, Matthew Mustach; 235, Hoyt McBroom; 248, Mary Meadow; 313, Justin Ridley.

You, ladies and gentlemen, will be Panel No. 7. We would ask that you report tomorrow at 5:30. And you'll come directly to the jury room and we will start the examination tomorrow and ask you questions. Some of those questions, of course, will concern what type of juror, make sure that you pick up that list of the three types of jurors. Have a good evening. Do not allow anybody to talk with you about this case or talk about it in your presence. Of course, do not read any newspaper accounts and do not watch any news programs about this case. Have a good evening and I'll see you tomorrow at 5:30. Thank you.

(WHEREUPON, Jury Panel No. 7 was excused for the day at approximately 4:16 p.m.)

THE COURT: Ladies and gentlemen, we'll be at ease a few moments. We're waiting on the remaining panels. The numbers are dwindling. So you have more room now at least. So that's good. We'll be at ease for about five minutes or so.

(WHEREUPON, a short break was taken.)

THE COURT: The next panel will be Panel No. 8. Panel No. 8 consists of the following: Juror 364, Keith Thomas; Juror 82, Emily Davidson; Juror 49, Sharon Bryant; Juror 11, Maria Arizmendi; Juror No. 18, Barbara Baker; 159, Marvin Henderson.

Ladies and gentlemen, you are Jury Panel No. 8. We will look forward to seeing you on Wednesday at 9 o'clock. Of course, you do not have to report tomorrow. You'll report time will be 9 o'clock. You come directly here. They will take you to the jury room. Please remember that you, too, must not read anything about this, you must not talk about this case or permit anyone to talk with you about this case. Do not watch any news accounts about this case. Have a good evening. Make sure that you get the list of the three types of jurors and I'll look forward to seeing you on Wednesday at 9 o'clock. Thank you.

(WHEREUPON, Jury Panel No. 8 was excused for the day at approximately 4:26 p.m.)

THE COURT: The next jury panel is Jury Panel No. 9 consisting of the following: Juror No. 154, Brad Harris; Juror 72, Lillie Copeland; Juror 288, Janice Petrilla; Juror 396, Lauren Mims; Juror 391, Lisa Williamson; Juror 51, Sandra Burkett.

You, ladies and gentlemen, consist of Jury Panel

No. 9. I'm requesting that you please report here and come directly to the jury room, they will bring you up from downstairs at 10:30. And, of course, make sure that you have by then reviewed the sheet containing the three types of jurors. As with everyone, do not permit anyone to talk with you about this case or talk about it in your presence. Do not read any news accounts, newspaper accounts or watch any news programs about this case. It's very important. And we'll look forward to seeing you at 10:30 on Wednesday. You're free to leave. Thank you. You'll exit through this door.

(WHEREUPON, Jury Panel No. 9 was excused for the day at approximately 4:28 p.m.)

THE COURT: The next panel will be Jury Panel No. 10 consisting of the following: Juror No. 100, Kelly Eckert; Juror No. 30, Angela Biggs; 134, Vickie Gore; 229, Barbara Mason; 369, Adeline Tucker; 141, Vincent Green.

Thank you very much, ladies and gentlemen. You are Panel No. 10. We will look forward to seeing you at 12 o'clock on Wednesday when you'll be requested to report here. They will bring you to the jury room. Make sure that you, too, get a copy of the sheet describing the three types of jurors. And then, of course, do not allow anybody to talk with you about this case or talk about it in your presence. Please do not read any newspaper

accounts or watch any news programs about this case. Have a good evening and a good day tomorrow and I will see you tomorrow on Wednesday at 12 o'clock.

(WHEREUPON, Jury Panel No. 10 was excused for the day at approximately 4:30 p.m.)

THE COURT: Ladies and gentlemen, those of you remaining, we will be placing you in a panel and we will give you the panel number and you'll need to make note of that, of course. But I'm not going to give you a specific time at this point. I'm going to ask that you call back, call the juror number. All of you should have that number that was given to you, that information, and call that number after 6 o'clock on Tuesday, 6 o'clock tomorrow night. And it will tell you what time the panels need to report. And, of course, you'll need -- as I say, you'll need to make note of your panel and just make sure that you appear at that particular time.

The next panel will be Jury Panel No. 11 consisting of the following: Juror No. 334, Maebelle Shuler; Juror No. 19, Lauren Bantens; Juror No. 340, Derrick Singleton; Juror No. 23, David Beasley; Juror No. 175, Jacqueline Jefferson; Juror No. 357, Carrie Swafford.

You, ladies and gentlemen, are Jury Panel No. 11. So when you call on Tuesday night, that's

tomorrow night after 6, follow the instruction. It may say all juror panels need to call at a time the next day. If it is, we just don't know precisely the time to tell you to come. But whatever the instruction, follow that instruction. And when the time says for Jury Panel No. 11 to report, that's you. So you will be reporting as Jury Panel No. 11. As with everyone else, do not allow anyone to talk with you about this case, talk about it in your presence. Do not read any newspaper accounts of this case, watch any news programs about this case. No contact by anyone about this case. Have a good tomorrow and we'll probably see you sometime on Wednesday. Thank you. Make sure that you get the list of the three types of jurors before you leave.

(WHEREUPON, Jury Panel No. 11 was excused for the day at approximately 4:35 p.m.)

THE COURT: Juror Panel No. 12: Patricia Allen, Juror No. 6; Juror 333, Kevin Shealy; Juror No. 355, Kathy Stikeleather; Juror No. 5, Marjorie Alexander; Juror No. 57, William Carr; Juror No. 228, Carlos Masauding.

You're Jury Panel No. 12. And you, too, will call, please, tomorrow night, follow the instruction as it pertains to Jury Panel No. 12. If it said all panels call back Wednesday, we will give you a definite time on Wednesday to report. Just follow the instruction and

we'll look forward to seeing you. Please remember you're not to talk about this case or permit anyone to talk with you. You're not to read any newspaper accounts or watch any news programs about this case. Have a good tomorrow and we'll probably see you sometime Wednesday. Thank you.

(WHEREUPON, Jury Panel No. 12 was excused for the day at approximately 4:37 p.m.)

THE COURT: The next panel will be Jury Panel No. 13 consisting of the following: Cynthia McCaslin, Juror No. 236; No. 17, Vincent Babson; No. 190, Bryan Keelin; 246, Candace Beauchamp; 77, Deborah Crim; 47, Linda Brunson.

You are Jury Panel No. 13. You need to call -- I was just given the number of panels we have, it may be Thursday before we actually bring you in. We'll see. But call that number after 6, follow the instruction as it pertains to Jury Panel No. 13. Please, again, like everyone else, you're not permitted to talk with anybody about this case or permit anyone to talk with you about it. Do not read any newspaper accounts about this case or watch any news programs about this case. Have no contact with anyone about this case, please. Make sure you obtain a copy of the three types of jurors and we'll be talking with you about that and other matters on Wednesday or Thursday, whenever we see you. Have a good night. Thank

you very much.

MR. HOISINGTON: Your Honor, that was only five jurors.

THE COURT: Thank you very much. Cynthia McCaslin --

MR. HOISINGTON: Somebody must not have come back.

THE COURT: Vincent Babson, Bryan Keelin, Candace Beauchamp. Candace Beauchamp. Okay. 246, maybe we called the wrong name. That's what it is. It's not Candace Beauchamp, it's Lisa McLendon.

MR. JENNINGS: She didn't come this morning.

THE COURT: Any objection from the State to adding a person?

MR. HOISINGTON: No, Your Honor.

MR. JOHNSTON: No, sir.

THE COURT: Any objection from Mr. Sapp?

Juror No. 305, Leroy Ravenel. Mr. Ravenel, you are part of Jury Panel No. 13. That's your panel. When you call the number, just follow the instruction as it pertains to Jury Panel No. 13. When it says for you to report, you'll need to report. Please, like everyone else, do not allow anybody to talk with you about this case or talk about it in your presence. Don't read any newspaper articles about this case or watch any news

programs about this case. We'll see you on, probably, late Wednesday or early Thursday. Thank you. You may retire now.

Thank you very much for calling that to the Court's attention.

The next panel is Jury Panel No. 14 consisting of the following: Miriam Robinson, Juror No. 317; Juror No. 180, Damian Johno; Juror No. 144, Jeffrey Grooten; Juror No. 295, Samuel Polk; Juror No. 390, Marie Williams; Juror No. 293, Patricia Player.

You are Jury Panel No. 14. I would tell you that probably the earliest that we will reach you will be Thursday, if we reach you. Obviously, as we go through this process, we'll be determining the pool from which we will select -- once we reach 40 then we will select the jury panel. So you're there. We need you to be available. We certainly need you to follow the instruction that we've given to everyone else and that is not to allow anybody to talk with you about it or to read anything about this case or watch any programs about this case. You're to have no contact with anyone about this case. Have a good tomorrow. Call that number after 6 o'clock and follow the instruction on the message that pertains to Jury Panel No. 14. Please make sure that you,

likewise, pick up a copy of the sheet that contains the three types of jurors. We may see you Thursday. Thank you very much.

(WHEREUPON, Jury Panel No. 14 was excused for the day at approximately 4:44 p.m.)

THE COURT: Next is Jury Panel No. 15. Jury Panel No. 15 consists of Juror No. 28, Natalie Bennett; Juror No. 223, Timothy Makaukane; No. 290, Leroy Pinckney; 79, Tiffany Dame; 183, Lynn Johnson; 198, Willie King.

You're Jury Panel No. 15. I know the earliest that we will see you if we see you will be on Thursday. Call the number after 6 tomorrow night and follow the instructions as it pertains to Jury Panel No. 15. Do not permit anyone to talk with you about this case. No one should talk about it in your presence. Do not read any newspaper articles or comments about this case. Do not watch any television news programs about this case. Have a good tomorrow and we may see you on Thursday. Thank you. Make sure that you, likewise, get a list of that sheet that contains the three types of jurors.

(WHEREUPON, jury panel No. 15 was excused for the day at approximately 4:46 p.m.)

THE COURT: I'm going to stop at this point. Ladies and gentlemen, the rest of you are eligible to serve on a panel. We have now 15, that's 90 jurors,

prospective jurors. I would anticipate that we will probably obtain the pool before we reach the 90. But in the event that we don't, you must be available. But rather than to keep you and hold you while we go through this process, all of you that have not been selected on a panel, you need to call that number after 6 o'clock tomorrow night. You will follow the instruction because, obviously, at this point, you do not know what panel in which you may find yourself situated. You will be responding to all other jurors. Since you aren't in a panel, it will say all other jurors need to do something. When the jurors in all other jurors come back, you will be asked to report on that day.

So please, it's very, very important, while you haven't actually received your panel assignment, do not discuss this case with anyone. Do not permit anyone to talk with you about this case. Do not read any newspaper accounts about this case. Do not watch any news programs about this case. It is very important because you don't know what could happen to the preceding 90. It may be necessary to bring you in and put you in the panel and start the questioning process with you. So please remember that.

Thank you very much for your patience. I know it's been a long day. Good afternoon to you. Call the

number after 6 o'clock tomorrow night. Thank you.

(WHEREUPON, the rest of the jury venire not chosen on a specific panel was excused for the day at approximately 4:48 p.m.)

THE COURT: We have talked about this informally. Now that we have drawn the names, as I understand -- and that was one of the reasons I stopped. As I understand, it is the State's desire to strike as we have drawn. You do not wish when we qualify the panel to have that pool redrawn; is that correct?

MR. HOISINGTON: Yes, sir, we don't anticipate striking as we go, but just --

THE COURT: No, no, I'm not asking you to do that --

MR. HOISINGTON: But striking in the order that they were called.

THE COURT: The order in which they have been selected, that will be the order in which we will strike.

MR. HOISINGTON: That's agreeable.

THE COURT: Is that agreeable with Mr. Sapp as well?

MR. ARCHER: You're going to have to repeat that.

THE COURT: All right. What we're going to do, the order in which we have selected, and just, for

instance, as an example, Mr. Taylor is the first juror in Panel No. 1. He's the first juror that we will consider when we begin -- assuming Mr. Taylor, of course, is qualified, he would be the first juror we would approach regarding the striking. We would not reshuffle, we would not redraw. We will select in the order in which they have been drawn.

MR. JOHNSTON: That's absolutely fine.

THE COURT: Very well. Let's bring in Mr. Taylor.

MR. ARCHER: Your Honor, what are the strikes?

THE COURT: Ten and five.

(WHEREUPON, Brian Taylor, a white male, entered the courtroom.)

EXAMINATION

BY THE COURT

Q You are Brian Taylor?

A Yes, sir.

Q Mr. Taylor, you understand that you were previously put under oath in this proceeding?

A Yes, sir.

Q And that oath still applies?

A Yes, sir.

Q And you had no problem taking that oath?

A No, sir.

Q Have you talked with anyone about this case or allowed or permitted anyone to talk with you about this case since we last were together?

A No, sir.

Q You have indicated that there is really nothing about this case that would cause -- thus far that we've discussed that would cause you any concern or problem about applying your common sense, your sense of logic and reason, fairly and impartially in deciding the facts of this dispute; is that true?

A Yes, sir.

Q You've also by your answers, or if you didn't answer by your silence, have indicated to the State and to Mr. Sapp that you haven't predetermined any issue, that you have an open mind about this, and that you will decide the true facts of this dispute from the evidence; is that true?

A Yes, sir.

Q And the evidence consists of the testimony of witnesses and exhibits that might be introduced. Do you understand that?

A Yes, sir.

Q I mentioned to you before that the questions that we will be asking and that the attorneys may ask you is not in any way an attempt to invade your privacy.

There are no really correct answers. We're just asking and we want to make sure that you fully deal with all those potential areas in which there could be a problem that you may not -- about which you may not even be aware at this point. Do you understand?

A Yes, sir.

Q You understand and you were given a form that indicates the type of jurors, types 1, 2 and 3?

A Yes, sir.

Q Which type do you believe best describes you?

A No. 3.

Q No. 3, meaning the juror that would not have any predetermination as to what sentence would be appropriate, assuming that the jury had determined that Mr. Sapp was guilty of the offense of murder; is that correct?

A Yes, sir.

Q And that you would be a juror that would consider all of the facts and circumstances in this case; is that correct?

A Yes, sir.

Q And that if the facts and circumstances warranted, that is if the aggravating circumstances existed and you determined the facts and considered the mitigating circumstances, if any, that you could, if

the law allowed sentence -- provide a sentence of death; is that correct?

A Yes, sir.

Q And you could, likewise, if the circumstances warranted it and the law allowed return a verdict of life without parole?

A Yes, sir.

Q And it would depend on the case?

A Yes, sir.

Q And the circumstances and situations in that case?

A Yes, sir.

Q Could you be a juror that decided this case based solely on the evidence and disregard anything that you may have heard or may hear outside of this courtroom?

A Yes, sir.

Q You understand that the State has the burden of proof and would be required to prove each element of the offenses charged beyond a reasonable doubt?

A Yes, sir.

Q And you understand the defendant has no burden of proof and certainly does not have to prove his innocence?

A Yes, sir.

Q You have no problem following that law?

A No, sir.

Q Given that, then, following the law as I describe to you and I will define for you the elements of each offense, would you carefully consider the evidence and decide whether or not the State has met its burden of proof? And if it failed to meet its burden of proof, would you return a verdict of not guilty?

A Yes, sir.

Q If, on the other hand, you found beyond a reasonable doubt that it met its burden of proof as to each element, would you likewise return a verdict of guilty?

A Yes, sir.

Q You understand this is a bifurcated proceeding and that if you -- if the jury does determine in this case the defendant -- the State has met its burden of proof and find the defendant guilty of murder that you would move into a second phase. Do you understand that?

A Yes, sir.

Q And at that time you would hear additional evidence and you would hear evidence of aggravating circumstances. And aggravating circumstances are facts, incidents, details or occurrences which the general assembly has declared by statute would make

worse, that is aggravate, the offense of murder. In other words, these add to the enormity of the crime of murder and its commission. Do you understand that?

A Yes, sir.

Q Do you likewise understand that there are mitigating circumstances or incidents, details or occurrences which the general assembly, likewise, has declared by statute reduces the severity of the offense of murder and may be considered as extenuating or reducing the degree of moral culpability or responsibility? Do you understand that?

A Yes, sir.

Q And as I understand it, you would consider the evidence and make a determination following that law as to whether or not there were aggravating or mitigating circumstances in the evidence in this case?

A Yes, sir.

Q If chosen in this case, you will be housed in a motel.

A Yes, sir.

Q For the duration of the trial.

A Yes, sir.

Q It could take as long as probably a week to 10 days.

Do you understand that?
A Yes, sir.
Q Would that create any problem for you?
A No, sir.
Q It would not affect your ability to focus on the job at hand?
A No, sir.

THE COURT: Please answer any questions the defense may have in this case.

MR. HOISINGTON: We were starting with the State, I thought.

THE COURT: I said defense and the State last, but if you want to go first, that's fine.

MR. JOHNSTON: You can go first, that's fine.

EXAMINATION

BY MR. HOISINGTON

Q Hello, Mr. Taylor. Been a long day?
A Yes, sir.
Q Clearly, from what you have heard, the jury in this case is going to be given some weighty decisions to make.
A Yes, sir.
Q And I guess it's apparent to you from the questionnaire that even though jurors -- every juror is entitled to their feelings about the death

penalty. If you fell into that category of No. 1 or No. 2, one could never give it and one could always give it, neither one would be fair to one side or the other. Does that make sense?

A Yes, sir.

Q So to sum it up, what we're looking for is Type 3 jurors.

A Yes, sir.

Q My question is, do you have anything in your personal, philosophical or religious background that would cause you to hesitate or give you grave concerns in making these decisions?

A No, sir.

Q So you could keep an open mind about it?

A Yes, sir.

Q And as His Honor mentioned to you, wait until you've heard everything?

A Yes, sir.

Q Both the good and the bad?

A Yes, sir.

Q And if the facts warranted it and the law allowed it and you thought it appropriate, you could vote for life imprisonment without parole?

A Yes, sir.

Q But on the other hand, if the facts warranted it and

the law allowed it and you thought it was the correct thing, you could vote for a death penalty in a case?

A Yes, sir.

MR. HOISINGTON: That's all I have. Thank you, sir.

THE COURT: Mr. Johnston?

MR. JOHNSTON: Thank you, Your Honor.

EXAMINATION

BY MR. JOHNSTON

Q Mr. Taylor, how are you?

A I'm good. Thank you.

Q Sir, I'm Robert Johnston. You've seen us sitting over here all day. I just have a few questions for you. You filled out one of these juror questionnaires for this case?

A Yes, sir.

Q It says here you've lived in, is that Missouri, California, is that Indiana, Idaho?

A Idaho.

Q Florida?

A Yes, sir, I used to be in the military.

Q Is that why you also lived out of the country?

A Did I say I lived out of the country? I don't remember putting that on there. I've been out of the country.

Q I'm sorry, it says have you ever lived outside the southeastern United States. So I misread that. And you've been here for how long?

A Moved back here in 1989.

Q Okay. And you were in the Navy?

A Yes, sir.

Q What did you do in the Navy?

A I was a reactor operator on fast tack subs.

Q How long were you in the Navy?

A Eight and a half years.

Q Were you ever engaged in any conflict?

A No, sir, not directly.

Q And it says here that you attend the First Christian Church?

A Yes, sir, here in Moncks Corner.

Q Do you attend that regularly?

A Yes, sir.

Q Would you be able to share with us what your faith -- what the beliefs are regarding the death penalty? And I know a lot of faiths may not even get into that so I'm not trying to put you on the spot.

A No, sir. We've never really gotten into that as far as First Christian Church. I do believe, though, that anybody who is found guilty of a crime should serve just punishment, whatever the law deems.

Q Well, do you have any personal views on what just punishment would be if a person was found guilty of murder?

A As I stated before, I think that would depend on the facts given on the case.

Q Okay. But you have no particular conviction yourself religiously one way or another?

A No, sir.

Q Okay. It says here, have you, any family members, any close friends ever been the victim or witnessed any crime? It looks like you crossed both of those, checked both and changed your mind.

A No, that's fine. My daughter was sexually molested about two years ago. And just this last March, we finally got to go to court with that. And that would be my brother-in-law who was the individual that was involved in that.

Q Okay. I'm not going to get into that. That's very personal. I'm sorry for that.

A That's fine.

Q How old is your daughter?

A She's 15 right now, she was 13 when it happened.

Q Is she okay now?

A Yes, sir.

Q Okay. Is that the only incident that's affected you

personally?

A Yes, sir.

Q And I understand she was a victim, but this sentence is kind of broad. Did you witness this?

A No, sir. Did I misread that? I took it as being I was in relationship to --

Q No, you did fine. And the individual who did this, you say he's been convicted of this?

A Yes, sir.

Q Did he have a trial?

A He pled guilty. We did go to court, but he pleaded guilty and he was found guilty of that.

Q Did you attend his sentencing?

A Yes, sir.

Q Did you speak?

A No, sir, I did not, didn't feel it was necessary.

Q And you're married?

A Yes, sir.

Q Did your wife speak?

A She did not attend.

Q Okay. You say that you know the victim's -- refresh my memory, please.

A I know the victim's wife.

Q Okay. And who is that?

A I can't even recall her first name.

Q How do you know her?
A I fix copy machines for a living. And she used to work at Steinberg Law Firm, which is one of our accounts, and I knew her as an acquaintance through that.
Q Did you service there?
A Yes, sir, I still service their equipment.
Q Okay. When was the last time you saw her at work?
A Four or five months. I don't know exactly because she hasn't worked there for a long time at the actual building.
Q Do you recall the first time?
A Maybe about three years ago.
Q How often do you visit the law firm?
A Sometimes it could be a couple months, sometimes it could be a couple days.
Q And when you're there, obviously, you've seen her there before?
A Yes, sir.
Q And you've spoken to her before?
A Yes, sir.
Q How long would you be there?
A Sometimes it could be 10, 15 minutes, sometimes an hour, depends on how long it took me to repair the equipment.

Q Was she present often when you were there?
A No.
Q Do you remember if -- any dates or times in the summer of 2002 being -- going to that law firm?
A There's -- no. I mean, I've been there several times, so it would be hard to say.
Q Do you understand July of 2002 is when this incident occurred?
A Okay.
Q Okay. When did you first learn of this incident?
A I think the next day a friend of mine from work just said did you hear about the -- what had occurred yesterday. And I hadn't heard anything about it. I don't watch the news, I don't read the newspaper and that was the first time I ever heard about it.
Q And you say you've seen her since this incident?
A Yes, sir.
Q Have you two discussed this incident?
A No, sir. I did not even know that that was his wife until probably four or five months after the incident occurred.
Q Okay. Who have you discussed this case with?
A Basically, nobody.
Q Okay. Does the word basically mean that maybe somebody?

A I've never discussed any details about this. I mean, I didn't even know what was going on until today other than just knowing the incident had occurred. No details. I mean, just the basic, there was a routine traffic stop and a patrolman had been shot.

Q You still are going back to this law firm, though?

A Yes, sir.

Q Okay. Did you have to communicate with her on a professional level at the law firm?

A No, sir.

Q Well, what would you talk to her about?

A Just general, hey, how are you doing, you know, that kind of stuff, just being --

Q Have you ever discussed the copy machine with her?

A Well, yeah, because she used to sit across from where one of the machines was at. And I would just tell her that this is what's going on with the machine or I might have to ask her if I wanted to as far as -- but there's a lady who's appointed contact who I had to deal with.

Q Right.

A But I usually try to communicate with the people who are around the machine just to find out what's going on with it because sometimes they know more. So I guess my answer would be professionally I would have

to speak with her.

Q You did have to communicate with her regarding the service you were performing?

A Yes, sir.

Q What would -- let me give you a hypothetical situation. Let's say this case goes to trial and you're on the jury.

A Yes, sir.

Q And we go through the first phase --

MR. HOISINGTON: Judge, I think it's clear hypotheticals are not permitted.

THE COURT: Sustain the objection. Do not permit hypothetical questions.

MR. JOHNSTON: Okay.

Q Worst case scenario, could the outcome of this trial damage your working relationship with Ms. Johnson?

A No, sir.

Q No? Why is that?

A Well, for one, she doesn't work there anymore. I mean, she might be employed by their law firm still. I'm not for sure. But she does not work at the building anymore. I have not seen her there for months. And two, if there was ever a problem like that, I just don't have to go to that account anymore. I could have someone else go there.

Q Okay. All right. How do you know she's not working there anymore?

A Because she's not in the building anymore.

Q You just haven't seen her in a long time?

A Four or five months. She doesn't -- her desk is empty.

MR. JOHNSTON: Your Honor, could I have one brief second?

THE COURT: Sure, take your time.

Q I would like to ask you a couple questions about the death penalty. And there's really no right or wrong answers. And no one is judging your opinions, we're just trying to learn a little bit. So your candor is greatly appreciated. Briefly, what are your feelings on the death penalty?

A As far as whether we should have the death penalty or not?

Q That's a good starting point.

A I think there's probably always a time warranted for the death penalty. I mean, depending on what was done, how it was done, that there would be a reason to have the death penalty.

Q Would it be fair to say that you've always believed in the death penalty?

A Yes, sir.

Q Are there any circumstances that would make you not believe in the death penalty?

A Yeah, I guess if you had some situations where you were not sure of all the circumstances. I mean, you knew the individual committed the crime, but you were not for sure of the -- you know, the reasoning for the crime, that would be an instance where you might consider not having the death penalty.

Q But if the law calls for the death penalty as a choice, you would be comfortable voting for the death penalty?

A Yes, sir.

Q Okay. And you understand in this case, it's possible that you could be in the position to vote for either life in prison without parole or the death penalty?

A Yes, sir.

Q Do you have any idea what would influence you to go either way?

A It would have to be the facts of the case.

Q Do you understand that the judge will give you instructions on this case?

A Yes, sir.

Q Do you think that you can follow those instructions?

A Yes, sir.

Q Do you believe the death penalty is a penalty of last

resort?

A Yes, sir.

Q Why is that?

A That's a tough one, I guess. I don't feel that we should as humans necessarily -- I don't know how to put that. It's not something we should just randomly choose to do, I guess is what I would say. Depending on the individual and the facts of the case, it would depend on whether you would choose the death penalty or not. And if -- I guess I don't know how to describe that.

Q Okay. Well, this right here is a murder trial.

A Yes, sir.

Q Can you think of any other situations where you feel that the death penalty might be appropriate?

A Might be appropriate?

Q Yes.

A I think situations like some of the things we've had in the past with kids going into places and just randomly killing people, those kind of situations definitely warrant the death penalty in my opinion.

Q Okay. You're kind of referring to other murders?

A Yes.

Q Can you think of any other crimes that you personally may think would be appropriate for the death penalty?

MR. HOISINGTON: Judge, I think that's --

THE COURT: I think you're going too far, Mr. Johnston.

MR. JOHNSTON: Am I? Okay.

Q Sir --

MR. JOHNSTON: I haven't been relieved?

THE COURT: No, that line of questioning I will stop.

MR. JOHNSTON: Thank you.

Q Sir, do you understand -- I know we haven't been here real long on all this. But do you understand aggravation -- aggravating and mitigating circumstances as they apply in this case?

A You mean the actual circumstances or --

MR. HOISINGTON: Your Honor, I don't know how he could possibly answer that question.

THE COURT: I don't understand either. He's already indicated a general knowledge and understanding. That's as far as I'm going to allow the inquiry.

Q You are competent, though. You can follow any instructions the judge gives you?

A Yes, sir.

MR. JOHNSTON: I have no further questions then.

MR. HOISINGTON: Nothing further, Your Honor.

THE COURT: I don't have any further. If you

would step down and step out of the door just for a second, please.

(WHEREUPON, the juror left the courtroom.)

THE COURT: What says the State?

MR. HOISINGTON: He's qualified, Your Honor.

THE COURT: What says defense?

MR. JOHNSTON: He's qualified.

THE COURT: Thank you, sir.

MR. JOHNSTON: Thank you, Judge.

THE COURT: Have you reviewed the letter that Ms. Brown intends to hand to each qualified juror? I want to put this in the record.

Any objection from the State?

And if you would give one to Mr. Archer.

MR. HOISINGTON: Yes, sir. Do you have another copy to make Court's Exhibit No. 1?

THE CLERK: Yes, sir.

THE COURT: Any objection to the letter?

MR. HOISINGTON: No, Your Honor.

MR. ARCHER: Your Honor?

THE COURT: Yes?

MR. ARCHER: Are we qualifying a panel or are we qualifying that juror to sit?

THE COURT: We're qualifying the juror -- each one that we qualify will become the panel.

MR. ARCHER: The panel, not to sit on the jury?

THE COURT: Correct. From that, you will make your decision to strike or not to strike. Any objection to the letter?

MR. JOHNSTON: No objection.

THE COURT: All right. Court's Exhibit No. 1 is a letter that will be handed to each qualified juror. It merely contains information concerning this proceeding.

(WHEREUPON, Court's Exhibit No. 1 was marked for identification only.)

THE COURT: Gentlemen, at this point, I'm inclined to think we probably will start on Thursday, it's just my best guesstimate of it at this point. So I'm going to put for this panel to report on Thursday morning at 9:30. And that way, I think we will have enough in the panel by Wednesday afternoon to have it and we should have it by then. So we'll put Thursday. I would love to get started on Wednesday, but I don't really see that's a realistic possibility. Thursday the 15th at 9:30.

Ask Mr. Taylor to return, please.

(WHEREUPON, the juror entered the courtroom.)

THE COURT: Mr. Taylor, you can stand right there. Mr. Taylor, the clerk has a letter for you. You have been found qualified to be a member of the panel. From this panel, we will ultimately select the 12 jurors

and the two alternates to serve in this case. Follow that instruction. We need for you to report on Thursday morning here at 9:30. And at that time we will start the process of selecting the jury, hopefully.

Please understand that you are now under strict, as before, but very strict orders and instruction not to talk with anyone about this case, no one at home. Do not read any accounts about this case. Do not read any newspaper articles, watch any television programs. Do not permit anyone to talk with you or talk about it in your presence. Have a good evening and we'll see you probably Thursday.

THE POTENTIAL JUROR: Thank you.

THE COURT: Thank you, sir.

MR. ARCHER: Your Honor, may I approach for a minute?

THE COURT: Yes. Before Mr. Taylor leaves?

MR. ARCHER: No, no, no.

THE COURT: Sure.

(WHEREUPON, a bench conference was held.)

THE COURT: Are we ready to go with the next one?

MR. HOISINGTON: Yes, sir.

THE COURT: Okay. There's been a side bar concerning the process of raising challenges for cause. I

believe that needs to be raised as to that particular juror because otherwise once he's declared qualified, it would not be any particular challenge for cause. You can exercise a peremptory challenge if you want to, but challenges for cause need to be addressed now.

State disagree with that?

MR. HOISINGTON: No, I don't.

THE COURT: All right. The next one is Deborah Carter, please.

MR. JOHNSTON: Your Honor, as you know, Mr. Galmore's been assisting us today throughout this. We'd also like him to help with the questions.

THE COURT: I didn't identify Mr. Galmore and I'm not going to permit you to do that. You can inquire of Mr. Galmore in the same fashion that the persons have assisted the State, but I'm not going to permit him to ask questions.

MR. JOHNSTON: Thank you.

(WHEREUPON, Deborah Carter, a white female, came into the courtroom.)

EXAMINATION

BY THE COURT

Q Hello, Ms. Carter. How are you?

A I'm fine.

Q Nervous?

A Yes, sir.

Q Don't worry. Don't be nervous. It's normal. Just relax. We just have some questions. Just as we found out earlier today, there really are no correct answers to any of these questions. None of these questions are intended to or designed to try to cause you any concern or invade your privacy. They're just questions, again, all of which are moving towards that issue that we've been talking about all day. And that is, are you a juror -- are you a potential juror who could be fair and impartial in determining the facts and then fairly and impartially apply the law. Do you understand that?

A Yes, sir.

Q Do you understand you are still under oath in this matter?

A Yes, sir.

Q Have you had anyone talk with you about this case, talk about it in your presence or have you talked with anybody about this case?

A Probably at the time, but not today or since.

Q I mean since we were last together.

A No, sir.

Q You talked about it beforehand?

A Yes, sir.

Q And you've read things about it, heard things about it?

A Yes, sir.

Q And you had indicated, I believe, in questions that I had asked you earlier that nothing that you had read, nothing that you've heard caused you to predetermine any issue in this case?

A That's correct.

Q And basically, you have indicated by your responses to some questions and your nonresponses to other questions that there was nothing about this case thus far that would give you any cause or concern about your ability to apply your common sense, your sense of logic and reason, fairly and impartially, to analyzing the evidence in this case and deciding what you believe to be the true facts. Is that true?

A That is true.

Q You have not expressed any opinions about the outcome of this case; is that correct?

A No, I have not.

Q And you have not reached any conclusions about this case?

A No, sir.

Q You understand that I'm going to talk with you in a moment about some of the aspects of the potential

penalties that pertains to the murder charge in this case. You understand that by asking you these questions, I am not trying to suggest to you or indicate to you how you should decide any issue. Do you understand that?

A Yes, sir.

Q And that would be your sole decision as a juror if you're selected to sit on this case. Do you understand that?

A Yes.

Q You believe that in this type of case, this criminal dispute, that you as a juror could listen to the law as I give it to you?

A Yes, sir.

Q Would you accept the law as I would instruct it to you?

A Yes, sir.

Q And that may -- there may be principles of law with which you may disagree, but you will promise both sides that you will apply the law notwithstanding any feeling you may have about that; is that true?

A Yes, sir, that's true.

Q Would you and could you decide this case based solely on the evidence presented here in this courtroom?

A Yes, sir.

Q Would you and will you always disregard anything you have heard, read or seen or may hear inadvertently outside of this courtroom during the delay period before you're selected?

A Yes, sir.

Q You understand that if you are selected, you will be sequestered?

A Yes, sir.

Q And we will probably -- that sequestration will probably take seven days to 10 days. Do you understand that?

A Yes, sir. I did not ask for medical exemption earlier, but I do have to have my blood tested every week.

Q Can you -- every week? Can you have that done between now and Thursday?

A I'm scheduled to have it done tomorrow morning.

Q Okay.

A And then I would have to have it done again within the next seven days or if the doctor says that the levels are wrong and changes my medication.

Q Okay.

A I didn't think it was a disqualifying fact, but I didn't know how long.

Q Well, if we can make that -- does it have to be your

physician or can anyone check your blood?

A Anyone can check it as long as he gets the results.

Q Okay. If you're selected, we'll make that -- we'll try to obtain that assistance for you.

A Okay.

Q Can you serve on that basis?

A Yes, sir.

Q That wouldn't create a problem for you?

A No, sir, I called my doctor's office on the break.

Q Okay. Of the three types of jurors indicated on that sheet, which one best describes you?

A I believe that No. 3, Type 3.

Q Okay. Could you -- well, first of all, let me remind you of something we talked about earlier. You understand that in this case the State has the burden of proving each of the charges that they have brought against Mr. Sapp. Do you understand that?

A Yes, sir.

Q Do you understand that they have to prove each element of those offenses beyond a reasonable doubt?

A Yes, sir.

Q And do you understand that Mr. Sapp has no burden whatsoever in this proceeding?

A Yes, sir.

Q He does not have to prove his innocence. He's not

required to prove anything or disprove anything. Do you understand that?

A Yes, sir.

Q Could you, depending on the facts and the evidence and the law as I would instruct you, find Mr. Sapp guilty or not guilty depending on the evidence or the lack or absence of evidence in the case?

A Yes, sir.

Q In other words, if you were not convinced that the State has met its burden of proof and established each element beyond a reasonable doubt, would you return a verdict of not guilty as to that charge?

A Yes, sir.

Q And on the other hand, if the State meets its burden of proof, and that is, it establishes each element beyond a reasonable doubt, would you return a verdict of guilty?

A Yes, sir.

Q If you were a juror in this case -- and again, I'm not suggesting what may happen, but if the jury determines that Mr. Sapp was guilty of murder, we would then move into the second portion of this proceeding, the sentencing phase. You understand that?

A Yes, sir.

Q During that phase, some of the evidence that you may hear would be aggravating circumstances and mitigating circumstances. Aggravating circumstances are facts, incidents, details or an occurrence which our general assembly has declared by statute would make worse, that is, aggravate the offense of murder. Do you understand that?

A Yes, sir.

Q In other words, the aggravating circumstances when accompanying a murder increases the enormity or adds to the severity of the offense. Do you understand that?

A Yes, sir.

Q Mitigating circumstances are incidents, details or occurrences which our general assembly has declared also by statute reduces the severity of the offense of murder and may be considered as extenuating or as reducing the degree of moral culpability or responsibility. Do you understand that?

A Yes, sir.

Q If you were a juror in the sentencing phase, could you, depending on the particular facts and circumstances of the case, including the consideration of aggravating and mitigating circumstances and the law that I would instruct to

you, apply that law and return a verdict of life imprisonment without the possibility of parole if you felt it was warranted under the law and the facts and circumstances?

A Yes, sir.

Q Also, if you were in this case, could you, depending upon the particular facts and circumstances, including the consideration of aggravating and mitigating circumstances and the law that I would instruct to you -- or instruct you, return a sentence of death?

A Yes, sir.

Q It would depend on the facts and circumstances of each case then?

A Yes, sir, it would.

Q You're not predisposed to either?

A No, sir.

THE COURT: Please answer any questions the attorneys may have.

Mr. Hoisington?

MR. HOISINGTON: Thank you, Judge.

EXAMINATION

BY MR. HOISINGTON

Q Ms. Carter. It's been a long day. I'll be very short in the questions with you. Are you comfortable

in understanding that nobody here is going to be judgmental of any answers you may give?

A Yes, sir.

Q And it makes sense that some people have very strong personal beliefs about the death penalty or life imprisonment?

A That's true.

Q And there are people that feel like if there's been a murder, they don't want to hear any facts other than that and they're always going to return the death penalty. And that type of juror wouldn't necessarily be -- wouldn't be fair at all for the defendant, would they?

A That's correct.

Q On the other hand, there are jurors that say no matter what it is, what happened or how bad it was, I'm against the death penalty and I don't want to hear anything. And that type of juror wouldn't be fair to the State.

A That's correct.

Q So it's no secret to you that what everybody is looking for is what you've described yourself as, as the Type 3 juror?

A That's true.

Q Let me inquire a little bit further, though. Is

there anything that you could identify for us in your philosophy, your religious beliefs, your prior history that would cause you difficulty in making these determinations?

A No, sir, I don't think there is.

Q So you would truly want to hear everything about the case before you made a determination?

A Yes, sir.

Q And you'd want to wait until you heard the facts both for the State and for the defense before you determine whether life imprisonment was appropriate?

A Yes, sir.

Q Or in the alternative, if the facts called for it and the law allowed it, you could consider and return a verdict of the death penalty?

A Yes, sir.

MR. HOISINGTON: Thank you, ma'am.

THE COURT: Mr. Johnston?

MR. JOHNSTON: Thank you, sir.

EXAMINATION

BY MR. JOHNSTON

Q Hi, ma'am.

A Hi.

Q I'm Robert Johnston. You've never served as a juror before; is that correct?

A No, sir, I never have.
Q Have you ever been called as a juror?
A No, sir.
Q You're what, 34, 33?
A Thirty-three.
Q Your husband is in the Army?
A He is in the Army reserves and he was called to active duty. But he came back last week.
Q How long was he gone?
A Since January.
Q Okay. Is he all right?
A He's fine.
Q Okay, good. You were in the military, ma'am?
A Yes, sir.
Q Okay. And was it the Air Force?
A Yes, sir.
Q How long were you in the military?
A Fourteen years.
Q Were you ever overseas?
A Yes, sir.
Q Where did you go?
A Saudi Arabia.
Q Did you ever see -- engage in any conflict?
A I've never personally been witness to any conflict but we were in hazardous duty conditions.

Q It says here you're a Baptist?
A That's correct.
Q Okay. Do you go to church regularly?
A Not since we've moved back to South Carolina.
Q Okay. But is that still a practicing faith for you?
A It's the closest theology that lines up with my beliefs.
Q Okay. Please don't feel obligated to have a specific answer in your hand for me because it's a difficult question. The last gentleman that was here really didn't -- my question is would you have an understanding of how your particular faith regards the death penalty? And if you don't immediately know that, that's --
A The Baptist faith has several different beliefs that I feel are very ultraconservative. So I have had a hard time finding a congregation here that I felt comfortable with. By and large, I believe that most Baptists probably have a dim view of the death penalty. But I can't state for a fact that that's what the Baptist faith believes.
Q Okay. Have you found a congregation that you are satisfied with here?
A No, sir.
Q Would that be one of the reasons?

A Actually, one of the main reasons is just the sort of view that most congregations seem to have about the woman's role in the household.

Q Okay. Have you adopted to any extent your religious view on the death penalty?

A No, sir, I don't believe that I follow any specific religious or other type of view that someone may have put out there.

Q Do you feel that your -- if you were sitting as a juror in this trial that your religion would affect your decision in any way?

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

Q Would it be something that you would contemplate or consult before rendering a decision?

A I think that I would go with my conscience. And I think that I would do the best that I could to be fair and do what was right. But I don't believe that that would have anything specific to do with any sort of religion or faith.

Q You don't -- so if I understood your question correctly, were you just -- were you saying then to me that your faith -- let me keep this a noncompound question. Your faith would not enter into your mind in making a decision as a juror in a criminal case?

A Not in so much as I would want to do what was right.

If you consider that to be faith, then perhaps the answer is yes, but my opinion is what's right or wrong.

Q Ma'am, can you tell me if there's a difference between a Southern Baptist and a Baptist?

A I believe there is, but I'm not sure what the actual theology is.

Q But you would call yourself a Baptist as opposed to a Southern Baptist?

A I believe so.

Q Okay. Question 20, have you, any family members, any close friends ever been the victim or witnessed any crime?

A Not that I'm aware of.

Q Okay. Ma'am, you live on Ashton Drive?

A Yes, sir.

Q Do you remember filling out this questionnaire?

A Vaguely.

Q Okay. So you know your family members or close friends have ever been the victim of a crime?

A We had our vehicles broken into.

Q Okay. All right. I think that's what you put on your questionnaire.

A Oh, okay, I probably did.

Q All right. Is that all, just the vehicles were

broken into? Anything else?

A I can't think of anything. I think I misunderstood you when you said -- I thought witness to a crime.

Q It's been a long day. I might not have worded it correctly. Anything else other than have your vehicles broken into?

A I can't think of anything.

Q Okay. Under hobbies, you wrote historical presentations. Do you mean that as a spectator or do you give presentations?

A Oh, I just like to watch the History Channel.

Q You understand that if you were chosen as a juror and you got to the death penalty portion and you wanted to vote for the death penalty, you would have to sign a death warrant? You would actually have to sit there and sign it?

A I did not realize that that was part of the process, but I suppose it makes sense.

Q Is that anything that would be of concern to you?

A No, sir. I think if you are willing to state your opinion in one way, you should be willing to write it down on paper.

Q Do you understand that in either phase of the upcoming trial, there might be one, maybe two. One would be the guilt, the first phase; the second would

be the penalty, that both of them would require a unanimous decision?

A Yes, sir, I believe I had heard that in a law class before.

Q Would you have any problem if you wanted to vote one way and everybody else wanted to vote the other way?

A I would have to vote my conscience. And if the other people didn't agree with me and we couldn't come to an agreement, then I would have to vote my conscience even if it was contrary to what everyone else wanted to do.

Q And you think you could hold up to that even for days on end?

A Yes, sir.

Q I'm almost finished, ma'am. As far as your views on the death penalty, have you had any experiences in life that have affected your views on the death penalty?

A No, sir -- do you mean like --

Q Has anything ever happened?

A Anybody I knew or that type of thing?

Q That helped you develop your views and opinions and feelings on the death penalty.

A No, sir.

Q When did you first hear about this case?

A The case today?
Q Yes, ma'am, the case that we're here for today.
A Today.
Q Today?
A (The witness nodded.)
Q When did you fill out your questionnaire?
A I'm not sure, a couple weeks ago.
Q Okay.
A Were you asking had I heard about the incident or the case?
Q Oh, I sort of grouped them both as one, the incident?
A Okay. Well, I heard about the incident back in July of last year.
Q Okay. Do you recall from where?
A Probably newspaper and television.
Q Okay. Do you know any law enforcement officers?
A Not current ones personally.
Q Do you know any at all?
A There's an officer that was in the back that used to live in my subdivision. I don't have a personal relationship with him, but I recognized him from the neighborhood.
Q Earlier today, we were forming lines and people were coming up front and talking up here to the judge and we were all kind of standing around. Did you come

up?

A I don't believe so, no.

Q Are you related to any police officers?

A My uncle and my father were officers, but they are no longer serving in that capacity.

Q Are they retired?

A My uncle did, yes, and I'm not sure exactly -- my father must have switched his occupation. It was before I was born.

Q Okay.

MR. JOHNSTON: That's all I have for you.

THE COURT: Any additional questions from the State?

MR. HOISINGTON: No, Your Honor.

THE COURT: You may step down, Ms. Carter. I ask you to step outside the door for just a second, please.

(WHEREUPON, the juror left the courtroom.)

THE COURT: What says the State?

MR. HOISINGTON: I believe she's qualified, Your Honor.

THE COURT: What says the defendant?

MR. JOHNSTON: Your Honor, I would make a motion.

THE COURT: Okay.

MR. JOHNSTON: I would make a motion to have this juror struck for cause. And, you know, one of the themes here today has been to rule on the side of caution. I asked this juror if she had ever been the victim or anybody in her family of a crime and she very clearly stated no. And then I asked her again. And I think I had to ask her three times until I reminded her that she said so on her questionnaire. And then she said she did. Judge, I wrote on this form right here, this huge form of jury names and so forth, this juror came up here and told us this morning that she was related to a lot of police officers. Today I asked her if she knew one and she said no.

THE COURT: No, we didn't ask them to come up and talk about that one.

MR. JOHNSTON: I'm sorry, sir?

THE COURT: We asked the relationships when they were standing up. They didn't come up.

MR. JOHNSTON: Okay. Well, at some -- she did say it. I'm sorry. Wherever I got it. It's been a long day.

THE COURT: I understand.

MR. JOHNSTON: She goes from being related to numerous police officers to now not even knowing one. And again, it took a couple of questions to get it out of her.

Her response -- her being up front with us is suspect.

THE COURT: Anything else?

MR. JOHNSTON: No, Your Honor.

THE COURT: You, yourself said, I may not have asked it properly. So you're now trying to use it as trickery is that what you're saying. Because you acknowledged that maybe you didn't clearly state it to her when she said I'm sorry, I misunderstood your question.

MR. JOHNSTON: I was trying to be polite. I wasn't trying to embarrass her.

THE COURT: I think you were correct in your statement. I think you asked about being a witness. I think there was some question about that. But be that as it may, I note your motion and it's denied. She's very qualified. Eminently qualified. Anything else, Mr. Johnston?

MR. JOHNSTON: No, Your Honor.

THE COURT: Very well. Ask her to step in, please.

(WHEREUPON, the juror entered the courtroom.)

THE COURT: Ms. Carter, if you will just step forward. You've been found qualified to be a member of the potential pool from which we will select the jury. That will occur on Thursday morning. We have a letter, Court's Exhibit No. 1, that I'm going to ask that you take

with you. Please remember that you are now -- certainly as you have been, but you may not discuss this case with anyone. You may -- that includes anyone at home. You also are not permitted and you may not review any newspaper accounts of this incident, read anything about it. You may not watch any television programs about it, any newscasts about it. Do not permit anyone to talk with you or talk about it in your presence. And we'll look forward to seeing you on Thursday morning. Thank you. You're free to leave.

THE POTENTIAL JUROR: Thank you.

THE COURT: Your question, Mr. Johnston, from the transcript concerning question 20.

MR. JOHNSTON: Yes, sir.

THE COURT: And you stated it -- you did state victims. You said have you, any family members, any close friends ever been a victim or witness to a crime.

MR. JOHNSTON: Yes, sir.

THE COURT: Now, I think the witness to a crime, somebody could hear that and not intentionally give a false answer. So I think that was the reason for it. If the question had not been -- if you had asked victims and then witness we'd have been in a different situation maybe.

MR. HOISINGTON: I might also point out, Your

Honor, just for the purpose of this as we go along, these questionnaires aren't designed for impeachment purposes of jurors. There's always going to be some variance on there.

THE COURT: I think given what we're talking about, I think given the time of the day, given a number of things, the Court will consider all those things and I'll be happy to hear from you further. I'm not suggesting that's the only reason, but I remember the word witness and that could be misleading.

MR. JOHNSTON: I accept and respect it. I never would have made the motion, but there was two things that I had to come back to her on.

THE COURT: No problem. Not a problem.

All right. Bring in Lewis Flader.

(WHEREUPON, Lewis Flader, a white male, entered the courtroom.)

EXAMINATION

BY THE COURT

Q Is it Flader?

A Flader.

Q Thank you. You are Lewis Flader?

A Yes, sir.

Q Mr. Flader, thank you for your patience. You are still under oath in this matter I would remind you.

And we are now going to ask you certain questions. None of these questions are designed to invade your privacy, none of them are to be trickery. We're just really pursuing at a more -- on an individual basis the line of questions that have been posed to you all day and that is to determine if there's anything about you or your background that would cause you any problem with being totally fair and impartial as a judge of the facts in this case. Do you understand?

A I understand.

Q All right, sir. Number one, first, let me ask you, have you talked with anyone, read anything or discussed -- had anyone talk about this case in your presence since we were last together?

A No.

Q Of the three types of jurors on that sheet of paper, which one best describes you, sir?

A Three.

Q Okay. You understand that you have indicated by your responses earlier today or your lack of response to some of those questions, as the case may be, that there is nothing about this dispute that would give you any concern about your ability to fairly and impartially apply your common sense to the -- in the analysis of the evidence in this case at the

appropriate time. Is that true?

A That's true.

Q And you've also indicated by your responses in this case that you have not predetermined any issue in this case. Is that correct?

A That's correct.

Q You have an open mind then about the entire process?

A I do.

Q You understand -- and I'm going to talk with you about a number of things, one of which will be potential penalty. You understand that my questions to you are not to be considered by you in any way as suggestion or an indication of how you are to resolve the particular issue if you were selected on this jury. You understand that?

A I do.

Q If you were selected as a juror in this case, could you listen to the law as I give it to you?

A Yes.

Q Would you accept and apply the law as I instructed you on the law in this case?

A Yes.

Q Would you do it fairly and impartially?

A Yes, I would.

Q If you should hear a principle of law with which you

may differ or with which you may have some strong feeling, you understand that one of the commitments that you will make in this trial to both sides is that you would set that aside and apply the law as I give it to you notwithstanding those feelings?

A I understand.

Q And you would do that?

A I would do that.

Q Would you and could you decide this case based solely on the evidence presented in this courtroom and disregard anything you may have heard, read or seen or may hear between now and the time that you're selected as a juror?

A I can.

Q You understand in this case, if you are selected as a juror that you will be sequestered?

A I understand that.

Q And that sequestration may last from seven to 10 days?

A I understand now, yes.

Q And that would not -- I know that would not be the most pleasant experience, but would you -- could you deal with that inconvenience and focus on the task at hand?

A I could, yes.

Q As I have mentioned to you earlier today, in a case of this nature the State brings this -- who makes these claims has the burden of proving them. Do you understand?

A I do understand.

Q And the State has to prove each element of each offense to the standard we discussed beyond a reasonable doubt. Do you understand that?

A I understand that.

Q And you understand that Mr. Sapp has absolutely no responsibility in this process whatsoever?

A I understand.

Q He's not required to produce any evidence. He's not required to explain anything. He has no burden whatsoever. Do you understand that?

A I do understand.

Q If you were a juror in this case and when it became time to consider the evidence, would you apply your common sense, your sense of reason and logic fairly and impartially and decide whether or not the State has met its burden of proof as to each element of each offense?

A I would.

Q And if you should conclude the State had failed to meet its burden as to any one or more offenses, would

you return a verdict of not guilty?

A They failed to meet that?

Q Yes, since the State would not have met its burden of proof.

A I would.

Q And on the other hand, if you considered the evidence and found beyond a reasonable doubt that the State had established each element of that offense, would you have any hesitancy returning a verdict of guilty?

A No hesitancy.

Q Not suggesting to you by anything about talking about the penalty, but if you found the State had met its burden of proof on the offense of murder, you understand there would be a second phase of this proceeding?

A I do understand.

Q And at that point we would deal with the penalty to be imposed?

A Yes, I do.

Q You would hear additional evidence at that trial -- at that part of the proceeding. Do you understand that?

A I do.

Q In that, you may have evidence of aggravating circumstances as well as mitigating circumstances.

Do you understand that?

A I do.

Q Aggravating circumstances are defined or described as facts, incidents, details, or an occurrence which our general assembly has declared by law which make worse, that is, aggravate the offense of murder. Do you understand that?

A I do.

Q In other words, the aggravating circumstances when accompanying a murder increases the enormity of the offense in the crime of murder. Do you understand that?

A I do.

Q Mitigating circumstances are defined as incidents, details or occurrences which the general assembly has declared by statute reduces the severity of the offense of murder and may be considered as extenuating or as reducing the degree of moral culpability or responsibility. Do you understand that?

A I do.

Q If you were a juror in this particular case and during the sentencing phase, could you, depending upon the particular facts and circumstances of the case, including the consideration of aggravating and

mitigating circumstances and the law that I would instruct you applies to the case, at the conclusion of the case return a sentence of life imprisonment without the possibility of parole?

A I could.

Q If you were a juror in this case, could you also, depending upon the facts and circumstances of the case, including the consideration of aggravating and mitigating circumstances and the law that I would instruct you would apply, return a verdict or a sentence of death?

A I could.

THE COURT: Thank you. Please answer any questions the State may have.

MR. JENNINGS: Thank you, Your Honor.

EXAMINATION

BY MR. JENNINGS

Q Good afternoon, Mr. Flader.

A Afternoon.

Q My name's Blair Jennings. As you have told the judge, you're comfortable that you could take all the facts and circumstances in this case into consideration before returning a verdict?

A Yes.

Q As well as in the penalty phase?

A Yes.
Q Because obviously, at this point we're trying to find jurors who can be fair to both sides.
A Yes.
Q You would agree with me a juror who was predisposed to returning a death verdict would not be fair to the defendant?
A I would.
Q And to the contrary, a juror who could not -- based on personal beliefs or any other beliefs who could not return a verdict of death would not be fair to the State?
A I understand that, sir.
Q And you feel comfortable that should the facts warrant it and the law allow it, you could return a sentence of death?
A Yes.
Q And likewise, if you found it appropriate based on the facts, you could also return a verdict of life without parole?
A Yes, I could.
Q As part of the process following the penalty phase, each juror is required to sign the verdict form. And if a sentence of death is returned, each juror is required to sign that form verifying that that is

their sentence. Does any aspect of that process cause you any hesitation to believe that you could return a sentence of death?

A No.

Q Are you aware of anything, any personal beliefs, whether it be religion or any personal views that you hold, that would cause you any hesitation to return a verdict of death?

A No.

MR. JENNINGS: Thank you, Your Honor.

THE COURT: Mr. Johnston?

MR. JOHNSTON: Thank you, Your Honor.

EXAMINATION

BY MR. JOHNSTON

Q Good afternoon, sir.

A Afternoon.

Q I'm Robert Johnston. And I'm, obviously, at that table.

A Yes, sir.

Q You filled out a questionnaire before you came down here, correct?

A Correct.

Q And you say that your spouse -- your spouse is retired?

A Yes, sir.

Q What did your spouse used to do?

A What did she do?

Q Yes, sir.

A She was an office manager for a small equipment company.

Q And you are currently doing what?

A A computer systems analyst at Roper St. Francis Hospital.

Q How long were you in the Navy?

A Twenty-two years.

Q Briefly -- I know there's a lot in 22 years, but could you briefly summarize what you did in the Navy?

A Yes, sir, I was in the navigation department on submarines, responsible for the maintenance and operation of satellite navigation equipment, all sorts of navigation equipment.

Q Were you associated with submarines the entire 22 years?

A Yes, sir, I was.

Q Did you spend a lot of time on submarines on then or just designing them, building them?

A No, I was enlisted. I was basically on the equipment and stationed on the submarines, four different submarines.

Q You attend church on a regular basis?

A Yes, I do.
Q What church do you go to?
A Yeamans Park Presbyterian.
Q I will tell you what I've told other people. Don't feel obligated, don't let me put you on the spot or feel uncomfortable if there's not an immediate answer available in your mind to share with me because this is reaching into some certain personal and religious areas that people aren't prepared to answer this question. Would you know what your church/faith's position is on the death penalty?
A Yes, I do.
Q Could you share it with us, please?
A Extraordinary circumstances could, in fact, warrant death.
Q Okay. You've never been a victim of any crime? Nobody in your immediate family has?
A Not a violent crime, no.
Q Could you tell us what type of crime you have been a victim of?
A My apartment was broken into many years ago.
Q Okay. You're doing fine. Briefly, what are your feelings about the death penalty?
A It's very troubling, very serious, obviously. Not something to be taken lightly. Something to -- I

guess if I was in the position of a juror, it would be something that I would have to take very, very seriously, think a great deal on.

Q You were a noncommissioned officer in the --

A Enlisted.

Q Yes. In either portion of -- you know, there's a guilt trial and a penalty trial?

A (The witness nodded.)

Q Can you hold your ground if you were the only one that wants to go one way and the other 11 want to go another way?

A Yes.

Q What if it's four days later? Would you start to doubt yourself?

A No.

Q And if it got to the point, if it got to the point where it was unanimous --

MR. JENNINGS: Your Honor, I'm going to object. I think this is more hypothetical.

THE COURT: Sustained. It's hypothetical. Improper.

MR. JOHNSTON: I have no further questions then.

THE COURT: Thank you, sir.

Any additional questions?

MR. JENNINGS: No, sir.

THE COURT: You may step down, Mr. Flader. We will be with you in a moment, sir.

(WHEREUPON, the juror left the courtroom.)

THE COURT: What says the State?

MR. JENNINGS: Juror's qualified, Your Honor.

THE COURT: What says defense?

MR. JOHNSTON: Yes, sir.

THE COURT: Qualified?

MR. JOHNSTON: Yes, sir.

THE COURT: Ask him to step in, please.

(WHEREUPON, the juror entered the courtroom.)

THE COURT: Mr. Flader, thank you very much, sir. You have been determined to be qualified to serve in the panel -- in the pool. From this pool, we will select the jury. Court's Exhibit 1 is some information that may be helpful to you when you return on Thursday. It tells you what you need to do. Please remember that you should not talk about this case, allow anybody to talk with you about this case, do not read any newspaper articles or watch any news programs about this case.

THE POTENTIAL JUROR: I understand, Your Honor.

THE COURT: Relax and we'll see you Thursday morning.

THE POTENTIAL JUROR: Thank you, Your Honor.

THE COURT: You may exit the courtroom. Have a

good day.

THE POTENTIAL JUROR: Thank you.

THE COURT: Let's have Mr. Bowman.

(WHEREUPON, Thomas Bowman, Jr., a black male, entered the courtroom.)

EXAMINATION

BY THE COURT

Q How are you, sir?

A Fine. How are you doing?

Q I'm well. Thank you, sir. Appreciate your patience.

A Yes, sir.

Q We are going to ask you some questions, Mr. Bowman. And none of these questions are designed to invade your privacy or try to pry into anything. We're just following along the same lines that we've talked about generally thus far to make sure that there is nothing about your background, your philosophy that would affect in any way your ability to be fair and impartial in this if you would be selected as a juror. Do you understand that?

A Yes, sir.

Q There are no right or wrong answers to any of these questions that you will be asked. Do you understand that, sir?

A Okay.

Q Okay. First of all, sir, do you understand that you are still under oath in this matter?

A Yes, sir.

Q And you have not -- or have you talked with anybody about this case, allowed anybody to talk with you about this case since we were last together?

A No, sir.

Q You have read the sheet of paper that I gave to you of the three types of jurors?

A Yes, sir.

Q What type best describes you? Which one of the types?

A The one I read -- you know, how that -- you know, to keep the jury straight to go, you know.

Q Well, you had Type 1 that said that you would -- if the crime of murder was established beyond a reasonable doubt that you would believe the death penalty was always the proper case, always the proper sentence. Type 2 would be you would never vote for the death penalty.

A Yes, sir.

Q And Type 3 would be that, well, it would depend on the facts and circumstances as to which one would be appropriate, life imprisonment without the possibility of parole or the death penalty. Which

one are you?

A I think I would give them life. Not take a life.

Q You don't think there would be any circumstance that you could find that you could return a death sentence then?

A No, sir, I don't think I could do that.

Q So you would be Type 2 then?

A Yes, sir.

Q You would always return a life imprisonment?

A Yeah, but I -- yes, sir. I don't think I would take a life away unless it was something -- unless they do something real bad, you know.

Q That's what I'm asking you.

A Unless they do something real bad. I can see you do that, but beside that --

Q Let me just say this. Do you understand that each case is depending upon its own facts and circumstances?

A Yes, sir.

Q Are you telling me that there would be cases -- when you say unless he did something really bad, are you telling me there may be cases where it may be circumstances that would make you feel that you could return a death penalty?

A Yes, sir.

Q Okay. Is there anything about this case that you have already predetermined? In other words, have you made any decisions about any issue in this case? Have you already decided whether or not this person's guilty or not?

A I don't know if I have -- I don't know. He may be guilty. If he do it, he guilty, sir.

Q I understand. Do you understand that he doesn't have to prove he's not guilty?

A Yes, sir.

Q Do you understand the State has to prove he is guilty?

A That's right.

Q And you understand that if you were selected on the jury that I would tell you as a juror what the State has to prove. Do you understand that?

A Yes, sir.

Q And that you, as one of the jurors, would have to then consider the evidence, which is the testimony of witnesses and exhibits that are introduced. Do you understand that?

A Yes, sir.

Q And you would have to decide whether or not the State has convinced you beyond a reasonable doubt?

A Yes, sir.

Q If you found in any one of these charges that the State has not convinced you beyond a reasonable doubt, would you return a verdict of not guilty?

A I think I would, sir, yes, sir.

Q Because the State would have failed to meet its burden; is that right?

A That's right.

Q If the State convinces you of every element, of each thing that they're required to prove beyond a reasonable doubt, would you return a verdict of guilty?

A Yes, I would. I think so, sir. If I don't know, yes, I will.

Q If you don't know?

A Yes, sir.

Q Well, I'm asking you would you require the State to prove every element?

A Yes, sir, I believe.

Q Do you know that there would be two phases of this proceeding, that the first would be to determine whether or not the jury found the State had established the guilt for the crime of murder? You understand that?

A Yes, sir.

Q And if the State does and the jury says so by its

verdict, then we would have a second part of the trial. Do you understand that?

A (The juror nodded.)

Q Do you understand that you're going to be kept in a motel?

A Yes, sir.

Q For the entire trial?

A Yes, sir.

Q You understand that?

A Yes, sir.

Q Would that cause you any problem?

A No, sir.

Q Do you understand that the second part we call the penalty part, the penalty portion? Do you understand that?

A That's right.

Q You'll hear additional evidence.

A Yes, sir.

Q Some evidence you may hear would be called aggravating circumstances.

A Yeah.

Q And I will tell you at the appropriate time, I would give you the law on that. But simply stated, aggravating circumstances are circumstances and situations and facts that if they are established

beyond a reasonable doubt could make the offense of murder more serious or increase the enormity or severity of the offense of murder. Do you understand that?

A Yes.

Q You also may be asked to consider the evidence to determine whether you find any mitigating circumstances. Do you understand that?

A (The juror nodded.)

Q And mitigating circumstances are facts that if you considered it may say to you, well, it's not as severe because it reduces the moral responsibility of that person. Do you understand that?

A Yes.

Q The extenuating circumstances.

A That's right.

Q And you would have to determine and consider those.

A Yes, sir.

Q If you found, as a part of the jury, that you determine that there were aggravating circumstances and you found that there were mitigating circumstances, could you as a juror follow the law that I would instruct you and apply that law and return a verdict of life without -- in prison without the possibility of parole?

A Yes, sir.
Q You could do that?
A That's right.
Q If you were a juror in this case and you considered the evidence and found aggravating circumstances and mitigating circumstances, and then took the law as I gave it to you and applied it, could you return a verdict of death?
A Yes, sir, I could.
Q And you understand you would have to sign a verdict form to state that?
A Yes, I do.
Q You with all the other jurors.
A Yes, sir.
Q You could do that?
A (The juror nodded.)
Q You would follow the law?
A That's right, sir.
Q Do you believe that you, as a juror, could listen to the law?
A Yes, sir.
Q Would you accept the law as I give it to you?
A Yes, sir, I would.
Q Even if you should disagree with some principle of law, would you set aside that feeling and take the

law as I gave it to you?

A That's right.

Q And you would be fair in applying that law?

A Yes, sir.

THE COURT: Answer any questions the State may have.

MR. HOISINGTON: Thank you, Judge.

EXAMINATION

BY MR. HOISINGTON

Q Good evening, Mr. Bowman. It's getting late, isn't it?

A Yes, sir.

Q My name's Ralph Hoisington. It's our responsibility to prosecute Jesse Sapp in this case. You understand that all I care about, all we want to know is what you feel yourself, the strongest feelings you've got about this situation?

A Yes, sir.

Q Do you feel comfortable talking to me about it?

A Yes, sir.

Q How do you feel basically about the death penalty?

A I think I feel very bad, you know, to be -- to get that way, sir, you know, to be that way.

Q You feel bad that there is a death penalty out there or do you feel bad that people do things that warrant

it?

A That people do things, you know, they not supposed to do.

Q Yes, sir. Now, you understand -- tell me, have you had discussions in your life with your family members or your friends or your people in church with you about the death penalty?

A Yes, sir, all the time.

Q You have a lot of discussions?

A Yes, sir.

Q Do you debate it? I mean, do y'all -- I mean, does one person take one side or is everybody in agreement?

A Well, some of them take it, you know, and some of them agree with it, but they get together. And then one of them, you know, just sort of say yes, that's right and, you know, some of them say no, that's wrong and do things like that.

Q What side of that talk do you fall on?

A Well, when it's wrong, I always figure it's right. You know, if I say something I knew is right, I tell them well, God didn't take it out, so this is right.

Q I'm not sure I understood you. When you're talking about whether there should be a death penalty or

whether the death penalty --

A Yes, it should be. It could be one, yes, sir.

Q You believe it should be there?

A That's right.

Q Now, you understand if you're picked as a juror, one of the options you would have is to return a verdict of life in prison without parole?

A That's right.

Q And if you had that option, having found him guilty -- and this is only if you found him guilty -- you could impose a sentence of life in prison without parole as a juror. Do you understand that?

A That's right.

Q On the other hand, you would have the choice, as long as aggravating circumstances were proved and after you heard any mitigation that may be presented to you, to return a verdict of the death penalty. Do you understand that would be one of your choices?

A That's right.

Q Could you make that choice if it entailed writing your name on a death certificate and it would certainly result in the death penalty being imposed on Jesse Sapp? Could you do that?

A Yes, sir.

MR. HOISINGTON: That's all I have, Your Honor.

THE COURT: Okay. Mr. Johnston?

MR. JOHNSTON: We have no questions, Your Honor.

THE COURT: Thank you. You may step down, sir. If you will step out the door just a second, we'll be right with you.

(WHEREUPON, the juror left the courtroom.)

THE COURT: What says the State?

MR. HOISINGTON: He's qualified.

THE COURT: Defense?

MR. JOHNSTON: We concur.

THE COURT: I do, too. Bring him in, please.

(WHEREUPON, the jury entered the courtroom.)

THE COURT: Mr. Bowman, you've been found to be qualified to serve in the pool from which we will ultimately select our jury.

THE POTENTIAL JUROR: Yes, sir.

THE COURT: Court's Exhibit 1 is a note from Ms. Brown that gives you some information that will be helpful to you. You need to report to this courtroom at 9:30 on Thursday morning.

THE POTENTIAL JUROR: All right, sir.

THE COURT: At that time we will select the jury. Follow the instructions it tells you because, obviously, if you're selected then you will not be returning home. So you will need to bring things with you

just as the note indicates to you.

THE POTENTIAL JUROR: All right, sir.

THE COURT: Do not, sir, during this time that you're away from us, allow anybody to talk with you or talk with anybody about this case. Okay?

THE POTENTIAL JUROR: All right, sir. You ain't got to worry about that, sir.

THE COURT: I'm sure I don't. I believe you.

THE POTENTIAL JUROR: Yes, sir.

THE COURT: I also don't want you to read any newspaper accounts or watch any television.

THE POTENTIAL JUROR: All right, sir.

THE COURT: I look forward to seeing you Thursday.

THE POTENTIAL JUROR: I will see you Thursday morning.

THE COURT: Thank you, sir. Have a good evening.

There are some gems in this process.

All right. Ms. Kouns.

(WHEREUPON, Sarah Kouns, a white female, entered the courtroom.)

EXAMINATION

BY THE COURT

Q Ms. Kouns, good afternoon?

A Is it?
Q I know. I don't know if it's good or not. I bet if I had been sitting in that room I wouldn't think so much. But thank you so much for your patience.
A Certainly.
Q And one of the problems was getting everyone in pools and that took us a little bit longer than we expected, so I apologize for that?
A That's all right.
Q And you have been most patient and I appreciate that. You are Sarah Kouns?
A Yes, sir.
Q Ms. Kouns, you understand that you are still under oath in this matter?
A Yes, sir.
Q You have not talked with anyone or permitted anyone to talk with you about this case since we were last together?
A No, sir.
Q And you haven't read any accounts of this incident?
A (The juror shook her head.)
Q Is that correct?
A That's correct.
Q Of the -- on the list, the three types of jurors --
A Uh-huh.

Q -- which type best describes you?
A Three.
Q No. 3?
A Uh-huh.
Q You understand that the questions that we're going to be asking you are really not intended to invade your privacy or there really are no right or wrong answers. They really are just designed to further what we started earlier, and that's to make sure there's nothing about your background or philosophy that would cause you any problems during this trial to deal with any of the issues that a jury may be asked to address. Do you understand?
A Okay. Yes, sir.
Q And I believe by your answers, or your nonanswers as the case may be, you have indicated thus far that you have not predetermined any issue in this case. Is that true?
A That's true.
Q Whatever you have heard, if you've read anything, you could set that aside and decide this case based on the evidence that you would hear?
A Yes, sir. I really remember very -- virtually nothing about it.
Q So basically, you come into this process then with an

open mind; is that true?

A Yes, sir.

Q You understand that I'm going to ask you a number of questions, one of which may deal with the potential penalty for the offense of murder. You understand that?

A Yes, sir.

Q By asking you these questions, I am not suggesting or implying to you and I don't want you to consider it to be a suggestion of how you are to resolve any issue. You understand?

A Yes, sir.

Q Would you, if you were selected as a juror, listen to the law as I gave it to you at the conclusion of the trial?

A Yes, sir.

Q Would you accept and apply that law fairly and impartially to the facts that you would ultimately determine in this case?

A Yes, sir.

Q Even if you should hear a principle of law with which you may differ, you understand that you will take an oath and make a commitment to both sides that you will apply that law notwithstanding those feelings?

A Oh, yes, sir.

Q And you would do that?
A Yes, sir.
Q Could you and would you decide this case based on the evidence which consists of the testimony of witnesses and any exhibits that might be introduced in the trial?
A Yes, sir.
Q And you would disregard in that process, again, anything that you may have heard outside of this courtroom or may hear outside of this courtroom?
A Oh, yes, sir.
Q You understand, as I've mentioned to you earlier, that the only party that has any burden of proof in this process is the State?
A Yes, sir.
Q That Mr. Sapp has absolutely nothing to prove. He has no responsibility to disprove anything, explain anything, offer any evidence at all. Do you understand that?
A Yes, sir.
Q Because the party that makes these charges or accusations, our law says that party has to prove it beyond a reasonable doubt. Do you understand?
A Yes, sir.
Q And that would mean that they would have to establish

each element of the offense charged to that level before you may return a verdict of guilty. Is that correct?

A Yes, sir.

Q If, when you were selected as a juror and considering the evidence, you should find that the State has failed to meet its burden and not convince you beyond a reasonable doubt as to an element of an offense, would you have any hesitancy of returning a verdict of not guilty for that offense?

A No.

Q On the other hand, if you were convinced beyond a reasonable doubt that the State had met its burden of proof as to each element, would you have any hesitancy returning a verdict of the guilty?

A No, sir.

Q Obviously, if you find -- if the jury should conclude at the end of the guilt phase that the State had met its burden of proof on the offense of murder, we would move into a second phase. You understand that?

A Yes, sir.

Q And obviously, that means also that you know that you will be sequestered if you are selected on a jury?

A Yes, sir.

Q And that sequestration may take from seven to 10 days

to try this case. Would that create any problems for you?

A No, sir.

Q In the second phase, if we should move into a second phase, you understand at that time you would hear additional evidence?

A Yes, sir.

Q And that would deal with the penalty to be -- which the jury should seek to impose in this particular instance. Do you understand that?

A Yes, sir.

Q If -- and in that situation, you may hear evidence of aggravating and mitigating circumstances. Do you understand that?

A Yes.

Q Aggravating circumstances are defined generally as facts, incidents, details and occurrences which our legislature has declared by law would make worse, that is, aggravate the offense of murder. Do you understand?

A Yes.

Q Mitigating circumstances are incidents, details, occurrences which our general assembly has declared would reduce the severity of the offense of murder and may be considered as an extenuating -- as

extenuating or reducing the degree of moral culpability or responsibility. Do you understand?

A Yes.

Q If you were a juror in this case and at the conclusion of the sentencing phase, could you, depending upon the particular facts and circumstances that would have been established by the evidence, including the consideration of aggravating and mitigating circumstances and consistent with the law that I would instruct, apply that law and reach a conclusion that would return a sentence of life imprisonment without the possibility of parole?

A Yes.

Q Also, if you were a juror in this situation, depending upon the particular facts and circumstances in the case, including the consideration of aggravating and mitigating circumstances and taking the law as I would instruct you in applying that law to those facts and circumstances, return a sentence of death?

A Yes.

THE COURT: Thank you. Please answer any questions that the attorneys may have for you.

MR. JENNINGS: Thank you, Your Honor.

///

EXAMINATION

BY MR. JENNINGS

Q Good afternoon, Ms. Kouns. My name's Blair Jennings. I'm the Deputy Solicitor in Berkeley County. Myself and Solicitor Hoisington are prosecuting Mr. Sapp in this case. I think you realize at this point we are trying to find jurors who are fair and can be fair and impartial to both sides.

A Right.

Q You would agree with me that a juror who would always impose a sentence of death if Mr. Sapp was convicted would not be fair to Mr. Sapp?

A No.

Q And likewise, a juror who said they could not in any circumstance return a verdict of death would not be fair to the State?

A Right.

Q So we're trying to find jurors who, like you have said, would consider all the facts and circumstances in the penalty phase, and if appropriate and the law allowed could return a sentence of death. And I believe you said that you would be capable of that?

A Yes, sir.

Q And likewise, if the facts and circumstances warranted it, you could return a sentence of life

imprisonment without parole?

A Yes, sir.

Q Are you aware of any personal, ideological bias or any feelings you may have against the death penalty that would cause you any hesitation if the facts warranted it to return a death sentence?

A No, sir.

Q As part of the process, at the conclusion of the penalty phase should the jury unanimously vote that the appropriate sentence would be death, each juror would be required to sign the verdict form, in essence, returning that verdict of death. Would you feel comfortable in signing that verdict form?

A Yes, sir.

Q Are you aware of any issues with your faith that would cause you any hesitation to return a verdict of death?

A No, sir.

MR. JENNINGS: Thank you, Your Honor.

THE COURT: Very well.

Mr. Johnston?

MR. JOHNSTON: Thank you, Your Honor.

EXAMINATION

BY MR. JOHNSTON

Q Hi. I'm Robert Johnston.

A Hi.

Q And it's late. Ma'am, you've never been a juror before?

A No, sir.

Q You have moved around -- I'm going to be brief. You've moved around quite a bit?

A Not -- well, quite a bit for a little while. But I've been in South Carolina for probably --

Q Okay.

A -- several years. I've been in the same location for about six.

Q When we do this, we're not trying to be nosey. Some of our questions do get a little personal. Could you be a little bit more specific when it asked about your religion, you have said Christian.

A I was raised Southern Baptist. I grew up in a Southern Baptist church until I was 18 years old. I've attended, sporadically, church since then. I believe in a faith, in having a faith and all that. But I'm not specific to a given -- you know, I'm not Presbyterian, I'm not Baptist, I don't really identify myself that way.

Q Do you know the difference between a Baptist and Southern Baptist?

A No.

Q Okay.
A I mean, I know there's a Southern Baptist, there's Cooperative Baptist. You know, it's varying degrees of -- to me, any Christian religion basically believes the three basic premises, the basic premise, and not one is better than the other.
Q What three basic premises?
A Well, you know, there is one God, that type of a thing. It's -- but I don't believe a Baptist is better than a Presbyterian or a Methodist or anyone's right or wrong. Having a faith, I think, is important, is more important than what it is, you know, what type you identify as your own, you know.
Q Are any views that you hold on the death penalty affected by your religion?
A No, sir.
Q Okay. Have you been in law enforcement?
A No, sir.
Q Do you have any friends or family?
A I have a -- my roommate is a police officer.
Q For what?
A Mount Pleasant.
Q Mount Pleasant?
A Yes, sir.
Q Okay. How long has she been a Mount Pleasant police

officer?

A Eleven years.

Q Did you ever discuss this case with her?

A No. I mean, I think the morning -- when I got up the next morning and saw something on the news about it, I think I mentioned it and that was the last that we ever discussed it.

Q Do you know if she knows or is familiar with the victim in this case?

A No, she's not, I don't believe. I mean, I don't think she would have occasion to, but I don't know that for certain, no.

Q Okay.

A But that's never been -- I think at that point, it would have come up. But...

Q You answered that a friend of yours was once assaulted?

A Yes.

Q It was on your questionnaire.

A Yes, sir.

Q Is that the roommate you're referring to?

A Yes, sir.

Q When was that?

A About two and a half years ago. It was July, I believe, in Mount Pleasant, on duty.

Q Oh, on duty?
A Yeah.
Q How serious was she assaulted?
A A lady that she was called to a Wal-Mart to see was apparently off medication and everything was going pretty -- from my understanding, everything was going along fairly smooth and then all of the sudden, the lady just kind of turned and jumped and it was over pretty quickly. But that's...
Q Okay. Thank you. And when it says hit by drunk driver, was that you or someone you know?
A That was her.
Q She was also hit by a drunk driver?
A Yes, sir, this past January.
Q Okay. Is she okay from that?
A Yes, sir.
Q What happened to the drunk driver?
A I have no idea. I don't know how the case was disbursed. I just know that she was hit while on duty.
Q You watch a lot of legal shows, don't you?
A Yeah, I think they're interesting. I mean, I think it's fascinating, the tests and stuff that they can run and all that.
Q Right.

A That's --
Q Okay.
A I mean, that's the only thing that really interests me.
Q Are you a foster parent?
A Yes, sir.
Q Do you actually -- I'm getting real close to a stupid question. Is that like pretty close to having adopted a child or just someone that you spend a great deal of time with or do you live with them?
A No, as a foster parent, a child that's placed in the State's custody, if I'm called and if I have room or desire, then they'll place the child with me for however long they are wards of the State.
Q Okay. I should know the answer to that, but I don't. How long have you done that?
A A little over four years.
Q The same child?
A No, no, I've had five different children.
Q Okay. You also listen to Rush Limbaugh?
A Sometimes.
Q Do you believe everything he says?
A Oh, Lord, no.

MR. JOHNSTON: Thank you, ma'am.

THE COURT: Any follow up questions?

EXAMINATION

BY MR. JENNINGS

Q Ms. Kouns, with your responses and with everything you have said, I think you've indicated you could be fair and impartial?

A Yes, sir.

Q And you could give Mr. Sapp a fair trial?

A Absolutely.

Q And judge this case on its own facts and circumstances?

A Yes, sir.

MR. JENNINGS: Thank you.

THE COURT: Anything further?

MR. JOHNSTON: No, Your Honor.

THE COURT: Okay. You may step down, Ms. Kouns. Be with you in just a moment.

(WHEREUPON, the juror left the courtroom.)

THE COURT: What says the State?

MR. JENNINGS: She's qualified, Your Honor.

THE COURT: Defense?

MR. JOHNSTON: Qualified, Your Honor.

THE COURT: She is. Bring her in, please.

(WHEREUPON, the juror entered the courtroom.)

THE COURT: Ms. Kouns, you have been found to be qualified to serve in the panel from which we will select

the jury in this case.

THE POTENTIAL JUROR: Okay.

THE COURT: That will be accomplished on Thursday morning. Court's Exhibit 1, Ms. Wiggins has some information that will be helpful to you, when you need to return here at 9:30. Follow that letter.

THE POTENTIAL JUROR: Okay.

THE COURT: Of course, it's important that you understand that you are not permitted to talk about this case with anyone.

THE POTENTIAL JUROR: Exactly.

THE COURT: Or permit anyone to talk with you about the case, including anyone that may be at home.

THE POTENTIAL JUROR: No, and that won't be a problem.

THE COURT: I understand. And you shouldn't read any news accounts or watch any news programs about it.

THE POTENTIAL JUROR: That would be fine.

THE COURT: Look forward to seeing you on Thursday.

THE POTENTIAL JUROR: Thank you.

THE COURT: Thank you very much. You're free to leave.

Mr. Kilgore.

(WHEREUPON, Samuel Kilgore, Jr., a white male, entered the courtroom.)

EXAMINATION

BY THE COURT

Q You are Samuel Kilgore?

A Yes, sir.

Q Mr. Kilgore, thank you for your patience. Appreciate it. I know you're tired and you've been patiently waiting and we appreciate that. We're almost to the point where you will have completed this process, at least for today. First of all, I would remind you, Mr. Kilgore, that you are still under oath in this matter. Do you understand that?

A Yes, sir.

Q Have you since we were last together talked about this case with anyone or had -- allowed anyone to talk with you about the case?

A No, sir.

Q Have you read any newspaper accounts or watched any news programs about it?

A No, sir.

Q You were given a sheet of paper that describes the three types of jurors. Which one best describes you?

A I would say 3.

Q Excuse me?

A No. 3.

Q No. 3. You have indicated earlier today and you understand that the questions that I'm going to ask you and the attorneys may ask you are not designed to invade your privacy. There are really no correct answers to any of these questions. These questions are really intended to just further that exploration that was started earlier, and that is to determine whether there is anything about your past experiences in life, your philosophy that would cause you any problem of being totally fair and impartial in deciding this case. Do you understand that?

A Yes, sir.

Q And I believe you have indicated by your responses, or your lack of responses as the case may be, that there is nothing thus far about this case that would cause you any problems about sitting and determining from the evidence what you believe to be the true facts. Is that true?

A Yes, sir.

Q You haven't made any predeterminations in this process?

A No, sir.

Q You have today an open mind and you would bring that open mind to the process; is that correct?

A Yes.
Q You understand that I'm going to talk with you and may ask you some questions, some of which may deal with the potential penalty. I'm not by my questions suggesting anything to you or you shouldn't take it as a suggestion as to how you're to resolve any of these issues. Is that agreeable with you?
A Yes, sir.
Q And you don't feel I'm doing that, do you?
A No, sir.
Q If you were a juror in this case, would you listen to the law as I gave it to you?
A Yes.
Q Would you accept the law and apply that law fairly and impartially to the facts that you will ultimately determine when you begin the process of deciding this case?
A Yes.
Q Would you accept the law and apply that law even if you should hear some principle of law with which you may disagree?
A Yes.
Q Because you understand the commitment that you will make is that you would be a juror that would determine the facts, being the sole judges of the

facts, and then you must take the law as I give it to you even if you don't agree with that law. Do you understand?

A Yes.

Q And you would do that and could do that?

A Yes.

Q Is that correct?

A Yes, sir.

Q You understand -- we've talked about earlier that the State brings these charges and make these accusations. You understand that?

A Yes.

Q And as I mentioned to you earlier today, the State has the sole burden of proof. That means the State has to prove every element of each offense beyond a reasonable doubt before a jury may return a verdict of guilty. You understand that?

A Yes.

Q You understand that Mr. Sapp has absolutely nothing to prove in this process?

A Yes.

Q He is not required to produce any evidence. He's not required to explain anything or disprove anything. Do you understand?

A Yes.

Q At the conclusion of this case and evaluating the evidence, if you should conclude that the State had failed to convince you beyond a reasonable doubt as to any element of an offense required that would be established before returning a verdict of guilty, would you return a verdict of not guilty?

A Yes.

Q On the other hand, if the State convinced you beyond a reasonable doubt as to each element of the offense charged, would you have any hesitancy returning a verdict of guilty?

A No.

Q You understand that in this particular case, you will decide this case based solely on the facts, on the evidence that you will hear in the trial. Do you understand that?

A Yes.

Q And you've indicated there's nothing that you have heard outside that would affect your decision in that regard; is that correct?

A No.

Q You understand that you will be sequestered during this process?

A Yes.

Q And that sequestration may be from seven to 10 days

in length.

A Yes.

Q Do you understand?

A Yes.

Q While I understand it would be inconvenient, would it in any way affect your ability to stay focused on the task at hand?

A No.

Q If you were -- the jury were to conclude that the State has met its burden of proof and convinced you and the other jurors beyond a reasonable doubt as to the offense of murder, you understand there would be a second phase of this proceeding?

A Yes, I do.

Q At which time you would hear additional evidence. You understand that?

A Yes.

Q And that evidence, of course, would deal with the appropriate penalty to be imposed in this case. Do you understand that?

A Yes.

Q In that proceeding, you may hear evidence of aggravating circumstances as well as mitigating circumstances. Do you understand that?

A Yes.

would impose life imprisonment without the possibility of parole?

A Yes.

Q On the other hand, could you also consider the facts and circumstances of this case, including aggravating and mitigating circumstances, then take the law as I gave it to you and apply that law to those facts and circumstances and return a sentence which would be a sentence of death?

A Yes.

THE COURT: Please answer any questions the attorneys may have.

Solicitor?

MR. HOISINGTON: Thank you, Judge.

EXAMINATION

BY MR. HOISINGTON

Q Afternoon, Mr. Kilgore. Last one of the day.

A Hi.

Q I guess you can tell from that questionnaire that there are at least two types of jurors that would have already made up their minds on cases. They have such strongly held beliefs either for the death penalty or against the death penalty they really don't need to be confused by the facts. By your telling us that you are Juror No. 3, you have told us

that you can wait and listen to everything. Is that accurate?

A Yes.

Q Do you understand that that puts you in a position, if you are picked as a juror, to consider some mighty weighty evidence, mighty weighty issues?

A Yes.

Q Do you feel like there's anything in your background, either religious, philosophical, personal experience that would cause you any great problems in making a determination as to whether or not the death penalty is appropriate or not?

A No.

Q You would want to wait and hear the facts?

A Yes.

Q And facts from both sides, in fairness?

A Yes.

Q What the State has to say, what the defense may say if they choose to. And only then, after you have heard everything, would you consider whether it is life in prison without parole or in the alternative death?

A Yes.

Q While there would be no satisfaction in this, if you felt that the appropriate penalty was death and the

jury called for that, would you be able to put your name on the verdict form calling for the death penalty in the case if it were appropriate?

A Yes.

MR. HOISINGTON: Thank you, sir.

THE COURT: Mr. Johnston?

EXAMINATION

BY MR. JOHNSTON

Q Congratulations, you're going home soon. Coming into this today, what's your feelings -- which punishment do you think is more appropriate? Right off the bat, which do you think is more appropriate for a murder conviction, death penalty or life imprisonment?

A What's that now?

Q Which penalty do you think is more appropriate for a murder conviction, the death penalty or life imprisonment without parole?

A I haven't heard all the facts. I don't know what happened or --

Q Okay.

A I wouldn't be able to answer that.

MR. JOHNSTON: I have no further questions. Thank you.

THE COURT: Thank you.

Any additional follow-up questions?

MR. HOISINGTON: No, Your Honor.

THE COURT: You may step down, sir. Thank you. If you will step out, we'll be with you in just one moment.

(WHEREUPON, the juror left the courtroom.)

THE COURT: Mr. Johnston, that was a great question. Because I tell you what, that was probably, off the cuff, one of the best answers I have heard to indicate a qualified juror if I've ever heard one. So thank you for that.

MR. JOHNSTON: Thank you.

THE COURT: Qualified?

MR. HOISINGTON: Yes, sir.

THE COURT: No question, qualified?

MR. JOHNSTON: Qualified.

THE COURT: Absolutely. I thought, oh, boy, here it comes. But thank you very much.

Let's bring him in.

(WHEREUPON, the juror entered the courtroom.)

THE COURT: Thank you very much, Mr. Kilgore. You've been selected to be a member of the pool of jurors from which we will select the ultimate jury to decide this case. Ms. Wiggins is going to hand you what's now Court's Exhibit 1, which is a letter from Ms. Brown which gives you some information that would be helpful to you. You'll

need to report on Thursday morning at 9:30. You will come directly to the courtroom and we will select the jury at that time. Please understand that it's very important that you continue to observe the restriction and not permit anybody to talk with you about this case, nor should you talk with anybody about this case. Please do not read any newspaper accounts or watch any news programs about it. Have -- just relax, don't try to anticipate anything and we look forward to seeing you on Thursday. Have a good evening, sir.

THE POTENTIAL JUROR: Thank you.

THE COURT: Anything from the State before we recess?

HUSBAND: No, Your Honor.

THE COURT: Anything from the defendant, Mr. Johnston?

MR. JOHNSTON: No, Your Honor.

THE COURT: At this point, gentlemen -- and we can do it in the morning, it doesn't matter -- I know I'm required to do it with appointed counsel. According to the letter, and I looked at the file, Mr. Archer, it appears that you were retained sometime November 19th or thereabouts of 2002.

MR. ARCHER: Yes, sir.

THE COURT: I'm not required, I don't think, to

do this, but out of an abundance of caution because I'm familiar with both of you and we've worked together and I've also, just as you, I'm sure, have done with judges there, I have asked about from judges in that circuit. I know you're qualified, very qualified to serve. But I need for you to state your qualifications on the record. We can do that in the morning is fine. If you want to put it in summary form that would be fine. But if you'll do that.

MR. ARCHER: I am death penalty certified by the Supreme Court and I think that would be the whole qualification.

THE COURT: I know you are. Just how long have you practiced law?

MR. ARCHER: Close to 40 years.

THE COURT: And you did a substantial portion of criminal?

MR. ARCHER: Yes. I'm also certified by the Supreme Court under that Rule 40 something, whatever it is.

THE COURT: And you're certified as first chair as well.

MR. ARCHER: I'm certified as lead counsel in death penalty cases.

THE COURT: Mr. Johnston, your certification,

are you certified as well?

MR. JOHNSTON: No, sir.

THE COURT: Have you had felony practice for over five years?

MR. JOHNSTON: Yes, sir.

THE COURT: And you've practiced in criminal courts?

MR. JOHNSTON: Yes, sir.

THE COURT: In this state and other states?

MR. JOHNSTON: Yes, sir.

THE COURT: I find that both Mr. Archer and Mr. Johnston are qualified to serve in that capacity. Like I said, that's just a perfunctory matter because you were retained by Mr. Sapp.

Is that correct, Mr. Sapp?

MR. JOHNSTON: That's correct.

THE COURT: All right. Mr. Sapp, good evening, sir. Thank you for your patience as well.

And I thank the persons that are here with Mr. Sapp for your patience and tenacity today as well as the persons here.

Mr. Johnson's family, I thank you very much for your patience and your persistence in this matter. We'll see you tomorrow. Thank you. Have a good evening.

(WHEREUPON, the proceedings were concluded for the day to be reconvened on Tuesday, May 13th, 2003.)