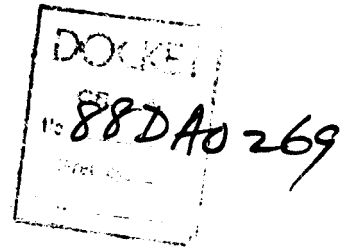


COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT



FEB 24 1980

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
 PLAINTIFF-RESPONDENT,)
)
 VS.)
)
 JOE HUNT, AKA JOSEPH HUNT,)
 AKA JOSEPH HENRY GAMSKY,)
)
 DEFENDANT-APPELLANT.)

SUPERIOR COURT
NO. A-090435

OCT 09 1987

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY
HONORABLE LAURENCE J. RITTENBAND, JUDGE PRESIDING
REPORTERS' TRANSCRIPT ON APPEAL

APPEARANCES:

FOR PLAINTIFF-RESPONDENT: JOHN K. VAN DE KAMP
STATE ATTORNEY GENERAL
3580 WILSHIRE BOULEVARD
ROOM 800
LOS ANGELES, CALIFORNIA 90010

FOR DEFENDANT-APPELLANT: IN PROPRIA PERSONA

VOLUME 10 OF 101
(PAGES 1157 TO 1343, INCLUSIVE)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT WEST C

HON. LAURENCE J. RITTENBAND, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)

PLAINTIFF,)

VS.)

NO. A-090435)

JOE HUNT, AKA JOSEPH HENRY GAMSKY,)

DEFENDANT.)

REPORTERS' DAILY TRANSCRIPT

THURSDAY, NOVEMBER 20, 1986

VOLUME 10

(PAGES 1151 TO 1343, INCLUSIVE)

APPEARANCES:

FOR THE PEOPLE:

IRA REINER, DISTRICT ATTORNEY
BY: FREDERICK N. WAPNER, DEPUTY
1725 MAIN STREET
SANTA MONICA, CALIFORNIA 90401

FOR THE DEFENDANT:

ARTHUR H. BARENS, ESQ.
10209 SANTA MONICA BOULEVARD
LOS ANGELES, CALIFORNIA 90067

AND

RICHARD C. CHIER, ESQ.
10920 WILSHIRE BOULEVARD
LOS ANGELES, CALIFORNIA 90024

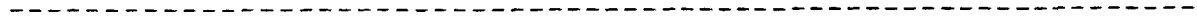
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THURSDAY, NOVEMBER 20, 1986 VOLUME 10 PAGES 1151 - 1343

A.M. 1151

P.M.



PROCEEDINGS

VOIR DIRE OF PROSPECTIVE JURORS (CONTINUED) 1151

1 SANTA MONICA, CALIFORNIA; THURSDAY, NOVEMBER 20, 1986; 10:37 A.M.
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE

3 (APPEARANCES AS NOTED ON TITLE PAGE
4 EXCEPT MR. CHIER IS NOT PRESENT.)
5

6 THE COURT: STIPULATE THE DEFENDANT IS PRESENT, COUNSEL
7 ARE PRESENT.

8 NOW WHO DO WE HAVE? MR. GHEBRIAL, IS THAT YOUR
9 NAME?

10 MR. GHEBRIAL: YES, GHEBRIAL.

11 THE COURT: ALL RIGHT. GOOD MORNING.

12 MR. GHEBRIAL: GOOD MORNING.

13 THE COURT: WHERE DO YOU LIVE, MR. GHEBRIAL?

14 MR. GHEBRIAL: EXCUSE ME?

15 THE COURT: WHERE DO YOU LIVE?

16 MR. GHEBRIAL: I LIVE IN BEVERLYWOOD.

17 THE COURT: BEVERLYWOOD, ALL RIGHT.

18 WHAT I AM GOING TO DO IS TO ASK YOU A SERIES OF
19 QUESTIONS AND THE ANSWERS WILL BE YES OR NO.

20 IF YOU DON'T UNDERSTAND THE QUESTIONS, ASK ME TO
21 MAKE THEM CLEAR TO YOU OR EXPLAIN THEM TO YOU.

22 BEFORE I DO, HOWEVER, HAVE YOU READ ANYTHING AT
23 ALL ABOUT THIS CASE?

24 MR. GHEBRIAL: NO.

25 THE COURT: DID YOU HEAR ANY DISCUSSION AMONG --

26 MR. GHEBRIAL: NO.

27 THE COURT: -- AMONG THE PROSPECTIVE JURORS ABOUT ANYTHING
28 ABOUT THE CASE?

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MR. GHEBRIAL: NO.

THE COURT: ALL RIGHT, NOW THE FIRST QUESTION I AM GOING TO ASK YOU IS:

DO YOU HAVE ANY OPINION REGARDING THE DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION AS TO THE GUILT OR INNOCENCE OF THE DEFENDANT?

MR. GHEBRIAL: NO.

THE COURT: SECONDLY: DO YOU HAVE ANY OPINION REGARDING THE DEATH PENALTY THAT WOULD CAUSE YOU TO VOTE FOR FIRST DEGREE MURDER, EVEN IF THE PROSECUTION FAILS TO PROVE FIRST DEGREE MURDER?

MR. GHEBRIAL: NO.

THE COURT: BEFORE I ASK YOU THE THIRD QUESTION, YOU HAVE HEARD AT THE TIME ALL OF THE JURORS WERE PRESENT, MY RECITATION OF WHAT THE FACTS ARE AND WHAT THE NATURE OF THIS CASE IS ALL ABOUT. I TOLD YOU THAT IT WAS A CASE OF ALLEGED MURDER AND THAT THE MURDER WAS COMMITTED ALLEGEDLY DURING THE COURSE OF A ROBBERY AND BECAUSE IT WAS COMMITTED DURING THE COURSE OF A ROBBERY ALLEGEDLY, THE PEOPLE HAVE ASKED FOR THE DEATH PENALTY.

2

2

1 WHEN THE JURORS HAVE HEARD ALL THE TESTIMONY ON
2 WHAT WE CALL THE GUILT PHASE, THE GUILT OR INNOCENCE OF THE
3 DEFENDANT, THEY ARE REQUIRED TO MAKE A FINDING AS TO WHETHER
4 OR NOT IT WAS MURDER IN THE FIRST DEGREE AND WHETHER OR NOT
5 IT WAS COMMITTED IN THE COURSE OF A ROBBERY. THE FINDING OF
6 COMMITTED IN THE COURSE OF A ROBBERY IS WHAT IS KNOWN AS A
7 SPECIAL CIRCUMSTANCE WHICH CARRIES WITH IT THE DEATH PENALTY,
8 YOU UNDERSTAND.

9 SO THE JURY THEN HAS TO FIND THAT. IF THEY DO
10 FIND THE DEFENDANT GUILTY OF MURDER IN THE FIRST DEGREE, THEY
11 THEN DETERMINE THE SPECIAL FINDING, WHETHER IT IS TRUE OR FALSE
12 THAT HE DID IT IN THE COURSE OF A ROBBERY. THAT IS A SPECIAL
13 CIRCUMSTANCE.

14 ALL RIGHT. DO YOU HAVE ANY OPINION REGARDING THE
15 DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL
16 DECISION CONCERNING THE TRUTH OR FALSITY OF THE SPECIAL
17 CIRCUMSTANCE ALLEGED IN THIS CASE?

18 MR. GHEBRIAL: NO.

19 THE COURT: ALL RIGHT. NOW NEXT, DO YOU HAVE ANY OPINION
20 REGARDING THE DEATH PENALTY THAT WOULD CAUSE YOU TO VOTE FOR
21 FIRST DEGREE MURDER, EVEN WHEN THE PROSECUTION ONLY PROVES
22 THE DEFENDANT GUILTY OF MURDER IN THE SECOND DEGREE OR
23 MANSLAUGHTER?

24 MR. GHEBRIAL: NO.

25 THE COURT: AND AGAIN IN THE PENALTY PHASE, YOU KNOW
26 THAT IF THERE IS A VERDICT OF GUILTY OF MURDER IN THE FIRST
27 DEGREE AND A FINDING OF SPECIAL CIRCUMSTANCES, THAT IT WAS
28 COMMITTED DURING THE COURSE OF A ROBBERY, THEN THERE IS A SECOND

1 PHASE, THE PENALTY PHASE AS WE CALL IT, WHERE THE SAME JURORS
2 WHO HEAR THE OTHER EVIDENCE WILL HEAR EVIDENCE THAT WILL BE
3 FAVORABLE TO THE DEFENDANT WHICH WE CALL ATTENUATING OR
4 MITIGATING CIRCUMSTANCES OR THINGS WHICH ARE BAD ABOUT HIM
5 WHICH WE CALL AGGRAVATING CIRCUMSTANCES, WHICH THE PEOPLE MAY
6 INTRODUCE.

7 AND IT IS THEN THAT THE JURY RETIRES A SECOND TIME
8 TO DETERMINE WHETHER OR NOT IT SHOULD BE LIFE IN PRISON
9 WITHOUT POSSIBILITY OF PAROLE OR DEATH. DO YOU UNDERSTAND
10 THAT?

11 MR. GHEBRIAL: YES.

12 THE COURT: ALL RIGHT. NOW, DO YOU HAVE SUCH AN OPINION
13 CONCERNING THE DEATH PENALTY THAT YOU WOULD AUTOMATICALLY
14 VOTE FOR LIFE IN PRISON WITHOUT POSSIBILITY OF PAROLE,
15 ASSUMING THAT THERE HAD BEEN A VERDICT OF MURDER IN THE FIRST
16 DEGREE AND SPECIAL CIRCUMSTANCES FOUND, IRRESPECTIVE OF OR
17 REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY
18 PHASE OF THE TRIAL?

19 MR. GHEBRIAL: NO.

20 THE COURT: WOULD YOU AUTOMATICALLY CHOOSE LIFE WITHOUT
21 POSSIBILITY OF PAROLE?

22 MR. GHEBRIAL: NO.

23 THE COURT: ALL RIGHT. NOW YOU UNDERSTAND OF COURSE
24 THAT THE ISSUE OF THE DEATH PENALTY MAY OR MAY NOT OCCUR IN
25 THIS CASE?

26 MR. GHEBRIAL: SURE.

27 THE COURT: AND THAT THESE QUESTIONS HAVE BEEN ASKED
28 ONLY IN THE EVENT THAT YOU REACH THAT PHASE OF THE TRIAL?

1 MR. GHEBRIAL: YES.

2 THE COURT: ALL RIGHT.

3 MR. BARENS: THANK YOU, YOUR HONOR. MR. GHEBRIAL, I
4 JUST WANTED TO PICK UP FOR A MOMENT WITH WHERE THE JUDGE LEFT
5 OFF. YOU UNDERSTAND DO YOU SIR, THAT ALTHOUGH I AM GOING TO
6 ASK YOU SOME QUESTIONS ABOUT YOUR VIEWS ON THE DEATH PENALTY,
7 THAT WE MAY NEVER GET TO THAT DISCUSSION? DO YOU UNDERSTAND
8 THAT BECAUSE THE PEOPLE OF THE STATE OF CALIFORNIA HAS ASKED
9 FOR THE DEATH PENALTY, IT IS OUR JOB NOW TO INQUIRE INTO YOUR
10 POINTS OF VIEW, EVEN THOUGH THERE HAS BEEN NO EVIDENCE IN THIS
11 TRIAL AND YOU DON'T HAVE ANY REASON TO BELIEVE, BECAUSE MR.
12 HUNT IS HERE, AND WE ARE TALKING ABOUT THIS, THAT HE HAS DONE
13 ANYTHING WRONG, DO YOU?

14 MR. GHEBRIAL: YES. I UNDERSTAND THAT.

15 MR. BARENS: AND YOU DON'T BELIEVE HE HAS DONE ANYTHING
16 WRONG YET, DO YOU, BECAUSE YOU HAVE NOT SEEN ANY EVIDENCE,
17 HAVE YOU?

18 MR. GHEBRIAL: YES. NO, I DON'T SEE ANYTHING UNTIL NOW.
19 I HAVE NO OPINION.

20 MR. BARENS: OKAY, SIR. MR. GHEBRIAL, HOW DO YOU FEEL
21 ABOUT THE DEATH PENALTY? BY THAT, I ASK YOU, DO YOU THINK
22 IT IS A GOOD THING WE HAVE A DEATH PENALTY? WHAT IS YOUR
23 FEELING ON THAT?

24 MR. GHEBRIAL: NO. I AM NOT. I AM WITH THE DEATH
25 PENALTY.

26 MR. BARENS: WHY DO YOU FEEL THAT WAY, SIR?

27 MR. GHEBRIAL: ACTUALLY, WHAT I FEEL IS THAT THE DEATH
28 PENALTY IS SOME KIND OF PUNISHMENT THAT IS CREATED BY LAW.

1 I DON'T HAVE THE ABILITY TO CHANGE THE LAW.

2 IF YOU WANT TO CHANGE THIS PENALTY TO ANOTHER
3 PUNISHMENT, THE PEOPLE OF THE LAW HAVE TO DO THAT, NOT ME.

4 I AM ENGINEER.

5 I AM ONLY IN ENGINEERING. I DON'T KNOW ANYTHING
6 ABOUT LAW. SO IT IS NOT MY BUSINESS.

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1 (MR. CHIER ENTERS THE COURTROOM.)

2 MR. BARENS: WELL, AS A JUROR IN THIS CASE, SIR, IT IS
3 GOING TO BE YOUR BUSINESS TO MAKE SOME DECISIONS ABOUT WHAT
4 HAPPENS IN THE EVENT ONLY -- ONLY IN THE EVENT YOU FOUND
5 SOMEBODY GUILTY IN THIS CASE.

6 MR. GHEBRIAL: AFTER I HEARD THE EVIDENCE, NOT BEFORE.

7 MR. BARENS: RIGHT.

8 NOW LET ME ASK YOU: ARE THERE ANY CERTAIN TYPES
9 OF CRIMES THAT YOU FEEL IN YOUR MIND, OR SITUATIONS WHERE YOU
10 FEEL IN YOUR MIND, THAT THOSE PEOPLE SHOULD BE PUT TO DEATH?

11 MR. GHEBRIAL: NO.

12 I AM NOT INTERESTED IN CRIMES EVEN, I DIDN'T READ
13 IT IN THE NEWSPAPERS.

14 MR. BARENS: IF I TOLD YOU THAT IN THIS CASE -- AND I
15 WILL PUT THIS TO YOU HYPOTHETICALLY -- IF YOU WERE TO HEAR
16 THAT A PREMEDITATED MURDER WAS COMMITTED IN COLD BLOOD DURING
17 THE COMMISSION OF A ROBBERY, WOULD IT BE YOUR FEELING THAT
18 THAT PERSON SHOULD BE PUT TO DEATH?

19 MR. GHEBRIAL: IF THE LAW SAY THAT.

20 MR. BARENS: WELL, YOU SEE THE LAW DOESN'T SAY ANYTHING
21 AT ALL ABOUT THAT.

22 THE LAW SAYS THAT YOU GET TO MAKE A CHOICE BETWEEN
23 GIVING THAT PERSON THE DEATH PENALTY OR LIFE IMPRISONMENT
24 WITHOUT THE POSSIBILITY OF PAROLE.

25 WHAT WE ARE ALL GOING TO ASK YOU IS, HOW WOULD
26 YOU VOTE?

27 MR. GHEBRIAL: I WANT YOU TO EXPLAIN TO ME THIS POINT --

28 MR. BARENS: YES, SIR.

1 MR. GHEBRIAL: EXPLAIN TO ME. I DON'T UNDERSTAND.

2 MR. BARENS: SIR --

3 THE COURT: PARDON ME. I THINK IT SHOULD ALSO BE
4 INCLUDED ALSO THE PENALTY PHASE OF IT, THEN HE MAKES UP HIS
5 MIND BUT YOU LEFT THAT OUT.

6 MR. BARENS: RIGHT.

7 WHAT WE ARE TALKING ABOUT, SIR, IS FIRST THERE
8 IS A TRIAL AND, AS HIS HONOR EXPLAINED TO YOU, ON WHETHER OR
9 NOT MR. HUNT IS GUILTY OF ANYTHING.

10 MR. GHEBRIAL: OKAY.

11 MR. BARENS: IF THERE WAS A SITUATION WHERE YOU DECIDED
12 THAT A MURDER HAD BEEN PROVED TO YOUR SATISFACTION BEYOND A
13 REASONABLE DOUBT AND THAT IT WAS COMMITTED DURING THE COURSE
14 OF A ROBBERY, SO THAT WAS THE SPECIAL CIRCUMSTANCES HIS HONOR
15 REFERRED TO -- WHAT I AM TRYING TO FIND OUT IS WHAT YOUR POINT
16 OF VIEW WOULD BE AS TO WHETHER A DEFENDANT IN THAT SITUATION
17 SHOULD BE GIVEN THE DEATH PENALTY OR YOUR SECOND CHOICE, OR
18 POSSIBLY FIRST CHOICE, LIFE IMPRISONMENT WITHOUT THE
19 POSSIBILITY OF PAROLE?

20 JUST DEALING WITH THE LIMITED FACTS I HAVE GIVEN
21 YOU, HOW WOULD YOU FEEL? WOULD YOU FEEL THAT THE DEFENDANT
22 SHOULD BE PUT TO DEATH OR GIVEN LIFE WITHOUT THE POSSIBILITY
23 OF PAROLE?

24 MR. GHEBRIAL: I THINK HE SHOULD HAVE DEATH PENALTY.

25 MR. BARENS: WHY DO YOU FEEL THAT WAY, SIR?

26 MR. GHEBRIAL: BECAUSE HE COMMITTED A CRIME. HE IS
27 GUILTY AND HE DID IT WITH ALL HIS AWARENESS AND HE COMMITTED
28 ANOTHER CRIME WITH IT, SO MY FEELING IS HE IS A DANGER IN THE

1 SOCIETY.

2 MR. BARENS: WOULD YOU AUTOMATICALLY FEEL THAT WAY WITH
3 ANY DEFENDANT THAT HAD COMMITTED THOSE KINDS OF CRIMES?

4 MR. GHEBRIAL: YES.

5 MR. BARENS: AND LET ME ASK YOU THIS: IF A JUDGE SAID
6 TO YOU -- IF THE JUDGE SAID TO YOU, WHEN YOU MAKE YOUR DECISION
7 YOU SHOULD TAKE INTO CONSIDERATION THE DEFENDANT'S AGE OR THE
8 FACT THAT HE DIDN'T HAVE ANY PRIOR CRIMINAL RECORD, WOULD THAT
9 MAKE A DIFFERENCE TO YOU?

10 MR. GHEBRIAL: MAYBE. MAYBE. I AM NOT SURE.

11 THE COURT: WHAT IF I TOLD YOU THAT YOU CAN DO THAT,
12 YOU WOULD CONSIDER THAT, WOULDN'T YOU?

13 MR. GHEBRIAL: YES, YES.

14 MR. BARENS: WHEN YOU SAY YOU WOULD CONSIDER THAT, SIR,
15 WHAT DOES CONSIDER THAT MEAN TO YOU? WOULD IT MAKE A DIFFERENCE
16 TO YOU?

17 MR. GHEBRIAL: YES. THE AGE MAY BE CONSIDERED. TO ME,
18 HE DOESN'T HAVE MUCH EXPERIENCE IN LIFE. MAYBE HE HAVE SOME
19 EXCUSE IN RAISING HIM, HIS PARENTS RAISING HIM. HE IS NOT
20 FULL ADULT TO BE PUNISHED, FULL PUNISHED.

21 MR. BARENS: ALL RIGHT. IN YOUR MIND, DOES THAT MEAN
22 SOMEONE UNDER 21?

23 MR. GHEBRIAL: EXCUSE ME?

24 MR. BARENS: IN YOUR MIND, DOES THAT MEAN SOMEONE UNDER
25 21?

26 MR. GHEBRIAL: NO, NO, NO.

27 YOU KNOW, THE LAW SAYS HE BECOME AN ADULT AT 21.
28 BUT HE IS NOT FULL ADULT, IN MY OPINION AND HE HAS NOT A

1 HUNDRED PERCENT OF EXPERIENCE IN LIFE.

2 MR. BARENS: ARE THERE SITUATIONS WHERE IF YOU HAD A
3 COLD BLOODED MURDER, A PREMEDITATED MURDER DURING A ROBBERY,
4 SAY A MAN WAS SHOT TO DEATH, ARE THERE ANY SITUATIONS THERE
5 WHERE YOU WOULD THINK IT WOULD BE APPROPRIATE THAT THAT
6 DEFENDANT SHOULD GET LIFE IMPRISONMENT WITHOUT THE POSSIBILITY
7 OF PAROLE?

8 MR. GHEBRIAL: IF THERE IS SOME CIRCUMSTANCES AROUND --
9 AROUND THE CASE, I WOULD GIVE HIM LIFE SENTENCE.

10 THE COURT: I DIDN'T HEAR THAT. WOULD YOU READ THAT?

11 (WHEREUPON, THE RECORD WAS READ BY THE
12 REPORTER.)

13 THE COURT: ALL RIGHT, THANK YOU.

14 MR. BARENS: NOW EARLIER, SIR, YOU ANSWERED THAT GIVEN
15 A COLD BLOODED MURDER AND BASED ON THE FACTS I GAVE YOU AT
16 LEAST, THAT YOU WOULD AUTOMATICALLY VOTE FOR DEATH FOR THAT
17 TYPE OF PERSON.

18 (MR. GHEBRIAL NODS HIS HEAD UP AND DOWN.)

19 MR. WAPNER: EXCUSE ME. IS THAT A YES?

20 MR. GHEBRIAL: YES, YES.

21 MR. BARENS: IN THOSE INSTANCES, WOULD IT BE YOUR
22 PREFERENCE, IRRESPECTIVE OF ANY OTHER CIRCUMSTANCES, THAT THAT
23 PERSON BE GIVEN THE DEATH PENALTY?

24 MR. GHEBRIAL: YOU ARE ASKING ME NOW TO MAKE A SENTENCE.
25 I DON'T KNOW ANYTHING ABOUT YOU SAY, WHAT CASE YOU ARE SAYING.

26 YOU ARE SAYING A PERSON COMMITTED A CRIME WITH
27 ROBBERY -- WITH ROBBERY AND THE SENTENCE SHOULD BE FIRST DEGREE
28 MURDER AND SENTENCE TO DEATH, THAT IS MY OPINION.

1 IF THERE IS SOME EVIDENCE SOMEWHERE, SOME
2 CIRCUMSTANCES THAT LED HIM TO DO THAT, MAYBE MY SENTENCE WOULD
3 BE TO CHANGE TO LIFE IMPRISONMENT WITHOUT PAROLE.

4 MR. BARENS: WHAT KIND OF CIRCUMSTANCES WOULD CHANGE
5 YOUR ATTITUDE THAT SOMEBODY SHOULD GET LIFE IMPRISONMENT OVER
6 THE DEATH PENALTY?

7 MR. GHEBRIAL: I DON'T KNOW.

8 MR. BARENS: YOU DON'T KNOW?

9 MR. GHEBRIAL: I DON'T KNOW.

10 MR. BARENS: DO YOU KNOW THAT LIFE WITHOUT THE POSSIBILITY
11 OF PAROLE MEANS THAT, THAT THE DEFENDANT GOES TO JAIL FOR THE
12 REST OF HIS LIFE AND CAN NEVER GET OUT?

13 MR. GHEBRIAL: YES.

14 MR. BARENS: DO YOU BELIEVE THAT OR DO YOU BELIEVE THAT
15 SOMEHOW WE MIGHT SAY THAT BUT THEY WOULD REALLY GET OUT?

16 MR. GHEBRIAL: NO.

17 MR. BARENS: YOU BELIEVE ONCE THEY ARE IN --

18 MR. GHEBRIAL: YES.

19 MR. BARENS: -- THAT WOULD BE IT?

20 MR. GHEBRIAL: YES.

21 MR. BARENS: DID YOU VOTE ON THE DEATH PENALTY WHEN WE
22 HAD AN ELECTION ON THAT ISSUE A FEW YEARS AGO?

23 MR. GHEBRIAL: YES.

24 MR. BARENS: HOW DID YOU VOTE?

25 MR. GHEBRIAL: YES.

26 MR. BARENS: YOU VOTED YES FOR IT?

27 MR. GHEBRIAL: YES.

28 MR. BARENS: WHY DID YOU VOTE FOR IT?

1 MR. GHEBRIAL: THE ISSUE OF CRIME IN THIS COUNTRY IS
2 VERY HIGH AND WE HAVE TO DO SOMETHING TO STOP THESE CRIMES.
3 WE SHOULD BE MORE STIFF IN OUR JUDGMENTS. WE HAVE TO TEACH
4 THE PEOPLE HOW TO BEHAVE THEMSELVES, UNLESS THIS SOCIETY WILL
5 BE VERY BAD SOCIETY. WE HAVE A VERY GOOD COUNTRY. WE COULD
6 HAVE RUINED THAT.

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1 MR. BARENS: YOU DON'T REALLY BELIEVE THAT IF WE LET
2 PEOPLE OFF AND DON'T GIVE THEM THE DEATH PENALTY BECAUSE THEY
3 ARE NOT THE RIGHT AGE OR JUST BECAUSE THEY HAVE NOT KILLED
4 ANYBODY SO FAR, THAT THAT WOULDN'T REALLY BE GOOD GROUNDS
5 NOT TO GIVE THEM THE DEATH PENALTY, WOULD IT?

6 MR. GHEBRIAL: NO. I DON'T THINK I WILL LEAVE THEM
7 TO KILL ANOTHER PERSON. WE WANT TO STOP THE KILLING.

8 MR. BARENS: IF THEY KILL SOMEBODY, WE SHOULD KILL
9 THEM?

10 MR. GHEBRIAL: NO. I WILL NOT KILL HIM. THE LAW WILL
11 KILL HIM, NOT ME.

12 MR. BARENS: YOU WILL LET THE GOVERNMENT DO IT?

13 MR. GHEBRIAL: THE GOVERNMENT DO THAT, NOT ME. I WILL
14 NOT MAKE INTERVENTION.

15 MR. BARENS: THANK YOU, SIR.

16 MR. CHIER: JUST A MOMENT, PLEASE.

17 MR. BARENS: I WOULD LIKE A MOMENT, PLEASE, YOUR HONOR.

18 (PAUSE.)

19 MR. BARENS: THANK YOU.

20 THE COURT: THAT WAS MR. BARENS WHO REPRESENTS THE
21 DEFENDANT. HE JUST ASKED YOU QUESTIONS. NOW IT IS THE
22 DISTRICT ATTORNEY WHO IS GOING TO ASK YOU QUESTIONS.

23 MR. GHEBRIAL: OKAY.

24 MR. WAPNER: MR. GHEBRIAL, I UNDERSTAND WHAT YOU SAID
25 ABOUT THE LAW KILLING HIM. I WANT TO TRY TO EXPLAIN A LITTLE
26 MORE TO YOU ABOUT THE PROCEDURES THAT YOU WOULD HAVE TO FOLLOW
27 IN THIS CASE.

28 WHAT I WANT TO TRY TO GET AT, IS THAT IF YOU GET

4A-2

1 TO THAT PART OF THE CASE WHERE THE JURY HAS TO DECIDE THE
2 PENALTY THAT SHOULD BE IMPOSED, DO YOU UNDERSTAND THAT YOU
3 HAVE TO MAKE A PERSONAL DECISION ABOUT WHAT THE PENALTY SHOULD
4 BE?

5 MR. GHEBRIAL: YES. I UNDERSTAND THAT.

6 MR. WAPNER: DO YOU UNDERSTAND THAT THE JUDGE IS NOT
7 GOING TO TELL YOU WHAT YOU SHOULD DO OR SHOULD NOT DO?

8 MR. GHEBRIAL: YES.

9 MR. WAPNER: DO YOU UNDERSTAND THAT IF YOU GET TO THAT
10 POINT, YOU ARE GOING TO HAVE TWO CHOICES, THAT IS LIFE WITHOUT
11 POSSIBILITY OF PAROLE AND THE DEATH PENALTY?

12 MR. GHEBRIAL: YES. I UNDERSTAND THAT.

13 MR. WAPNER: IF YOU GET TO THAT POINT, ARE YOU WILLING
14 TO LISTEN TO ALL OF THE EVIDENCE THAT IS PRESENTED BY BOTH
15 SIDES?

16 MR. GHEBRIAL: SURE.

17 MR. WAPNER: THAT IS EVIDENCE THAT MIGHT BE PRESENTED
18 BY THE DEFENSE THAT MIGHT SAY GOOD THINGS ABOUT THE DEFENDANT?

19 MR. GHEBRIAL: SURE.

20 MR. WAPNER: AND EVIDENCE THAT MIGHT BE PRESENTED BY
21 THE PROSECUTION THAT MIGHT SAY BAD THINGS ABOUT HIM?

22 MR. GHEBRIAL: RIGHT.

23 MR. WAPNER: ARE YOU WILLING THEN, TO GO INTO THE JURY
24 ROOM AND TALK TO THE OTHER JURORS ABOUT WHAT THE PROPER
25 PUNISHMENT SHOULD BE?

26 MR. GHEBRIAL: SURE. I WILL DO.

27 MR. WAPNER: MOST IMPORTANTLY, IF YOU THINK IN YOUR
28 OWN MIND THAT THE PROPER PUNISHMENT SHOULD BE DEATH, CAN YOU

A-3
1 RENDER THAT VERDICT?

2 MR. GHEBRIAL: YES. I WILL DO.

3 MR. WAPNER: THE OTHER SIDE OF THAT COIN IS, IF YOU
4 THINK IN YOUR OWN MIND THAT THE PROPER PUNISHMENT AFTER
5 LISTENING TO ALL OF THE EVIDENCE, IS LIFE WITHOUT POSSIBILITY
6 OF PAROLE, ARE YOU EQUALLY CAPABLE OF BRINGING IN THAT VERDICT?

7 MR. GHEBRIAL: YES.

8 MR. WAPNER: HAVE YOU AS YOU SIT THERE NOW, HAVE YOU
9 MADE UP YOUR MIND, ONE WAY OR THE OTHER WHAT THE VERDICT
10 SHOULD BE?

11 MR. GHEBRIAL: NO. NO, I HAVE NO IDEA ABOUT THE CASE
12 OR ANYTHING.

13 MR. WAPNER: SO YOU ARE SAYING THAT THERE ARE SOME CASES
14 WHERE THE DEATH PENALTY COULD BE IMPOSED?

15 MR. GHEBRIAL: YES.

16 MR. WAPNER: AND OTHER CASES WHERE IT SHOULD NOT?

17 MR. GHEBRIAL: YES.

18 MR. WAPNER: OKAY. NOW, HERE IS THE OTHER THING THAT
19 I WANTED TO THROW INTO THE EQUATION.

20 BEFORE YOU GET TO THE QUESTION OF DECIDING THE
21 DEATH PENALTY IN THIS CASE, YOU HAVE TO DECIDE WHETHER OR
22 NOT THE DEFENDANT IS GUILTY OF MURDER AND WHETHER OR NOT THAT
23 MURDER WAS COMMITTED IN THE COURSE OF A ROBBERY. DO YOU
24 UNDERSTAND THAT?

25 MR. GHEBRIAL: YES. I UNDERSTAND THAT.

26 MR. WAPNER: OKAY. SO IN THIS PARTICULAR CASE, IN ORDER --
27 AS A PREREQUISITE TO GETTING TO THE QUESTION OF THE DEATH
28 PENALTY, YOU HAVE TO FIND THAT THERE WAS MURDER AND IT WAS

1 COMMITTED DURING THE COURSE OF A ROBBERY. DO YOU UNDERSTAND
2 THAT?

3 MR. GHEBRIAL: I UNDERSTAND THAT.

4 MR. WAPNER: SO, ASSUMING THAT YOU HAD FOUND THAT THERE
5 WAS A MURDER AND IT WAS IN THE COURSE OF A ROBBERY, ARE YOU
6 STILL WILLING TO LISTEN TO ALL OF THE EVIDENCE OF THE GOOD
7 THINGS ABOUT THE DEFENDANT AND THE BAD THINGS ABOUT HIM AND
8 DECIDE WHAT THE PROPER PUNISHMENT SHOULD BE?

9 MR. GHEBRIAL: YES.

10 MR. WAPNER: AND ASSUMING THAT YOU KNOW, THIS IS A MURDER
11 IN THE COURSE OF A ROBBERY, HAVE YOU AUTOMATICALLY MADE UP
12 YOUR MIND WHAT THE PUNISHMENT SHOULD BE?

13 MR. GHEBRIAL: NO, NOT AUTOMATICALLY. I HAVE TO STUDY
14 THE EVIDENCE AND MAKE MY JUDGMENT.

15 MR. WAPNER: THANK YOU. NO FURTHER QUESTIONS.

16 MR. BARENS: A BIT, IF I MIGHT? YOUR HONOR?

17 THE COURT: GO AHEAD.

18 MR. BARENS: THANK YOU. SIR, YOUR MORAL CONVICTIONS
19 ARE THAT SOCIETY NEEDS TO GET A LITTLE STERNER AND HARSHER
20 WITH THESE PEOPLE THAT DO BAD THINGS?

21 MR. GHEBRIAL: THAT'S RIGHT.

22 MR. BARENS: AND SO, IF YOU HAD A SITUATION WHERE YOU
23 HAD ONE OF THOSE PEOPLE WHO COMMITTED A MURDER DURING A ROBBERY
24 AND HE THOUGHT ABOUT IT FIRST AND HE WENT AND GOT THE GUN
25 AND EVERYTHING AND PLANNED IT AND IT WAS PREMEDITATED AND
26 MADE A LIST, LET'S SAY, OF HOW HE WAS GOING TO DO IT, YOU
27 WOULD GIVE THAT GUY THE DEATH PENALTY, WOULDN'T YOU?

28 MR. WAPNER: OBJECTION, ASKING HIM TO PREJUDGE THE

4A-5
1 EVIDENCE IN THE CASE.

2 THE COURT: SUSTAINED.

3 MR. BARENS: LET ME ASK YOU THIS, SIR. IF YOU HAD A
4 SITUATION -- AND I AM NOT SAYING THAT IS THE EVIDENCE IN THIS
5 CASE -- I AM ASKING YOU, IF YOU HAD A SITUATION OF PREMEDITATED
6 MURDER AND SOMEBODY GOT SHOT TO DEATH, I AM ASKING YOU, HOW
7 YOU ARE GOING TO TREAT THAT DEFENDANT? WOULDN'T IT BE YOUR
8 PERSONAL BELIEF THAT THAT MAN SHOULD DIE FOR WHAT HE DID?

9 MR. GHEBRIAL: NO. I WOULD MAKE MY JUDGMENT AFTER I
10 HEAR ALL OF THE EVIDENCE.

11 MR. BARENS: WHICH EVIDENCE, SIR?

12 MR. GHEBRIAL: ALL OF THE CIRCUMSTANCES ABOUT THE CASE.
13 YES, HE DID IT. WHAT HIS OPINION IS ABOUT THE CRIME, WHY
14 HE PLANNED FOR THIS CRIME AND WHAT THE REASON OF THIS CRIME
15 IS.

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4A-6
1 MR. BARENS: SUPPOSING THE DEFENDANT HAD NOT TESTIFIED
2 DURING THE TRIAL. THE ONLY EVIDENCE YOU HEARD THAT SATISFIED
3 YOU WAS THAT HE HAD COMMITTED THE MURDER IN COLD BLOOD. WOULD
4 YOU BELIEVE THAT MAN SHOULD GET THE DEATH PENALTY SO THAT
5 SOCIETY WOULD BE SHOWN THAT YOU DON'T DO THINGS LIKE THAT?

6 MR. GHEBRIAL: NO.

7 THE COURT: TELL HIM THE OTHER PART OF THE PICTURE.
8 YOU KNOW, WE HAVE A PENALTY PHASE WHERE ALL OF THE GOOD THINGS
9 ABOUT HIM WILL BE TOLD AND ALL OF THE BAD THINGS ABOUT HIM
10 WILL BE TOLD.

11 IT IS THEN THAT HE MAKES UP HIS MIND WHAT THE
12 PENALTY SHOULD BE. YOU ARE OMITTING ALL OF THAT ALL OF THE
13 TIME.

14 MR. BARENS: WELL, IT OCCURS TO ME THAT WE MIGHT HAVE
15 A PERSON IN THE PENALTY PHASE WHERE THERE ARE NO GOOD THINGS
16 SHOWN ABOUT THE DEFENDANT.

17 THE COURT: WELL, THEN HE MAKES UP HIS MIND AS TO WHETHER
18 OR NOT HE SHOULD SUFFER THE DEATH PENALTY THEN.

19 MR. BARENS: YOUR HONOR, I BELIEVE THAT HE EXPRESSED
20 HIS PERSONAL POINT OF VIEW, SUCH THAT HE WOULD HAVE MORAL
21 PROBLEMS IN CONSIDERING WHETHER THAT PERSON SHOULD BE GIVEN
22 LIFE WITHOUT POSSIBILITY OF PAROLE.

23 THE COURT: WELL, LET'S ARGUE ABOUT THAT AFTERWARDS.
24 JUST ASK HIM THE QUESTIONS.

25 MR. BARENS: YOU BELIEVE IN THE DEATH PENALTY?

26 MR. GHEBRIAL: YES.

27 MR. BARENS: WOULD IT BE A TRUE STATEMENT THAT IF YOU
28 HAD A COLD-BLOODED MURDER, I WOULD HAVE A HARD JOB CONVINCING

1 YOU THAT THE DEFENDANT SHOULDN'T GET THE DEATH PENALTY?

2 MR. GHEBRIAL: NO IT IS NOT. YOU KNOW, I BELIEVE IN
3 GOD. WHEN I MAKE A JUDGMENT WHICH SENDS A PERSON TO LIFE
4 IN PRISON OR DEATH, IT IS A VERY SERIOUS MATTER. I HAVE TO
5 THINK ABOUT IT 100 TIMES BECAUSE I WILL NOT ONLY FACE MYSELF,
6 I WILL FACE GOD AFTER THAT. HE WILL JUDGE ME ABOUT WHAT I
7 WILL DO. SO I HAVE TO THINK 100 TIMES BEFORE I CAN MAKE ANY
8 SENTENCE.

9 IT IS NOT A MATTER OF SITTING HERE AND MAKING
10 JUDGMENTS, NO.

11 MR. BARENS: I APPRECIATE THAT. THANK YOU, SIR.

12 THE COURT: ALL RIGHT.

13 MR. BARENS: IF WE MIGHT, YOUR HONOR?

14 THE COURT: SURE. SHOULD I HAVE HIM WAIT OUTSIDE?

15 MR. BARENS: IF YOU WILL.

16 THE COURT: ALL RIGHT, WAIT OUTSIDE JUST A MINUTE.
17 I WILL TELL YOU TO COME BACK IN IN JUST A MOMENT.

18 (PROSPECTIVE JUROR GHEBRIAL EXITED
19 THE COURTROOM.)

20 THE COURT: ALL RIGHT. THE PROSPECTIVE JUROR HAS LEFT
21 THE COURTROOM.

22 MR. BARENS: THANK YOU, YOUR HONOR.

23 OBVIOUSLY YOUR HONOR, THE DEFENSE CHALLENGES
24 MR. GHEBRIAL FOR CAUSE.

25 YOUR HONOR, I RESPECTFULLY SUBMIT THAT UNDER
26 WITHERSPOON THIS MAN IS EXCLUDABLE. CERTAINLY, UNDER WIT
27 HE IS EXCLUDABLE.

28 WE ALL HEARD HIS SPEECH IN WHICH HE RESPONDED

1 THAT HE AUTOMATICALLY WOULD BE IN FAVOR OF THE DEATH PENALTY
2 FOR EVERYONE WHO COMMITTED A FIRST DEGREE MURDER WITH THE
3 SPECIAL CIRCUMSTANCES.

4 HE THEN WENT ON TO DESCRIBE HIS PHILOSOPHICAL
5 BELIEFS ABOUT SOCIETY NOT BEING TOUGH ENOUGH WITH THESE PEOPLE
6 AND WE HAVE GOT TO DEMONSTRATE TO SOCIETY THAT WE ARE GOING TO
7 BE HARD, I THINK THE WORD WAS THAT HE USED, WITH CRIMINALS
8 AND ET CETERA, ET CETERA.

9 CERTAINLY, HE DID NOT SHOW A WILLINGNESS TO BE
10 OPEN-MINDED. WHEN I ASKED HIM WHAT DID HE MEAN BY, THAT HE
11 WOULD CONSIDER AGE AND NO PRIOR RECORD, HE COULDN'T RESPOND
12 TO THE QUESTION OF WHAT "CONSIDER" MEANT TO HIM.

13 THEN WHEN I LATER SAID TO HIM WELL, THAT WOULDN'T
14 REALLY BE IMPORTANT TO YOU, WE SHOULD KILL ALL OF THOSE PEOPLE
15 AUTOMATICALLY, AGAIN, HE SAID YES TO THAT, YOUR HONOR.

16 THE FACT THAT HE IS WILLING TO LISTEN TO YOUR
17 HONOR SAYING TO HIM THAT HE HAS GOT TO CONSIDER THESE THINGS,
18 CERTAINLY, HE COULDN'T RELATE TO IT IN ANY WAY, THAT HAVING
19 ANY IMPACT ON HIS DECISION-MAKING PROCESS.

20 AND THAT IS WHAT WE ARE TALKING ABOUT IN THIS
21 EXERCISE.

22 YOUR HONOR, IF THERE EVER WAS A JUROR THAT WOULD
23 BE EXCLUDABLE UNDER WITT, THIS GENTLEMAN IS THAT JUROR.

24 THE COURT: YOU ARE BEING TOO SIMPLISTIC IN THE QUESTIONS
25 YOU ASKED. WHAT YOU SAY TO HIM IS THAT SUPPOSE THAT THERE
26 WAS A COLD-BLOODED MURDER, A DELIBERATE MURDER AND A MAN COMES
27 IN AND HE SHOOTS A MAN DELIBERATELY AND KILLS HIM IN THE
28 COURSE OF A ROBBERY, WOULD YOU VOTE FOR THE DEATH PENALTY.

1 THAT IS ONLY A PART OF IT.

2 YOU HAVE TO INCORPORATE IN THAT, SUPPOSE YOU HEARD
3 A PENALTY PHASE OF IT AND YOU HEARD VERY NICE THINGS ABOUT
4 HIM, MITIGATING THE OFFENSE AND THINGS WHICH ARE BAD ABOUT
5 HIM. THEN, WOULD YOU CONSIDER BOTH SIDES OF IT? THAT IS
6 THE WAY TO ASK THE QUESTION.

7 BUT YOU ONLY ASKED HIM ONE SIDE OF IT. THAT IS
8 NOT A FAIR QUESTION.

9 MR. BARENS: YOUR HONOR, I DON'T BELIEVE HOVEY INDICATES
10 THAT WE CAN ONLY EXCLUDE A PROSPECTIVE JUROR WHO SAYS THAT
11 HE WON'T OBEY THE COURT'S ORDER AND THAT HE CAN --

12 THE COURT: NOT OBEY THE ORDER? HE SAID HE COULD.

13 MR. BARENS: JUST A MOMENT.

14 (BRIEF PAUSE.)

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1 MR. BARENS: IT CERTAINLY OCCURS IN HOVEY --

2 THE COURT: WOULD YOU READ FROM ANY DECISION THAT WOULD
3 BE RELEVANT AS TO THAT?

4 MR. BARENS: WELL, HERE LOOKING AT THE SPECIFIC LANGUAGE
5 IN HOVEY THAT WE SUBMIT APPLIES PARTICULARLY TO THIS JUROR
6 AND THIS WOULD BE CITING NOW 168 CAL. REPORTER, 128, STARTING
7 WITH --

8 THE COURT: YOU ARE TALKING ABOUT HOVEY?

9 MR. BARENS: I AM SORRY. IT IS 28 CAL.3D.

10 THE COURT: I HAVE GOT THAT. WHAT PAGE.

11 MR. BARENS: 23, YOUR HONOR.

12 THE COURT: YES. WHICH PART OF IT?

13 MR. BARENS: IN THE SECOND FULL PARAGRAPH, STARTING WITH
14 THE WORD "DIVERSITY", YOUR HONOR.

15 THE COURT: DIVERSITY, ALL RIGHT.

16 MR. BARENS: YES, AND CONTINUING INTO THE NEXT PARAGRAPH.

17 THE COURT: (READING:)

18 "DIVERSITY SERVES TO COMPLEMENT AS
19 WELL AS NEUTRALIZE VIEWPOINTS AND ATTITUDES.
20 DIVERSITY ENHANCES THE ACCURACY OF A JURY'S
21 DECISION-MAKING BY IMPROVING ITS ABILITY TO
22 RECOGNIZE AND APPROPRIATELY EVALUATE EVIDENCE.
23 TESTIMONY FROM THE HEARING BELOW, AS WELL AS
24 STUDIES IN SOCIAL PSYCHOLOGY, HELP TO EXPLAIN
25 WHY THIS IS SO. HUMAN PERCEPTION IS SELECTIVE,
26 INFLUENCED BY THE VERY BELIEFS AND ATTITUDES WHICH
27 VENIREPERSONS BRING INTO THE COURTROOM. NEW DATA
28 WHICH TENDS TO CONTRADICT ONE'S BELIEFS MAY BE

1 QUICKLY 'FORGOTTEN' OR MAY NOT EVEN BE PERCEIVED
2 IN THE FIRST PLACE. THE MEMBERS OF A HOMOGENEOUSLY
3 COMPOSED JURY ARE MORE LIKELY TO PERCEIVE EVIDENCE
4 IN A SIMILAR FASHION. ALSO, THEY ARE MORE LIKELY
5 TO FILTER OUT ANY EVIDENCE INCONSISTENT WITH
6 THEIR SHARED ATTITUDES AND VALUES. INSOFAR AS
7 A JURY IS COMPOSED OF MEMBERS WHOSE ATTITUDES,
8 PRECONCEPTIONS AND EXPERIENCES ARE DIVERSE, THE
9 JURY IS MORE LIKELY TO PERCEIVE AND REMEMBER ALL
10 THE IMPORTANT EVIDENCE AND ARGUMENTS PRESENTED AT
11 TRIAL."

12 I DON'T SEE WHERE THAT HAS ANY RELEVANCE HERE.

13 MR. BARENS: WELL, YOUR HONOR --

14 THE COURT: CONTINUING READING:

15 "IN SIMILAR FASHION, THE HUMAN MIND
16 OFTEN TENDS TO MAKE ANY NEW INFORMATION WITH WHICH
17 IT IS CONFRONTED LOGICALLY CONSISTENT WITH ITS
18 PRIOR CONSCIOUS BELIEFS."

19 WHERE IS THERE ANYTHING IN THIS CASE WHICH SAYS
20 WHAT HE SAID?

21 MR. BARENS: THE NEXT --

22 THE COURT: THE WHOLE CONTENT OF HIS TESTIMONY DOESN'T
23 IN ANY WAY DISQUALIFY HIM.

24 MR. BARENS: WELL, THE NEXT PARAGRAPH BELOW THAT IS
25 CENTRAL -- NO -- IT IS ON THE SAME PAGE, STARTING ON THE SAME
26 PAGE WHERE IT STARTS "IN SIMILAR FASHION."

27 THE COURT: READ IT TO ME.

28 MR. BARENS: (READING:)

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"IN SIMILAR FASHION, THE HUMAN MIND
OFTEN TENDS TO MAKE ANY NEW INFORMATION WITH WHICH
IT IS CONFRONTED LOGICALLY CONSISTENT WITH ITS
PRIOR CONSCIOUS BELIEF. THUS, IF A JUROR'S
BELIEFS DO NOT CORRESPOND TO THE EVIDENCE PRESENTED
AT TRIAL, THE JUROR'S 'RATIONAL NATURE' MAY TEND
TO IMPEL HIM OR HER TO DISTORT OR EXCLUDE THE
PERCEPTION SO AS TO PROTECT THE APPARENT REASON-
ABLENESS OF THE BELIEF."

WHAT I AM SAYING HERE, CERTAINLY, THIS JUROR HAS
COME TO THIS COURT WITH A MARKED AND ARTICULATED PRIOR
BELIEF SYSTEM WHICH SPECIFICALLY HOVEY IS ADDRESSING HERE AND
THAT ALTHOUGH HE MAY SAY "I WILL CONSIDER WHAT THE JUDGE SAYS,"
IT CERTAINLY WOULD BE ILLOGICAL TO CONCLUDE THAT THAT WOULD
HAVE ANY IMPACT OR MEANING TO THE JUROR WHATSOEVER IN LIGHT
OF THOSE VERY SPECIFIC BELIEF SYSTEMS THAT HE WAS VERY URGENT
ABOUT, YOUR HONOR.

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1 THE COURT: ALL RIGHT, I WILL HEAR FROM THE D.A.

2 MR. WAPNER: FIRST OF ALL, AS FAR AS -- COUNSEL HAS BEEN
3 REFERRING ALTERNATIVELY TO THE WITHERSPOON CASE AND THEN TO
4 THE WITT CASE. IT WAS MY CLEAR UNDERSTANDING WHEN WE DISCUSSED
5 THE MATTER IN CHAMBERS AND AGREED ON THE QUESTIONS THAT WE
6 WERE GOING TO ASK OF THE JURORS, THAT COUNSEL, SPECIFICALLY
7 MR. CHIER, EXPRESSED THE BELIEF THAT WE SHOULD USE THE
8 WITHERSPOON STANDARD BECAUSE THAT WAS LIKELY THE STANDARD THAT
9 WAS GOING TO BE ADOPTED BY THE CALIFORNIA SUPREME COURT AND
10 THAT IS THE STANDARD WE HAVE BEEN USING AND THAT IS THE
11 STANDARD THAT WE AGREED ON AND I THINK WE SHOULD CONTINUE TO
12 USE.

13 UNDER EITHER OF THOSE TESTS, HOWEVER, THIS JUROR
14 HAS NOT MADE IT UNMISTAKABLY CLEAR THAT HE WOULD AUTOMATICALLY
15 VOTE FOR ONE PENALTY OR THE OTHER.

16 CHALLENGES FOR CAUSE ARE NOT MADE ON THE FACT THAT
17 A JUROR MIGHT HAVE AN OPINION FOR OR AGAINST THE DEATH
18 PENALTY.

19 MOST PEOPLE DO HAVE OPINIONS FOR OR AGAINST THE
20 DEATH PENALTY.

21 BUT THE TEST IS WHETHER OR NOT THEY WOULD
22 AUTOMATICALLY -- THAT THEY MAKE IT UNMISTAKABLY CLEAR THAT IN
23 EACH CASE THEY WOULD AUTOMATICALLY VOTE FOR ONE PENALTY OR
24 THE OTHER.

25 THE COURT: I AGREE WITH YOU THAT THIS JUROR DID NOT
26 MAKE IT UNMISTAKABLY CLEAR THAT HE WOULD AUTOMATICALLY VOTE
27 FOR THE DEATH PENALTY BY THE NUMBER OF REMARKS HE MADE IN
28 ANSWER TO YOUR QUESTIONS AND IN ANSWER TO MINE.

1 I HAVE HEARD ENOUGH.

2 MR. CHIER: YOUR HONOR --

3 THE COURT: WOULD YOU GET THE JUROR IN, PLEASE?

4 MR. CHIER: YOUR HONOR, MAY I BE HEARD WITH REGARD TO
5 MR. WAPNER'S REMARKS REGARDING WITHERSPOON?

6 MR. BARENS: WE WOULD LIKE TO PUT THAT ON THE RECORD
7 TO GET AN ORIENTATION GOING FORWARD SO WE KNOW WHICH STANDARD
8 WE ARE USING BECAUSE I DON'T BELIEVE MR. CHIER'S PRIOR REMARKS
9 PRECLUDED A WITTTEST.

10 THE COURT: THAT IS CORRECT, I AM CONSIDERING ALSO
11 WITT, ALTHOUGH THE SUPREME COURT HASN'T DEFINITELY SAID IT
12 IS GOING TO FOLLOW IT.

13 MR. BARENS: YOUR HONOR FINDS THAT EITHER UNDER THE
14 WITT STANDARD OR WITHERSPOON, THIS JUROR --

15 THE COURT: I FIND IT UNDER BOTH STANDARDS.

16 MR. CHIER: YOUR HONOR, MAY I --

17 THE COURT: THAT IS ALL. WE WILL NEVER GET THROUGH
18 THIS INTERROGATION WITH ALL OF THESE ENDLESS ARGUMENTS.

19 MR. CHIER: YOUR HONOR, MR. WAPNER CHARACTERIZED THE
20 ARGUMENT --

21 THE COURT: ALL RIGHT, THE JUROR IS COMING IN.

22 (PROSPECTIVE JUROR GHEBRIAL ENTERS THE
23 COURTROOM.)

24 THE COURT: MR. GHEBRIAL, WHAT I WOULD LIKE TO HAVE YOU
25 DO IS TO COME BACK TO THE JURY ASSEMBLY ROOM ON DECEMBER 2ND
26 AT 10:30. WHAT WE ARE GOING TO DO IS TO FINISH UP ALL OF THE
27 JURORS AND ASK QUESTIONS, THE SAME AS WE ASKED YOU, AND THAT
28 LOOKS LIKE IT IS GOING TO TAKE A NUMBER OF DAYS SO INSTEAD

1 OF HAVING YOU WAIT AROUND, IT IS ANTICIPATED THAT WE CAN
2 FINISH IT ON DECEMBER 2ND AND SO YOU COME BACK INTO THE JURY
3 ASSEMBLY ROOM ON DECEMBER 2ND AT 10:30.

4 WE HAVE YOUR TELEPHONE NUMBER AND IN THE EVENT
5 THAT THIS PROCESS IS GOING TO TAKE LONGER THAN WE ANTICIPATE,
6 THEN WE WILL CALL YOU AND LET YOU KNOW WHEN TO COME BACK.

7 MR. GHEBRIAL: OKAY. THANK YOU.

8 THE COURT: IN THE MEANTIME, DON'T TALK TO ANYBODY ABOUT
9 IT OR READ ANYTHING ABOUT THE CASE UNDER ANY CIRCUMSTANCES,
10 ALL RIGHT?

11 MR. GHEBRIAL: OKAY, THANK YOU.

12 MR. CHIER: MAY I BE HEARD, YOUR HONOR? HE IS GONE --

13 THE COURT: WAIT A MINUTE.

14 MR. WAPNER: YOUR HONOR, I UNDERSTAND THIS MATTER IS
15 GOING TO TAKE TEN MINUTES.

16 MR. HERMAN: THAT IS CORRECT.

17 MR. BARENS: ALL RIGHT.

18 (RECESS.)

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1 (PROSPECTIVE JUROR GLIKBARG ENTERED
2 THE COURTROOM.)

3 THE CLERK: IF YOU WOULD STATE YOUR NAME FOR THE RECORD,
4 PLEASE.

5 MS. GLIKBARG: CHARLENE GLIKBARG.

6 THE COURT: IS THAT MRS. GLIKBARG, IS IT?

7 MS. GLIKBARG: YES.

8 COULD I SAY SOMETHING FIRST?

9 THE COURT: SURE.

10 MS. GLIKBARG: I WOULD LIKE TO BE EXCUSED FROM THIS
11 PANEL.

12 THE COURT: WHY?

13 MS. GLIKBARG: IT IS MAKING ME TOO NERVOUS.

14 THE COURT: YOU THINK IT WOULD AFFECT YOUR HEALTH, DO
15 YOU MEAN, IF YOU WERE TO BE A JUROR ON THIS CASE?

16 MS. GLIKBARG: YES.

17 MR. BARENS: NO OBJECTION, YOUR HONOR.

18 MS. GLIKBARG: THANK YOU.

19 THE COURT: WELL, WOULD YOU BE NERVOUS ABOUT ANY CASE
20 YOU WOULD BE ON?

21 MS. GLIKBARG: NO.

22 THIS PARTICULAR CASE MAKES ME NERVOUS.

23 THE COURT: WHY THIS PARTICULAR CASE?

24 MS. GLIKBARG: BECAUSE OF THE DEFENDANT. I HAVE TWO
25 BOYS WITHIN THAT AGE AND IT BOTHERS ME A LOT.

26 THE COURT: ALL RIGHT, IF THERE IS NO OBJECTION, I WILL
27 EXCUSE YOU.

28 MS. GLIKBARG: THANK YOU.

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1 (PROSPECTIVE JUROR GLIKBARG EXITED
2 THE COURTROOM.)

3 (PROSPECTIVE JUROR GOOLEY ENTERED THE
4 COURTROOM.)

5 THE COURT: ALL RIGHT, MRS. GOOLEY, THIS IS A CASE OF
6 DEJA VU. YOU WERE IN MY CHAMBERS AND YOU WERE TALKING ABOUT
7 YOUR HARDSHIP PROBLEM AND THAT HAS BEEN RESOLVED, HAS IT NOT?

8 MS. GOOLEY: YES.

9 THE COURT: ALL RIGHT, WHAT I AM GOING TO DO IS ASK
10 YOU A SERIES OF QUESTIONS. THOSE QUESTIONS WILL CALL FOR
11 A YES OR NO ANSWER.

12 IF THE QUESTION IS UNCLEAR, IF YOU WOULD LIKE
13 TO HAVE IT EXPLAINED, YOU MAY ASK ME.

14 MS. GOOLEY: OKAY.

15 THE COURT: BEFORE I GO INTO THIS, HAVE YOU READ ABOUT
16 THIS CASE AT ALL?

17 MS. GOOLEY: I SAW AN ARTICLE IN THE LOS ANGELES TIMES
18 A COUPLE OF WEEKS AGO, I BELIEVE.

19 THE COURT: DID YOU READ THE ENTIRE ARTICLE?

20 MS. GOOLEY: I SKIMMED IT. I DIDN'T READ IT FOR DETAIL.

21 THE COURT: DID YOU REACH ANY CONCLUSIONS ONE WAY OR
22 THE OTHER?

23 MS. GOOLEY: NO, I DIDN'T.

24 THE COURT: IN OTHER WORDS, YOU HAVE GOT AN OPEN MIND.

25 OF COURSE, WHAT WAS STATED IN THE NEWSPAPER MAY
26 OR MAY NOT BE CORRECT.

27 MS. GOOLEY: OKAY.

28 THE COURT: SO THEREFORE, YOU CAN'T REACH ANY CONCLUSION

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1 ON THE BASIS OF WHAT YOU READ; ISN'T THAT RIGHT, ISN'T THAT
2 CORRECT?

3 MS. GOOLEY: TRUE.

4 THE COURT: OTHER THAN THAT, DID YOU HAVE ANY
5 CONVERSATIONS WITH ANY OF THE OTHER PROSPECTIVE JURORS IN
6 CONNECTION WITH THE CASE?

7 MS. GOOLEY: I THINK A LARGE NUMBER OF THE JURORS,
8 PROSPECTIVE JURORS, KNOW WHAT THE CASE IS ABOUT. I DON'T
9 HAVE A FEELING OR --

10 THE COURT: I TOLD ALL OF YOU WHAT IT WAS ABOUT.

11 MS. GOOLEY: YES.

12 THE COURT: BUT OTHER THAN THAT?

13 MS. GOOLEY: OTHER THAN THAT, BEFORE YOU DESCRIBED IT,
14 WE KNEW GENERALLY WHAT THE CASE WAS, BUT I DIDN'T HAVE ANY
15 LENGTHY CONVERSATION NOR DID I HEAR ANYONE HAVE ANY LENGTHY
16 CONVERSATION.

17 THE COURT: AND YOUR STATE OF MIND ISN'T SUCH THAT YOU
18 HAVE ANY OPINION AS TO THE GUILT OR INNOCENCE OF THE DEFENDANT
19 AT THIS PARTICULAR STAGE?

20 MS. GOOLEY: NO, I DO NOT.

21 THE COURT: DO YOU HAVE AN OPEN MIND?

22 MS. GOOLEY: YES.

23 THE COURT: ARE THERE ANY OTHER PUBLICATIONS YOU HAVE
24 READ OTHER THAN THE TIMES, I THINK YOU SAID?

25 MS. GOOLEY: JUST THE LOS ANGELES TIMES.

26 THE COURT: ALL RIGHT, THANK YOU VERY MUCH.

27 THE FIRST QUESTION I AM GOING TO ASK YOU IS:

28 DO YOU HAVE ANY OPINION REGARDING THE DEATH PENALTY

1 THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION AS
2 TO THE GUILT OR INNOCENCE OF THE DEFENDANT?

3 MS. GOOLEY: NO.

4 THE COURT: NOW, I EXPLAINED TO THE JURORS, AND I WILL
5 REPEAT IT TO YOU SO YOU WILL HAVE IT IN CONTEXT. IN THIS
6 PARTICULAR CASE, THE DEFENDANT IS CHARGED WITH THE CRIME OF
7 MURDER AND IT IS CHARGED THAT IT IS MURDER IN THE FIRST DEGREE
8 AND A SPECIAL CIRCUMSTANCE ALLEGED WHICH WOULD QUALIFY
9 IT FOR THE DEATH PENALTY IS THAT THAT MURDER WAS COMMITTED
10 IN THE COURSE OF A ROBBERY.

11 YOU SEE, NOT EVERY FIRST DEGREE MURDER CALLS FOR
12 THE DEATH PENALTY OR LIFE IMPRISONMENT WITHOUT THE POSSIBILITY
13 OF PAROLE. IT IS ONLY WHEN THE LEGISLATURE HAS SAID IN
14 CERTAIN CIRCUMSTANCES, CERTAIN TIMES, CERTAIN CONDITIONS THAT
15 IT THEN QUALIFIES. ONE OF THE CONDITIONS IS, FOR EXAMPLE,
16 DURING A KIDNAPPING AND THE PERSON KIDNAPPED IS KILLED OR
17 DURING A RAPE, THE WOMAN IS KILLED AFTER THE RAPE, OR ANY
18 NUMBER OF SITUATIONS OF THAT KIND WHICH ARE SPECIFICALLY SET
19 FORTH IN THE STATUTE. INCLUDED IN THAT, IS THE CRIME OF FIRST
20 DEGREE MURDER IN THE COURSE OF A ROBBERY, THAT ALSO QUALIFIES
21 FOR THE DEATH PENALTY; DO YOU UNDERSTAND THAT?

22 MS. GOOLEY: YES.

23 THE COURT: NOW YOU UNDERSTAND, OF COURSE, TOO, THAT
24 THE JURY WHICH IS SELECTED IN THIS CASE WILL BE FIRST CALLED
25 UPON TO DETERMINE WHETHER OR NOT THE DEFENDANT IS GUILTY OF
26 MURDER IN THE FIRST DEGREE AND WHETHER OR NOT THAT MURDER
27 WAS COMMITTED IN THE COURSE OF A ROBBERY.

28 THERE WILL BE A SPECIAL FINDING WHICH THE JURY

1 WILL MAKE IN CONNECTION WITH A GUILTY FINDING OF MURDER IN
2 THE FIRST DEGREE AND DURING THAT PARTICULAR PHASE OF THE TRIAL,
3 THE QUESTION OF PENALTY OR PUNISHMENT IS NOT TO BE DISCUSSED
4 AND WON'T BE BROUGHT UP AT ALL. THAT COMES LATER.

5 MR. GOOLEY: UH-HUH.

6 THE COURT: IF THE JURY FINDS THE DEFENDANT GUILTY OF
7 THE MURDER IN THE FIRST DEGREE AND THE SPECIAL CIRCUMSTANCE
8 TRUE, IF THEY FIND IT TRUE OR FALSE, AS THE CASE MAY BE, UNDER
9 THE SPECIAL CIRCUMSTANCE THAT IT WAS COMMITTED DURING THE
10 COURSE OF A ROBBERY, THEN THAT SAME JURY, AFTER THEY HAVE
11 BROUGHT A VERDICT OF THAT KIND, IF THEY DO MAKE THAT FINDING,
12 THEN THAT SAME JURY WILL DETERMINE WHAT THEY CALL A PENALTY
13 PHASE, THE SECOND PHASE. FIRST, THERE IS A GUILT PHASE AND
14 THE OTHER IS THE PENALTY PHASE AND THE PENALTY PHASE WILL
15 BE TO DETERMINE WHETHER OR NOT WHAT PENALTY SHOULD BE IMPOSED
16 ON THE DEFENDANT, SHOULD IT BE LIFE IMPRISONMENT WITHOUT THE
17 POSSIBILITY OF PAROLE OR SHALL IT BE DEATH.

18 AND ON THAT SECOND TRIAL, SO TO SPEAK, EACH SIDE
19 THEN WILL PRODUCE EVIDENCE. THE DEFENDANT WILL PRODUCE
20 EVIDENCE OF HIS GOOD CHARACTER, HIS AGE AND ANYTHING THAT
21 IS FAVORABLE TO HIM IN MITIGATION OF THIS OFFENSE OR
22 EXTENUATING CIRCUMSTANCES IN CONNECTION WITH IT. AND THE
23 PEOPLE WILL OFFER EVIDENCE, I ASSUME, IN AGGRAVATION, IN OTHER
24 WORDS, THOSE THINGS WHICH ARE BAD ABOUT THE DEFENDANT WHICH
25 SHOULD BE TAKEN INTO CONSIDERATION.

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1 SO IT IS ONLY AFTER THE JURY HAS HEARD ALL OF
2 IT, BOTH ON THE PENALTY PHASE, GOOD OR BAD ABOUT THE DEFENDANT,
3 THAT THEY THEN RETIRE AND DETERMINE WHETHER OR NOT IT SHOULD
4 BE LIFE IMPRISONMENT WITHOUT THE BENEFIT OF PAROLE, THE
5 POSSIBILITY OF PAROLE, AND/OR DEATH.

6 DO YOU UNDERSTAND ALL OF THAT?

7 MS. GOOLEY: YES.

8 THE COURT: YOU HAVE ANSWERED THE FIRST QUESTION, WHEN
9 YOU SAID NO, YOU HAVE NO OPINION REGARDING THE DEATH PENALTY
10 THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION AS
11 TO THE GUILT OR INNOCENCE OF THE DEFENDANT. THAT IS THE FIRST
12 QUESTION.

13 THE SECOND QUESTION: DO YOU HAVE ANY OPINION
14 REGARDING THE DEATH PENALTY THAT WOULD CAUSE YOU TO VOTE FOR
15 FIRST DEGREE MURDER, EVEN IF THE PROSECUTION DOES NOT PROVE
16 THE DEFENDANT GUILTY OF MURDER IN THE FIRST DEGREE?

17 MS. GOOLEY: WOULD YOU RESTATE THAT?

18 THE COURT: IF THE PROSECUTION DOESN'T PROVE THE
19 DEFENDANT GUILTY OF MURDER IN THE FIRST DEGREE BEYOND A
20 REASONABLE DOUBT, WOULD YOU NONETHELESS FIND HIM GUILTY OF
21 MURDER IN THE FIRST DEGREE BECAUSE YOU FAVOR THE DEATH PENALTY?

22 MS. GOOLEY: NO.

23 THE COURT: DO YOU HAVE ANY OPINION REGARDING THE DEATH
24 PENALTY THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL
25 DECISION CONCERNING THE TRUTH OR FALSITY OF THE SPECIAL
26 CIRCUMSTANCE ALLEGED?

27 MS. GOOLEY: NO.

28 THE COURT: ALL RIGHT, NEXT: DO YOU HAVE ANY OPINION

1 REGARDING THE DEATH PENALTY THAT YOU WOULD AUTOMATICALLY VOTE
2 TO IMPOSE IT, THAT IS THE DEATH PENALTY, AFTER YOU FOUND A
3 VERDICT OF GUILTY OF MURDER IN THE FIRST DEGREE AND SPECIAL
4 CIRCUMSTANCE, REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED
5 AT THE PENALTY PHASE OF THE TRIAL?

6 MS. GOOLEY: NO.

7 THE COURT: NOW, DO YOU HAVE SUCH AN OPINION CONCERNING
8 THE DEATH PENALTY THAT YOU WOULD AUTOMATICALLY VOTE FOR LIFE
9 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE AFTER YOU
10 REACHED A VERDICT OF GUILTY OF MURDER IN THE FIRST DEGREE
11 AND SPECIAL CIRCUMSTANCES, REGARDLESS OF ANY EVIDENCE THAT
12 MAY BE PRESENTED AT THE PENALTY PHASE OF THE TRIAL?

13 MS. GOOLEY: NO.

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1 THE COURT: DO YOU UNDERSTAND THAT OF COURSE, THE ISSUE
2 OF THE DEATH PENALTY MAY OR MAY NOT OCCUR IN THIS CASE AND
3 THESE QUESTIONS HAVE BEEN ASKED ONLY IN THE EVENT THAT WE
4 REACH THAT PHASE OF THE TRIAL, RIGHT?

5 MS. GOOLEY: YES.

6 THE COURT: ALL RIGHT.

7 MR. CHIER: GOOD MORNING, MS. GOOLEY. MY NAME IS
8 RICHARD CHIER. I AM ONE OF THE PERSONS FOR MR. HUNT, HERE.

9 AND I WANT TO JUST PREFACE MY QUESTIONS BY TELLING
10 YOU THAT THE QUESTIONS I AM ABOUT TO ASK YOU, HAVE NO RIGHT
11 OR WRONG ANSWER. THERE IS NO RIGHT OR WRONG ANSWER. THERE
12 IS NO FAIR OR UNFAIR ANSWER.

13 THE ONLY RIGHT ANSWER IS THE TRUTHFUL ANSWER FROM
14 YOURSELF.

15 MS. GOOLEY: UH-HUH.

16 MR. CHIER: AND WHAT WE ARE DOING HERE, IS INQUIRING
17 ESSENTIALLY INTO YOUR STATE OF MIND TOWARD THE DEATH PENALTY
18 INSOFAR AS IT WOULD CAUSE YOU TO BE UNFAIR ONE WAY OR THE
19 OTHER, EITHER BECAUSE YOU ARE OPPOSED TO IT OR BECAUSE YOU
20 ARE SO IN FAVOR OF IT THAT IT WOULD KIND OF BE CLOUDING YOUR
21 JUDGMENT.

22 SO, I WOULD LIKE TO TALK TO YOU A LITTLE BIT ABOUT
23 THE PUBLICITY ASPECT. AND WITH THAT, I WOULD LIKE TO BEGIN
24 ASKING YOU IF YOU READ THE LOS ANGELES TIMES ARTICLE THAT WAS
25 ON THE FRONT PAGE OF THE METRO SECTION I BELIEVE, IN THE
26 SUNDAY EDITION, BACK ABOUT A WEEK OR TWO AGO?

27 MS. GOOLEY: IT WAS IN THE METRO SECTION AND IT WAS ON
28 THE FRONT PAGE.

1 MR. CHIER: DOES YOUR FAMILY SUBSCRIBE TO THE LOS ANGELES
2 TIMES?

3 MS. GOOLEY: YES.

4 MR. CHIER: AND YOU NO DOUBT GET IT DAILY AND SUNDAY?

5 MS. GOOLEY: WE GET IT DAILY AND SUNDAY.

6 MR. CHIER: OKAY. AND AT THE TIME THAT YOU -- HOW DID
7 YOU FIRST BECOME AWARE OF THE ARTICLE? DID SOMEBODY CALL IT
8 TO YOUR ATTENTION OR DID YOU HAPPEN TO SEE IT YOURSELF AS YOU
9 WERE CRUISING THROUGH THE PAPER?

10 MS. GOOLEY: I WAS JUST PERUSING THE PAPER. WE WERE
11 GETTING READY TO GO SOME PLACE. I READ THE PAPER.

12 I READ IT. I WAS ATTRACTED BY THE PICTURE. I
13 READ THE ARTICLE RATHER QUICKLY BECAUSE WE WERE LEAVING TO
14 GO FOR BREAKFAST. MY HUSBAND WAS UP AND READY TO GO.

15 SO I DIDN'T READ IT WITH ANY GREAT ATTENTION TO
16 DETAIL. I JUST SCANNED THE ARTICLE. SO I WAS AWARE OF THE
17 CASE.

18 MR. CHIER: ALL RIGHT. NOW I WANT YOU TO UNDERSTAND
19 THAT THESE ARE NOT MEANT IN ANY CRITICAL SENSE AT ALL. IT
20 IS JUST STRICTLY INFORMATIONAL.

21 MS. GOOLEY: RIGHT, UH-HUH.

22 MR. CHIER: AT THE TIME THAT YOU READ THIS ARTICLE, DID
23 YOU KNOW THAT YOU WERE DUE HERE IN SANTA MONICA FOR JURY DUTY?

24 MS. GOOLEY: ACTUALLY, I DID.

25 MR. CHIER: DID YOU MAKE AN ASSOCIATION AT THE TIME THAT
26 YOU READ THE ARTICLE AND DID YOU SPECULATE THAT THAT MIGHT
27 BE A CASE THAT WOULD BE --

28 MS. GOOLEY: I HONESTLY DIDN'T.

1 MR. CHIER: IN THIS COURTHOUSE?

2 MS. GOOLEY: NO, NOT AT ALL.

3 MR. CHIER: WHEN YOU SAY YOU SKIMMED THE ARTICLE, DID
4 YOU SKIM THE ENTIRE ARTICLE?

5 MS. GOOLEY: YES.

6 MR. CHIER: DO YOU REMEMBER AT THIS TIME AND COULD YOU
7 TELL US ABOUT THE HIGHLIGHTS OF THE ARTICLE THAT YOU CAN
8 REMEMBER, YOU KNOW, THE SALIENT DETAILS THAT COME TO MIND AS
9 YOU RECOLLECT THE ARTICLE?

10 MS. GOOLEY: I REMEMBER THE START OF THE ARTICLE TALKING
11 ABOUT MR. HUNT AND, YOU KNOW, HIS BACKGROUND. I TIED IT IN
12 WITH THE HARVARD BOYS SCHOOL BECAUSE I AM AWARE OF THAT.

13 AND I ASSOCIATED WITH A COUPLE OF THE NAMES, THE
14 MAY COMPANY BOYS THAT WERE MENTIONED -- THEY ARE YOUNG MEN,
15 ACTUALLY. AND THEN I PRETTY MUCH -- LET ME THINK.

16 MR. CHIER: WOULD IT BE HELPFUL IF I ASKED YOU
17 SPECIFIC QUESTIONS?

18 MS. GOOLEY: YES.

19 MR. CHIER: DO YOU RECALL THE DESCRIPTION OF THE DETAILS
20 OF THIS ALLEGED CRIME?

21 MS. GOOLEY: YES.

22 MR. CHIER: FOR EXAMPLE --

23 MS. GOOLEY: YES.

24 MR. CHIER: AND COULD YOU TELL US TO THE BEST OF YOUR
25 RECOLLECTION, WHAT YOU REMEMBER, WHAT WAS DESCRIBED?

26 MS. GOOLEY: WELL, I RECALL THEM TALKING ABOUT THE
27 STOCKS AND COMMODITIES TRADING. AND I REMEMBER THE PORTION
28 ABOUT A MR. LEVIN PUTTING UP FALSE MONEY AND MR. HUNT BEING

1 SUCCESSFUL WITH THIS MONEY, PLAY MONEY.

2 AND I REMEMBER THE FACT THIS ANGERED HIM. I
3 REMEMBER THE FACT THAT MR. LEVIN THEN DISAPPEARED. THERE WAS
4 A QUESTION YOU KNOW, AS TO WHETHER HE WAS ALIVE OR DEAD.

5 I REMEMBER A PIECE OF PAPER BEING FOUND WITH QUITE
6 A BIT OF THE STOCKS BY I BELIEVE IT WAS, MR. LEVIN'S FATHER.

7 THE COURT: IT SAID STEPFATHER.

8 MS. GOOLEY: STEPFATHER. LIKE I SAID, I JUST KIND OF
9 WENT THROUGH IT IN A HURRY.

10 MR. CHIER: IT SEEMS LIKE YOU DID A PRETTY GOOD JOB.

11 MS. GOOLEY: WELL, LET ME THINK. THEN I REMEMBER ANOTHER
12 CASE OF A FATHER OF ONE OF THE BOYS CLUB MEMBERS BEING IN
13 A TRUNK. I AM UNCLEAR ABOUT THAT. I DON'T REMEMBER THAT
14 REALLY WELL.

15 MR. CHIER: DO YOU REMEMBER THERE WAS SOME DISCUSSION
16 ABOUT ANOTHER ALLEGED MURDER?

17 MS. GOOLEY: ANOTHER ALLEGED MURDER. BUT AT THIS POINT,
18 I REALLY DON'T REMEMBER EITHER -- THE ARTICLE EITHER DIDN'T
19 MAKE THAT REAL CLEAR OR I JUST SCANNED THROUGH IT TOO FAST.

20 MR. CHIER: WELL, LET ME ASK YOU THIS. I WILL ASK A
21 COUPLE OF QUESTIONS ABOUT YOUR ATTITUDE TOWARDS THE THINGS
22 YOU READ IN THE PAPER GENERALLY.

23 TO USE AN EXAMPLE, DURING THE DAYS WHEN RICHARD
24 RAMIREZ, THE NIGHT STALKER PERSON WAS BEING HUNTED DOWN FOR
25 A SERIES OF MURDERS THAT WERE OCCURRING IN LOS ANGELES AND
26 THEN ONE DAY THERE WAS A BIG NEWSPAPER ARTICLE THAT MR.
27 RAMIREZ HAD BEEN CAPTURED AND THAT HE HAD CERTAIN EVIDENCE
28 TENDING TO LEAD TO THESE CRIMES.

1 DID YOU FEEL A SIGH OF RELIEF AT THAT TIME, IN
2 THE SENSE THAT YOU FELT THAT THE POLICE PROBABLY HAD THE RIGHT
3 PERSON?

4 MS. GOOLEY: I DON'T KNOW IF I FELT A SIGH OF RELIEF.
5 I THINK WHENEVER THERE IS A PUBLIC THREAT LIKE THAT, YOU DO
6 FEEL A RELIEF THAT AT LEAST, A STEP HAS BEEN MADE.

7 I DON'T KNOW THAT I AM EVER CONVINCED THAT THEY
8 HAVE GOT THE RIGHT PERSON.

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1 MR. CHIER: WELL, LET'S TALK SPECIFICALLY ABOUT THE
2 ARTICLE IN THIS CASE. DO YOU UNDERSTAND THAT THE ARTICLE,
3 THE INFORMATION CONTAINED IN THE ARTICLE, IS NOT EVIDENCE?

4 MS. GOOLEY: I UNDERSTAND THAT. I ALSO UNDERSTAND THAT
5 I ONLY -- I DON'T BELIEVE EVERYTHING I READ IN THE NEWSPAPER.

6 MR. CHIER: ALL RIGHT. AND THE REASON THAT WE DON'T
7 BELIEVE EVERYTHING WE READ IS BECAUSE IT HAS NOT COME THROUGH
8 TESTIMONY UNDER OATH, CORRECT?

9 MS. GOOLEY: UH-HUH.

10 MR. CHIER: AND IT HAS NOT BEEN --

11 MR. WAPNER: IS THAT YES?

12 MS. GOOLEY: YES. THAT'S A BAD HABIT. I'M SORRY.

13 MR. CHIER: IT IS JUST TO A LARGE EXTENT, FROM HEARSAY
14 STATEMENTS MADE BY PEOPLE THAT MAY BE SELF-SERVING? DO YOU
15 UNDERSTAND THAT?

16 MS. GOOLEY: I UNDERSTAND THAT.

17 MR. CHIER: AND NOTWITHSTANDING THE POINT OF VIEW A
18 NEWSPAPER ARTICLE MIGHT EMBRACE, THERE ARE REALLY TWO SIDES
19 TO THE SITUATION.

20 AS YOU SIT HERE TODAY -- WELL, HERE'S THE -- LET
21 ME ASK YOU THIS. ASSUMING MRS. GOOLEY, THAT YOU WERE SELECTED
22 AS A JUROR IN THIS CASE AND ASSUMING -- DO YOU UNDERSTAND THAT
23 IN A CASE WHERE THE DEATH PENALTY IS REQUESTED, THERE ARE TWO
24 SEPARATE PHASES?

25 THE COURT: I MADE ALL OF THAT CLEAR TO HER. I EXPLAINED
26 THIS TO HER IN GREAT DETAIL.

27 YOU DON'T HAVE TO GO OVER THAT AGAIN.

28 MR. CHIER: IT IS JUST SIMPLY PRELIMINARY. I WON'T

1 LECTURE HER.

2 MS. GOOLEY: YES.

3 MR. CHIER: SO THAT THE FIRST PHASE IS THE GUILT PHASE.
4 YOU ARE ONLY TO DEAL AT THAT TIME WITH THE CRIME WHICH WAS
5 COMMITTED AND WHETHER THIS PERSON COMMITTED IT BEYOND A
6 REASONABLE DOUBT.

7 MS. GOOLEY: YES.

8 MR. CHIER: NOW, SUPPOSE MRS. GOOLEY, THAT DURING THAT
9 GUILT PHASE OF THE TRIAL, THERE WAS NO EVIDENCE AT ALL
10 CONCERNING THIS OTHER ALLEGED THING IN SOME OTHER PLACE AT
11 SOME OTHER TIME.

12 BUT ALSO, SUPPOSE THAT YOU ARE A JUROR IN THE CASE
13 THAT READ THAT.

14 MS. GOOLEY: UH-HUH.

15 MR. CHIER: NOW, DO YOU FEEL THAT EVEN THOUGH THERE WAS
16 NO EVIDENCE ABOUT THAT INDICATES THAT THAT EXPERIENCE OF HAVING
17 READ THAT IN THE PAPER, WOULD INFLUENCE YOUR DECISION-MAKING
18 IN THIS CASE?

19 MS. GOOLEY: I DON'T THINK IT WOULD BECAUSE I THINK I
20 COULD FOCUS ON THE FACT THAT I WAS SUPPOSED TO BE ONLY WEIGHING
21 THE EVIDENCE THAT WAS PRESENTED TO ME. BUT --

22 MR. CHIER: DO YOU UNDERSTAND THAT THE SYSTEM CAN ONLY
23 WORK IF THE JURORS CONSIDER THE EVIDENCE AND NOT CONSIDER --
24 NOT HAVE ANY HIDDEN AGENDAS, SO TO SPEAK?

25 MS. GOOLEY: RIGHT.

26 MR. CHIER: SO THE FACT THAT YOU NOW HAVE READ IT, UNLESS
27 IT CAME IN LET'S SAY IN THE GUILT PHASE OF THE TRIAL, YOU
28 WOULDN'T CONSIDER IT?

1 MS. GOOLEY: I DON'T BELIEVE I WOULD, NO. I WOULD LIKE
2 TO THINK I WOULD NOT.

3 MR. CHIER: ALL RIGHT. I TAKE IT THAT YOU CONSIDER THAT
4 YOU ARE A FAIR PERSON?

5 MS. GOOLEY: I TRY TO BE.

6 MR. CHIER: AND THAT YOU ARE ABLE TO FOLLOW THE
7 DIRECTIONS OF THE COURT INSOFAR AS -- HAVE YOU EVER BEEN A
8 JUROR BEFORE?

9 MS. GOOLEY: I HAVE BEEN A JUROR BEFORE.

10 MR. CHIER: SO YOU KNOW PRETTY MUCH HOW THE SYSTEM WORKS
11 AND WHAT IT REQUIRES?

12 MS. GOOLEY: YES.

13 MR. CHIER: NOW, LET'S MOVE ON THEN, TO THE DEATH
14 PENALTY, MS. GOOLEY. AND LET ME ASK YOU -- I WILL JUST ASK
15 IT IN THIS FASHION, BEFORE I GET SPECIFIC.

16 DO YOU HAVE, AS YOU LOOK DEEPLY WITHIN YOURSELF,
17 ANY HIDDEN AGENDAS WITH RESPECT TO THE DEATH PENALTY THAT CAUSES
18 YOU TO BE EITHER SO IN FAVOR OF IT OR SO AGAINST IT, THAT YOU
19 PROBABLY WOULDN'T BE A REAL NEUTRAL JUROR IN THIS CASE?

20 MS. GOOLEY: I THOUGHT ABOUT THAT AFTER I LEFT THE
21 COURTROOM. AND I DON'T REALLY HAVE ANY STRONG FEELINGS FOR
22 IT OR AGAINST THE DEATH PENALTY.

23 MR. CHIER: DO YOU HAVE ANY FEELING WHETHER THE DEATH
24 PENALTY IS GOOD OR BAD?

25 MS. GOOLEY: I GUESS I JUST FEEL THAT AT TIMES, A CRIME
26 WOULD DESERVE THAT PUNISHMENT.

27 MR. CHIER: ALL RIGHT. SO IF I UNDERSTAND YOUR FEELING,
28 WHICH IS A COMMON ONE, THERE ARE CIRCUMSTANCES WHERE A CRIME

1 IS SO BAD OR THE PERSON IS SO BAD, THAT THE ONLY APPROPRIATE
2 PENALTY IS THE DEATH PENALTY, IS THAT CORRECT?

3 MS. GOOLEY: IF THE FACTS WOULD INDICATE THAT PERSON
4 WERE GUILTY OF THAT CRIME.

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1 MR. CHIER: AND IF YOU DON'T WISH TO ANSWER THIS, THAT
2 IS ALL RIGHT, TOO, SINCE WE DO HAVE WHAT THEY CALL A SECRET
3 BALLOT IN THIS COUNTRY. BUT DID YOU VOTE FOR THE DEATH PENALTY
4 WHEN IT WAS ON THE BALLOT?

5 MS. GOOLEY: I DID.

6 MR. CHIER: ALL RIGHT. DO YOU REMEMBER AT THE TIME
7 THAT YOU VOTED FOR THE DEATH PENALTY WHETHER YOU DID SO OUT
8 OF A CONSIDERATION OF THE LEGISLATIVE MATERIAL THAT CAME WITH
9 YOUR SAMPLE BALLOT THAT EXPLAINED THE SCHEME FOR WHAT CRIMES
10 SHOULD GET THE DEATH PENALTY? OR WAS IT A GENERAL FEELING
11 THAT THE LEVEL AND TYPE OF CRIMES IN THIS COUNTRY REQUIRED
12 SOMETHING AND PERHAPS IT WAS A GOOD IDEA TO HAVE A DEATH
13 PENALTY?

14 MS. GOOLEY: I THINK IT WAS YOUR SECOND.

15 MR. CHIER: THE LATTER?

16 MS. GOOLEY: UH-HUH.

17 MR. WAPNER: IS THAT YES?

18 MS. GOOLEY: YES.

19 MR. CHIER: SO IT WAS MORE OF A SENSE THAT NOTHING ELSE
20 WAS REALLY WORKING AND THAT PERHAPS THE DEATH PENALTY MAY
21 BE A DETERRENT, AT LEAST GIVE IT A TRY; IS THAT SORT OF THE
22 ATTITUDE YOU HAD?

23 MS. GOOLEY: I THINK THAT IS CLOSE.

24 I THINK I PROBABLY TRIED TO WEIGH EVERYTHING,
25 BUT I THINK IT WAS A FEELING THAT THERE ARE CRIMES THAT WOULD
26 WARRANT THAT KIND OF A PUNISHMENT AND THAT THE DETERRENT WOULD
27 BE A GOOD THING.

28 MR. CHIER: ALL RIGHT. DO YOU HAVE ANY FEELINGS AT

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1 THIS TIME, THAT IS, YOUR EMOTIONAL RESPONSE AND NOT DEPENDING
2 UPON YOUR KNOWLEDGE OF THE LAW OR THE INSTRUCTIONS THE COURT
3 MAY GIVE YOU, BUT ASSUMING, AND JUST ASSUMING AND I AM NOT
4 SECOND GUESSING ANYTHING, BUT ASSUMING THAT THE EVIDENCE
5 CONVINCED YOU BEYOND A REASONABLE DOUBT THAT MR. HUNT HERE
6 DID WHAT WAS ALLEGED BY THE PROSECUTION AND IN A SENSE WHAT
7 WAS DESCRIBED IN THE PAPER IN A GENERAL WAY, ASSUME THAT YOU
8 SAT THROUGH THE TRIAL AND THE GUILT PHASE ENDED AND THAT YOU
9 AND THE REST OF THE JURORS CONCLUDED THAT MR. HUNT WAS GUILTY
10 AS CHARGED AND YOU FOUND THAT THE SPECIAL CIRCUMSTANCES WERE
11 TRUE, OKAY?

12 NOW WE SHIFT INTO THE PENALTY PHASE. AT THAT
13 POINT, WOULD YOU SAY THAT WE, DEFENSE COUNSEL, WOULD HAVE
14 TO WORK HARDER THAN MR. WAPNER TO CONVINCING YOU OR PERSUADE
15 YOU TO TRY TO RETURN A VERDICT OF LIFE AS OPPOSED TO DEATH,
16 OR WOULD YOU SAY AT THAT POINT THAT MR. WAPNER -- THAT YOU
17 WOULD BE LEANING OVER TOWARD MR. WAPNER OR THAT YOU WOULD
18 BE TOTALLY NEUTRAL AT THAT POINT?

19 DO YOU KNOW WHAT I AM SAYING?

20 MS. GOOLEY: I KNOW WHAT YOU ARE SAYING.

21 I WOULD THINK THAT I WOULD STILL BE NEUTRAL AT
22 THAT POINT.

23 MR. CHIER: CAN YOU THINK OF CIRCUMSTANCES -- LET'S
24 ASSUME THAT YOU ARE IN CHARGE, YOU ARE THE BOSS AND THAT YOU
25 GET TO DECIDE WHAT THINGS ARE CRIMES, WHAT AREN'T CRIMES AND
26 WHAT THE PUNISHMENT IS FOR VARIOUS CRIMES; CAN YOU THINK OF
27 ANY TYPE OF CRIME THAT YOU WOULD MAKE PUNISHABLE BY DEATH?

28 MS. GOOLEY: WELL, A CRIME IN WHICH THE PERSON WHO WAS

9-3
1 FOUND GUILTY HAD CAUSED, HAD CREATED THE DEATH OF A LOT OF
2 OTHER PEOPLE, A LOT OF PEOPLE.

3 THE COURT: THAT IS MULTIPLE MURDER.

4 MS. GOOLEY: MULTIPLE MURDERS.

5 MR. CHIER: AS A PERSON IN TRIAL -- THIS IS A HYPOTHETICAL
6 QUESTION AND THIS IS AN ATTITUDINAL INQUIRY -- AS THE PERSON
7 IN CHARGE, CAN YOU THINK OF ANYTHING OR THE TYPES OF THINGS
8 WHICH OUGHT TO BE CONSIDERED BY A JURY IN MITIGATION OF THE
9 DEATH PENALTY, THAT IS TO SAY, THINGS THAT WOULD WEIGH AGAINST
10 DEATH AND PERHAPS IN FAVOR OF LIFE WITHOUT POSSIBILITY OF
11 PAROLE; ARE THERE ANY TYPES OF THINGS, FACTORS THAT WOULD
12 COME TO MIND JUST OFFHAND?

13 MS. GOOLEY: WELL, I GUESS THE NATURE OF THE CRIME.

14 MR. CHIER: OKAY. WHETHER IT WAS A BRUTAL CRIME, WHETHER
15 IT WAS SOPHISTICATED?

16 HOW ABOUT THE AGE OF THE DEFENDANT?

17 THE COURT: SUPPOSE THE COURT TELLS YOU THAT THE AGE
18 OF THE DEFENDANT AND HIS BACKGROUND MAY BE CONSIDERED, WILL
19 YOU FOLLOW THAT INSTRUCTION?

20 MS. GOOLEY: YES.

21 MR. CHIER: ASSUMING THAT YOU WOULD FOLLOW EVERY
22 INSTRUCTION THE COURT GAVE YOU, WOULD IT MAKE A DIFFERENCE
23 TO YOU?

24 DO YOU UNDERSTAND THE DIFFERENCE BETWEEN FOLLOWING?
25 THAT MEANS AGREEING TO LISTEN TO THE EVIDENCE.

26 MS. GOOLEY: UH-HUH.

27 MR. CHIER: AND WHETHER OR NOT IT WOULD MAKE A DIFFERENCE
28 TO YOU?

1 DO YOU UNDERSTAND THE DIFFERENCE BETWEEN THOSE
2 TWO THINGS?

3 (WHEREUPON, MRS. GOOLEY NODDED HER HEAD
4 UP AND DOWN.)

5 MR. CHIER: IN OTHER WORDS YOU CAN AGREE TO LISTEN TO
6 ALL OF THE EVIDENCE AND KEEP AN OPEN MIND?

7 MR. WAPNER: EXCUSE ME. I DON'T THINK THERE WAS AN
8 ANSWER TO WHETHER SHE UNDERSTANDS THE DIFFERENCE. THERE
9 WASN'T AN AUDIBLE REPLY.

10 MR. CHIER: DO YOU UNDERSTAND THE DIFFERENCE BETWEEN
11 SAYING "I AGREE TO FOLLOW THE COURT'S INSTRUCTIONS WHATEVER
12 THEY MAY BE," BUT THERE IS ANOTHER QUESTION ABOUT WHETHER
13 THINGS THAT MAY COME IN AS EVIDENCE WOULD MAKE A DIFFERENCE
14 TO YOU. DO YOU UNDERSTAND THAT IS DIFFERENT FROM JUST
15 AGREEING?

16 MS. GOOLEY: RIGHT.

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1 MR. CHIER: RIGHT?

2 MS. GOOLEY: WELL, I WOULD LIKE TO THINK I COULD FOLLOW
3 THE COURT'S INSTRUCTION.

4 MR. CHIER: RIGHT, I AM SURE YOU COULD. I HAVE NO
5 QUARREL WITH THAT, MRS. GOOLEY.

6 MS. GOOLEY: YES.

7 MR. CHIER: MRS. GOOLEY, WHAT I AM TRYING TO FIND OUT,
8 IF THE COURT SHOULD INSTRUCT YOU -- YOU UNDERSTAND IN A CASE
9 LIKE THIS, THE COURT CAN'T INSTRUCT YOU TO RETURN A VERDICT
10 OF DEATH AND THE COURT CAN'T INSTRUCT YOU TO RETURN A VERDICT
11 OF LIFE WITHOUT THE POSSIBILITY OF PAROLE. THEY CAN ONLY
12 INSTRUCT YOU AS TO WHAT THINGS YOU MAY CONSIDER AND HOW TO
13 GO ABOUT YOUR EVALUATION. BUT THE FINAL DECISION RESTS WITH
14 YOU AND THE OTHER JURORS AS TO WHAT YOU ARE GOING TO DO,
15 WHETHER HE LIVES OR DIES.

16 MS. GOOLEY: UH-HUH.

17 MR. CHIER: SO WHAT I WANT TO KNOW IS IF YOU HAVE SUCH
18 A STRONG FEELING ABOUT OR AGAINST THE IDEA OF A FIRST DEGREE
19 PREMEDITATED MURDER THAT EVEN IF YOU LISTENED TO SUCH THINGS
20 AS NO PRIOR FELONY CRIMINAL HISTORY OR YOUNG, YOUTH, IT REALLY
21 WOULDN'T MAKE A DIFFERENCE TO YOU.

22 MS. GOOLEY: NO.

23 THE COURT: WOULD IT MAKE A DIFFERENCE?

24 MS. GOOLEY: IT WOULD MAKE A DIFFERENCE TO ME, YES.

25 MR. CHIER: AND WOULD YOU AGREE OR PROMISE NOT TO
26 CONSIDER ANYTHING THAT WASN'T EVIDENCE IN THE CASE AND TO
27 DISCARD FROM YOUR MIND, TO INTELLECTUALLY SEPARATE WHAT YOU
28 MAY HAVE READ FROM WHAT YOU HEAR IN THE COURTROOM; COULD YOU

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1 DO THAT?

2 MS. GOOLEY: I WOULD CERTAINLY MAKE EVERY EFFORT TO
3 DO THAT.

4 I WOULD THINK THAT I COULD DO THAT. I WOULD HOPE
5 THAT I COULD DO THAT.

6 MR. CHIER: IT WOULD REQUIRE A CERTAIN AMOUNT OF
7 DISCIPLINE. I ASSUME THAT YOU HAVE DISCIPLINE THAT WOULD
8 BE NECESSARY TO MAKE THAT SEGREGATION.

9 I PASS FOR CAUSE, YOUR HONOR.

10 THE COURT: ALL RIGHT.

11 MR. WAPNER: DO YOU WANT ME TO BEGIN?

12 THE COURT: I WANT TO HAVE THE LADY LEAVE SO SHE DOESN'T
13 HAVE TO COME BACK. MAKE IT SHORT IF YOU CAN.

14 MR. WAPNER: MRS. GOOLEY, WHEN YOU SAID YOU IDENTIFIED
15 WITH THE HARVARD SCHOOL --

16 THE COURT: THIS IS MR. WAPNER, HE IS THE ASSISTANT,
17 THE DEPUTY DISTRICT ATTORNEY IN THE CASE. THE OTHER GENTLEMAN
18 THAT TALKED TO YOU REPRESENTS THE DEFENDANT.

19 MS. GOOLEY: ALL RIGHT.

20 MR. WAPNER: WHEN YOU SAY YOU IDENTIFIED WITH HARVARD
21 SCHOOL AND ASSOCIATED WITH THE MAY BROTHERS, I BELIEVE THOSE
22 WERE YOUR WORDS; DOES THAT MEAN YOU KNEW THESE PEOPLE?

23 MS. GOOLEY: NO.

24 I KNEW OF THE HARVARD SCHOOL BECAUSE I HAD
25 CHILDREN THAT WENT TO A PRIVATE SCHOOL AND THEY HAD, YOU KNOW,
26 SOME ASSOCIATION SO I KNEW THAT SCHOOL.

27 AND THE ONLY REASON I KNEW THE MAY NAME WAS BECAUSE
28 IT IS A NAME THAT --

9A-3

1 MR. WAPNER: FROM THE DEPARTMENT STORE?

2 MS. GOOLEY: FROM THE DEPARTMENT STORES, YES. IT IS
3 JUST A NAME THAT STUCK IN MY MIND BUT IT IS NOT THAT I HAVE
4 ANY PERSONAL KNOWLEDGE OF THEM BUT I WAS AWARE OF HARVARD
5 BOYS SCHOOL.

6 MR. WAPNER: HAVING READ THE ARTICLE IN THE L.A. TIMES,
7 DO YOU FEEL YOU CAN BE FAIR TO BOTH SIDES IN THIS CASE?

8 MS. GOOLEY: WELL, I HONESTLY THINK I COULD.

9 MR. WAPNER: YOU DON'T THINK AS YOU SIT HERE NOW, HAVING
10 READ THE ARTICLE, THAT YOU ARE BIASED IN FAVOR OF ONE SIDE
11 OR THE OTHER?

12 MS. GOOLEY: NO.

13 MR. WAPNER: WHEN YOU WERE TALKING ABOUT THE DEATH PENALTY
14 FOR MULTIPLE MURDERS, WERE YOU USING THAT AS AN EXAMPLE?

15 MS. GOOLEY: YES.

16 MR. WAPNER: SO THE FACT THERE IS ONLY ONE MURDER
17 CHARGED IN THIS CASE WOULD NOT IN AND OF ITSELF PRECLUDE YOU
18 FROM VOTING FOR THE DEATH PENALTY IF YOU FELT THE FACTS
19 WARRANTED IT? DO YOU UNDERSTAND?

20 MS. GOOLEY: YES, I COULD. I COULD VOTE FOR THE DEATH
21 PENALTY IF I FELT THAT THE FACTS WARRANTED IT IN A SINGLE
22 MURDER AS OPPOSED TO MULTIPLE.

23 I JUST -- I GUESS I BROUGHT OUT MULTIPLE MURDERS
24 BECAUSE I THINK --

25 THE COURT: YOU WERE ASKED TO GIVE AN EXAMPLE AND YOU
26 GAVE THAT.

27 MS. GOOLEY: I WAS ASKED TO GIVE AN EXAMPLE AND THAT
28 CAME TO MY MIND AS BEING ONE.

1 MR. WAPNER: THANK YOU. I WILL PASS FOR CAUSE.

2 THE COURT: MRS. GOOLEY, YOU SEE WE ARE IN THE PROCESS
3 OF ASKING ALL OF THE PROSPECTIVE JURORS IN THIS CASE THE
4 QUESTIONS WE HAVE ASKED YOU AND YOU CAN SEE IT TOOK A LONG
5 TIME FOR YOU.

6 MS. GOOLEY: YES, YES.

7 THE COURT: WE HAVE GOT TO GO THROUGH FROM G NOW, WHICH
8 IS YOUR NAME AND GO DOWN TO Z, WHICH IS THE BALANCE OF THE
9 ALPHABET. IT WILL TAKE AT LEAST TO DECEMBER 2ND SO WHAT I
10 AM GOING TO ASK YOU TO DO IS COME BACK TO THE JURY ASSEMBLY
11 ROOM ON DECEMBER 2ND AT 10:30 A.M.

12 WE HAVE YOUR TELEPHONE NUMBER AND IN THE EVENT
13 THIS TAKES LONGER THAN WE ANTICIPATE, IF WE WON'T BE FINISHED
14 BY DECEMBER 2ND, RATHER THAN HAVE YOU COME AROUND, SO YOU
15 DON'T HAVE TO WAIT AROUND WE WILL HAVE YOUR TELEPHONE NUMBER
16 AND WE WILL CALL AND TELL YOU WHEN TO COME IN IF IT IS NOT
17 DECEMBER 2ND; DO YOU UNDERSTAND?

18 DON'T TALK TO ANYBODY ABOUT THE CASE. DON'T READ
19 ANYTHING ABOUT IT IN THE MEANTIME, ALL RIGHT?

20 SEE YOU BACK THEN.

21 MS. GOOLEY: ALL RIGHT.

22 THE COURT: THANK YOU.

23 MS. GOOLEY: OKAY.

24 (AT 12:07 P.M. A RECESS WAS TAKEN UNTIL
25 1:30 P.M. OF THE SAME DAY.)

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1 SANTA MONICA, CALIFORNIA; THURSDAY, NOVEMBER 20, 1986; 1:30 P.M.
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE
3 (APPEARANCES AS NOTED ON TITLE PAGE
4 EXCEPT MR. BARENS IS NOT PRESENT.)
5

6 THE COURT: THE RECORD WILL INDICATE THE PRESENCE OF
7 THE DEFENDANT AND COUNSEL.

8 (PROSPECTIVE JUROR GRALINSKI ENTERS THE
9 COURTROOM.)

10 THE COURT: IS THAT MS.?

11 MS. GRALINSKI: MS.

12 THE COURT: MS. GRALINSKI, BEFORE I START ASKING YOU
13 SOME OTHER QUESTIONS ABOUT YOUR ATTITUDES TOWARD CAPITAL
14 PUNISHMENT, I WANT TO FIND OUT WHETHER YOU HAVE READ OR KNOW
15 ANYTHING AT ALL ABOUT THE CASE, EXCEPT WHAT YOU HEARD WHEN
16 I ADDRESSED THE JURORS. HAVE YOU READ ANYTHING ABOUT IT?

17 MS. GRALINSKI: ONE ARTICLE.

18 THE COURT: WHAT WAS THAT?

19 MS. GRALINSKI: IN TIME MAGAZINE.

20 THE COURT: TIME MAGAZINE THIS WEEK?

21 MS. GRALINSKI: LAST WEEK.

22 THE COURT: LAST WEEK? YES. THAT'S RIGHT. LAST WEEK.

23 WELL, IN READING THAT ARTICLE, DID YOU FORM ANY
24 OPINION AT ALL IN THIS PARTICULAR CASE ON THE GUILT OR
25 INNOCENCE OF THE DEFENDANT?

26 MS. GRALINSKI: NO.

27 THE COURT: OF COURSE YOU KNOW THAT MANY TIMES THINGS
28 YOU READ MAY OR MAY NOT BE TRUE?

1 MS. GRALINSKI: RIGHT.

2 THE COURT: SO YOU TAKE EVERYTHING WITH A GRAIN OF SALT?

3 MS. GRALINSKI: YES.

4 THE COURT: WHETHER IT IS TRUE OR NOT, YOU WILL FIND
5 OUT IN THIS COURTROOM?

6 MS. GRALINSKI: YES.

7 THE COURT: FROM EVIDENCE WHICH IS PRESENTED. DO YOU
8 UNDERSTAND THAT?

9 MS. GRALINSKI: UH-HUH.

10 THE COURT: NOW, DID YOU READ ABOUT OR HEAR ABOUT IT
11 IN ANY OTHER FASHION?

12 MS. GRALINSKI: NO.

13 THE COURT: ALL RIGHT. YOU DIDN'T READ ANYTING IN THE
14 TIMES, IN THE LOS ANGELES TIMES?

15 MS. GRALINSKI: NO.

16 THE COURT: DID YOU HEAR ANY DISCUSSION AT ALL AMONG
17 THE JURORS ABOUT THE CASE?

18 MS. GRALINSKI: I HEARD PEOPLE MENTION THAT THEY THOUGHT
19 IT WAS THE CASE, BUT NO, AND --

20 THE COURT: NOTHING ABOUT THE FACTS IN THE CASE?

21 MS. GRALINSKI: NO.

22 THE COURT: ALL RIGHT. NOW, I AM GOING TO ASK YOU A
23 SERIES OF QUESTIONS AND I REQUEST THAT YOU ANSWER YES OR NO.
24 IF YOU DON'T UNDERSTAND THE QUESTION, ASK ME TO PLEASE RESTATE
25 IT OR IF IT IS UNCLEAR I WILL EXPLAIN IT.

26 YOU HEARD, DID YOU NOT, WHEN YOU WERE HERE WITH
27 THE OTHER JURORS THE NATURE OF THE CASE WE ARE ABOUT TO TRY?

28 MS. GRALINSKI: YES.

1 THE COURT: IT IS A MURDER CASE IN WHICH IT IS ALLEGED
2 THAT THE DEFENDANT MURDERED SOMEBODY AND THAT IT WAS IN THE
3 COURSE OF A ROBBERY, ALL RIGHT?

4 MS. GRALINSKI: YES.

5 THE COURT: NOW UNDER THE LAW, EVERY SINGLE MURDER DOESN'T
6 CALL FOR THE DEATH PENALTY OR FOR LIFE IMPRISONMENT WITHOUT
7 THE POSSIBILITY OF PAROLE. IT IS ONLY THE LEGISLATURE SAYS
8 THAT IN CERTAIN TYPES OF CASES WHERE THERE HAS BEEN A MURDER
9 AND IT IS FOUND TO BE IN THE FIRST DEGREE BY A JURY THAT THERE
10 ARE CERTAIN SITUATIONS ONLY, AND THEY ARE RESTRICTED AS TO
11 WHEN A JURY HAS THE RIGHT TO CONSIDER WHETHER THE DEFENDANT
12 IS SUBJECT TO CAPITAL PUNISHMENT; DO YOU UNDERSTAND?

13 MS. GRALINSKI: YES.

14 THE COURT: FOR EXAMPLE, IN THIS PARTICULAR CASE THE
15 DEFENDANT IS CHARGED WITH KILLING SOMEBODY AND IT WAS IN THE
16 COURSE OF A ROBBERY. THAT CALLS FOR THE DEATH PENALTY OR LIFE
17 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE IF HE IS FOUND
18 GUILTY BY THE JURY UNANIMOUSLY AND BEYOND A REASONABLE DOUBT.

19 AND THERE ARE OTHERS FOR EXAMPLE, SOMEBODY KIDNAPPED
20 SOMEBODY AND THEN IN THE COURSE OF THE KIDNAP OR AFTERWARD
21 KILLS THAT PERSON AND THAT IS ALSO SUBJECT TO CAPITAL
22 PUNISHMENT; DO YOU UNDERSTAND?

23 MS. GRALINSKI: UH-HUH.

24 THE COURT: OR A MAN RAPES A WOMAN AND IN THE COURSE
25 OF THE RAPE HE KILLS HER, THAT ALSO CALLS FOR THE DEATH
26 PENALTY.

27 MS. GRALINSKI: UH-HUH.

28 THE COURT: MULTIPLE MURDERS, FOR EXAMPLE, CALL FOR THE

1 DEATH PENALTY. TORTURE. THINGS OF THAT KIND. IT IS ONLY
2 WHERE THE LEGISLATURE SAYS IN SPECIFIC TYPES OF MURDERS WHERE
3 CERTAIN THINGS ARE DONE, CERTAIN TYPES OF MURDERS ARE
4 COMMITTED AND WHAT IS DONE IN CONNECTION WITH THAT, THAT THE
5 DEATH PENALTY IS REQUIRED.

6 MS. GRALINSKI: UH-HUH.

7 MR. WAPNER: YOUR HONOR, COULD I JUST INTERJECT HERE?
8 YOU SAID CALLS FOR THE DEATH PENALTY, THE DEATH PENALTY IS
9 REQUIRED. YOU ARE TALKING ABOUT CAPITAL CASES WHERE THAT IS
10 ONE OF THE ALTERNATIVE PUNISHMENTS.

11 THE COURT: YES, OF COURSE. WHEN I SAY THAT, IT IS THE
12 DEATH PENALTY OR LIFE IMPRISONMENT WITHOUT THE POSSIBILITY
13 OF PAROLE ANY TIME I TALK ABOUT THAT OR CAPITAL PUNISHMENT
14 INCLUDES THAT.

15 NOW, IF YOU ARE SELECTED AS A JUROR, THE FIRST
16 THING FOR THE JURY WILL BE TO DETERMINE AFTER THEY HEAR ALL
17 OF THE EVIDENCE ON WHAT WE CALL THE GUILT PHASE, JUST THAT,
18 THE JURY WOULD HAVE TO THEN DECIDE FIRST WHETHER OR NOT THIS
19 WAS MURDER IN THE FIRST DEGREE AND WHETHER THAT WAS COMMITTED
20 IN THE COURSE OF A ROBBERY.

21 (MR. BARENS ENTERS THE COURTROOM.)

22 THE COURT: IF THE JURY UNANIMOUSLY FINDS THAT TO BE
23 TRUE, IN OTHER WORDS, THEY FIND THAT THE DEFENDANT WAS GUILTY
24 OF MURDER IN THE FIRST DEGREE AND THE SPECIAL CIRCUMSTANCES --
25 WE CALL IT SPECIAL CIRCUMSTANCE -- THAT IT WAS COMMITTED
26 DURING THE COURSE OF THE ROBBERY, THEN THE SAME JURY WILL HEAR
27 OTHER EVIDENCE, BOTH FOR THE DEFENDANT, IN OTHER WORDS, EVIDENCE
28 FAVORABLE TO HIM OR UNFAVORABLE TO HIM, MITIGATING OR AGGRAVATING

1 CIRCUMSTANCES. THEN THE JURY AGAIN GOES INTO DELIBERATE AND
2 THEY ARE TO DETERMINE WHICH OF TWO POSSIBLE PENALTIES WILL
3 OCCUR: EITHER LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF
4 PAROLE OR DEATH. DO YOU UNDERSTAND THAT?

5 MS. GRALINSKI: UH-HUH.

6 THE COURT REPORTER: WAS THE ANSWER YES?

7 MS. GRALINSKI: YES.

8 THE COURT: KEEP YOUR VOICE UP.

9 MS. GRALINSKI: OKAY.

10 THE COURT: ON THE FIRST PHASE OF THE TRIAL, WE ARE NOT
11 CONCERNED AT ALL WITH PENALTY. THAT WILL COME LATER IF THERE
12 IS A VERDICT OF GUILTY OF MURDER IN THE FIRST DEGREE AND
13 WITH SPECIAL CIRCUMSTANCES; DO YOU UNDERSTAND THAT?

14 MS. GRALINSKI: YES.

15 THE COURT: IT IS ONLY ON THE SECOND PHASE THAT YOU MAY
16 CONSIDER THAT.

17 ALL RIGHT, NOW WITH THAT PRELIMINARY EXPLANATION,
18 THESE ARE THE QUESTIONS I AM GOING TO ASK YOU: DO YOU HAVE
19 ANY OPINION REGARDING THE DEATH PENALTY THAT WOULD PREVENT
20 YOU FROM MAKING AN IMPARTIAL DECISION AS TO THE GUILT OR INNOCENCE
21 OF THE DEFENDANT?

22 MS. GRALINSKI: NO.

23 THE COURT: THE SECOND QUESTION: DO YOU HAVE ANY OPINION
24 REGARDING THE DEATH PENALTY THAT WOULD CAUSE YOU TO VOTE FOR
25 FIRST DEGREEE MURDER, EVEN IF THE PROSECUTION DOES NOT PROVE
26 THE DEFENDANT GUILTY OF MURDER IN THE FIRST DEGREE?

27 MS. GRALINSKI: NO.

28 THE COURT: NOW, THE THIRD QUESTION HAS TO DO WITH THE

1 SPECIAL CIRCUMSTANCE, WAS IT COMMITTED DURING THE COURSE OF
2 A ROBBERY, THAT IS THE SPECIAL CIRCUMSTANCE.

3 DO YOU HAVE ANY OPINION REGARDING THE DEATH PENALTY
4 THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION CONCERNING
5 THE TRUTH OR FALSITY OF THE SPECIAL CIRCUMSTANCE ALLEGED IN
6 THIS CASE?

7 MS. GRALINSKI: NO.

8 THE COURT: NEXT: DO YOU HAVE SUCH AN OPINION CONCERNING
9 THE DEATH PENALTY THAT YOU WOULD AUTOMATICALLY VOTE TO
10 IMPOSE IT --

11 MS. GRALINSKI: NO.

12 THE COURT: -- AFTER THERE HAS BEEN A VERDICT OF GUILTY
13 IN THE FIRST DEGREE, REGARDLESS OF WHAT THE EVIDENCE MAY BE
14 ON THE PENALTY PHASE?

15 MS. GRALINSKI: NO.

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1 THE COURT: DO YOU HAVE SUCH AN OPINION CONCERNING THE
2 DEATH PENALTY THAT YOU WOULD AUTOMATICALLY VOTE FOR LIFE IMPRISONMENT
3 WITHOUT POSSIBILITY OF PAROLE AFTER A VERDICT OF GUILTY OF
4 MURDER IN THE FIRST DEGREE WITH A FINDING OF SPECIAL CIRCUMSTANCES
5 REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY
6 PHASE OF THE TRIAL?

7 MS. GRALINSKI: NO.

8 THE COURT: IRRESPECTIVE OF THE TESTIMONY PRESENTED IN
9 THE PENALTY PHASE?

10 MS. GRALINSKI: NO.

11 THE COURT: NOW, YOU UNDERSTAND OF COURSE, THAT THE ISSUE
12 OF THE DEATH PENALTY MAY OR MAY NOT OCCUR IN THIS CASE AND
13 THAT THE QUESTIONS HAVE BEEN ASKED ONLY IN THE EVENT THAT YOU
14 REACH THAT PHASE OF THE TRIAL?

15 MS. GRALINSKI: YES.

16 THE COURT: ALL RIGHT. OKAY.

17 MR. BARENS: THANK YOU, YOUR HONOR. GOOD AFTERNOON,
18 MRS. GRALINSKI: I AM ARTHUR BARENS, ONE OF THE LAWYERS
19 REPRESENTING JOE HUNT, WHO IS THE DEFENDANT IN THIS CASE.

20 AS HIS HONOR TOLD YOU WHEN ALL OF THE JURORS WERE
21 TOGETHER, YOU UNDERSTAND AS HIS HONOR EXPLAINED, THAT SINCE
22 THE PEOPLE OF THE STATE OF CALIFORNIA HAVE ASKED FOR THE DEATH
23 PENALTY IN THIS MATTER, WE HAVE A JOB NOW TO ASK YOU ABOUT
24 YOUR POINTS OF VIEW ON THE DEATH PENALTY.

25 BUT THAT DOESN'T SUGGEST TO YOUR MIND AT ALL, DOES
26 IT, THAT MR. HUNT HAS DONE ANYTHING WRONG OR IS GUILTY OF
27 ANYTHING?

28 MS. GRULINSKI: NO.

1 MR. BARENS: AND THE FACT IS, YOU WOULD WAIT UNTIL YOU
2 HEARD ALL OF THE EVIDENCE FROM BOTH MYSELF AND THE PEOPLE
3 OF THE STATE OF CALIFORNIA BEFORE YOU MADE THAT DECISION?

4 MS. GRALINSKI: YES.

5 MR. BARENS: HOW DO YOU FEEL ABOUT THE DEATH PENALTY
6 AS A REMEDY OR PENALTY FOR CRIMINAL CONDUCT IN THIS STATE?

7 MS. GRALINSKI: I DON'T KNOW THAT I ACTUALLY HAVE --

8 THE COURT: I CAN'T HEAR YOU.

9 MS. GRALINSKI: I DON'T -- I HAVE A SORE THROAT, SO IT
10 IS VERY HARD. I DON'T KNOW THAT I ACTUALLY HAVE AN OPINION
11 OTHER THAN THAT IT EXISTS. I AM NOT OPPOSED TO IT.

12 MR. BARENS: DO YOU RECALL VOTING IN THE ELECTION A
13 COUPLE OF YEARS AGO WHEN IT WAS PUT AS A PROPOSITION IN OUR
14 STATE?

15 MS. GRALINSKI: NO I DON'T.

16 MR. BARENS: DO YOU KNOW IF YOU WERE TO VOTE ON WHETHER
17 THERE SHOULD BE A DEATH PENALTY IN CALIFORNIA, HOW YOU WOULD
18 VOTE?

19 MS. GRALINSKI: YES.

20 MR. BARENS: HOW WOULD YOU VOTE?

21 MS. GRALINSKI: I WOULD VOTE FOR IT.

22 MR. BARENS: WHY WOULD YOU DO THAT?

23 MS. GRALINSKI: BECAUSE I FEEL THERE ARE SOME SITUATIONS
24 WHERE IT MIGHT BE A DETERRENT OR IT MIGHT BE SOMETHING THAT
25 IS CALLED FOR.

26 MR. BARENS: AND DO ANY OF THOSE SITUATIONS READILY COME
27 TO MIND FOR YOU AS FAR AS WHEN YOU THINK IT WOULD BE
28 APPROPRIATE AS A REMEDY?

1 MS. GRALINSKI: I DON'T KNOW IF I CAN USE THE WORD
2 "REMEDY".

3 BUT I MEAN, IT WOULD PROBABLY BE APPROPRIATE IN
4 A SERIOUS CRIME, SOMETHING WHERE YOU KNOW, A LOT OF THE
5 SITUATIONS THAT HE DESCRIBED -- WHERE THERE WERE MULTIPLE
6 MURDERS COMMITTED OR TORTURES OR SOMETHING THAT WAS CONSIDERED
7 A SERIOUS CRIME.

8 MR. BARENS: RIGHT. WE ARE GOING TO BE TALKING ABOUT
9 IN THIS CASE, A SERIOUS CRIME, AS HIS HONOR HAS TOLD YOU, A
10 CRIME WHEREIN IT IS ALLEGED THAT A MURDER IN THE FIRST DEGREE
11 WAS COMMITTED, THAT BEING A MURDER INVOLVING SOME PREMEDITATION.

12 IF THE PEOPLE ARE ABLE TO ESTABLISH THAT A MURDER
13 OCCURRED DURING THE COURSE OF A ROBBERY AND IF YOU WERE TO
14 FIND BEYOND A REASONABLE DOUBT THAT THAT MURDER HAD OCCURRED
15 DURING THE GUILT PHASE, YOU KNOW, THAT FIRST PHASE OF THE
16 TRIAL THAT HIS HONOR TOLD YOU ABOUT --

17 MS. GRALINSKI: YES.

18 MR. BARENS: IF YOU FOUND THAT A MURDER TOOK PLACE AND
19 THAT SPECIAL CIRCUMSTANCES HAD BEEN PROVEN TRUE, THAT IS, THAT
20 THERE WAS A ROBBERY THAT WAS PURSUANT TO THAT, YOU WOULD COME
21 TO THE SECOND PHASE WHICH IS THE PENALTY PHASE.

22 THAT IS WHERE YOU AS A JUROR, WOULD HAVE TO MAKE
23 A DECISION BETWEEN LIFE WITHOUT POSSIBILITY OF PAROLE IN
24 PRISON FOR MY CLIENT OR THE DEATH PENALTY.

25 WOULD YOU HAVE A BIAS, HAVING HEARD THAT A MURDER
26 WAS COMMITTED IN THE FIRST DEGREE AND HAVING HEARD THAT IT
27 WAS PURSUANT TO A ROBBERY, WOULD YOU HAVE A BIAS BEFORE YOU
28 HAD HEARD ANYTHING ELSE, AS TO WHETHER OR NOT THAT PERSON

1 SHOULD GET THE DEATH PENALTY?

2 MS. GRALINSKI: NO.

3 MR. BARENS: NOW, YOU UNDERSTAND THAT DURING THE PENALTY
4 PHASE, CERTAIN INFORMATION WOULD BE PROVIDED YOU, BOTH BY
5 MYSELF AND BY THE PEOPLE, CONCERNING GOOD THINGS ABOUT THE
6 DEFENDANT AND BAD THINGS ABOUT THE DEFENDANT, WHAT THE JUDGE
7 WOULD TELL YOU TO CONSIDER IN MAKING YOUR DECISION?

8 MS. GRALINSKI: YES.

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1 MR. BARENS: WOULD YOU CONSIDER IF YOU WERE TOLD TO,
2 THE DEFENDANT'S AGE IN DECIDING WHETHER HE SHOULD LIVE OR DIE?

3 MS. GRALINSKI: NO.

4 MR. BARENS: YOU WOULDN'T?

5 THE COURT: WAIT A MINUTE. THERE AGAIN YOU ARE CONFUSING
6 THEM. IF THE JUDGE --

7 MR. BARENS: I SAID, "IF THE JUDGE TOLD YOU" --

8 THE COURT: NO. BUT YOU DIDN'T PREFACE IT, MR. BARENS
9 WITH --

10 MR. BARENS: I DID, I --

11 THE COURT: IF I WERE TO TELL YOU THAT YOU COULD
12 CONSIDER THE AGE AND BACKGROUND OF THE DEFENDANT AND HIS LACK
13 OF CRIMINAL RECORD, WOULD YOU TAKE THAT INTO CONSIDERATION
14 WHETHER OR NOT HE SHOULD GO TO THE GAS CHAMBER OR DEATH,
15 RATHER THAN LIFE WITHOUT THE POSSIBILITY OF PAROLE? YOU WOULD
16 HAVE A RIGHT TO CONSIDER HIS AGE.

17 MS. GRALINSKI: IF IT WERE A FACTOR, I GUESS SO.

18 THE COURT: IF I TOLD YOU THAT YOU COULD CONSIDER IT,
19 WOULD YOU CONSIDER IT?

20 MS. GRALINSKI: ALONG WITH EVERYTHING ELSE, YES. OKAY.
21 IT WOULDN'T BE SOMETHING THAT WOULD TELL ME OKAY, IF HE IS
22 A CERTAIN AGE VERSUS A CERTAIN AGE, THAT WOULD BE THE ONLY
23 FACTOR.

24 THE COURT: NOW, YOU ARE TO CONSIDER HIS AGE AND LACK
25 OF CRIMINAL RECORD AMONG THE FAVORABLE FACTORS.

26 MS. GRALINSKI: ALL RIGHT.

27 THE COURT: ALL RIGHT.

28 MR. BARENS: AND YOU WOULD CONSIDER A LACK OF PRIOR

1 CRIMINAL BACKGROUND AS A FACTOR IN WHETHER HE SHOULD LIVE OR
2 DIE?

3 MS. GRALINSKI: YES.

4 MR. BARENS: WHEN YOU SAID EARLIER ABOUT A SERIOUS CRIME
5 WHERE SOMEONE SHOULD DIE FOR A SERIOUS CRIME, WHAT DO YOU MEAN
6 BY "SERIOUS" CRIME?

7 MS. GRALINSKI: I THINK PROBABLY ALL THE THINGS THE
8 JUDGE MENTIONED WOULD CLASSIFY IN MY MIND, AS SERIOUS CRIMES,
9 KILLING DURING RAPE, TORTURE, MULTIPLE KILLINGS, KILLING
10 DURING KIDNAPPING AND ALL OF THOSE THINGS.

11 MR. BARENS: ARE YOU SAYING THAT ANY TIME YOU HEAR ABOUT
12 A KILLING THAT OCCURRED DURING THE COMMISSION OF A CRIME, YOU
13 WOULD AUTOMATICALLY THINK THAT THOSE DEFENDANTS SHOULD BE
14 PUT TO DEATH?

15 MS. GRALINSKI: NO. THOSE WOULD BE SERIOUS CRIMES. AND
16 THEN I THINK I WOULD CONSIDER ALL OF THE THINGS THAT WE HAVE
17 BEEN ASKED TO CONSIDER, WHICH WOULD BE OTHER CIRCUMSTANCES.

18 MR. BARENS: OTHER CIRCUMSTANCES INVOLVING THE DEFENDANT?

19 MS. GRALINSKI: RIGHT.

20 MR. BARENS: NOW, YOU UNDERSTAND THAT THERE IS NO RIGHT
21 OR WRONG ANSWER TO THE QUESTIONS I AM ASKING YOU. I AM JUST
22 TRYING TO GET WHAT YOUR POINT OF VIEW IS ON THIS, TO HELP US
23 ALL MAKE A DECISION.

24 MS. GRALINSKI: RIGHT.

25 MR. BARENS: DO YOU UNDERSTAND THAT YOUR OTHER CHOICE,
26 LIFE IMPRISONMENT WITHOUT POSSIBILITY OF PAROLE MEANS THAT?

27 MS. GRALINSKI: YES.

28 MR. BARENS: AND WOULD YOU HAVE ANY LINGERING DOUBT THAT

1 IF YOU WERE TO SAY THAT THE DEFENDANT SHOULD GET LIFE WITHOUT
2 POSSIBILITY OF PAROLE, WOULD YOU SOMEHOW BELIEVE THAT WELL,
3 MAYBE HE WOULD REALLY COME OUT?

4 MS. GRALINSKI: NO.

5 MR. BARENS: OKAY. SO IF HIS HONOR TOLD YOU THAT WHAT
6 IT SAYS IS WHAT IT MEANS, YOU WOULD ACCEPT THAT?

7 MS. GRALINSKI: YES.

8 MR. BARENS: DO YOU BELIEVE IN THE CONCEPT OF AN EYE
9 FOR AN EYE?

10 MS. GRALINSKI: NO.

11 MR. BARENS: NO. DO YOU CONSIDER YOURSELF AN OPEN-
12 MINDED PERSON?

13 MS. GRALINSKI: YES.

14 MR. BARENS: AND YOU WOULD TAKE A SERIOUS EYE TO THIS
15 CASE IF YOU HAD TO MAKE A DECISION BOTH AS TO THE GUILT AND
16 INNOCENCE AS TO WHETHER OR NOT THE DEFENDANT SHOULD LIVE OR
17 DIE?

18 MS. GRALINSKI: YES.

19 MR. BARENS: JUST A MOMENT, IF YOU WILL, YOUR HONOR.

20 THE COURT: YES.

21 (PAUSE.)

22 MR. BARENS; I WANTED TO ASK YOU FOR A MOMENT ABOUT THE
23 PRETRIAL PUBLICITY. DID YOU MENTION EARLIER THAT YOU HAD
24 READ AN ARTICLE IN TIME MAGAZINE ON THIS CASE?

25 MS. GRALINSKI: YES.

26 MR. BARENS: DO YOU REMEMBER WHAT YOU READ?

27 MS. GRALINSKI: SOME, YES.

28 MR. BARENS: WHAT DO YOU REMEMBER?

1 MS. GRALINSKI: I READ THAT THE DEFENDANT WAS THE FOUNDER
2 OF A GROUP CALLED THE BILLIONAIRE BOYS CLUB, WHICH INVESTED
3 MONEYS IN SOME STOCKS OR WHATEVER, THAT HE IS BEING ACCUSED
4 OF MURDERING SOMEONE WHO HE HAD GOT SOME MONEY FROM TO INVEST.
5 ALSO, THERE WAS SOME QUESTION ABOUT WHETHER THE PERSON HAD
6 ACTUALLY GIVEN HIM THE MONEY OR NOT GIVEN HIM THE MONEY OR
7 WHETHER HE HAD GOTTEN THE MONEY FROM THE PERSON HE WAS ASKING
8 FROM, LIKE PROFITS OR SOMETHING OF THAT NATURE.

9 THEN THERE WAS THE QUESTION AS TO WHETHER OR NOT
10 THERE HAD ACTUALLY BEEN A MURDER BECAUSE I GUESS THERE WASN'T
11 A BODY THAT WAS FOUND. BASICALLY, THAT IS THE WAY I REMEMBER
12 IT.

13 MR. BARENS: DO YOU SUBSCRIBE TO TIME MAGAZINE?

14 MS. GRALINSKI: YES, I DO.

15 MR. BARENS: AND YOU GET IT HOW OFTEN?

16 MS. GRALINSKI: ONCE A WEEK.
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1 MR. BARENS: THAT IS A PRETTY PRESTIGIOUS MAGAZINE,
2 DON'T YOU THINK?

3 MS. GRALINSKI: THAT IS A MATTER OF OPINION. I DON'T --

4 MR. BARENS: DOES THAT MAGAZINE HAVE A LOT OF CREDIBILITY
5 WITH YOU?

6 MS. GRALINSKI: I READ A LOT SO I DON'T KNOW THAT IT
7 HAS ANY MORE OR LESS, YOU KNOW. IT DOESN'T CARRY ANY MORE
8 OR LESS WEIGHT TO ME THAN ANYTHING ELSE DOES.

9 MR. BARENS: DO YOU BELIEVE WHAT YOU READ IN TIME
10 MAGAZINE?

11 MS. GRALINSKI: I THINK THAT EVERYTHING THAT IS WRITTEN
12 HAS THE WRITER'S BIAS IN IT.

13 I DON'T THINK IT WAS WRITTEN TO CONVINCING SOMEBODY
14 WHETHER A CRIME WAS COMMITTED OR NOT, SO I DON'T FEEL THAT
15 IT --

16 MR. BARENS: YOU DIDN'T READ ANYTHING IN THERE THAT SAID
17 TIME MAGAZINE THOUGHT JOE HUNT HAD DONE ANYTHING WRONG OR
18 HADN'T DONE ANYTHING WRONG, DID YOU?

19 MS. GRALINSKI: NO.

20 MR. BARENS: DID YOU FORM ANY OPINION ABOUT WHETHER,
21 BECAUSE YOU SAW MR. HUNT'S NAME IN THE NEWSPAPER AND KNEW THAT
22 HE WAS GOING TO BE ON TRIAL HERE, DID YOU FORM ANY OPINION
23 HONESTLY THAT HE MIGHT BE MORE LIKELY TO BE GUILTY OR LESS
24 LIKELY TO BE GUILTY BECAUSE YOU SAW THAT ARTICLE?

25 MS. GRALINSKI: NO.

26 MR. BARENS: AND YOU WOULD BELIEVE IN OUR CRIMINAL JUSTICE
27 SYSTEM THAT SAYS THAT IF A MAN IS GUILTY OR INNOCENT, THAT
28 IS TO BE ESTABLISHED IN A COURT OF LAW AS WE HAVE HERE, NOT

1 IN A MAGAZINE?

2 MS. GRALINSKI: YES.

3 MR. BARENS: DID YOUR READING OF THAT ARTICLE AFFECT
4 YOUR THOUGHT PROCESS OR DECISION-MAKING PROCESS ABOUT THIS
5 TRIAL IN ANY WAY?

6 MS. GRALINSKI: NO.

7 MR. BARENS: DID YOU READ ANYTHING ELSE ABOUT THIS
8 CASE?

9 MS. GRALINSKI: NO.

10 MR. BARENS: AFTER READING THE TIME MAGAZINE ARTICLE,
11 DID YOU DISCUSS IT WITH ANYONE?

12 MS. GRALINSKI: NO.

13 MR. BARENS: DID ANYONE DISCUSS IT WITH YOU?

14 MS. GRALINSKI: NO.

15 MR. BARENS: DID YOU DISCUSS THIS CASE AT ALL WITH ANY
16 OF THE OTHER JURORS?

17 MS. GRALINSKI: NO.

18 MR. BARENS: AND HAS ANYONE ELSE, OTHER THAN HIS HONOR
19 AND MYSELF TODAY, DISCUSSED THIS MATTER WITH YOU?

20 MS. GRALINSKI: NO.

21 MR. BARENS: AND ONCE AGAIN, YOU UNDERSTAND THAT ALTHOUGH
22 WE HAVE GONE THROUGH ASKING YOUR POINT OF VIEW ON THE DEATH
23 PENALTY, THAT THE DEFENDANT HAS PLED NOT GUILTY AND THERE IS
24 NO GREATER REASON FOR YOU TO BELIEVE THAT HE IS GUILTY OF
25 ANYTHING BECAUSE WE HAVE HAD THIS DISCUSSION?

26 MS. GRALINSKI: RIGHT.

27 MR. BARENS: PASS FOR CAUSE.

28 THE COURT: ALL RIGHT, WOULD YOU ANNOUNCE YOURSELF,

1 MR. WAPNER?

2 MR. WAPNER: GOOD AFTERNOON. I AM FRED WAPNER, I AM
3 THE DEPUTY DISTRICT ATTORNEY WHO IS PROSECUTING THIS CASE.

4 I WANT TO ASK YOU SOMETHING ABOUT ONE OF THE THINGS
5 THAT YOU TOUCHED ON FROM THAT ARTICLE.

6 IF YOU GET TO THAT PART OF THE CASE WHERE YOU ARE
7 DECIDING THE QUESTION OF LIFE IMPRISONMENT WITHOUT THE POSSI-
8 BILITY OF PAROLE VERSUS THE DEATH PENALTY, THAT MEANS THAT
9 YOU WILL HAVE ALREADY DECIDED THAT THERE HAS BEEN PROOF BEYOND
10 A REASONABLE DOUBT OF A MURDER AND THAT MURDER OCCURRED DURING
11 THE COURSE OF A ROBBERY AND THAT JOE HUNT COMMITTED IT; DO
12 YOU UNDERSTAND THAT?

13 MS. GRALINSKI: YES, I DO.

14 MR. WAPNER: ASSUMING THAT YOU HAVE ALREADY MADE -- THAT
15 YOU ARE IN WHAT WE CALL THE PENALTY PHASE AND, THEREFORE, YOU
16 HAVE MADE THIS DECISION ABOUT THE TRUTH OF THE ALLEGATIONS,
17 WOULD YOU BE ABLE TO DELIBERATE ON THE QUESTION OF THE DEATH
18 PENALTY AND GIVE BOTH SIDES A FAIR TRIAL IF YOU KNEW THAT THE
19 BODY OF THE PERSON WHO WAS KILLED HAD NOT BEEN FOUND?

20 MS. GRALINSKI: I WOULD THINK I WOULD HAVE CONSIDERED
21 THAT IN THE FIRST PART OF DECIDING INNOCENCE OR GUILT.

22 ARE YOU ASKING ME IF I WOULD CONSIDER THAT AGAIN
23 IN THE --

24 MR. WAPNER: NO. I THINK YOU JUST ANSWERED MY QUESTION
25 PERFECTLY. THAT IS REALLY BASICALLY WHAT I AM GETTING AT.

26 ASSUMING THAT YOU WERE CONVINCED IN YOUR OWN MIND
27 BEYOND A REASONABLE DOUBT THERE WAS A MURDER --

28 MS. GRALINSKI: UH-HUH.

1 MR. WAPNER: -- THEN OBVIOUSLY, YOU WOULD HAVE TO BELIEVE
2 THAT REGARDLESS OF THE FACT THAT THE BODY HAD BEEN RECOVERED
3 (SIC) THAT THE PERSON HAD BEEN KILLED.

4 MS. GRALINSKI: EXACTLY.

5 THE COURT: NOT RECOVERED, YOU MEAN?

6 MR. WAPNER: HAD NOT BEEN RECOVERED. THANK YOU.

7 MS. GRALINSKI: RIGHT.
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1 MR. WAPNER: OKAY, AND SO WHAT YOU ARE SAYING IS THAT
2 YOU COULD BE FAIR TO BOTH SIDES IN THE PENALTY PHASE OF THE
3 TRIAL?

4 MS. GRALINSKI: YES.

5 MR. WAPNER: AND IF AT THE PENALTY PHASE OF THE TRIAL,
6 THE JUDGE TELLS YOU THAT THE AGE OF THE DEFENDANT IS ONE OF
7 THE THINGS THAT YOU CAN CONSIDER BUT YOU DON'T HAVE TO -- THAT
8 IS ONE OF THE THINGS THAT YOU CAN CONSIDER, WOULD YOU
9 CONSIDER IT?

10 MS. GRALINSKI: SURE.

11 MR. WAPNER: THAT DOESN'T MEAN THAT HE IS TELLING YOU
12 THAT YOU HAVE TO BE SWAYED ONE WAY OR THE OTHER AT ALL BY
13 WHAT AGE THE PERSON IS.

14 THAT JUST MEANS THAT IS A FACTOR THAT YOU CAN PUT
15 INTO THE HOPPER ALONG WITH OTHER THINGS IN MAKING YOUR
16 DECISION; DO YOU UNDERSTAND THAT?

17 MS. GRALINSKI: SURE.

18 MR. WAPNER: HE IS GOING TO TELL YOU IN THE GUILT PHASE,
19 AS WELL AS THE PENALTY PHASE, THAT AFTER YOU CONSIDER THESE
20 THINGS, IT IS GOING TO BE YOUR DECISION AS TO WHAT FACTORS
21 ARE IMPORTANT TO YOU AND THAT HAVE SIGNIFICANCE AND WHAT AREN'T
22 IMPORTANT AND, THEREFORE, DON'T HAVE SIGNIFICANCE; DO YOU
23 UNDERSTAND THAT?

24 MS. GRALINSKI: YES, I DO.

25 MR. WAPNER: THANK YOU. PASS FOR CAUSE.

26 THE COURT: ALL RIGHT. YOU SEE NOW WE ARE IN THE PROCESS
27 OF ASKING ALL OF THE PROSPECTIVE JURORS THESE QUESTIONS WHICH
28 HAVE BEEN ASKED OF YOU TOUCHING UPON YOUR ATTITUDE TOWARD

1 THE DEATH PENALTY. WHAT WE HAVE TO DO IS GO THROUGH THE
2 ENTIRE LIST OF ALL THE PROSPECTIVE JURORS AND THAT TAKES
3 TIME, AS YOU NOTICED IT TOOK SOME TIME WITH YOU.

4 MS. GRALINSKI: RIGHT.

5 THE COURT: I THINK IT IS ANTICIPATED THAT WE WILL
6 FINISH THIS PROCESS OF INTERROGATION ABOUT DECEMBER 2ND, SO
7 WHAT I WILL ASK YOU TO DO IS TO COME BACK ON DECEMBER 2ND TO
8 THE JURY ASSEMBLY ROOM AT 10:20. DECEMBER 2ND TO THE JURY
9 ASSEMBLY ROOM AT 10:30.

10 IF BY ANY CHANCE WE ARE NOT FINISHED WITH THIS
11 PROCEDURE, WE HAVE GOT YOUR TELEPHONE NUMBER AND WE WILL CALL
12 YOU AND TELL YOU WHEN TO COME BACK IF IT ISN'T THAT DATE, ALL
13 RIGHT?

14 MS. GRALINSKI: OKAY.

15 THE COURT: ALL RIGHT, THANK YOU VERY MUCH.

16 MS. GRALINSKI: THANK YOU.

17 THE COURT: YOU ARE EXCUSED.

18 INCIDENTALLY, DON'T TALK TO ANYBODY AT ALL ABOUT
19 WHAT HAS HAPPENED HERE OR THE QUESTIONS WHICH HAVE BEEN ASKED
20 OF YOU.

21 MS. GRALINSKI: OKAY.

22 THE COURT: NOR FORM ANY OPINION ABOUT ANYTHING.

23 MS. GRALINSKI: OKAY.

24 MR. CHIER: WOULD YOUR HONOR FIND OUT IN WHAT AREA SHE
25 LIVES IN?

26 THE COURT: I FORGOT. WHERE DO YOU LIVE, BY THE WAY?

27 MS. GRALINSKI: SANTA MONICA.

28 MR. WAPNER: AND FURTHER TO CAUTION HER NOT TO READ OR

1 LISTEN TO ANY TELEVISION ACCOUNTS OF THE CASE.

2 THE COURT: THAT IS RIGHT, DON'T READ ANYTHING AT ALL
3 ABOUT THE CASE OR LISTEN TO ANY TELEVISION OR RADIO.

4 MS. GRALINSKI: OKAY.

5 THE COURT: ALL RIGHT, THANK YOU. SEE YOU DECEMBER 2ND.

6 (PROSPECTIVE JUROR GRALINSKI EXITS THE
7 COURTROOM.)

8 MR. BARENS: YOUR HONOR, I HAVE A VERY BRIEF OBJECTION
9 FOR THE COURT, FOR THE RECORD AS WELL, YOUR HONOR.

10 THE COURT: ON THIS JUROR?

11 MR. BARENS: NOT ON THE JUROR, YOUR HONOR.

12 THE DEFENSE HAS AN OBJECTION, RESPECTFULLY AN
13 OBJECTION TO A QUESTION, AN ELEMENT OF MR. WAPNER'S LAST
14 QUESTION WHERE HE SAID FOR THE JUROR NOT TO BE SWAYED AT ALL.

15 THE COURT: THAT HAS NOTHING TO DO WITH THE DEATH
16 PENALTY ASPECT OF IT. I THINK YOU HAD BETTER SAVE THAT FOR
17 VOIR DIRE GENERALLY OF THE JURORS, YOU MIGHT ASK THAT QUESTION.

18 MR. BARENS: SPECIFICALLY, YOUR HONOR, WHAT I AM POINTING
19 TO IS THE COMMENT TO THE JUROR NOT TO BE SWAYED AT ALL.
20 THAT THEY HAVE A CHOICE NOT TO BE SWAYED AT ALL IS CONTRARY
21 TO THE LAW.

22 THE COURT: THAT IS UNFAIR BECAUSE OF THE FACT THAT ONE
23 OF YOUR DEFENSES, I ASSUME, WILL BE THAT HE RAN AWAY AND
24 DISAPPEARED AND HE WASN'T KILLED.

25 MR. BARENS: NOT ONLY THAT.

26 I BELIEVE UNDER THE LANDFAIR CASE, THE JURY IS
27 ENTITLED TO CONSIDER FACTORS OF SYMPATHY, AGE, AND SO ON ON
28 THE PENALTY PHASE.

1 THE COURT: WHAT DOES THAT HAVE TO DO WITH HIS
2 DISAPPEARANCE?

3 MR. BARENS: I AM TALKING ABOUT THE PENALTY PHASE. IF
4 HE SAYS TO A JUROR, "YOU ARE NOT TO BE SWAYED AT ALL BY THAT,"
5 I DON'T BELIEVE THAT WILL BE THE COURT'S CHARGE TO THE JURY.
6 THEREFORE, I DON'T THINK MR. WAPNER SHOULD SAY THAT IN
7 QUESTIONING TO ANYBODY.

8 THE COURT: I THINK THE SUPREME COURT SAYS THAT IS ONE
9 OF THE FACTORS TO BE TAKEN INTO CONSIDERATION ON THE PENALTY
10 PHASE.

11 MR. WAPNER: YOUR HONOR, I THINK MR. BARENS MISTOOK WHAT
12 I WAS SAYING TO THE JUROR, EITHER THAT OR I DIDN'T ARTICULATE
13 IT VERY CLEARLY.

14 WHAT I THINK THE RECORD WILL BEAR OUT IS THAT I
15 TOLD THE JUROR THAT SHE COULD CONSIDER AND SHOULD CONSIDER
16 ALL OF THE THINGS BUT THEY ARE NOT BOUND TO FIND ANY OF THEM
17 PERSUASIVE.

18 THE COURT: YES, THERE IS NO QUARREL WITH THAT.

19 MR. WAPNER: WELL, I THINK THAT IS WHAT THE RECORD WILL
20 SUPPORT THAT I WAS TRYING TO SAY.

21 MR. BARENS: AND AGAIN, MOST RESPECTFULLY TO MR. WAPNER,
22 I BELIEVE I HAD HEARD HIM SAY, WHICH I COULD HAVE BEEN IN
23 ERROR, YOUR HONOR, THAT SHE SHOULD NOT CONSIDER IT AT ALL AND
24 THAT WAS THE ONLY REMARK THAT I TOOK EXCEPTION TO. AND IF
25 I AM WRONG, THAT I WOULD APOLOGIZE.

26 THE COURT: ALL RIGHT, I HAVE TOLD THE PROSPECTIVE JURORS,
27 AS HAVE YOU, THAT THEY HAVE THE RIGHT TO TAKE THAT INTO
28 CONSIDERATION ON THE PENALTY PHASE.

1 MR. BARENS: THANK YOU, YOUR HONOR.

2 THE COURT: ALL RIGHT, THE NEXT IS MRS. GROVES.

3 (PROSPECTIVE JUROR GROVES ENTERS THE
4 COURTROOM.)

5 THE COURT: MRS. GROVES, WHERE DO YOU LIVE?

6 MS. GROVES: IN PACIFIC PALISADES.

7 THE COURT: HAVE YOU, OTHER THAN WHAT I TOLD YOU IN COURT
8 WHEN ALL OF THE JURORS WERE PRESENT, HAVE YOU READ OR HEARD
9 ANYTHING AT ALL ABOUT THIS CASE?

10 MS. GROVES: I HAVE READ ABOUT IT IN THE NEWSPAPER.

11 THE COURT: WHICH ONE?

12 MS. GROVES: THE SANTA MONICA --

13 THE COURT: OUTLOOK?

14 MS. GROVES: OUTLOOK, YOUR HONOR.

15 THE COURT: AND YOU SAW MY PICTURE THERE AND YOU SAW --

16 MS. GROVES: YES.

17 THE COURT: -- MR. BARENS' PICTURE AND YOU SAW THE
18 DEFEENDANT'S PICTURE, IS THAT RIGHT, AND YOU SAW THE PICTURE
19 OF THE DEPUTY DISTRICT ATTORNEY?

20 MS. GROVES: YES.

21 THE COURT: IS THAT RIGHT?

22 MS. GROVES: THAT IS TRUE.

23 THE COURT: WHAT YOU READ IN THAT PARTICULAR NEWSPAPER,
24 WOULD THAT IN ANY WAY INFLUENCE YOU OR DID YOU MAKE UP YOUR
25 MIND AS TO WHETHER THE DEFENDANT IS GUILTY OR NOT?

26 MS. GROVES: NO, IT DID NOT.

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14A-1

1 THE COURT: DID IT INFLUENCE YOU IN ANY WAY?

2 MS. GROVES: NO WAY.

3 THE COURT: AND YOU WOULD MAINTAIN AN OPEN MIND ALL
4 THROUGHOUT THE PROCEDURES UNTIL THE MATTER WAS FINALLY SUBMITTED
5 TO YOU, IF YOU WERE A JUROR, IS THAT RIGHT?

6 MS. GROVES: YES, YOUR HONOR.

7 THE COURT: ALL RIGHT. WAS THERE ANY OTHER SOURCE OF
8 INFORMATION THAT YOU RECEIVED ABOUT THE CASE, OTHER THAN WHAT
9 I TOLD YOU AND OTHER THAN WHAT YOU READ IN THE SANTA MONICA
10 OUTLOOK?

11 MS. GROVES: NO.

12 THE COURT: OR IN THE TIMES, THE LOS ANGELES TIMES?
13 YOU DIDN'T SEE IT?

14 MS. GROVES: NO.

15 THE COURT: ALL RIGHT. OR NEWSWEEK?

16 MS. GROVES: NEWSWEEK, NO.

17 THE COURT: ALL RIGHT. AND HAVE YOU HAD ANY DISCUSSIONS
18 WITH ANY OF THE OTHER JURORS OR ANY THIRD PERSONS ABOUT THE
19 CASE, THE FACTS OF THE CASE?

20 MS. GROVES: NO.

21 THE COURT: ALL RIGHT. YOU UNDERSTAND OF COURSE, THAT
22 YOU ARE NOT TO DISCUSS AT ANY TIME ANYTHING AT ALL ABOUT THIS
23 CASE, ANYTHING THAT HAS TRANSPIRED HERE, ANY QUESTIONS WITH
24 ANY THIRD PERSON?

25 MS. GROVES: YES.

26 THE COURT: ALL RIGHT. NOW, I AM GOING TO ASK YOU A
27 SERIES OF QUESTIONS. I WILL ASK YOU TO LISTEN TO THEM VERY
28 CAREFULLY. AND PLEASE ANSWER THOSE QUESTIONS YES OR NO.

4A-2
1 IF YOU DON'T UNDERSTAND IT, ASK ME TO REPEAT IT TO YOU OR
2 CLARIFY IT AND I WILL BE HAPPY TO DO SO. FIRST PRELIMINARILY,
3 YOU WERE PRESENT OF COURSE WHEN I OUTLINED TO THE JURORS
4 THE NATURE OF THE CASE WE ARE ABOUT TO TRY?

5 MS. GROVES: YES.

6 THE COURT: I TOLD YOU AT THAT TIME THAT THE CHARGE
7 AGAINST THE DEFENDANT IS THAT HE COMMITTED A MURDER AND THAT
8 IT WAS A MURDER IN THE FIRST DEGREE.

9 THERE WAS A SPECIAL CIRCUMSTANCE WHICH QUALIFIES
10 IT FOR THE DEATH PENALTY. THAT MURDER WAS COMMITTED DURING
11 THE COURSE OF A ROBBERY. YOU MUST UNDERSTAND OF COURSE, THAT
12 THE MURDER IN THE FIRST DEGREE IS CALLING FOR THE DEATH PENALTY.

13 THERE ARE ONLY CERTAIN TYPES OF MURDERS THAT ARE
14 QUALIFYING BY THE FACTS.

15 LIKE FOR EXAMPLE, A MURDER COMMITTED DURING A
16 KIDNAPPING OR A MURDER COMMITTED DURING A RAPE OR MULTIPLE
17 MURDERS OR MURDERS RESULTING FROM TORTURE, YOU SEE.

18 THOSE, THE LEGISLATURE HAS SAID QUALIFY FOR THE
19 DEATH PENALTY. SO THEREFORE, IT IS NOT EVERY MURDER. IF
20 ANYBODY COMMITTED A DELIBERATE, CALCULATED MURDER, THAT
21 DOESN'T QUALIFY IT FOR THE DEATH PENALTY. IT HAS TO BE ONE
22 OF THE KIND THAT I DESCRIBED.

23 MS. GROVES: YES.

24 THE COURT: NOW, THERE ARE TWO PHASES OF THE TRIAL.
25 THE FIRST PHASE OF THE TRIAL IS FOR THE JURY TO DETERMINE
26 THE GUILT OR INNOCENCE OF THE DEFENDANT. THAT MATTER HAS
27 ABSOLUTELY NOTHING TO DO WITH YOUR DETERMINATION OF THAT ISSUE.
28 YOU FIRST DETERMINE WHETHER OR NOT THE DEFENDANT IS GUILTY

14A-3
1 OF MURDER IN THE FIRST DEGREE.

2 AND THEN, THE JURY WILL MAKE A FINDING AND THE
3 FINDING WILL BE TRUE OR FALSE, WHETHER COMMITTED DURING THE
4 COURSE OF A ROBBERY.

5 WE ARE ASSUMING THAT THE JURY, UNANIMOUSLY, BEYOND
6 A REASONABLE DOUBT, FINDS THE DEFENDANT GUILTY OF MURDER IN
7 THE FIRST DEGREE AND THAT IT WAS DONE DURING THE COURSE OF
8 A ROBBERY WITH SPECIAL CIRCUMSTANCES.

9 THEY THEN, AFTER THEY HAVE RETURNED THAT VERDICT,
10 THEN THERE WILL BE OTHER TESTIMONY, NEW TESTIMONY IN THE CASE.
11 THAT NEW TESTIMONY WILL RELATE TO WHAT WE CALL THE MITIGATING
12 CIRCUMSTANCES OR AGGRAVATING CIRCUMSTANCES.

13 THE DEFENDANT I ASSUME, WILL SHOW EVERYTHING THAT
14 IS FAVORABLE ABOUT HIMSELF, HIS CHARACTER, HIS AGE, HIS
15 REPUTATION AND BACKGROUND.

16 THE PEOPLE ON THE OTHER HAND, MIGHT INTRODUCE
17 TESTIMONY SHOWING SOME BAD ASPECTS IN HIS CHARACTER AND WHAT
18 HE HAS DONE. IT IS ONLY AFTER YOU HAVE HEARD ALL OF THE
19 TESTIMONY THAT YOU THEN COME BACK INTO THE JURY ROOM AGAIN
20 AND YOU CONSIDER THE QUESTION OF PENALTY FOR THE FIRST TIME,
21 SHOULD HE SUFFER DEATH OR SHOULD HE SUFFER LIFE WITHOUT
22 POSSIBILITY OF PAROLE. YOU UNDERSTAND ALL OF THAT?

23 MS. GROVES: YES.

24 THE COURT: OKAY. NOW, I WILL START ASKING YOU QUESTIONS.

25 MS. GROVES: YES.

26 THE COURT: OKAY. DO YOU HAVE ANY OPINION REGARDING
27 THE DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL
28 DECISION AS TO THE GUILT OR INNOCENCE OF THE DEFENDANT?

14A-4
1 MS. GROVES: NO.

2 THE COURT: ALL RIGHT. DO YOU HAVE ANY OPINION REGARDING
3 THE DEATH PENALTY THAT WOULD CAUSE YOU TO VOTE FOR FIRST DEGREE
4 MURDER, EVEN WHEN THE PROSECUTION ONLY PROVES THE DEFENDANT
5 GUILTY OF MURDER IN THE SECOND DEGREE OR MANSLAUGHTER?

6 MS. GROVES: WOULD YOU REPEAT THAT?

7 THE COURT: YES. BECAUSE OF YOUR OPINION REGARDING
8 THE DEATH PENALTY, WOULD THAT IN ANY WAY CAUSE YOU TO VOTE
9 FOR FIRST DEGREE MURDER, EVEN IF THE PROSECUTION HAD NOT
10 PROVED THE DEFENDANT GUILTY OF MURDER IN THE FIRST DEGREE?

11 MS. GROVES: NO.

12 THE COURT: ALL RIGHT. DO YOU HAVE ANY OPINION REGARDING
13 THE DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL
14 DECISION CONCERNING THE TRUTH OR FALSITY OF THE SPECIAL
15 CIRCUMSTANCE ALLEGED IN THIS CASE?

16 MS. GROVES: NO.

17 THE COURT: DO YOU HAVE SUCH AN OPINION CONCERNING THE
18 DEATH PENALTY THAT YOU WOULD AUTOMATICALLY VOTE TO IMPOSE
19 IT AFTER A VERDICT OF GUILTY OF MURDER IN THE FIRST DEGREE
20 WITH A FINDING OF SPECIAL CIRCUMSTANCE, REGARDLESS OF ANY
21 EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY PHASE OF THE
22 TRIAL?

23 MS. GROVES: NO.

24 THE COURT: ALL RIGHT. AND THE OTHER ASPECT OF THAT
25 IS DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH PENALTY
26 THAT YOU WOULD AUTOMATICALLY VOTE FOR LIFE IMPRISONMENT WITHOUT
27 POSSIBILITY OF PAROLE AFTER A VERDICT OF GUILTY OF MURDER
28 IN THE FIRST DEGREE WITH A FINDING OF SPECIAL CIRCUMSTANCES

1 REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY
2 PHASE OF THE TRIAL?

3 MS. GROVES: YES.

4 THE COURT: YOU SAY THAT YOU WOULD AUTOMATICALLY VOTE
5 FOR LIFE WITHOUT POSSIBILITY OF PAROLE?

6 MS. GROVES: YES.

7 THE COURT: AUTOMATICALLY?

8 MS. GROVES: YES.

9 THE COURT: AND NOT VOTE FOR THE DEATH PENALTY?

10 MS. GROVES: YES.

11 THE COURT: WELL, I ASKED YOU THE PREVIOUS QUESTIONS.
12 I SAID, "DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH
13 PENALTY THAT YOU WOULD AUTOMATICALLY VOTE TO IMPOSE THE DEATH
14 PENALTY AFTER A VERDICT OF GUILTY," AND SO FORTH. WHAT WAS
15 YOUR ANSWER TO THAT?

16 MS. GROVES: I SAID NO. I WOULD NOT.
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1 THE COURT: YOU WOULD NOT AUTOMATICALLY VOTE TO IMPOSE
2 A VERDICT OF GUILTY?

3 MS. GROVES: YES.

4 THE COURT: OF FIRST DEGREE MURDER WITH SPECIAL
5 CIRCUMSTANCES. ALL RIGHT. YOUR ANSWER HOWEVER IS, THAT YOU
6 WOULD AUTOMATICALLY ONLY VOTE FOR LIFE WITHOUT POSSIBILITY
7 OF PAROLE, IS THAT CORRECT?

8 MS. GROVES: YES. BECAUSE I'M OPPOSED TO THE DEATH PENALTY.

9 THE COURT: YOU ARE OPPOSED TO THE DEATH PENALTY?

10 MS. GROVES: YES I AM.

11 THE COURT: ALL RIGHT.

12 MR. BARENS: THANK YOU, YOUR HONOR.

13 MS. GROVES, MY NAME IS ARTHUR BARENS. I REPRESENT
14 THE DEFENDANT, JOE HUNT.

15 MS. GROVES: IT IS GROVES.

16 MR. BARENS: THANK YOU, MISS GROVES. WHAT I WANT TO
17 DO FOR A FEW MINUTES, IS TO DEVELOPE WHAT YOUR POINTS OF VIEW
18 ARE CONCERNING THE DEATH PENALTY.

19 THE DEFENDANT IS ENTITLED TO A NEUTRAL JURY, PEOPLE
20 WHO ARE NEUTRAL IN THEIR POINTS OF VIEW ABOUT WHETHER OR NOT
21 THEY COULD IMPOSE THE DEATH PENALTY.

22 AND WE WANT TO INQUIRE AS TO WHETHER YOU WOULD
23 FOLLOW THE COURT'S CHARGE TO YOU OR THE COURT'S INSTRUCTIONS
24 TO YOU ON WHETHER OR NOT YOU WOULD IMPOSE THE DEATH PENALTY.

25 NOW, IF YOU HEARD EVIDENCE OF A FIRST DEGREE MURDER
26 DURING THE COMMISSION OF A ROBBERY WHICH ESTABLISHED THE
27 SPECIAL CIRCUMSTANCES HIS HONOR TALKED ABOUT, COULD YOU UNDER
28 SOME CIRCUMSTANCES, BRING BACK A DEATH PENALTY VERDICT?

14A-7

1 MS. GROVES: NO.

2 MR. BARENS: NO, NEVER?

3 MS. GROVES: NO. I AM OPPOSED TO THE DEATH PENALTY.

4 MR. BARENS: WELL, A LOT OF US ARE OPPOSED TO THE DEATH
5 PENALTY AS A GENERAL PRINCIPLE OR PHILOSOPHY.

6 BUT WHAT I AM ASKING YOU IS, COULD THERE BE THE
7 EXISTENCE OF CIRCUMSTANCES, LET'S SAY A CRIME WHERE A PERSON
8 PLANNED A MURDER AND WENT OUT AND SHOT SOMEBODY SO HE COULD
9 STEAL THEIR MONEY, SHOT THEM HORRIBLY, SEVERAL TIMES AND THERE
10 WAS BLOOD EVERYWHERE AND IT WAS ABSOLUTELY AN UNCONSCIONABLE
11 THING TO DO AND VIOLATED EVERY PHILOSOPHICAL PRINCIPLE THAT
12 WE HAVE.

13 THERE WAS NO CONTRITION. THE MAN DIDN'T REGRET
14 IT AT ALL. HE SAID HE WOULD DO IT AGAIN IF HE GOT THE
15 OPPORTUNITY. HOW DO YOU FEEL ABOUT THE DEATH PENALTY FOR
16 THAT DEFENDANT?

17 MS. GROVES: I AM OPPOSED TO IT.

18 MR. BARENS: IN OTHER WORDS, NO MATTER HOW HEINOUS THE
19 CRIME, YOU WOULD NOT GIVE THE DEATH PENALTY?

20 MS. GROVES: THAT'S TRUE.

21 MR. BARENS: THE MATTER IS SUBMITTED, YOUR HONOR.

22 THE COURT: ALL RIGHT. ANY QUESTIONS? WELL, I WILL
23 RULE IN THIS CASE -- SHALL I DO IT NOW?

24 MR. WAPNER: PROBABLY WE SHOULD HAVE HER EXCUSED JUST
25 BRIEFLY.

26 THE COURT: EXCUSE HER?

27 MR. WAPNER: ONLY IN FOLLOWING THE PROCEDURES THAT WE
28 HAVE DONE SO FAR.

14A-8 1 THE COURT: WOULD YOU PLEASE STEP OUTSIDE? WE'LL HAVE
2 A DISCUSSION.

14B 3 (PROSPECTIVE JUROR GROVES EXITED THE
4 COURTROOM.)

5 MR. BARENS: JUST A MOMENT, YOUR HONOR.

6 (BRIEF PAUSE.)

7 MS. ALLISON: MAY I ASK A QUESTION?

8 THE COURT: WELL, I DON'T THINK YOU CAN ASK IT OUT LOUD.

9 MS. ALLISON: I HAVE COVERED A NUMBER OF TRIALS. I
10 FIND IT SOMEWHAT UNUSUAL THAT MR. WAPNER WILL NOT SPEAK TO
11 US OUT IN THE HALLWAY. HE WOULDN'T. I AM WONDERING --

12 THE COURT: WHO WILL NOT SPEAK TO YOU?

13 MS. ALLISON: FRED. WHAT I AM WONDERING IS, HE IS SAYING
14 IT IS BECAUSE YOU DON'T REALLY WANT THE ATTORNEYS TO TALK
15 ABOUT THE CASE TO THE MEDIA. AND I AM WONDERING WHY.

16 THE COURT: WHAT I WANT TO DO FIRST, IS TO GET THE JURY,
17 GET THE JURY SELECTED.

18 THEN AFTER THE JURY, WE WILL MAKE SOME RULING
19 AS TO WHAT, IF ANYTHING, SHOULD BE DISCUSSED WITH THE PRESS
20 OUTSIDE THE JURY ROOM.

21 MS. ALLISON: WELL, WILL YOU BE SETTING GUIDELINES?

22 THE COURT: I WILL BE SETTING THE GUIDELINES.

23 THE COURT REPORTER: PLEASE STATE YOUR NAME FOR THE
24 RECORD.

25 MS. ALLISON: CYNTHIA ALLISON.

26 THE COURT: YES, GENTLEMEN? DO YOU CHALLENGE FOR CAUSE,
27 SO THAT WE CAN GET IT ON THE RECORD?

28 MR. WAPNER: YES. THERE IS A CHALLENGE OF THIS JUROR

4A-9
1 FOR CAUSE, YOUR HONOR.

2 MR. BARENS: COULD WE RESERVE A MOMENT, YOUR HONOR?

3 THE COURT: YES.

4 (BRIEF PAUSE.)

5 MR. BARENS: I HAVE ANOTHER QUESTION.

6 THE COURT: WHAT IS THE QUESTION?

7 MR. BARENS: I AM READING FROM HOVEY, YOUR HONOR --
8 THAT IS, FROM WITHERSPOON. BEGGING YOUR PARDON, YOUR HONOR.

9 "DESPITE THE FACT THAT YOU BELIEVE
10 CAPITAL PUNISHMENT SHOULD NEVER BE INFLICTED,
11 THAT YOU ARE IRREVOCABLY COMMITTED TO ITS
12 ABOLITION, COULD YOU NEVERTHELESS SUBORDINATE
13 YOUR PERSONAL VIEWS TO WHAT YOU PERCEIVE TO BE
14 YOUR DUTY TO ABIDE BY YOUR OATH AS A JUROR AND
15 OBEY THE LAWS OF THE STATE?"

16 THE COURT: SHE SAID NO.

17 MR. BARENS: ACTUALLY, I DIDN'T PUT IT TO HER THAT WAY.

18 THE COURT: WELL, THAT IS THE WAY SHE ANSWERED IT.

19 MR. BARENS: YOUR HONOR, SHE ANSWERED ME GIVEN A FACTUAL
20 SET OF THINGS, THAT SHE WOULD NOT RETURN A DEATH PENALTY.

21 THE COURT: DO YOU REMEMBER ABOUT THAT?

22 MR. WAPNER: THE SPECIFIC QUESTION WAS NOT ASKED. I
23 HAVE NO -- YOU CAN BRING HER BACK AND COUNSEL CAN ASK HER.

24 THE COURT: WELL, NOT THAT SPECIFIC QUESTION. IT WAS
25 ASKED IN ANOTHER FORM. BRING HER BACK IF YOU WANT TO.

26 MR. BARENS: I BELIEVE THAT --

27 THE COURT: WAIT A MINUTE. BEFORE YOU DO THAT, IS IT
28 YOUR POSITION OR ONE OF YOUR POSITIONS THAT THE WAINWRIGHT

4-10 1 RULING IS APPLICABLE IN THIS CASE?

2 MR. CHIER: LET ME, SINCE THE LAST --

3 THE COURT: I ASKED MR. BARENS, NOT YOU.

4 MR. CHIER: WELL, I AM THE ONE WHO IS CONVERSANT WITH
5 IT AND --

6 THE COURT: I ASKED MR. BARENS. DO YOU KNOW ANYTHING
7 ABOUT IT?

8 MR. BARENS: YES, YOUR HONOR. WE BELIEVE THAT
9 WAINWRIGHT HAS APPLICABILITY.

10 OUR INFORMATION, IN SPEAKING WITH DEPUTY PUBLIC
11 DEFENDERS AND I BELIEVE THAT MR. CHIER HAS SPOKEN WITH SOME
12 PROSECUTORS, THAT IN OTHER COURTS IN THIS DISTRICT, THEY ARE
13 FOLLOWING WAINWRIGHT V. WITT AND THAT WE BELIEVE THAT IT HAS
14 EQUAL APPLICABILITY AND SHOULD BE CONSIDERED EQUALLY BY THIS
15 COURT IN THIS MATTER.

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15-1

1 THE COURT: ALL RIGHT, THIS IS WHAT THE COURT SAID IN
2 THAT CASE, THE COURT STATED:

3 "THE COURT STATED THAT A
4 PROSPECTIVE JUROR MAY BE EXCLUDED FOR CAUSE
5 WHEN HIS OR HER STATEMENTS AND Demeanor
6 INDICATE THAT THE JUROR'S VIEWS WOULD
7 'PREVENT OR SUBSTANTIALLY IMPAIR' HIS
8 ABILITY TO BE NEUTRAL AND TO FOLLOW THE
9 JUDGE'S INSTRUCTIONS."

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14 MR. BARENS: YES.

15 THE COURT: THAT IS WHAT THAT CASE SAYS.

16 MR. BARENS: THE TEST --

17 THE COURT: DON'T YOU THINK WE CAN CONCLUDE FROM THE
18 ANSWERS GIVEN BY THIS PROSPECTIVE JUROR THAT SHE WILL NOT
19 FOLLOW IT BECAUSE OF HER FEELING ABOUT THE DEATH PENALTY AND
20 THAT SHE WILL ONLY VOTE FOR LIFE IMPRISONMENT WITHOUT THE
21 POSSIBILITY OF PAROLE BECAUSE OF THAT FEELING AND NEVER FOR
22 DEATH?

23 MR. BARENS: YOUR HONOR, I AM NO MORE THAN IMPRESSED
24 BY THE TESTIMONY IN THAT REGARD WITH THIS JUROR THAN I WAS
25 WITH MR. GHEBRIAL THIS MORNING.

26 THE COURT: SINCE I HAVE TO MAKE THE RULING, IT IS I
27 THAT HAS TO BE IMPRESSED AND NOT YOU.

28 MR. BARNES: NONETHELESS, I FEEL I HAVE THE RIGHT TO

1 INQUIRY.

2 THE COURT: WELL, YOU HAVE FULL INQUIRY ALREADY MADE.
3 BUT IF YOU WANT TO ASK ANOTHER QUESTION, I HAVE NO OBJECTION
4 TO IT.

5 MR. BARENS: JUST THE ONE QUESTION I STATED.

6 THE COURT: ALL RIGHT. WOULD YOU BRING HER IN, PLEASE?

7 (PROSPECTIVE JUROR GROVES ENTERS THE
8 COURTROOM.)

9 THE COURT: MRS. GROVES, THERE IS ONE MORE QUESTION
10 COUNSEL WISHES TO ASK YOU.

11 MR. BARENS: MRS. GROVES, DESPITE THE FACT THAT IT IS
12 YOUR BELIEF THAT CAPITAL PUNISHMENT SHOULD NEVER BE INFLICTED
13 AND YOU FEEL IT WOULD BE AN EXTREME -- EXTREMELY DIFFICULT
14 THING FOR YOU TO DO AND THAT YOU WOULD BE COMMITTED TO THE
15 ABOLITION OF CAPITAL PUNISHMENT AS A REMEDY IN THIS STATE,
16 COULD YOU NEVERTHELESS SUBORDINATE THOSE PERSONAL VIEWS YOU
17 HOLD, TO WHAT YOU PERCEIVE TO BE YOUR LEGAL DUTY AS A JUROR
18 AND TO ABIDE BY YOUR OATH AS A JUROR, TO FOLLOW THE LAW OF
19 THE STATE OF CALIFORNIA?

20 MS. GROVES: NO, I COULD NOT.

21 MR. BARENS: I THANK YOU, MRS. GROVES.

22 THE COURT: ALL RIGHT. THANK YOU. YOU CAN GO BACK TO
23 THE JURY ASSEMBLY ROOM AND TELL THEM YOU ARE AVAILABLE FOR
24 JURY DUTY IN SOME OTHER CASE.

25 MS. GROVES: THANK YOU.

26 THE COURT: THANK YOU. YOU ARE EXCUSED FROM THIS ONE.

27 MS. GROVES: YES.

28 (PROSPECTIVE JUROR GROVES EXITS THE

1 COURTROOM AND PROSPECTIVE JUROR HADLOCK
2 ENTERS THE COURTROOM.)

3 THE COURT: IS THAT MRS. HADLOCK?

4 MS. HADLOCK: YES.

5 THE COURT: WHERE DO YOU LIVE, MRS. HADLOCK?

6 MS. HADLOCK: IN WOODLAND HILLS.

7 THE COURT: SPEAK INTO THE MICROPHONE SO THE REPORTER
8 CAN HEAR YOU.

9 MS. HADLOCK: IN WOODLAND HILLS.

10 THE COURT: OTHER THAN WHAT I HAVE OUTLINED TO THE
11 PROSPECTIVE JURORS THE OTHER DAY, DO YOU REMEMBER WHEN ALL
12 OF YOU WERE HERE?

13 MS. HADLOCK: YES.

14 THE COURT: HAVE YOU READ ANYTHING AT ALL ABOUT THIS
15 CASE OR HEARD ANYTHING ON RADIO OR TELEVISION?

16 MS. HADLOCK: I HAVE SEEN --

17 THE COURT: ON CHANNEL 7 OR ON ANY OTHER CHANNEL?

18 MS. HADLOCK: NOT ON TELEVISION BUT I HAVE SEEN SOMETHING
19 IN THE DAILY NEWS.

20 THE COURT: IN THE DAILY NEWS?

21 MS. HADLOCK: YES.

22 THE COURT: WHEN WAS THAT?

23 MS. HADLOCK: THE DAY THAT WE WERE HERE THERE WERE SOME
24 REPORTERS AND THE NEXT DAY --

25 THE COURT: WAS THAT MR. OSTROFF?

26 MS. HADLOCK: I DON'T REMEMBER THE NAME.

27 BUT YOU HAD SAID THAT NO REPORTERS AND THE NEXT
28 DAY THERE WAS SOMETHING IN THE NEWSPAPER REGARDING THAT.

1 THE COURT: SOMETHING ABOUT COUNSEL HAVING OBJECTED TO
2 HAVING REPORTERS PRESENT?

3 MS. HADLOCK: YES.

4 THE COURT: AND NOT TO DISCUSS IT; IS THAT RIGHT?

5 MS. HADLOCK: YES.

6 THE COURT: IS THAT IN ANY WAY GOING TO INFLUENCE YOU
7 FROM WHAT YOU READ IN DETERMINING THE GUILT OR INNOCENCE OF
8 THIS DEFENDANT?

9 MS. HADLOCK: NO.

10 THE COURT: WOULD THAT INFLUENCE YOU IN ANY WAY IN YOUR
11 ATTITUDES TOWARDS THIS CASE?

12 MS. HADLOCK: NO.

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1 THE COURT: OTHER THAN THAT, HAVE YOU READ ANYTHING ELSE
2 ABOUT THIS CASE?

3 MS. HADLOCK: NO, I HAVEN'T.

4 THE COURT: HAVE YOU SPOKEN TO ANY OF THE JURORS OR
5 HEARD ANY OF THEM TALK AT ALL ABOUT THIS CASE?

6 MS. HADLOCK: NO.

7 THE COURT: OR HEARD THEIR OPINIONS ABOUT IT?

8 MS. HADLOCK: NO.

9 THE COURT: ALL RIGHT, AND YOU HAVE HEARD NO OTHER
10 INFORMATION FROM ANY OTHER SOURCE ABOUT THE CASE?

11 MS. HADLOCK: NO, I HAVEN'T.

12 THE COURT: EXCEPT WHAT I TOLD YOU IN OPEN COURT?

13 MS. HADLOCK: THAT'S CORRECT.

14 THE COURT: ALL RIGHT, I AM GOING TO ASK YOU A SERIES
15 OF QUESTIONS. BEFORE I DO, I JUST WANT TO BRIEFLY, IF I
16 CAN MAKE IT BRIEF, SUMMARIZE EXACTLY WHAT IT IS, WHAT WE ARE
17 AT AT THIS PARTICULAR TIME.

18 YOU REMEMBER WHEN WE WERE ALL TOGETHER AND I TOLD
19 YOU WHAT THE CASE WAS ABOUT, I TOLD YOU THAT THE CHARGE WAS
20 ONE OF MURDER IN THE FIRST DEGREE AND THAT THAT MURDER WAS
21 COMMITTED DURING THE COURSE OF A ROBBERY?

22 MS. HADLOCK: YES.

23 THE COURT: NOW, EVERY MURDER IN THE FIRST DEGREE DOESN'T
24 CALL FOR THE DEATH PENALTY; DO YOU UNDERSTAND THAT?

25 (WHEREUPON, MRS. HADLOCK NODS HER HEAD UP
26 AND DOWN.)

27 THE COURT: IT IS ONLY CERTAIN TYPES OF MURDERS WHERE,
28 FOR EXAMPLE, AS IN THIS CASE WHERE IT IS ALLEGED IN THE COURSE

1 OF A ROBBERY, OR DURING THE COURSE OF KIDNAPPING OR MULTIPLE
2 MURDERS OR RAPE OR TORTURE, THAT THE LEGISLATURE HAS SAID
3 CERTAIN SPECIFIC TYPES OF CRIMES, THAT THE DEATH PENALTY WILL
4 BE IMPOSED; DO YOU UNDERSTAND THAT?

5 I HAVE GIVEN YOU SOME OF THE EXAMPLES. NOW THE
6 JURORS WHO WILL BE SELECTED TO TRY THIS CASE WILL FIRST HAVE
7 TO MAKE A DETERMINATION OF THE GUILT OR INNOCENCE OF THE
8 DEFENDANT OF MURDER IN THE FIRST DEGREE.

9 THEN IF YOU MAKE SUCH A FINDING, IF IT IS MADE,
10 IF SUCH A VERDICT IS GIVEN, THEN THEY HAVE TO MAKE A FINDING
11 AS TO WHETHER OR NOT THAT MURDER WAS COMMITTED DURING THE
12 COURSE OF A ROBBERY; DO YOU UNDERSTAND?

13 MS. HADLOCK: UH-HUH, YES.

14 THE COURT: IF THEY DO FIND HIM GUILTY OF MURDER IN THE
15 FIRST DEGREE AND IT WAS DURING THE COURSE OF A ROBBERY, THEN
16 WE HAVE ANOTHER TRIAL, A LIMITED TRIAL. THE PURPOSE OF THE
17 LIMITED TRIAL IS FOR BOTH SIDES TO INTRODUCE EVIDENCE IN
18 MITIGATION OF THE OFFENSE AND THAT, OF COURSE, THE DEFENDANT
19 WILL DO TO SHOW CIRCUMSTANCES AS TO WHY HE SHOULD NOT SUFFER
20 THE EXTREME PENALTY; AND AMONG OTHER THINGS, HIS BACKGROUND,
21 HIS LACK OF CRIMINAL RECORD, HIS AGE AND ANY NUMBER OF OTHER
22 FACTORS WHICH THE COURT WILL TELL YOU ABOUT. ON THE OTHER
23 HAND, THE PEOPLE WOULD HAVE A RIGHT TO SHOW AGGRAVATING
24 CIRCUMSTANCES, TO SHOW THAT HE IS A BAD MAN. DO YOU UNDERSTAND
25 THAT?

26 MS. HADLOCK: YES.

27 THE COURT: BY CERTAIN SPECIFIC THINGS THAT HE MIGHT
28 HAVE DONE.

1 NOW, YOU HEAR ALL OF THAT AND AFTER YOU HAVE HEARD
2 IT AND I HAVE INSTRUCTED YOU ON THE LAW APPLICABLE TO THAT
3 PARTICULAR PENALTY PHASE, THEN YOU GO TO THE JURY ROOM AND
4 DECIDE WHETHER HE SHOULD GET THE DEATH PENALTY OR WHETHER HE
5 SHOULD GET LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF
6 PAROLE; DO YOU UNDERSTAND THAT?

7 MS. HADLOCK: YES.

8 THE COURT: ALL RIGHT, WITH THOSE AS A PRELIMINARY, I
9 WILL ASK YOU THE FOLLOWING QUESTIONS AND YOU ANSWER THESE
10 QUESTIONS YES OR NO, IF YOU WILL. IF THEY ARE UNCLEAR, ASK
11 ME TO REPEAT THEM AND EXPLAIN THEM AND I WILL BE HAPPY TO DO
12 THAT.

13 DO YOU HAVE ANY OPINION REGARDING THE DEATH PENALTY
14 THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION AS
15 TO THE GUILT OR INNOCENCE OF THE DEFENDANT?

16 MS. HADLOCK: NO.

17 THE COURT: THAT IS ON THE GUILT PHASE.

18 TWO: DO YOU HAVE ANY OPINION REGARDING THE DEATH
19 PENALTY THAT WOULD CAUSE YOU TO VOTE FOR FIRST DEGREE MURDER,
20 EVEN IF THE PROSECUTION HAS NOT ESTABLISHED MURDER IN THE FIRST
21 DEGREE?

22 MS. HADLOCK: WOULD YOU EXPLAIN THAT? I AM SORRY.

23 THE COURT: NOW YOU KNOW, THE FIRST PHASE, THE GUILT
24 PHASE, THE PROSECUTION HAS TO PROVE THE DEFENDANT GUILTY OF
25 MURDER OF THE FRIST DEGREE; DO YOU UNDERSTAND THAT?

26 MS. HADLOCK: YES.

27 THE COURT: NOW, WOULD YOU IN ALL CASES, EVEN IF THE
28 PROSECUTION HAS NOT PROVEN MURDER IN THE FIRST DEGREE, BUT

1 MAYBE MURDER IN THE SECOND DEGREE OR MANSLAUGHTER, WOULD YOU
2 BECAUSE OF YOUR BELIEF AS TO THE CAPITAL PUNISHMENT OR THE
3 DEATH PENALTY VOTE FOR MURDER IN THE FIRST DEGREE, IRRESPECTIVE
4 OF WHAT THE PROOF WOULD SHOW?

5 MS. HADLOCK: NO.

6 THE COURT: DO YOU UNDERSTAND THAT NOW?

7 MS. HADLOCK: YES.
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1 THE COURT: NOW I TOLD YOU THAT ON THE FIRST PHASE OF
2 THE CASE, THE JURY WILL HAVE TO DETERMINE FIRST WHETHER IT
3 IS MURDER IN THE FIRST DEGREE AND IF THEY DO, THEN THEY WILL
4 HAVE TO MAKE A FINDING, TRUE OR FALSE, THAT IT WAS COMMITTED
5 DURING THE COURSE OF A ROBBERY; DO YOU UNDERSTAND?

6 MS. HADLOCK: YES.

7 THE COURT: NOW, THIS QUESTION IS APPLICABLE TO THAT:
8 DO YOU HAVE ANY OPINION REGARDING THE DEATH PENALTY THAT WOULD
9 PREVENT YOU FROM MAKING AN IMPARTIAL DECISION CONCERNING THE
10 TRUTH OR FALSITY OF THE SPECIAL CIRCUMSTANCE ALLEGED IN THIS
11 CASE?

12 MS. HADLOCK: NO.

13 THE COURT: FOURTH: DO YOU HAVE SUCH AN OPINION CONCERNING
14 THE DEATH PENALTY THAT YOU WOULD AUTOMATICALLY VOTE TO IMPOSE
15 IT AFTER A VERDICT OF GUILTY OF MURDER IN THE FIRST DEGREE
16 WITH A FINDING OF SPECIAL CIRCUMSTANCE, REGARDLESS OF ANY EVIDENCE
17 THAT MAY BE PRESENTED AT THE PENALTY PHASE OF THE TRIAL?

18 MS. HADLOCK: NO.

19 THE COURT: AND THEN THE OTHER ASPECT OF THAT SAME QUES-
20 TION IS: DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH PENALTY
21 THAT YOU WOULD AUTOMATICALLY VOTE FOR LIFE IMPRISONMENT WITHOUT
22 POSSIBILITY OF PAROLE AFTER A VERDICT OF GUILTY OF MURDER IN
23 THE FIRST DEGREE WITH A FINDING OF SPECIAL CIRCUMSTANCES REGARDLESS
24 OF ANY EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY PHASE
25 OF THE TRIAL?

26 MS. HADLOCK: NO.

27 THE COURT: ALL RIGHT. YOU UNDERSTAND, OF COURSE, THAT
28 THE ISSUE OF THE DEATH PENALTY MAY OR MAY NOT COME INTO PLAY

1 OR OCCUR IN THIS CASE AND THAT THESE QUESTIONS HAVE BEEN ASKED
2 ONLY IN THE EVENT THAT YOU REACH THAT PHASE OF THE TRIAL?

3 MS. HADLOCK: YES.

4 THE COURT: ALL RIGHT.

5 MR. CHIER: GOOD AFTERNOON.

6 I AM SORRY. YOUR NAME IS --

7 MR. WAPNER: THIS IS MRS. HADLOCK.

8 MR. CHIER: HADLOCK. I AM SORRY.

9 MS. HADLOCK: THAT IS ALL RIGHT.

10 MR. CHIER: I HAD A MENTAL BLOCK.

11 BEFORE I GET TO THE QUESTION ABOUT YOUR ATTITUDE
12 TOWARD THE DEATH PENALTY, I WOULD LIKE TO ASK A LITTLE BIT
13 MORE ABOUT THE PUBLICITY ASPECT OF THIS EXAMINATION AND FIND
14 OUT IF YOU SUBSCRIBE ON A REGULAR BASIS TO THE DAILY NEWS.

15 MS. HADLOCK: YES, I DO.

16 MR. CHIER: DO YOU READ IT ON A FAIRLY REGULAR BASIS?

17 MS. HADLOCK: YES, I DO.

18 MR. CHIER: DO YOU RECALL A COUPLE OF WEEKS AGO THERE
19 WAS AN ARTICLE IN THE DAILY NEWS ABOUT THIS CASE, BEFORE THE
20 ARTICLE TO WHICH YOU HAVE REFERRED CONCERNING THE EXCLUSION
21 OF THE PRESS?

22 MS. HADLOCK: NO, I DIDN'T READ IT.

23 MR. CHIER: IS IT YOUR TESTIMONY (SIC) THAT YOU HAVEN'T
24 READ ANY OTHER ARTICLES OTHER THAN THE ONE THAT YOU HAVE
25 REFERRED TO?

26 MS. HADLOCK: THAT IS TRUE.

27 MR. CHIER: AND WITH RESPECT TO THE ARTICLE YOU DID READ,
28 DID SOMEBODY CALL YOUR ATTENTION TO IT OR DID YOU JUST READ

1 IT IN THE COURSE OF PURUSING THROUGH THE NEWSPAPER?

2 MS. HADLOCK: I JUST READ IT IN THE COURSE OF GOING
3 THROUGH THE NEWSPAPER BUT, OF COURSE, IT HIT MY EYE BECAUSE
4 IT WAS SOMETHING THAT I WAS THERE SO I --

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5A-1
1 MS. CHIER: ALL RIGHT.

2 MS. HADLOCK: NORMALLY, YOU KNOW, I JUST SKIM THROUGH
3 AND THERE ARE CERTAIN ARTICLES THAT I WOULD --

4 MR. CHIER: SURE. WE ALL PICK AND CHOOSE, WHETHER WE
5 RELATE TO IT OR ARE INTERESTED IN IT.

6 MS. HADLOCK: YES.

7 MR. CHIER: SO, DID ANYTHING THAT WAS SAID IN THAT ARTICLE
8 EITHER ABOUT THE CASE OR ABOUT THE ATTORNEYS OR THE DEFENDANT,
9 CAUSE YOU TO HAVE ANY OPINION ABOUT EITHER THE DEFENDANT OR
10 HIS ATTORNEYS?

11 MS. HADLOCK: NO.

12 MR. CHIER: ABOUT MR. WAPNER OR THE JUDGE?

13 MS. HADLOCK: NO.

14 MR. CHIER: SO THAT AT LEAST AS FAR AS PUBLICITY IS
15 CONCERNED, AS YOU SIT THERE RIGHT NOW, YOU ARE PRETTY MUCH
16 NEUTRAL?

17 MS. HADLOCK: YES.

18 MR. CHIER: OKAY. NOW, THE OTHER PART OF THIS
19 EXAMINATION REQUIRES ME TO ASK -- OR REQUIRES US TO ASK SOME
20 QUESTIONS ABOUT YOUR VIEWS OF THE DEATH PENALTY. THERE ARE
21 NO RIGHT OR WRONG ANSWERS, MISS HADLOCK.

22 MS. HADLOCK: OKAY.

23 MR. CHIER: THERE ARE NO FAIR OR UNFAIR ANSWERS. THE
24 ONLY ANSWERS ARE THE ANSWERS THAT ARE TRUTHFUL AND THAT ARE
25 SPOKEN FROM YOUR HEART.

26 THE REASON THAT WE HAVE THIS EXAMINATION IN THIS
27 SETTING WITHOUT THE OTHER JURORS PRESENT, IS BECAUSE IT IS
28 BELIEVED THAT WITHOUT HAVING THE INFLUENCE OR THE PRESSURE

16A-2

1 OF OTHER JURORS AROUND YOU, THAT YOU CAN SPEAK MORE FRANKLY
2 AND CANDIDLY ABOUT THE MATTERS THAT ARE KIND OF PERSONAL.

3 MS. HADLOCK: OKAY.

4 MR. CHIER: ALL RIGHT. SO, THE BOTTOM LINE HERE IS
5 AND WHAT WE ARE DOING IS TO FIND OUT IF YOU HAVE SOME SORT
6 OF HIDDEN AGENDA, EITHER FOR OR AGAINST THE DEATH PENALTY,
7 SUCH THAT EITHER YOU WOULD AUTOMATICALLY VOTE FOR ONE OR THE
8 OTHER, LIFE OR DEATH OR THAT WOULD SUBSTANTIALLY INTERFERE
9 WITH YOUR ABILITY TO FOLLOW THE LAW AS THE JUDGE IS GOING
10 TO GIVE IT TO YOU. DO YOU UNDERSTAND THAT?

11 MS. HADLOCK: YES I DO.

12 MR. CHIER: OKAY. SO, THE WHOLE PURPOSE OF THIS
13 INTERROGATION OR THIS INQUIRY, IS TO DEFEAT INASMUCH AS
14 POSSIBLE, MY QUESTIONS OR ANYBODY'S QUESTIONS, IF YOU DON'T
15 GIVE THE CORRECT OR TRUTHFUL ANSWERS AND YOU WOULD GO INTO
16 THE DELIBERATIONS EITHER IN THE GUILT OR PENALTY PHASE OR
17 BOTH, WITH THIS HIDDEN AGENDA AND THAT WE DIDN'T KNOW ABOUT
18 IT. DO YOU UNDERSTAND THAT?

19 MS. HADLOCK: YES I DO.

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16B-1
1 MR. CHIER: OKAY. SO, HOW DO YOU FEEL ABOUT THE DEATH
2 PENALTY JUST AS A GENERAL PROPOSITION?

3 MS. HADLOCK: UP UNTIL THIS CASE, I HAVE NEVER EVEN
4 THOUGHT ABOUT IT ONE WAY OR THE OTHER.

5 MR. CHIER: SO, YOU WOULD BE A PERSON WHO HAD BASICALLY
6 AVOIDED EVER REFLECTING ON IT?

7 MS. HADLOCK: NOT AVOIDED IT, IT WAS JUST NOTHING THAT
8 EVER ENTERED INTO ANY ASPECT OF MY LIFE.

9 MR. CHIER: OKAY. HOW ABOUT -- I DON'T MEAN TO PRY
10 INTO THE MANNER IN WHICH YOU VOTED. YOU DON'T HAVE TO ANSWER
11 THIS.

12 BUT DO YOU REMEMBER SOME TIME AGO IN ABOUT 1978,
13 THERE WAS -- DID YOU LIVE IN CALIFORNIA IN 1978?

14 MS. HADLOCK: YES I DID.

15 MR. CHIER: THERE WAS AN INITIATIVE?

16 THE COURT: WERE YOU OLD ENOUGH TO VOTE THEN?

17 MS. HADLOCK: YES, THANK YOU.

18 MR. CHIER: SPOKEN LIKE A TRUE GENTLEMAN.

19 DO YOU REMEMBER THERE WAS AN INITIATIVE ON THE
20 BALLOT ABOUT THE DEATH PENALTY, WHETHER WE SHOULD HAVE A DEATH
21 PENALTY?

22 MS. HADLOCK: TRUTHFULLY, I DON'T REMEMBER IT.

23 MS. CHIER: OKAY. SO, YOU DON'T REMEMBER EITHER VOTING
24 ON THAT ISSUE OR IF YOU DID VOTE ON IT?

25 MS. HADLOCK: I DON'T REMEMBER AT ALL.

26 MR. CHIER: IF WE HAD AN ELECTION RIGHT NOW AND THERE
27 WAS A QUESTION OF WHETHER WE SHOULD HAVE A DEATH PENALTY OR
28 NOT HAVE A DEATH PENALTY AND THERE WAS SOME SCHEME LAID OUT

6P-2
1 AS TO WHAT THINGS SHOULD CALL FOR THE DEATH PENALTY, WHAT
2 THINGS SHOULDN'T, HOW DO YOU THINK YOU WOULD LEAN AT THE PRESENT
3 TIME?

4 MS. HADLOCK: DO YOU MEAN THEY ARE GIVING ME FOR WHAT
5 CASE SHOULD HAVE IT OR WHAT CASE SHOULDN'T?

6 MR. CHIER: LET'S SAY FOR EXAMPLE, IN ALL CASES OF FIRST
7 DEGREE MURDER, ALL CASES OF MURDER COMMITTED IN THE COURSE
8 OF A RAPE, ALL CASES OF MURDER BY TORTURE, JUST SAY THOSE
9 CASES MAY BE PUNISHABLE BY DEATH OR LIFE WITHOUT POSSIBILITY
10 OF PAROLE. LET ME WITHDRAW THAT. THAT IS -- ARE YOU IN FAVOR
11 OF HAVING A DEATH PENALTY?

12 MS. HADLOCK: YES.

13 MR. CHIER: OKAY. AND DO YOU THINK THAT THE DEATH PENALTY
14 IS AN APPROPRIATE PUNISHMENT IN APPROPRIATE CIRCUMSTANCES?

15 MS. HADLOCK: IN APPROPRIATE CIRCUMSTANCES, YES.

16 MR. CHIER: ALL RIGHT. AND IT IS NOT NECESSARILY --
17 OR IS IT YOUR JUDGMENT IT IS AN APPROPRIATE PENALTY IN EVERY CASE
18 IN WHICH A DEFENDANT IS CONVICTED OF AN INTENTIONAL MURDER
19 COMMITTED IN THE COURSE OF A ROBBERY, FOR EXAMPLE?

20 MS. HADLOCK: YOU ARE TALKING ABOUT INTENTIONAL --

21 MR. CHIER: AS OPPOSED TO SELF-DEFENSE. I AM TALKING
22 ABOUT WHEN IT IS ALL OVER AND DONE WITH, THAT THE DEFENDANT --
23 YOU ARE PERSUADED THAT THE DEFENDANT KILLED ANOTHER PERSON
24 INTENTIONALLY IN THE COURSE OF A ROBBERY.

25 MS. HADLOCK: AND HE HAS BEEN FOUND GUILTY?

26 MR. CHIER: AND HE HAS BEEN FOUND GUILTY BY 12 JURORS.

27 MS. HADLOCK: YES.

28 MR. CHIER: DO YOU THINK IN EVERY CASE WHERE A DEFENDANT

16B-3
1 HAS BEEN FOUND GUILTY OF MURDER OF ANOTHER PERSON INTENTIONALLY
2 IN THE COURSE OF A ROBBERY, THAT THE APPROPRIATE PUNISHMENT
3 IS DEATH?

4 MS. HADLOCK: I DON'T KNOW IF I COULD SAY EVERY CASE.

5 MR. CHIER: IN ALMOST EVERY CASE?

6 THE COURT: YOU KNOW, WE TOLD YOU -- THIS IS A LITTLE
7 BIT UNCERTAIN. IT IS NOT SOMETHING ELSE. I TOLD YOU THAT
8 THERE ARE TWO POSSIBLE PENALTIES IF YOU FOUND THE PENALTY
9 OF MURDER IN THE FIRST DEGREE IN THE COURSE OF A ROBBERY.

10 THE JURY THEN CONSIDERS ON A SECOND TRIAL, ALL
11 OF THE EVIDENCE THAT THEY HAVE HEARD FOR OR AGAINST THE DEATH
12 PENALTY.

13 YOU HAVE A RIGHT TO VOTE EITHER FOR LIFE
14 IMPRISONMENT WITHOUT POSSIBILITY OF PAROLE OR DEATH. THAT
15 IS THE JUDGMENT OF THE JURY. YOU UNDERSTAND THAT?

16 MS. HADLOCK: YES.

17 THE COURT: ALL RIGHT.

18 MR. CHIER: OKAY. NOW --

19 THE COURT: SO IT IS NOT AUTOMATICALLY DEATH IF YOU
20 FOUND HIM GUILTY OF MURDER IN THE FIRST DEGREE IN THE COURSE
21 OF A ROBBERY? IT MAY BE ONE OF THE TWO OF THEM?

22 MS. HADLOCK: OKAY.

23 MR. CHIER: ARE YOU SAYING "OKAY" BECAUSE YOU AGREE
24 WITH WHAT THE JUDGE IS SAYING OR THAT YOU ARE JUST FOLLOWING --

25 THE COURT: OR BECAUSE YOU UNDERSTAND WHAT I AM SAYING?

26 MS. HADLOCK: I AM UNDERSTANDING WHAT YOU ARE SAYING.

27 MR. CHIER: ARE YOU UNDERSTANDING WHAT I AM SAYING?

28 MS. HADLOCK: YES.

16R-4

1 MR. CHIER: YOU ARE OBVIOUSLY, MORALLY OPPOSED TO MURDER?

2 MS. HADLOCK: I PRESUME SO. JUST --

3 MR. CHIER: ALL RIGHT. AND MURDER OBVIOUSLY, IS NOT
4 A NICE THING. IT IS A BAD THING, RIGHT?

5 MS. HADLOCK: RIGHT.

6 MR. CHIER: AND YOU ARE OBVIOUSLY, NOT OPPOSED TO THE
7 DEATH PENALTY?

8 MS. HADLOCK: NO I AM NOT.

9 MR. CHIER: YOU ARE IN FAVOR OF THE DEATH PENALTY?

10 MS. HADLOCK: YES, IN CASES.

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16B-5
1 MR. CHIER: ALL RIGHT. LET ME ASK YOU THIS, THEN.
2 THIS IS NOT A QUESTION ABOUT THE LAW OR YOUR ABILITY TO
3 FOLLOW THE LAW.

4 BUT, LET'S ASSUME THAT YOU ARE THE BOSS. YOU
5 ARE IN CHARGE. YOU MAKE THE LAW.

6 YOU GET TO DECIDE WHAT THINGS ARE CRIMINAL AND
7 WHAT THINGS ARE NOT AND WHAT THE PUNISHMENTS ARE --

8 THE COURT: I DON'T KNOW WHAT YOU MEAN BY "DECIDE WHAT
9 IS CRIMINAL AND WHAT IS NOT." YOU DON'T MEAN THAT, DO YOU?

10 MR. CHIER: THIS IS A HYPOTHETICAL SITUATION WHERE SHE
11 IS THE LEGISLATURE UNTO HERSELF, YOUR HONOR.

12 THE COURT: ALL RIGHT.

13 MR. CHIER: YOU ARE THE ONLY PERSON MAKING THE LAWS,
14 OKAY?

15 MS. HADLOCK: OKAY.

16 MR. CHIER: AND YOU GET TO DECIDE WHAT THINGS ARE
17 CRIMINAL. WHAT IS THE FIRST THING YOU WOULD MAKE CRIMINAL?

18 MS. HADLOCK: I GUESS --

19 THE COURT: ANY OBJECTION?

20 MR. WAPNER: WELL, I DON'T SEE WHAT RELEVANCE IT IS.

21 THE COURT: I DON'T EITHER.

22 MR. CHIER: IT IS PRELIMINARY.

23 THE COURT: I WILL SUSTAIN THE OBJECTION.

24 MR. CHIER: ALL RIGHT. WOULD YOU MAKE MURDER A CRIME?

25 MS. HADLOCK: YES.

26 MR. CHIER: ALL RIGHT. AND IN FIXING THE POSSIBLE
27 PENALTIES FOR MURDER, WOULD YOU FIX DEATH AS A PENALTY FOR
28 MURDER?

5B 6 1 MS. HADLOCK: ONE OF THEM.

2 MR. CHIER: WHAT WOULD BE THE OTHER ONES?

3 MS. HADLOCK: WELL, THERE ARE DIFFERENT CIRCUMSTANCES.
4 I MEAN, IF IT IS SELF-DEFENSE, IF IT IS AN ACCIDENT, YOU KNOW
5 THERE ARE --

6 MR. CHIER: RIGHT. BUT WE ARE TALKING ABOUT MURDER
7 AND WHEN WE TALK ABOUT MURDER IN THIS COURTROOM, MISS HADLOCK,
8 WE ARE TALKING ABOUT A KILLING OF ANOTHER HUMAN BEING THAT
9 IS WITHOUT ANY OF THOSE OTHER EXTENUATING FACTORS. THERE
10 IS NO SELF-DEFENSE.

11 IT IS FOR THE MOST PART, A DELIBERATE, COLD-BLOODED
12 INTENTIONAL MURDER.

13 MS. HADLOCK: THEN I WOULD SAY THE DEATH PENALTY.

14 MR. CHIER: ALL RIGHT. AND IN SUCH A CASE, EVEN THOUGH
15 YOU MIGHT LISTEN TO, DURING THE PENALTY PHASE, GOOD THINGS
16 ABOUT THE PERSON'S BACKGROUND, IN YOUR HEART, YOU BELIEVE
17 THAT THE REALLY APPROPRIATE PUNISHMENT FOR A PERSON WHO
18 DELIBERATELY, INTENTIONALLY AND COLD-BLOODEDLY MURDERED ANOTHER
19 PERSON, IS DEATH, CORRECT?

20 MS. HADLOCK: YES.

21 MR. CHIER: AND IN THIS BELIEF --

22 THE COURT: DO YOU REMEMBER THAT I TOLD YOU SOMETHING
23 ELSE I WANT YOU TO REMEMBER? I TOLD YOU ABOUT A PENALTY PHASE.

24 MERELY BECAUSE YOU FOUND THE DEFENDANT GUILTY
25 OF MURDER IN THE FIRST DEGREE WITH SPECIAL CIRCUMSTANCES --

26 MR. CHIER: YOUR HONOR --

27 THE COURT: BE QUIET.

28 MR. CHIER: YOUR HONOR, MAY I BE HEARD OUT OF THE

16B-7
1 PRESENCE OF THE JUROR?

2 THE COURT: WITH SPECIAL CIRCUMSTANCES -- ARE YOU GOING
3 TO BE QUIET? I WANT YOU TO BE QUIET.

4 MR. CHIER: BUT I HAVE AN OBJECTION TO --

5 THE COURT: GUILTY OF MURDER IN THE FIRST DEGREE --

6 MR. CHIER: I HAVE AN OBJECTION TO --

7 THE COURT: IF YOU FIND THE DEFENDANT GUILTY OF MURDER
8 IN THE FIRST DEGREE, WITH THE SPECIAL CIRCUMSTANCES, I TOLD
9 YOU ABOUT THE SECOND ASPECT OF THE CASE. IS THAT RIGHT?

10 MS. HADLOCK: YES.

11 THE COURT: YOU ARE TO CONSIDER AFTER YOU HEARD THE
12 OTHER EVIDENCE, WHETHER OR NOT IT SHOULD BE ONE OF THOSE
13 PENALTIES.

14 MS. HADLOCK: YES.

15 THE COURT: YOU HEAR MITIGATING CIRCUMSTANCES IN FAVOR
16 OF THE DEFENDANT AND THE AGGRAVATING CIRCUMSTANCES AGAINST
17 HIM.

18 IT IS THEN THAT YOU MAKE UP YOUR MIND.

19 NOW, IS YOUR MIND SUCH THAT YOU WOULD UNDER NO
20 CIRCUMSTANCES -- UNDER NO CIRCUMSTANCES WOULD YOU VOTE FOR
21 LIFE WITHOUT POSSIBILITY OF PAROLE BUT ONLY VOTE FOR THE DEATH
22 PENALTY?

23 MS. HADLOCK: NO. I WOULDN'T ONLY VOTE FOR THE DEATH
24 PENALTY. IT HAS TO BE PROVEN THAT HE IS GUILTY OF --

25 THE COURT: IT HAS ALREADY BEEN PROVED. NOW WE ARE
26 AT THE SECOND PHASE. IT HAS ALREADY BEEN PROVED THAT HE IS
27 GUILTY OF MURDER IN THE FIRST DEGREE DURING THE COURSE OF
28 A ROBBERY.

16B-8
1 NOW YOU ARE CONSIDERING THE DEATH PENALTY OR LIFE
2 WITHOUT POSSIBILITY OF PAROLE.

3 YOU LISTEN TO ALL OF THE EVIDENCE THAT WOULD BE
4 GIVEN ON THE SECOND PHASE OF THE TRIAL. IS YOUR MIND SUCH
5 THAT YOU WOULD UNDER NO CIRCUMSTANCES, WOULD VOTE FOR LIFE
6 WITHOUT POSSIBILITY OF PAROLE AND ONLY VOTE THE DEATH PENALTY?

7 MS. HADLOCK: NO. IT IS NOT SUCH THAT I WOULD ALWAYS
8 VOTE THE DEATH PENALTY.

9 THE COURT: WELL, YOUR QUESTIONS ARE SUCH THAT IT IS
10 ABSOLUTELY MISLEADING. THAT IS WHY I INTERRUPTED TO ASK THE
11 QUESTIONS MYSELF.

12 THOSE ARE LOADED QUESTIONS THAT YOU ARE ASKING.
13 I DON'T THINK IT IS PROPER.

14 MR. CHIER: YOUR HONOR IS ASKING LEADING QUESTIONS AND --

15 THE COURT: I AM NOT ASKING LEADING QUESTIONS. I AM
16 PUTTING THE FACTS TO THE PROSPECTIVE JUROR.

17 MR. CHIER: WELL, LET ME SEE IF WE CAN GET BACK TO WHERE
18 I WAS GOING WITH MISS HADLOCK.

19 I AM NOT TRYING TO TRICK YOU OR MISLEAD YOU. DO
20 YOU UNDERSTAND THAT? I AM JUST --

21 MS. HADLOCK: I AM TELLING YOU WHAT I THINK.

22 MR. CHIER: I UNDERSTAND. WHAT I AM TRYING TO FIND
23 OUT IS NOT NECESSARILY WHAT THE JUDGE IS ASKING YOU. OKAY?

24 SO WHAT I AM TRYING TO FIND OUT -- AND REMEMBER
25 WHEN YOU HAVE THE PENALTY PHASE, YOU DON'T GO BACK AND
26 REHASH THE GUILT PHASE. THE PENALTY PHASE ONLY OCCURS IF
27 YOU AND 11 OTHER JURORS HAVE CONVICTED THE DEFENDANT OF
28 FIRST DEGREE, DELIBERATE MURDER IN THE COURSE OF A ROBBERY.

16B-9

1 THAT HAS ALREADY BEEN ESTABLISHED. OKAY.

2 SO, THE PENALTY PHASE DOESN'T GO BACK AND SAY
3 WELL, THERE WAS EXTENUATING CIRCUMSTANCES OR SELF-DEFENSE.
4 ALL THAT STUFF IS ALREADY PAST.

5 IT HAS ALREADY BEEN FOUND. THERE IS NONE OF THAT.

6 SO YOU ARE JUST DECIDING AT THIS POINT, WHAT DO
7 WE DO WITH THIS GUY. DO WE KILL HIM OR DO WE GIVE HIM LIFE
8 WITHOUT POSSIBILITY OF PAROLE.

9 MR. WAPNER: EXCUSE ME FOR ONE MOMENT. I WOULD LIKE
10 TO INTERPOSE AN OBJECTION BECAUSE I THINK THAT UNINTENTIONALLY,
11 I THINK THAT WAS SOMEWHAT MISLEADING. COULD I HAVE A MOMENT
12 WITH COUNSEL?

13 MR. CHIER: SURE.

14 (BRIEF PAUSE.)
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1 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

2 MR. CHIER: LET ME REPHRASE THE QUESTION SO I DON'T
3 MISSTATE THE LAW HERE.

4 MRS. HADLOCK, WE ARE IN THE PENALTY PHASE NOW AND
5 THE DECISION ABOUT HIS GUILT OR INNOCENCE HAS ALREADY BEEN
6 MADE BY THE JURY, HE IS GUILTY AS CHARGED, AND HE HAS BEEN
7 FOUND GUILTY OF FIRST DEGREE MURDER, INTENTIONAL, IN THE COURSE
8 OF A ROBBERY. THE QUESTION NOW ON THE PENALTY PHASE IS WHAT
9 WE DO TO HIM AND THERE IS EVIDENCE THAT IS PUT ON AT THAT TIME
10 ABOUT HIS LIFE, WHETHER HE HAS LIVED A GOOD LIFE OR BAD LIFE,
11 AND WHAT I WANT TO KNOW FROM YOU IS, IN THE COURSE OF THAT
12 PART OF THE PROCEEDING, IF YOUR BELIEFS ABOUT DEATH BEING
13 THE APPROPRIATE PENALTY FOR PEOPLE WHO COMMIT FIRST DEGREE
14 MURDER, WOULD THAT SUBSTANTIALLY INTERFERE WITH YOUR ABILITY
15 TO BE TOTALLY NEUTRAL AT THAT POINT? IN OTHER WORDS, WOULD
16 YOU BE LEANING IN FAVOR OF THE DEATH PENALTY SO, LET'S SAY,
17 THE DEFENDANT AND HIS ATTORNEYS WOULD HAVE TO WORK HARDER THAN
18 MR. WAPNER TO BRING YOU BACK TO THAT NEUTRAL POSITION?

19 DO YOU UNDERSTAND MY QUESTION?

20 MS. HADLOCK: YES AND NO -- NO.

21 WOULD YOU REPHRASE IT, PLEASE, SIR?

22 MR. CHIER: OKAY. IT IS SORT OF A DIFFICULT CONCEPT.

23 WHAT WE ARE LOOKING FOR HERE IS NEUTRAL AND
24 IMPARTIAL JURORS SO THAT IF YOU HAVE CERTAIN PREDILECTIONS
25 OR PREFERENCES FOR THE DEATH PENALTY FOR FIRST DEGREE MURDERS
26 AS OPPOSED TO, LET'S SAY, LIFE IMPRISONMENT WITHOUT THE
27 POSSIBILITY OF PAROLE, WHEN WE GET OVER, IF WE DO, TO THE
28 PENALTY PHASE, YOU ARE NOT LIKE TOTALLY NEUTRAL BECAUSE, IF

1 I UNDERSTAND CORRECTLY, YOU FEEL THE APPROPRIATENESS OF THE
2 DEATH PENALTY IS SUCH THAT YOU WOULD LEAN AT THAT POINT IN
3 FAVOR OF DEATH AS OPPOSED TO LIFE IN PRISON?

4 MS. HADLOCK: I DON'T BELIEVE I SAID THAT TOTALLY.

5 MR. CHIER: I DON'T KNOW IF YOU SAID THAT, BUT IS THAT
6 HOW IT IS?

7 MS. HADLOCK: NO.

8 I WOULD HAVE TO HEAR EVERYTHING AND --

9 MR. CHIER: ALL RIGHT. BUT WOULD THE DEFENDANT HAVE
10 TO WORK HARDER TO CONVINCING YOU THAT LIFE WITHOUT THE POSSIBILITY
11 OF PAROLE IS APPROPRIATE THAN, LET'S SAY, THE DISTRICT ATTORNEY
12 WOULD HAVE TO WORK TO CONVINCING YOU THAT DEATH WAS APPROPRIATE?

13 MS. HADLOCK: I DON'T KNOW THE ANSWER TO THAT.

14 MR. CHIER: WELL, IF YOU DON'T KNOW THE ANSWER TO THAT,
15 CAN YOU SAY THAT AS YOU SIT THERE RIGHT NOW YOU ARE A TOTALLY
16 IMPARTIAL AND NEUTRAL PERSON?

17 MS. HADLOCK: YES.

18 MR. CHIER: I UNDERSTAND YOU WOULD NOT AUTOMATICALLY
19 IN EVERY CASE WHERE YOU FIND A PERSON GUILTY OF FIRST DEGREE
20 MURDER, IMPOSE THE DEATH PENALTY, BUT COULD WE SAY THAT YOU
21 ARE MORE LIKELY THAN NOT TO DO IT UNLESS THERE WERE EXTRA-
22 ORDINARY CIRCUMSTANCES WHICH IN YOUR MIND WARRANTED LIFE
23 WITHOUT THE POSSIBILITY OF PAROLE?

24 MS. HADLOCK: I DON'T KNOW THAT. I REALLY DON'T KNOW
25 THAT ANSWER.

26 MR. CHIER: I MEAN IT IS CONCEIVABLE THAT YOU COULD,
27 LIKE, SIT ON A JURY IN THIS CASE, CONVICT THE DEFENDANT OF
28 FIRST DEGREE MURDER AND SPECIAL CIRCUMSTANCES AND THEN IN THE

1 PENALTY PHASE DELIBERATIONS, FIND THAT YOU ARE A PERSON, WHO,
2 AS I SUGGESTED, IS LEANING TOWARD THE DEATH PENALTY; IS THAT
3 A POSSIBILITY?

4 MS. HADLOCK: NO, I DON'T THINK SO.

5 I MEAN IT WOULD --

6 MR. CHIER: IF YOU DON'T KNOW NOW, ISN'T THAT THE --

7 THE COURT: WHY DID YOU INTERRUPT HER? SHE WAS ABOUT
8 TO FINISH HER ANSWER.

9 MR. CHIER: I BEG YOUR PARDON.

10 THE COURT: YOU HADN'T FINISHED YOUR ANSWER.

11 MS. HADLOCK: NO, I HADN'T FINISHED.

12 THE COURT: FINISH YOUR ANSWER. YOU SAID BUT WHAT?

13 MS. HADLOCK: BUT IT WOULD JUST HAVE TO BE AS -- AS IT
14 GOES ON DURING THE TIME.

15 MR. CHIER: I UNDERSTAND THAT WHAT GOES ON DURING THE
16 TIME.

17 BUT THE DANGER IS, MRS. HADLOCK, IS THAT AT THE
18 TIME YOU WOULD FIND THAT YOU ARE LEANING -- IF YOU CANNOT
19 SAY AT THIS TIME THAT YOU ARE, LIKE, TOTALLY NEUTRAL, THEN
20 YOU WOULD FIND --

21 MS. HADLOCK: I DID SAY I WAS NEUTRAL.

22 MR. CHIER: ALL RIGHT. BUT YOU SAID YOU COULDN'T SAY
23 HOW NEUTRAL YOU WERE WITH RESPECT TO THE PENALTY PHASE.

24 MS. HADLOCK: NO, I DIDN'T.

25 I HAD SAID LEANING TOWARDS THE DEATH PENALTY.

26 MR. CHIER: YES.

27 MS. HADLOCK: I SAID I DIDN'T KNOW WHICH WAY, YOU KNOW,
28 I CAN'T SAY BECAUSE I AM SORT OF NEUTRAL. I DON'T KNOW WHICH

7-4

1 WAY UNTIL --

2 MR. CHIER: UNTIL YOU HAVE HEARD SOME EVIDENCE?

3 MS. HADLOCK: (NODS HEAD UP AND DOWN.)

4 MR. CHIER: AND THE COURT IS GOING TO TELL YOU WHAT THINGS,
5 YOU KNOW, CAN BE CONSIDERED AND THERE WILL BE SOME EVIDENCE
6 PUT ON BY BOTH SIDES IN THE EVENT OF A CONVICTION ABOUT THE
7 DEFENDANT AND AT THAT POINT YOU CAN, BUT YOU DON'T HAVE TO,
8 IT DOESN'T HAVE TO MATTER TO YOU. IN OTHER WORDS, FOR EXAMPLE,
9 THE AGE OF THE DEFENDANT MAY BE A FACTOR YOU CAN CONSIDER IN
10 MITIGATION, IS THAT SOMETHING -- YOU UNDERSTAND THAT IF THE
11 JUDGE SAYS YOU CAN CONSIDER HIS AGE --

12 MS. HADLOCK: OKAY.

13 MR. CHIER: -- THEN YOU CAN. YOU HAVE DISCRETION TO
14 CONSIDER HIS AGE.

15 MY QUESTION IS: WOULD IT MAKE ANY DIFFERENCE TO
16 YOU, FOR EXAMPLE, IF HE WERE A YOUNG MAN AS OPPOSED TO AN OLDER,
17 EXPERIENCED MAN?

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7A

1 THE COURT: YOU MEAN THAT FACT ALONE WOULD MAKE THE
2 DIFFERENCE BETWEEN LIFE IMPRISONMENT AND DEATH?

3 MR. CHIER: NO, NO, YOUR HONOR, NOT THAT FACT ALONE
4 BUT AS ONE OF A NUMBER OF FACTORS THAT I AM GOING TO DISCUSS
5 WITH YOU.

6 DO YOU UNDERSTAND MY QUESTION?

7 MS. HADLOCK: YES, YES, I UNDERSTAND YOUR QUESTION.

8 MR. CHIER: WOULD IT MAKE ANY DIFFERENCE THAT HE WAS
9 YOUNG AND INEXPERIENCED AS OPPOSED TO OLDER AND MORE
10 EXPERIENCED, AMONG OTHER THINGS?

11 MR. WAPNER: OBJECTION AS COMPOUND, BECAUSE I AM NOT
12 SURE THAT YOUNG AND INEXPERIENCED ARE NECESSARILY GOING
13 TOGETHER AND OLD AND EXPERIENCED GO TOGETHER.

14 MR. CHIER: I WILL RESTATE THE QUESTION, YOUR HONOR.

15 AMONG OTHER THINGS WHICH WE WILL TOUCH UPON, WOULD
16 IT MAKE, FOR EXAMPLE, ANY DIFFERENCE IF THE DEFENDANT WERE
17 YOUNG AS OPPOSED TO OLD AT THE TIME THAT THE OFFENSE WAS
18 COMMITTED?

19 MS. HADLOCK: I DON'T THINK SO.

20 MR. CHIER: WOULD IT MAKE ANY DIFFERENCE IF HE HAD NO
21 PRIOR CRIMINAL BACKGROUND AS OPPOSED TO HAVING A HISTORY OF
22 VIOLENT CRIMINAL BEHAVIOR?

23 MS. HADLOCK: IT PROBABLY WOULD. YOU KNOW, YOU LISTEN
24 TO ALL THINGS AND YOU WEIGH ALL THINGS, BUT IT IS GENERALLY
25 IF SOMEBODY HASN'T HAD -- IF IT CAME OUT DURING THE TRIAL AND
26 EVERYTHING THAT SOMEONE HAS NEVER DONE ANYTHING, YOU DO THINK
27 ABOUT THAT. BUT THEN IT DOESN'T ALTER THE FACT WHETHER OF
28 GUILTY OR INNOCENT.

1 MR. CHIER: OKAY, LET ME ASK YOU THIS: IF THE EVIDENCE
2 IN THIS CASE WERE TO DISCLOSE THAT MY CLIENT, MR. HUNT, HAD
3 PLANNED TO MURDER RONALD LEVIN, THAT HE WROTE OUT A LIST OF
4 THINGS TO DO, THAT HE WENT OVER --

5 MR. WAPNER: YOUR HONOR, I AM GOING TO OBJECT TO THIS.
6 I DON'T THINK THIS IS A PROPER QUESTION, TO SET OUT THE FACTS
7 OF THIS PARTICULAR CASE.

8 THE COURT: I WILL SUSTAIN THE OBJECTION.

9 MR. WAPNER: AND THEN ASK HER HOW SHE IS GOING TO VOTE.

10 THE COURT: I WILL SUSTAIN THE OBJECTION.

11 WE HAVE ONLY A VERY NARROW INQUIRY AS TO HER
12 ATTITUDE ABOUT CAPITAL PUNISHMENT OR THE DEATH PENALTY THAT
13 WOULD PREVENT HER FROM BECOMING A FAIR AND IMPARTIAL JUROR.

14 MR. CHIER: RIGHT.

15 THE COURT: SHE SAID SHE WOULD CONSIDER ALL OF THE
16 EVIDENCE BEFORE SHE MAKES UP HER MIND ON THE PENALTY PHASE;
17 ISN'T THAT WHAT YOU SAID?

18 MS. HADLOCK: YES.

19 THE COURT: WHAT ARE WE GOING BEYOND THAT FOR?

20 THAT IS WHY THESE QUESTIONS ARE PROPOUNDED SO IT
21 WILL BE YES OR NO.

22 MR. CHIER: LET ME ASK YOU, MRS. HADLOCK: GIVEN THE
23 ALTERNATIVE OR FLIP SIDE TO THE GAS CHAMBER IS LIFE IMPRISON-
24 MENT WITHOUT THE POSSIBILITY OF PAROLE --

25 MS. HADLOCK: YES.

26 MR. CHIER: -- DO YOU BELIEVE THAT LIFE IN PRISON WITHOUT
27 THE POSSIBILITY OF PAROLE REALLY MEANS THAT?

28 MS. HADLOCK: YES.

1 MR. CHIER: DO YOU HAVE A SUSPICION OR LINGERING DOUBT
2 THAT MAYBE EVEN IF IT IS LIFE IN PRISON WITHOUT THE POSSIBILITY
3 OF PAROLE THAT THERE IS SOME POSSIBILITY DOWN THE LINE?

4 MS. HADLOCK: WELL, THERE IS ALWAYS A POSSIBILITY.

5 THE PROBABILITY, I WOULD SAY NO.

6 MR. CHIER: YOU THINK THAT THERE IS ALWAYS A POSSIBILITY?

7 MS. HADLOCK: THERE IS ALWAYS A POSSIBILITY TO EVERYTHING.

8 MR. CHIER: ALL RIGHT. AND IF YOU FOUND THAT HE WAS
9 A MURDERER, THAT IT WAS AN INTENTIONAL MURDER THAT HE
10 COMMITTED WITH A ROBBERY OF THIS PERSON, WOULD YOU BE INCLINED
11 TO VOTE -- YOU WOULD OBVIOUSLY BELIEVE HE SHOULD BE LOCKED
12 UP, CORRECT?

13 MS. HADLOCK: YES.

14 MR. CHIER: AT THE VERY LEAST?

15 MS. HADLOCK: YES.

16 MR. CHIER: WOULD YOU BE INCLINED TO VOTE FOR DEATH AS
17 OPPOSED TO LIFE IN PRISON BECAUSE OF THE POSSIBILITY IN YOUR
18 BELIEF THAT HE COULD GET OUT AT SOME LATER DATE?

19 MS. HADLOCK: NO, NOT ON THAT.

20 MR. CHIER: I WILL PASS FOR CAUSE, YOUR HONOR.

21 THE COURT: ALL RIGHT. MR. WAPNER?

22 MR. WAPNER: MAY I HAVE JUST A MOMENT?

23 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

24 MR. CHIER: I AM SORRY. I MISSPOKE MYSELF.

25 I MEAN I HAVE NO FURTHER QUESTIONS.

26 MR. WAPNER: I WANT TO MAKE SURE YOU KNOW WHAT YOU ARE
27 SAYING BEFORE YOU DECIDE WHAT TO DO.

28 THE COURT: ALL RIGHT, WE WILL ERASE THAT FROM THE

1 RECORD.

2 MR. WAPNER: GOOD AFTERNOON, MS. HADLOCK. I AM FRED
3 WAPNER. I AM THE DEPUTY DISTRICT ATTORNEY THAT IS PROSECUTING
4 THIS CASE.

5 THE REASON I JUST ASKED MR. CHIER THAT QUESTION
6 WAS BECAUSE IT WAS GOING TO MAKE A DIFFERENCE AS TO WHETHER
7 OR NOT I WAS GOING TO ASK YOU ANY QUESTIONS.

8 MS. HADLOCK: OKAY.

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18A-1
1 MR. WAPNER: I WANT TO TRY TO EXPLAIN SOMETHING ELSE
2 ADDITIONAL TO WHAT WE HAVE ALREADY BEEN TALKING ABOUT.
3 HOPEFULLY, I WON'T MAKE IT MORE CONFUSING FOR YOU.

4 MS. HADLOCK: OKAY.

5 MR. WAPNER: IF YOU GET TO THE PENALTY PHASE OF THE
6 TRIAL, THAT MEANS THAT YOU WILL HAVE ALREADY DECIDED THAT
7 THERE WAS A MURDER THAT HAPPENED DURING THE COURSE OF A ROBBERY
8 AND THAT THE DEFENDANT DID IT. DO YOU UNDERSTAND THAT?

9 MS. HADLOCK: YES.

10 MR. WAPNER: OKAY. AS YOU SIT THERE NOW, YOU DON'T
11 KNOW ANYTHING ABOUT THE FACTS OF THIS PARTICULAR CASE, DO
12 YOU?

13 MS. HADLOCK: NO. NO, I DON'T.

14 MR. WAPNER: OKAY. IF YOU WERE AT THE PENALTY PHASE,
15 YOU WILL HEAR OTHER EVIDENCE, AS THE JUDGE AND COUNSEL HAVE
16 TOLD YOU, ABOUT GOOD THINGS AND BAD THINGS.

17 AND THEN, YOU WILL BE CALLED UPON TO MAKE A
18 DECISION AS TO WHAT THE PROPER PENALTY SHOULD BE. DO YOU
19 UNDERSTAND THAT?

20 MS. HADLOCK: YES.

21 MR. WAPNER: IN ARRIVING AT YOUR DECISION AS TO WHAT
22 THE PROPER PENALTY SHOULD BE, THE JUDGE WILL GIVE YOU A LIST
23 OF THINGS THAT YOU CAN CONSIDER. DO YOU UNDERSTAND THAT?

24 MS. HADLOCK: YES.

25 MR. WAPNER: ONE OF THE THINGS THAT HE IS GOING TO TELL
26 YOU, AS COUNSEL HAS SUGGESTED, IS THE AGE OF THE DEFENDANT.

27 DO YOU UNDERSTAND THAT?

28 MS. HADLOCK: YES.

18A-7
1 MR. WAPNER: IT'S GOING TO BE A LONG LIST. AND AMONG
2 OTHER FACTORS INCLUDING AGE, HE IS GOING TO TELL YOU THAT
3 WHEN YOU ARE DECIDING WHAT THE PROPER PUNISHMENT CAN BE OR
4 SHOULD BE, THAT YOU CAN TAKE INTO CONSIDERATION THE
5 CIRCUMSTANCES OF THE OFFENSE. DO YOU UNDERSTAND THAT?

6 MS. HADLOCK: YES.

7 MR. WAPNER: THAT DOESN'T MEAN THAT YOU ARE SUPPOSED
8 TO GO BACK AND MAKE A DECISION, REDECIDE THE QUESTION OF
9 WHETHER HE IS GUILTY OR NOT.

10 THAT JUST MEANS THAT YOU CAN CONSIDER HOW THE
11 MURDER OCCURRED, WHETHER IT WAS BRUTAL, WHETHER IT WAS NOT
12 BRUTAL AND THAT KIND OF THING. DO YOU UNDERSTAND THAT?

13 MS. HADLOCK: YES.

14 MR. WAPNER: OKAY. MR. CHIER WAS ASKING YOU QUESTIONS
15 ABOUT MURDERS THAT OCCURRED IN THE COURSE OF A ROBBERY. I
16 TAKE IT THAT YOU ARE NOT A LAWYER?

17 MS. HADLOCK: NO.

18 MR. WAPNER: OKAY. CAN YOU THINK OF -- STRIKE THAT.

19 LET ME TRY TO PUT IT ANOTHER WAY. SINCE YOU DON'T
20 KNOW THE FACTS OF THIS PARTICULAR CASE AND ALL YOU KNOW IS
21 THAT THERE IS AN ALLEGATION THAT THE MURDER OCCURRED DURING
22 THE COURSE OF A ROBBERY, YOU DON'T KNOW WHAT MIGHT BE THE
23 FACTS OF THIS PARTICULAR ROBBERY, RIGHT?

24 MS. HADLOCK: THAT'S TRUE.

25 MR. WAPNER: CAN YOU IMAGINE IN YOUR MIND, THAT THERE
26 MIGHT BE ANY DIFFERENT FACTUAL SITUATIONS WHERE MURDERS MIGHT
27 OCCUR DURING THE COURSE OF A ROBBERY?

28 MS. HADLOCK: YES.

18A-3
1 MR. WAPNER: AND THEY MIGHT BE QUITE DIFFERENT? IN
2 OTHER WORDS, THERE IS NOT JUST ONE WAY TO ROB SOMEONE OR ONE
3 WAY TO KILL SOMEONE? DO YOU UNDERSTAND THAT?

4 MS. HADLOCK: YES.

5 MR. WAPNER: OKAY. SO THAT WHEN THE JUDGE, DURING THE
6 PENALTY PHASE, TELLS YOU TO TAKE INTO CONSIDERATION THE
7 CIRCUMSTANCES OF THE OFFENSE, YOU CAN DO THAT?

8 MS. HADLOCK: YES.

9 MR. WAPNER: SO THAT IF FOR EXAMPLE, ON THE ONE HAND,
10 SOMEONE DOWN ON HIS LUCK AND OUT OF A JOB AND NEEDED FOOD,
11 TAKES A KNIFE AND DECIDES HE IS GOING TO GO OUT IN THE STREET
12 AND ROB THE FIRST PERSON THAT HE SEES AND HE WALKS UP TO JOE
13 BLOW AND HE STICKS THE KNIFE ON HIM AND ASKS HIM FOR MONEY
14 AND THE GUY GIVES HIM SOME, BUT NOT ENOUGH AND SO THE DEFENDANT
15 STICKS THE KNIFE IN HIM AND KILLS HIM, THAT MIGHT BE A MURDER
16 IN THE COURSE OF A ROBBERY. DO YOU UNDERSTAND THAT?

17 MS. HADLOCK: YES.

18 MR. WAPNER: AND ON THE OTHER SIDE OF THE SPECTRUM,
19 THERE MIGHT BE ONE FOR EXAMPLE, OF SOMEONE WHO DECIDES TO
20 PLAN A VERY SOPHISTICATED ROBBERY OF A JEWELRY STORE AND SPENDS
21 A LOT OF TIME PLANNING IT AND SPENDS MUCH TIME IN PREPARATION
22 AND GOES IN AND ROBS THE JEWELRY STORE. AND DURING THE COURSE
23 OF THIS ROBBERY, HE INTENTIONALLY KILLS SOMEONE. YOU UNDER-
24 STAND THAT?

25 MS. HADLOCK: YES.

26 MR. WAPNER: OKAY. CAN YOU IMAGINE THAT IF YOU KNOW --

27 MR. CHIER: IS THIS THE QUESTION?

28 MR. WAPNER: I AM GETTING THERE.

18A-4

1 MR. CHIER: OH.

2 MR. WAPNER: IF YOU ARE A JUROR -- WHAT I AM TRYING
3 TO GET AT, IS THAT THE QUESTION WAS POSED TO YOU, IF THERE
4 IS A MURDER IN THE COURSE OF A ROBBERY, WOULD YOU ALWAYS
5 IMPOSE THE DEATH PENALTY. WHAT I WANT TO KNOW IS, ARE YOU
6 WILLING TO TAKE INTO CONSIDERATION THE DIFFERENT CIRCUMSTANCES
7 SURROUNDING THAT PARTICULAR ROBBERY?

8 MS. HADLOCK: YES.

9 MR. WAPNER: ARE YOU SAYING AUTOMATICALLY, THAT JUST
10 BECAUSE IT IS A MURDER IN THE COURSE OF A ROBBERY, THAT THAT
11 PERSON AUTOMATICALLY SHOULD GET THE DEATH PENALTY?

12 MS. HADLOCK: NO.

13 MR. WAPNER: CAN YOU SEE THAT THERE MIGHT BE DIFFERENCES
14 BETWEEN THOSE TWO SITUATIONS THAT I GAVE YOU?

15 MS. HADLOCK: THERE IS.

16 MR. WAPNER: OKAY. AND IN EACH SITUATION, ASSUMING
17 THAT YOU WERE A JUROR ON THE FIRST CASE WITH THE GUY ON THE
18 STREET AND THAT HE HAD BEEN FOUND GUILTY OF MURDER IN THE
19 COURSE OF A ROBBERY, IN THAT CASE, WOULD YOU BE WILLING TO
20 SIT AND LISTEN TO ALL OF THE FACTS FOR THAT PERSON AND AGAINST
21 THAT PERSON AND THEN DECIDE WHETHER OR NOT THAT PERSON SHOULD
22 GET THE DEATH PENALTY OR LIFE WITHOUT POSSIBILITY OF PAROLE?

23 MS. HADLOCK: YES.

24 MR. WAPNER: AND IF YOU WERE A JUROR IN THE SECOND CASE
25 AND YOU HAD DECIDED THAT THAT PERSON WAS GUILTY OF MURDER
26 AND A MURDER OCCURS IN THE COURSE OF A ROBBERY, WOULD YOU
27 BE WILLING TO LISTEN TO ALL OF THE FACTORS FOR THAT PERSON
28 AND AGAINST THAT PERSON AND DECIDE WHETHER THAT PERSON SHOULD

8A-5
1 GET DEATH OR LIFE WITHOUT POSSIBILITY OF PAROLE?

2 MS. HADLOCK: YES.

3 MR. WAPNER: AND IF YOU ARE A JUROR IN THIS CASE AND
4 YOU DECIDE THAT THE DEFENDANT IN THIS CASE IS GUILTY OF MURDER
5 AND THAT THE MURDER OCCURS IN THE COURSE OF A ROBBERY, WOULD
6 YOU BE WILLING TO LISTEN TO ALL OF THE FACTORS FOR HIM AND
7 AGAINST HIM AND THEN DECIDE WHETHER OR NOT HE SHOULD GET THE
8 DEATH PENALTY OR LIFE WITHOUT POSSIBILITY OF PAROLE?

9 MS. HADLOCK: YES.

10 MR. WAPNER: THANK YOU. NOTHING FURTHER.

11 MR. CHIER: YOUR HONOR, IT WOULD SEEM TO ME THAT
12 MR. WAPNER HAS --

13 THE COURT: DO YOU WANT TO ASK ANY FURTHER QUESTIONS?

14 MR. CHIER: I HAVE SOME FURTHER QUESTIONS, YOUR HONOR.

15 THE COURT: ALL RIGHT.

16 MR. CHIER: MS. HADLOCK, NOW THAT MR. WAPNER IS GIVING
17 THE SCENARIO ABOUT THE HUNGRY PERSON WITH THE KNIFE ON MAIN
18 STREET, LET ME ASK YOU THIS. LET ME PROPOSE TO YOU ANOTHER
19 HYPOTHETICAL.

20 MS. HADLOCK: OKAY.

21 MR. CHIER: AND TO SEE HOW YOU ARE FEELING ABOUT THIS
22 TYPE OF THING. OKAY?

23 MS. HADLOCK: YES.

24 MR. CHIER: LET'S ASSUME THAT A PERSON WHO BELIEVED
25 HE WAS OWED SOME MONEY, WENT OVER TO THE HOME OF THE PERSON
26 HE BELIEVED OWED HIM THE MONEY AND AFTER --

27 THE COURT: YOU ARE NOT ASSUMING A HYPOTHETICAL. YOU
28 ARE ASSUMING SOMETHING ELSE. I WILL OBJECT TO THAT QUESTION

18A-6

1 RIGHT THIS VERY MOMENT.

2 DON'T GO ANY FURTHER WITH IT.

3 MR. CHIER: BUT YOUR HONOR --

4 THE COURT: YOU ARE ASSUMING FACTS IN THE CASE. LET'S
5 NOT GO ANY FURTHER.

6 MR. CHIER: WELL, LET'S ASSUME THAT THE DEFENDANT IN
7 A CASE WAS IN NEED OF SOME MONEY FOR HIS BUSINESS --

8 THE COURT: WHICH DEFENDANT?

9 MR. CHIER: THIS IS JUST A HYPOTHETICAL DEFENDANT.

10 THE COURT: ANY DEFENDANT?

11 MR. CHIER: YES, YOUR HONOR, AND THAT HE HEARD OF A
12 MAN WHO HAD A LOT OF MONEY AND THAT HE WAS FRIENDS WITH THAT
13 MAN'S SON, FOR EXAMPLE, AND THAT THE SON AND THE OTHER PERSON
14 CONSPIRED TO KIDNAP THE MAN WITH A LOT OF MONEY AND TO TORTURE
15 HIM AND TO GET HIS MONEY FROM HIM.

16 THE COURT: LET'S STOP RIGHT THERE. THERE WILL BE FACTS
17 IN THIS CASE. YOU ARE ALLUDING TO FACTS WHICH MIGHT BE PROVED
18 IN THIS CASE. LET'S GET AWAY FROM ASSUMING THE FACTS THAT
19 ARE CLEARLY IRRELEVANT AT THIS TIME.

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8B FC

1 MR. CHIER: WE WOULD LIKE TO SEE THE COURT AND --

2 THE COURT: VERY WELL. STEP OUTSIDE. WE'LL CALL YOU
3 BACK HERE, THEN.

4 (PROSPECTIVE JUROR HADLOCK EXITS THE
5 COURTROOM.)

6 THE COURT: IN THE PENALTY PHASE IN THIS CASE, IT IS
7 MY IMPRESSION THAT THE PEOPLE ARE GOING TO BRING IN FACTS IN
8 CONNECTION WITH -- WHATEVER THAT NAME WAS -- BUT YOU ARE ASKING
9 QUESTIONS ABOUT THAT. YOU ARE ASKING THEM TO PREJUDGE THE
10 TESTIMONY WHICH WILL COME IN ON THE PENALTY PHASE. THAT IS
11 WHY I INTERRUPTED YOU.

12 I DON'T THINK IT IS PROPER FOR YOU TO ASK
13 QUESTIONS THAT ARE NOT HYPOTHETICAL.

14 MR. CHIER: WELL, YOUR HONOR, ALL RIGHT. IT WAS MY
15 IMPRESSION THAT MR. WAPNER HAD OPENED THE DOOR TO THAT TYPE
16 OF QUESTION.

17 THE COURT: NO. NO, HE DIDN'T MENTION A SINGLE FACT WHICH
18 IN ANY WAY RELATES TO THIS CASE.

19 MR. CHIER: ALLOW ME, WITH ALL DUE RESPECT TO THE
20 COURT --

21 THE COURT: GO AHEAD.

22 MR. CHIER: I CHALLENGE THIS JUROR FOR CAUSE. I WOULD
23 APPRECIATE IT IF YOU WOULD JUST HEAR ME OUT.

24 THE COURT: GO AHEAD.

25 MR. CHIER: I HAVE A PARAGRAPH OR TWO TO SAY. THE
26 WITNESS, ON EXAMINATION BY MYSELF, WITHOUT GUILF OR TRICKERY
27 ON MY PART, CONCEDED WHAT APPEARED TO BE AT LEAST IN MY
28 JUDGMENT, UNMISTAKABLY A DEATH-PRONESS.

8B-2

1 YOUR HONOR, AS YOU HAVE DONE IN 12 OTHER CASES
2 IN THE COURSE OF THIS VOIR DIRE OF THE JURY, IN THIS CASE OF --
3 THE COURT: LET'S CONFINE OURSELVES TO THIS ONE, WILL
4 YOU PLEASE?

5 MR. CHIER: BUT, IT IS A PART OF THE PATTERN OF --

6 THE COURT: CONFINE YOURSELF TO THIS JUROR.

7 MR. CHIER: YOUR HONOR, BY LEADING THE WITNESS, BY THE
8 USE OF YOUR AUTHORITY AS A JUDGE IN THE COURTROOM HERE,
9 WEARING A BLACK ROBE AND ASKING THEM TO ANSWER A SERIES OF
10 QUESTIONS WHICH WERE CONCERNED MORE WITH HER ABILITY TO FOLLOW
11 THE LAW AND FOLLOW YOUR HONOR'S INSTRUCTIONS THAN THEY WERE
12 WITH HER BASIC, VISCERAL ATTITUDES TO MURDER AND TO THE
13 APPROPRIATE PENALTY FOR MURDER -- AND IN EACH CASE, THERE IS
14 A PERSON THAT HAS INDICATED SOME DEATH-PRONESS. YOUR HONOR
15 HAS DONE THAT EACH TIME.

16 YOUR HONOR, I MUST SAY YOU KNOW YOU HAVE HAD A
17 TENDENCY TO IN CASES ON THIS TYPE OF WITNESS WHICH WE WOULD
18 CALL A CONSCIENTIOUS OBJECTOR, HELPED LEAD TOWARD THEIR
19 DISMISSAL OR THIS DISQUALIFICATION RATHER THAN THEIR BEING
20 REHABILITATED.

21 AND I THINK THAT IT IS INHERENTLY UNFAIR TO THE
22 DEFENSE, YOUR HONOR, WHEN YOU HAVE NEVER DURING THE PROCEEDINGS
23 EVER HELPED THE DEFENDANT REHABILITATE A TYPE OF CONSCIENTIOUS
24 OBJECTION, NOR HAVE YOU HELPED US ESTABLISH THE DEATH-PRONESS
25 OF A PERSON WHO SHOWS THAT TENDENCY.

26 AND IN THIS CASE, I THINK THE RECORD WILL REFLECT
27 THAT HER ANSWER TO MY QUESTIONS REALLY REFLECTED AND REVEALED
28 HER TRUE STATE OF MIND.

1 AND BY THE JUDICIAL LEADING, YOU KNOW, THAT TOOK
2 PLACE, WE HAVE BEEN DEPRIVED OF A CHALLENGE FOR CAUSE AND NOW
3 IF YOUR HONOR DENIES THIS CHALLENGE, WE ARE RELEGATED TO THE
4 USE OF A PEREMPTORY. WE SHOULD HAVE THE USE OF A CAUSE
5 CHALLENGE.

6 THE COURT: TELL ME ONE QUESTION THAT I HAVE ASKED WHICH
7 WOULD INDICATE HOW THE JUROR SHOULD ANSWER THE QUESTION? GIVE
8 ME ONE. GIVE ME ONE QUESTION THAT I HAVE ASKED.

9 MR. CHIER: I COULDN'T YOU KNOW -- I CAN'T -- I DON'T
10 HAVE THE TRANSCRIPT HERE IN FRONT OF ME. BUT I REMEMBER THAT --

11 THE COURT: DO YOU RECALL ANY, MR. BARENS?
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1 MR. BARENS: YOUR HONOR, RESPECTFULLY, I THINK THAT
2 WHAT MR. CHIER IS ALLUDING TO -- AND I MENTIONED THIS EARLIER
3 IN THE WEEK -- THAT WHEN A JUROR IS SITTING IN SUCH CLOSE
4 PROXIMITY TO YOUR HONOR AND YOUR HONOR IS IN A BLACK ROBE,
5 ET CETERA, THE IMPLICATION IS --

6 THE COURT: WHAT QUESTION HAVE I ASKED WHICH INDICATES
7 TO ANY JUROR HOW THEY SHOULD ANSWER THE QUESTION?

8 MR. BARENS: YOUR HONOR, THE QUESTION "WOULDN'T YOU
9 FOLLOW THE LAW IF I TOLD YOU THIS IS THE LAW?"

10 THERE IS NO JUROR IN THE WORLD THAT IS GOING TO
11 WALK IN HERE AND SAY "I WON'T FOLLOW WHAT YOU TELL ME TO DO."

12 THE PROBLEM IS WE DON'T GET INTO THEIR TRUE
13 BELIEF SYSTEM BECAUSE THEY ARE BUSY SAYING YES TO YOUR HONOR.

14 THE COURT: DO YOU HAVE ANYTHING TO SAY?

15 MR. WAPNER: AS FAR AS CHALLENGING THIS PARTICULAR JUROR
16 FOR CAUSE, I DON'T THINK SHE IS CHALLENGEABLE FOR CAUSE.

17 AND I ASSUME THE STANDARD THAT IS BEING SUGGESTED
18 IS THE WITT STANDARD, WHICH IS WHETHER THE JUROR'S VIEWS WOULD
19 PREVENT OR SUBSTANTIALLY IMPAIR THE PERFORMANCE OF HIS DUTIES
20 AS A JUROR IN ACCORDANCE WITH THE INSTRUCTIONS AND OATH.

21 WHAT I THINK IS, WHEN THEY POSE THE QUESTION:
22 "WOULD YOU GIVE THE DEATH PENALTY IN EVERY CASE OF A MURDER
23 IN THE COURSE OF ROBBERY" THAT IT SEEMS CLEAR TO ME -- AND
24 I WAS FINALLY ABLE TO GET A SERIES OF HYPOTHETICALS THAT WERE
25 ACCEPTABLE -- THAT JURORS DON'T UNDERSTAND THAT THERE IS A
26 DIFFERENCE BETWEEN MURDERS IN THE COURSE OF ROBBERY AND
27 MURDERS IN THE COURSE OF A ROBBERY, AND IT CAN RUN THE ENTIRE
28 SPECTRUM OF DIFFERENT THINGS AND IT SEEMS ALSO CLEAR TO ME

1 THAT ONCE THEY UNDERSTAND THAT -- AND IN THE CASE OF
2 MRS. HADLOCK, ONCE SHE UNDERSTOOD THAT, THAT SHE WAS ABLE
3 TO SAY THAT SHE COULD LISTEN TO ALL OF THE FACTS AND SHE WOULD
4 NOT AUTOMATICALLY VOTE ONE WAY OR THE OTHER.

5 I THINK JUST TO SAY THAT SOMEBODY HAS A BIAS FOR
6 OR AGAINST THE DEATH PENALTY IS NOT SUFFICIENT. I DON'T THINK
7 THAT IS THE WITT STANDARD EITHER.

8 ALTHOUGH IT HAS CHANGED SINCE WITHERSPOON, IT
9 IS NOT JUST WHETHER THEY HAVE FEELINGS ONE WAY OR THE OTHER.
10 IF THAT WERE THE TEST, THEN ALL YOU COULD GET ON JURIES IS
11 PEOPLE WHO NEVER THOUGHT ABOUT THE PENALTY AND I DON'T THINK
12 THAT IS THE TEST.

13 SUBMIT IT.

14 THE COURT: AS I HAVE INDICATED, I THINK A NUMBER OF
15 THE QUESTIONS WHICH WERE ASKED WERE LOADED QUESTIONS AND NOT
16 DESIGNED TO ELICIT FROM THESE JURORS PRECISELY HOW OR WHAT
17 THEY FEEL ABOUT IT AND THEIR ATTITUDES TOWARDS THE DEATH PENALTY.

18 AND IT HAPPENED IN THIS PARTICULAR CASE, AS IT
19 HAS IN A NUMBER OF OTHERS, THE OBJECTIVE ALWAYS OF THESE
20 QUESTIONS IS NOT TO FIND OUT FRANKLY HOW THIS PARTICULAR JUROR
21 IS FEELING BUT TO TRY TO GET THEM TO SAY SOMETHING WHICH WOULD
22 BE A BASIS FOR AN OBJECTION TO THEIR SERVING AS A TRIAL JUROR
23 IN THIS CASE.

24 AND I WILL MAKE ANOTHER OBSERVATION AT THIS TIME,
25 TOO. AND I MEAN IT SERIOUSLY. A NUMBER OF THESE JURORS,
26 IF THEY ARE QUALIFIED AND THEY WILL APPEAR HERE, MIGHT CARRY
27 AWAY WITH THEM SOME IMPRESSIONS WITH RESPECT TO THE MANNER
28 IN WHICH QUESTIONS HAVE BEEN ASKED OF THEM AND THE DISTURBING

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1 NATURE OF THE QUESTIONS WHICH HAVE BEEN ASKED. I WOULD VERY
2 STRONGLY SUGGEST THAT COUNSEL BE CAREFUL NOT TO ANTAGONIZE
3 ANY OF THESE JURORS AT THIS PARTICULAR TIME BECAUSE IT MIGHT
4 CARRY OVER AND THE CLAIM MIGHT BE MADE LATER ON IF THE
5 DEFENDANT IS FOUND GUILTY THAT IT MIGHT HAVE BEEN AS A RESULT
6 OF THE INCOMPETENCY OF COUNSEL. I WANT TO SEE THAT THAT IS
7 AVOIDED.

8 COUNSEL, I KNOW, ARE NOT INCOMPETENT BUT IT MAY
9 BE CLAIMED LATER ON BY THE NATURE OF THESE QUESTIONS AND HAVING
10 POSSIBLY ANTAGONIZED ANY OF THESE PROSPECTIVE JURORS BY THE
11 QUESTIONS WHICH HAVE BEEN ASKED AND THE DISTRESSING NATURE
12 OF A NUMBER OF THESE QUESTIONS THAT HAVE BEEN ASKED THE JURORS,
13 SO I WOULD SUGGEST THAT YOU VERY CAREFULLY PHRASE YOUR
14 QUESTIONS AND YOUR ATTITUDE TOWARD THE PROSPECTIVE JURORS.

15 MR. BARENS: DOES YOUR HONOR HAVE A QUESTION IN MIND
16 THAT YOU ARE REFERRING TO?

17 THE COURT: NO, NO. I AM JUST TALKING ABOUT THE
18 IMPRESSIONS THAT THESE JURORS HAVE BEEN GETTING AND THE NATURE
19 OF THESE QUESTIONS AND THEIR BEING UPSET DURING THE COURSE
20 OF THE QUESTIONS WHICH HAVE BEEN ASKED OF THEM, THE MANNER
21 IN WHICH THEY HAVE BEEN ASKED. I AM JUST INDICATING MY
22 IMPRESSION AND TAKE IT, IF YOU WILL, BUT I AM NOT GOING TO
23 ADMONISH YOU ABOUT ANYTHING EXCEPT I JUST WANT TO INDICATE
24 THAT TO YOU FOR THE SAKE OF THE DEFENDANT.

25 MR. BARENS: THE DEFENSE IS ADVISED. THANK YOU, YOUR
26 HONOR.

27 MR. CHIER: MAY WE HAVE A RECESS?

28 THE COURT: YES. I JUST WANT TO GET THE JUROR IN AND

1 TELL HER.

2 MR. WAPNER: YOUR HONOR, COULD WE AGAIN ADMONISH THE
3 JUROR NOT TO READ OR LISTEN TO ANYTHING ABOUT THIS CASE?

4 THE COURT: YES.

5 (PROSPECTIVE JUROR HADLOCK ENTERED THE
6 COURTROOM.)

7 THE COURT: MISS HADLOCK, ISN'T THAT IT? MRS. HADLOCK,
8 AS YOU NOTICE WE ARE GOING THROUGH ALL OF THE JURORS IN
9 ALPHABETICAL ORDER. YOU ARE ONLY H AND WE HAVE TO GO THROUGH
10 PROBABLY TO Z.

11 MS. HADLOCK: YES.

12 THE COURT: SO THAT WILL TAKE QUITE A WHILE. IT IS
13 ANTICIPATED WE MIGHT FINISH, HOPEFULLY, BY DECEMBER 2ND,
14 ALTHOUGH AT THIS RATE I DOUBT THAT WE WILL. SO WHAT I WILL
15 ASK YOU TO DO, HOWEVER, IS TO COME BACK TO THE JURY ASSEMBLY
16 ROOM ON DECEMBER 2ND AT 10:30 A.M.

17 MS. HADLOCK: ALL RIGHT.

18 THE COURT: IN THE EVENT WE HAVEN'T FINISHED, THERE
19 IS NO SENSE YOU COMEING BACK HERE IF WE ARE NOT READY TO
20 START THE PROCEEDINGS, WE HAVE GOT YOUR TELEPHONE NUMBER AND
21 WE WILL CALL YOU TO TELL YOU WHEN YOU SHOULD COME IF IT ISN'T
22 GOING TO BE DECEMBER 2ND.

23 MS. HADLOCK: OKAY.

24 THE COURT: ALL RIGHT, 10:30 IN THE JURY ASSEMBLY ROOM
25 ON DECEMBER 2ND.

26 AND DON'T TALK TO ANY THIRD PARTIES OR ANYBODY
27 AT ALL ABOUT THIS CASE OR IF YOU READ ANYTHING, DON'T READ
28 IT.

1 MS. HADLOCK: ALL RIGHT.

2 THE COURT: IF YOU SEE IT IN THE NEWSPAPER OR HEAR
3 ANYTHING ON RADIO OR TELEVISION, IF YOU SEE IT ON TELEVISION,
4 JUST TURN IT OFF.

5 MS. HADLOCK: OKAY.

6 THE COURT: THANK YOU AND GOOD NIGHT. SEE YOU
7 JANUARY 2ND.

8 MR. WAPNER: DECEMBER 2ND.

9 THE COURT: DECEMBER 2ND. AT THIS RATE, IT MIGHT BE
10 JANUARY 2ND.

11 YOU WANT A RECESS?

12 THE COURT REPORTER: YES.

13 (RECESS.)

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1 (PROSPECTIVE JUROR HALICK ENTERS THE
2 COURTROOM.)

3 THE COURT: MISS HALICK?

4 MS. HALICK: YES.

5 THE COURT: MISS HALICK, HAVE YOU READ ANYTING AT ALL
6 ABOUT THIS CASE OR HEARD ANYTHING ABOUT IT?

7 MS. HALICK: NO.

8 THE COURT: HAVE YOU SEEN ANYTHING ON TELEVISION OR
9 HEARD ANYTHING ON THE RADIO?

10 MS. HALICK: OVER THE WEEKEND, I BOUGHT A NEWSWEEK AND
11 A TIME. AS SOON AS I SAW THE PICTURE, I TURNED THE PAGE. I
12 DIDN'T READ IT.

13 THE COURT: SO THEREFORE, YOU HAVE NOT FORMED ANY OPINION
14 AT ALL?

15 MS. HALICK: NO.

16 THE COURT: KEEP ON DOING THAT, JUST TURNING THE PAGE
17 AND NOT READING IT OR LISTENING TO IT ON THE RADIO OR ANYTHING,
18 RIGHT?

19 MS. HALICK: YES.

20 THE COURT: ALL RIGHT. OTHER THAN THAT, HAVE YOU TALKED
21 TO ANY OF THE JURORS OR DID YOU HEAR ANY JURORS TALK ABOUT
22 THIS PARTICULAR CASE?

23 MS. HALICK: NOT THIS CASE, NO.

24 THE COURT: YOU HAVE HEARD FROM NO OTHER SOURCE, ANYTHING
25 ABOUT THIS CASE EXCEPT WHAT I TOLD YOU WHEN ALL THE JURORS
26 WERE PRESENT?

27 MS. HALICK: RIGHT.

28 THE COURT: ALL RIGHT. I WILL ASK YOU A SERIES OF

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1 QUESTIONS, TO WHICH YOU WILL ANSWER YES OR NO. IF THE QUESTION
2 IS UNCLEAR TO YOU, ASK ME TO REPEAT IT. I WOULD BE HAPPY TO
3 DO SO.

4 BEFORE I DO THAT, YOU HEARD WHEN WE WERE ALL HERE
5 TOGETHER, I TOLD YOU THAT THIS WAS A MURDER CASE AND THAT THE
6 PEOPLE CLAIM IT IS A MURDER OF THE FIRST DEGREE AND THAT IT
7 WAS COMMITTED DURING A ROBBERY.

8 NOW, NOT ALL MURDERS, YOU KNOW, ARE PUNISHABLE
9 BY DEATH OR LIFE WITHOUT POSSIBILITY OF PAROLE.

10 THE LEGISLATURE HAS ENACTED LAWS WHICH SAY IN WHICH
11 CASE SPECIFICALLY, THE MURDER IS COMMITTED AND THE JURY FINDS
12 THE DEFENDANT GUILTY -- WHICH CASE THE DEATH PENALTY MIGHT
13 BE APPLICABLE.

14 WHEN I TALK ABOUT A DEATH PENALTY, I MEAN EITHER
15 LIFE WITHOUT POSSIBILITY OF PAROLE OR ACTUAL DEATH. DO YOU
16 UNDERSTAND THAT?

17 MS. HALICK: YES.

18 THE COURT: NOW, ONE OF THOSE IS A MURDER IN THE OCURSE
19 OF A ROBBERY. IT MIGHT BE A MURDER IN THE COURSE OF A
20 KIDNAPPING OR MURDER IN THE COURSE OF A RAPE OR A MULTIPLE
21 MURDER OR A MURDER RESULTING IN TORTURE.

22 THERE ARE ANY NUMBER OF SITUATIONS WHERE IT IS
23 PRESCRIBED THAT THE JURY WOULD THEN CONSIDER WHETHER OR NOT
24 IT SHOULD BE LIFE WITHOUT THE POSSIBILITY OF PAROLE OR THE
25 DEATH PENALTY.

26 MS. HALICK: YES.

27 THE COURT: NOW, THE FIRST PHASE OF THE TRIAL WHERE THE
28 JURY IS SELECTED, THEY DETERMINE TWO THINGS. THEY DETERMINE

1 FIRST, AFTER HEARING ALL OF THE EVIDENCE, WHETHER OR NOT THE
2 DEFENDANT IS GUILTY OR NOT GUILTY.

3 AND THEN, IF HE IS GUILTY, IF HE IS GUILTY OF
4 MURDER IN THE FIRST DEGREE OR WHETHER HE IS GUILTY OF MURDER
5 IN THE FIRST DEGREE -- AND THEN THERE IS A SPECIAL FINDING
6 THAT THEY MAKE AND THE FINDING IS WHETHER IT IS TRUE OR
7 FALSE, THAT THE MURDER WAS COMMITTED IN THE COURSE OF A
8 ROBBERY.

9 COMMITTED IN THE COURSE OF A ROBBERY IS WHAT IS
10 KNOWN AS A SPECIAL CIRCUMSTANCE IN CONNECTION WITH MURDER.
11 DO YOU UNDERSTAND THAT?

12 MS. HALICK: YES.

13 THE COURT: SO WHEN I TALK ABOUT SPECIAL CIRCUMSTANCES,
14 I MEAN THE SPECIAL CIRCUMSTANCES THAT THE MURDER WAS COMMITTED
15 DURING THE COURSE OF A ROBBERY.

16 MS. HALICK: OKAY.

17 THE COURT: NOW, THERE IS THEN A SECOND PHASE OF THE
18 CASE WHERE THE JURY DETERMINES WHETHER OR NOT, AFTER THEY HEAR
19 THE TESTIMONY -- NOW, THE TESTIMONY WOULD COME IN. THE
20 WITNESSES WOULD TESTIFY AS TO THE GOOD CHARACTER OR THE NICE
21 THINGS ABOUT THE DEFENDANT. THE DEFENDANT WILL PRODUCE THAT.

22 OR, IT COULD BE THE BAD THINGS ABOUT THE DEFENDANT,
23 THE AGGRAVATING CIRCUMSTANCES THAT WILL BE INTRODUCED BY THE
24 PEOPLE. THE JURY WILL CONSIDER ALL OF THOSE FACTORS AND FACTS
25 BEFORE THEY MAKE UP THEIR MINDS AS TO WHETHER IT COULD BE
26 ONE OF TWO THINGS, LIFE WITHOUT POSSIBILITY OF PAROLE OR THE
27 GAS CHAMBER. DO YOU UNDERSTAND THAT?

28 MS. HALICK: YES.

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1 THE COURT: NOW, I WILL ASK YOU THE QUESTIONS.

2 DO YOU HAVE ANY OPINION REGARDING THE DEATH PENALTY
3 THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION AS
4 TO THE GUILT OR INNOCENCE OF THE DEFENDANT?

5 MS. HALICK: NO.

6 THE COURT: SECOND, DO YOU HAVE ANY OPINION REGARDING
7 THE DEATH PENALTY THAT WOULD CAUSE YOU TO VOTE FOR FIRST DEGREE
8 MURDER, EVEN WHERE THE PROSECUTION HAS FAILED TO PROVE ALL
9 OF THE EVIDENCE OF FIRST DEGREE MURDER?

10 MS. HALICK: NO.

11 THE COURT: DO YOU HAVE ANY OPINION REGARDING THE DEATH
12 PENALTY THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION
13 CONCERNING THE TRUTH OR FALSITY OF THE SPECIAL CIRCUMSTANCE
14 ALLEGED IN THIS CASE?

15 MS. HALICK: NO.

16 THE COURT: DO YOU HAVE SUCH AN OPINION CONCERNING THE
17 DEATH PENALTY THAT YOU WOULD AUTOMATICALLY VOTE TO IMPOSE
18 IT AFTER A VERDICT OF GUILTY OF MURDER IN THE FIRST DEGREE
19 WITH A FINDING OF SPECIAL CIRCUMSTANCE, REGARDLESS OF ANY
20 EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY PHASE OF THE
21 TRIAL?

22 MS. HALICK: NO.

23 THE COURT: THIS IS OBVERSE OF THE SAME COIN.

24 DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH
25 PENALTY THAT YOU WOULD AUTOMATICALLY VOTE FOR LIFE IMPRISONMENT
26 WITHOUT POSSIBILITY OF PAROLE AFTER A VERDICT OF GUILTY OF
27 MURDER IN THE FIRST DEGREE WITH A FINDING OF SPECIAL CIRCUMSTANCES
28 REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY

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1 PHASE OF THE TRIAL?

2 MS. HALICK: NO.

3 THE COURT: DO YOU UNDERSTAND THAT THE ISSUE OF THE
4 DEATH PENALTY MAY OR MAY NOT OCCUR IN THIS CASE, AND THAT
5 THESE QUESTIONS HAVE BEEN ASKED ONLY IN THE EVENT THAT YOU
6 REACH THAT PHASE OF THE TRIAL?

7 MS. HALICK: YES. BUT I DON'T KNOW THE DIFFERENCE BETWEEN
8 FIRST DEGREE AND SECOND DEGREE MURDER.

9 THE COURT: THAT WILL BE EXPLAINED TO YOU. THAT WILL
10 BE EXPLAINED TO YOU DURING THE COURSE OF THE TRIAL. ALL RIGHT?

11 BUT GENERALLY, ONE THAT IS PREMEDITATED WITH
12 AFORETHOUGHT AND -- MALICE AFORETHOUGHT, THAT WILL BE EXPLAINED
13 TO YOU.

14 MS. HALICK: OKAY.

15 THE COURT: ALL RIGHT. BUT THE QUESTION I ASKED YOU
16 ABOUT FIRST DEGREE MURDER AND -- I ASKED YOU, DO YOU HAVE
17 ANY OPINION REGARDING THE DEATH PENALTY THAT WOULD CAUSE YOU
18 TO VOTE FOR FIRST DEGREE MURDER EVEN IF THE PROSECUTION
19 PROVED THE DEFENDANT GUILTY OF MURDER IN THE SECOND DEGREE
20 OR MANSLAUGHTER OR ANYTHING ELSE? THAT WAS THE QUESTION.
21 ALL RIGHT.

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1 MR. BARENS: THANK YOU, YOUR HONOR.

2 GOOD AFTERNOON, MS. HALICK.

3 MS. HALICK: HI.

4 MR. BARENS: I AM ARTHUR BARENS. I REPRESENT JOE HUNT,
5 THE DEFENDANT IN THIS MATTER.

6 MISS HALICK, I AM GOING TO BE ASKING YOU SOME
7 QUESTIONS ABOUT YOUR VIEWPOINT ON THE DEATH PENALTY AND, AND
8 AS HIS HONOR SAID, THE FACT THAT I AM DISCUSSING THE DEATH
9 PENALTY WITH YOU NOW IS A RESULT OF THE PEOPLE OF THE STATE
10 ASKING FOR THE DEATH PENALTY FOR MY CLIENT, BUT THAT YOU DON'T
11 ASSUME THAT HE IS GUILTY OF ANYTHING OR HE HAS --

12 MS. HALICK: NO.

13 MR. BARENS: -- OR HE HAS DONE ANYTHING WRONG JUST
14 BECAUSE HE IS HERE ON TRIAL?

15 MS. HALICK: NO, I DON'T.

16 MR. BARENS: AND YOU UNDERSTAND ALSO THAT WHAT I AM GOING
17 TO ASK YOU ABOUT, THERE IS NO RIGHT OR WRONG ANSWER OR PROPER
18 OR IMPROPER ANSWER?

19 MS. HALICK: I UNDERSTAND.

20 MR. BARENS: I JUST WANT TO KNOW YOUR POINT OF VIEW.

21 MS. HALICK: OKAY.

22 MR. BARENS: HOW DO YOU FEEL ABOUT THE DEATH PENALTY
23 AS A GENERAL PROPOSITION?

24 MS. HALICK: I FEEL UNDER CERTAIN CIRCUMSTANCES, IT IS,
25 UNFORTUNATELY, NECESSARY AND I THINK AT TIMES IT IS NECESSARY.

26 THE COURT: KEEP YOUR VOICE UP, WILL YOU?

27 MS. HALICK: OKAY.

28 THE COURT: SO WE WILL BE SURE TO HEAR YOU.

1 MR. BARENS: COULD YOU HELP ME IN UNDERSTANDING WHAT
2 CIRCUMSTANCES YOU ARE REFERRING TO WHEN YOU MAKE THAT
3 STATEMENT?

4 MS. HALICK: I HAVE NEVER BEEN ON A COURT CASE BUT JUST
5 FROM -- DEPENDING ON THE SEVERITY OF THE CRIME AND THE
6 CIRCUMSTANCES INVOLVED IN THE CRIME, YOU KNOW, IT DEPENDS UPON,
7 OBVIOUSLY, THE CASE BUT IF -- I DON'T KNOW -- IF IT WAS A
8 RUTHLESS CRIME OR WHATEVER. I MEAN I CAN'T SAY. YOU KNOW
9 WHAT I AM SAYING.

10 THE COURT: PARDON ME. I DIDN'T HEAR.

11 MS. HALICK: A RUTHLESS CRIME. I CAN'T SAY. BUT THERE
12 ARE CASES IN WHICH IT IS NECESSARY.

13 MR. BARENS: YOU UNDERSTAND IF YOU ARE A JUROR, IF WE
14 EVER GET TO THE PENALTY PHASE IN THE CASE, YOU HAVE TWO
15 DISTINCT CHOICES, ONE, LIFE WITHOUT POSSIBILITY OF PAROLE AND
16 THE OTHER BEING THE DEATH PENALTY?

17 MS. HALICK: UH-HUH.

18 MR. BARENS: AND YOU UNDERSTAND THERE WILL BE A LOT OF
19 FACTORS FOR YOU TO TAKE INTO CONSIDERATION IN MAKING THAT
20 DECISION THAT WOULD BE GIVEN YOU DURING THE DEATH PENALTY
21 PHASE OR DURING THE PENALTY PHASE OF THE TRIAL?

22 MS. HALICK: YES.

23 MR. BARENS: SOME OF THOSE FACTORS MIGHT INCLUDE THE
24 AGE OF THE DEFENDANT, WHETHER OR NOT HE HAD A HISTORY OF
25 VIOLENT CRIME, WHETHER HE HAD ANY PRIOR CONVICTIONS, THE TYPE
26 OF LIFE HE HAD LED. WOULD YOU BE WILLING, IF INSTRUCTED BY
27 THE JUDGE TO LISTEN TO ALL OF THOSE THINGS, TO CONSIDER ALL
28 OF THESE THINGS IN COMING TO A DECISION?

1 MS. HALICK: WOULD I BE WILLING TO LISTEN TO THEM?

2 MR. BARENS: YES.

3 MS. HALICK: YES.

4 MR. BARENS: WOULD YOU BE WILLING TO CONSIDER THEM IN
5 MAKING YOUR DECISION DURING YOUR DECISION-MAKING PROCESS?

6 MS. HALICK: YES.

7 MR. BARENS: THEREFORE, YOU ARE TELLING ME THAT YOU WOULD
8 CONSIDER, OTHER THAN JUST THE CIRCUMSTANCES OF THE CRIME FOR
9 WHICH YOU HAD ALREADY FOUND THE DEFENDANT GUILTY AT THAT POINT,
10 YOU WOULD CONSIDER THE TOTALITY OF HIS LIFE AND CHARACTER AND
11 THE BACKGROUND?

12 MS. HALICK: YES, I THINK I WOULD.

13 MR. BARENS: DO YOU BELIEVE IN THE CONCEPT OF AN EYE
14 FOR AN EYE?

15 MS. HALICK: IT DEPENDS UPON THE SITUATION. NOT ACROSS
16 THE BOARD, NO. IT DEPENDS UPON --

17 MR. BARENS: WHEN YOU SAY IT DEPENDS UPON THE SITUATION,
18 WOULD IT DEPEND UPON THE PARTICULAR DEFENDANT AND WHAT HIS
19 MOTIVATIONS WERE AND WHAT HIS BACKGROUND WAS?

20 MS. HALICK: NOT SO MUCH HIS BACKGROUND.

21 I THINK IT DEPENDS UPON THE MOTIVE AND MORE --
22 NOT MOTIVE -- YES, IT DOES. YOU COULD HAVE THE SAME CRIME
23 COMMITTED TWICE AND IT COULD BE TOTALLY DIFFERENT SITUATIONS.
24 IN MY -- MAYBE I AM WRONG -- BUT IN ONE, ONE COULD WARRANT
25 THE DEATH PENALTY AND ONE COULD WARRANT LIFE IMPRISONMENT
26 IF THEY ARE BOTH GUILTY, HYPOTHETICALLY, SO I THINK IT DEPENDS.

27 MR. BARENS: INDEED.

28 MS. HALICK: IT COULD CHANGE.

1 MR. BARENS: INDEED, THERE COULD BE ROBBERIES AND THERE
2 COULD BE ROBBERIES.

3 WHAT I AM TRYING TO FIND OUT IS, IF YOU HAD A
4 SITUATION WHERE A ROBBERY HAD OCCURRED AND OBVIOUSLY THE
5 MOTIVE WAS FINANCIAL GAIN, WOULD YOU THINK THAT ANY DEFENDANT
6 CONVICTED OF MURDER IN THE FIRST DEGREE WHERE THE MOTIVE
7 OSTENSIBLY WAS FINANCIAL GAIN OR ROBBERY, WOULD YOU THINK
8 THAT ALL OF THOSE DEFENDANTS SHOULD GET THE DEATH PENALTY?

9 MS. HALICK: NOT ALL OF THEM. IT DEPENDS.
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1 MR. BARENS: NOW, I NEED YOU TO HELP ME WITH DEPENDS
2 ON WHAT?

3 MS. HALICK: IT DEPENDS UPON WHETHER THE MURDER OCCURRED
4 DURING AN ACCIDENT, WHETHER HE TORTURED THE PERSON AS AN
5 ADDED -- I MEAN, YOU KNOW, I CAN'T SAY BUT I WOULD HAVE TO
6 HEAR THE WHOLE CASE --

7 MR. BARENS: ALL OF THE EVIDENCE?

8 MS. HALICK: -- BEFORE I WOULD GET TO THAT.

9 MR. BARENS: WHAT YOU RESPONDED TO ME JUST NOW TALKED
10 REALLY ABOUT THE CIRCUMSTANCES OF THE CRIME, IF THERE WAS
11 TORTURE, IF THERE WAS ANYTHING ELSE ADDED IN THERE.

12 NOW WOULD YOU ALSO BE WILLING TO ENTERTAIN
13 EVIDENCE ABOUT THE CHARACTER OF THE DEFENDANT, AS WELL AS
14 THE CIRCUMSTANCES OF THE CRIME, IN MAKING YOUR DECISION AS
15 TO WHETHER HE SHOULD LIVE OR DIE?

16 THE COURT: IF I WERE TO INSTRUCT YOU THAT YOU HAVE
17 THE RIGHT TO CONSIDER THAT.

18 MS. HALICK: I WOULD CONSIDER IT, BUT I DON'T KNOW HOW
19 MUCH OF A BEARING IT WOULD HAVE ON MY OPINION, BUT I WOULD
20 CONSIDER IT.

21 MR. BARENS: I UNDERSTAND THE WEIGHTING YOU WOULD GIVE
22 IT, TO USE THAT EXPRESSION, WOULD BE SOLELY YOUR OWN
23 DISCRETION.

24 MS. HALICK: YES.

25 MR. BARENS: DO YOU BELIEVE THAT LIFE WITHOUT THE
26 POSSIBILITY OF PAROLE MEANS THAT IN A LITERAL SENSE?

27 MS. HALICK: I DON'T KNOW ENOUGH ABOUT IT. I AM NOT
28 SURE.

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1 MR. BARENS: IF HIS HONOR WERE TO ADVISE YOU THAT UNDER
2 THE LAW IN CALIFORNIA THAT IF THE DEFENDANT WERE TO BE GIVEN
3 LIFE WITHOUT THE POSSIBILITY OF PAROLE, IT MEANS JUST THAT,
4 WOULD YOU BELIEVE THAT?

5 MS. HALICK: YES.

6 MR. BARENS: YOU WOULDN'T HAVE A LINGERING DOUBT THAT,
7 WELL, WE MIGHT BE TELLING YOU THAT BUT MAYBE HE WILL BE OUT
8 LATER?

9 MS. HALICK: NO. I WOULD BELIEVE WHAT THE JUDGE TOLD
10 ME.

11 MR. BARENS: YOU WOULD BELIEVE THAT IS TRUE IF THE JUDGE
12 TELLS YOU THAT IS TRUE?

13 (WHEREUPON, MS. HALICK NODS HER HEAD
14 UP AND DOWN.)

15 MR. BARENS: AND YOU UNDERSTAND THAT ALTHOUGH I HAVE
16 DISCUSSED THESE ISSUES WITH YOU, THAT YOU HAVE HEARD NO
17 EVIDENCE SO FAR AND WE ARE JUST GOING THROUGH THIS EXERCISE
18 AS THE LAW REQUIRES US TO?

19 MS. HALICK: UH-HUH, YES.

20 MR. BARENS: THANK YOU, YOUR HONOR.

21 THE COURT: PASS FOR CAUSE?

22 MR. BARENS: PASS FOR CAUSE.

23 THE COURT: THANK YOU.

24 MR. WAPNER: GOOD AFTERNOON.

25 MS. HALICK: HI.

26 MR. WAPNER: I AM FRED WAPNER. I AM THE DEPUTY DISTRICT
27 ATTORNEY THAT IS PROSECUTING THIS CASE.

28 MS. HALICK: OKAY.

1 MR. WAPNER: IN RESPONSE TO ONE OF MR. BARENS' FIRST
2 QUESTIONS, YOU SAID THAT THE DEATH PENALTY WAS UNFORTUNATELY
3 NECESSARY.

4 MS. HALICK: UH-HUH.

5 MR. WAPNER: WHAT DID YOU MEAN WHEN YOU USED THE WORD
6 "UNFORTUNATELY"?

7 MS. HALICK: UNFORTUNATELY THERE ARE CRIMES COMMITTED
8 THAT CAUSE IT TO BE NECESSARY. IT IS UNFORTUNATE FOR THE
9 VICTIM OF IT AS WELL AS THE PERSON WHO COMMITTED IT.

10 I THINK I AM SAYING, UNFORTUNATELY THAT THINGS
11 HAPPEN THAT CAUSE US TO HAVE TO PUNISH PEOPLE IN THAT WAY.

12 MR. WAPNER: OKAY. DO YOU UNDERSTAND THAT IF YOU GET
13 TO THE PENALTY PHASE OF THE TRIAL THAT YOU, ALONG WITH 11
14 OTHER PEOPLE, HAVE TO MAKE THE DECISION ON WHAT THE APPROPRIATE
15 PUNISHMENT WOULD BE?

16 MS. HALICK: YES, I UNDERSTAND.

17 MR. WAPNER: AND THAT YOU WOULD CALLED UPON TO RENDER
18 YOUR INDIVIDUAL OPINION ON THAT SUBJECT?

19 MS. HALICK: UH-HUH.

20 MR. WAPNER: YOU HAVE TO SAY YES OR NO SO SHE CAN WRITE
21 IT DOWN.

22 MS. HALICK: YES. I AM SORRY.

23 MR. WAPNER: THAT'S OKAY.

24 ARE YOU CAPABLE OF MAKING THAT KIND OF DECISION?

25 MS. HALICK: I THINK SO.

26 MR. WAPNER: DO YOU HAVE ANY RELIGIOUS, PHILOSOPHICAL
27 OR MORAL FEELINGS ABOUT THE DEATH PENALTY THAT WOULD PREVENT
28 YOU FROM MAKING THAT DECISION?

21A-4

1 MS. HALICK: NO.

2 MR. WAPNER: THANK YOU. PASS FOR CAUSE.

3 THE COURT: ALL RIGHT, MISS HALICK, WE ARE IN THE PROCESS
4 OF ASKING ALL OF THE PROSPECTIVE JURORS TO COME IN THE SAME
5 AS YOU HAVE AND WE ARE ASKING THEM THE SAME QUESTIONS WHICH
6 HAVE BEEN ASKED OF YOU. NOW, IT IS GOING TO BE A LONG PROCESS,
7 WE ARE UP TO H AND WE PROBABLY WILL GO THROUGH TO Z SO IT
8 IS EXPECTED WE WILL BE FINISHED ON ABOUT DECEMBER 2ND. SO
9 WHAT I WILL ASK YOU TO DO IS TO COME BACK ON DECEMBER 2ND
10 TO THE JURY ASSEMBLY ROOM AT 10:30 IN THE MORNING.

11 MS. HALICK: OKAY.

12 THE COURT: AT 10:30.

13 MS. HALICK: ALL RIGHT.

14 THE COURT: ON DECEMBER 2ND.

15 IF BY ANY CHANCE WE HAVEN'T FINISHED THIS PROCESS
16 BY THEN AND IF IT IS DELAYED, WE HAVE YOUR TELEPHONE NUMBER
17 AND WE WILL CALL YOU AND TELL YOU WHEN YOU SHOULD COME BACK.

18 MS. HALICK: OKAY.

19 THE COURT: IS THAT ALL RIGHT?

20 MS. HALICK: THANK YOU.

21 THE COURT: THANK YOU VERY MUCH.

22 AND DON'T TALK ABOUT THIS CASE WITH ANYBODY ELSE
23 OR READ ANYTHING OR HEAR ANYTHING ABOUT IT.

24 MR. CHIER: I AM SORRY. WAS IT MISS OR MRS.?

25 MS. HALICK: MISS.

26 THE COURT: MISS.

27 MS. HALICK: MISS, FOR ABOUT TWO MONTHS.

28 THE COURT: HOW LONG?

1A-5
1 MS. HALICK: IN A COUPLE OF MONTHS, WE ARE GOING TO
2 GET MARRIED.

3 THE COURT: ALL RIGHT, CONGRATULATIONS.

4 MS. HALICK: THANK YOU.

5 MR. BARENS: YOUR HONOR, WITH YOUR HONOR'S PERMISSION,
6 MR. CHIER WILL CONCLUDE THE AFTERNOON.

7 MR. HUNT, IS IT AGREEABLE?

8 THE DEFENDANT: YES.

9 MR. BARENS: THANK YOU.

10 (MR. BARENS LEAVES THE COURTROOM.)

11 (PROSPECTIVE JUROR HALICK EXITED THE
12 COURTROOM.)

13 (PROSPECTIVE JUROR HALL ENTERED THE
14 COURTROOM.)

15 THE COURT: MRS. HALL, THE FIRST THING I WANT TO FIND
16 OUT IS: HAVE YOU READ ANYTHING AT ALL ABOUT THIS CASE?

17 MS. HALL: YES, I READ THE ARTICLE THAT CAME IN THE
18 TIMES.

19 THE COURT: THE L.A. TIMES?

20 MS. HALL: YES.

21 THE COURT: AND THAT WAS ON A SUNDAY?

22 MS. HALL: YES.

23 THE COURT: IN THE METRO SECTION; IS THAT RIGHT?

24 MS. HALL: EITHER THE METRO OR THE WESTSIDE.

25 THE COURT: DID YOU READ THE ENTIRE ARTICLE?

26 MS. HALL: YES.

27 THE COURT: NOW, DID YOU FORM ANY IMPRESSION, COME TO
28 ANY CONCLUSION AFTER YOU READ THE ARTICLE WITH RESPECT TO

1 THIS CASE, MAKE UP YOUR MIND WITH RESPECT TO THE GUILT OR
2 INNOCENCE OF THE DEFENDANT?

3 MS. HALL: NO, I DIDN'T.

4 YOU SEE, IT WAS BEFORE I CAME DOWN HERE AND IT
5 WAS JUST --

6 THE COURT: TALK INTO THE MICROPHONE.

7 MS. HALL: I READ THE ARTICLE AND I SAID TO MY HUSBAND,
8 "I BET THAT IS THE CASE THAT IS COMING UP WHEN WE ARE GOING
9 TO BE ASKED TO COURT."

10 THE COURT: IS THAT THE ONLY SOURCE FROM WHICH YOU HEARD
11 ANYTHING ABOUT THIS CASE?

12 MS. HALL: IN THE OUTLOOK, IT HAD HEADLINES AND IT WAS
13 THE SAME THING SO I DIDN'T READ IT.

14 THE COURT: YOU DIDN'T READ IT AT ALL?

15 MS. HALL: I JUST READ THE HEADLINES.

16 THE COURT: YOU DIDN'T SEE ANY PICTURES OF ALL OF US,
17 LIKE ME AND DEFENSE COUNSEL AND THE OTHER DEFENSE COUNSEL,
18 MR. BARENS?

19 MS. HALL: I PROBABLY SAW THEM BUT I DON'T REMEMBER.

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1 THE COURT: BUT AT ANY RATE, I WANT TO BE SURE THAT I
2 KNOW WHAT YOUR STATE OF MIND IS. YOUR STATE OF MIND IS THAT
3 YOU HAVE NOT DECIDED OR MADE UP YOUR MIND? YOU HAVE NOT HEARD
4 TESTIMONY. YOU HAVE NOT MADE UP YOUR MIND ABOUT THE GUILT
5 OR INNOCENCE OF THIS DEFENDANT?

6 MS. HALL: NO, I HAVE NOT.

7 THE COURT: YOU HAVE NOT GOTTEN ANY IMPRESSION OR
8 REACTION OF ANY KIND THAT WOULD BE FAVORABLE OR UNFAVORABLE
9 TO ONE SIDE OR THE OTHER?

10 MS. HALL: NO. I WOULD SAY THAT I WOULD WAIT UNTIL THE
11 EVIDENCE WAS GIVEN.

12 THE COURT: YOU ARE COMPLETELY OPEN-MINDED?

13 MS. HALL: YES.

14 THE COURT: AND THAT IS DESPITE WHATEVER YOU MIGHT HAVE
15 HEARD?

16 MS. HALL: RIGHT.

17 THE COURT: THAT WOULD BE DESPITE ANY DISCUSSION THAT
18 YOU HEARD OR ENGAGED IN WITH MEMBERS OF -- OTHER PROSPECTIVE
19 JURORS ABOUT THE CASE?

20 MS. HALL: NO.

21 THE COURT: ALL RIGHT. AND YOU CONTINUE TO MAINTAIN
22 THAT. DON'T READ ANYTHING ABOUT IT OR LISTEN TO THE RADIO
23 OR TELEVISION. DON'T DISCUSS IT WITH ANYONE ELSE.

24 MS. HALL: YES.

25 THE COURT: NOW, I WILL ASK YOU A SERIES OF QUESTIONS.
26 BEFORE I DO, YOU WERE PRESENT IN THE COURT, DURING THE TIME
27 THAT I OUTLINED THE CASE?

28 MS. HALL: YES.

22A-2

1 THE COURT: I TOLD YOU AT THAT TIME THAT THE DEFENDANT
2 IS ACCUSED OF THE CRIME OF MURDER IN THE FIRST DEGREE AND THAT
3 THAT MURDER WAS COMMITTED DURING THE COURSE OF A ROBBERY.

4 AND BECAUSE IT WAS COMMITTED ALLEGEDLY IN THE
5 COURSE OF A ROBBERY, IT QUALIFIES FOR THE DEATH PENALTY AND
6 THE DEATH PENALTY -- OR, LIFE WITHOUT POSSIBILITY OF PAROLE.
7 IT QUALIFIES. DO YOU UNDERSTAND THAT?

8 MS. HALL: YES.

9 THE COURT: NOW, IT IS NOT EVERY MURDER YOU UNDERSTAND,
10 WHICH CALLS FOR THE DEATH PENALTY. YOU KNOW, SOMEBODY COULD
11 TAKE A GUN AND SHOOT SOMEBODY INTENDING TO KILL THEM. BUT
12 THAT NOT A MURDER -- NOT THE CKIND OF MURDER WHICH IS
13 RECOGNIZED AS QUALIFYING FOR THE DEATH PENALTY. DO YOU UNDER-
14 STAND THAT?

15 MS. HALL: YES.

16 THE COURT: THE LEGISLATURE GIVES CERTAIN TYPES OF
17 MURDERS WHERE IT QUALIFIES FOR THE DEATH PENALTY. SO IT MAY
18 BE FOR EXAMPLE IN THIS PARTICULAR CASE, A MURDER COMMITTED
19 IN THE COURSE OF A ROBBERY, A MURDER COMMITTED IN THE COURSE
20 OF A KIDNAPPING, A MURDER COMMITTED FOR EXAMPLE IN THE COURSE
21 OF A RAPE OR TORTURE OR MULTIPLE MURDERS. THE LEGISLATURE
22 SETS FORTH CERTAIN TYPES OF MURDERS WHICH QUALIFY FOR THE
23 DEATH PENALTY.

24 NOW, IN THIS PARTICULAR CASE, I TOLD YOU THAT IT
25 IS ALLEGED THAT THE DEFENDANT COMMITTED MURDER IN THE COURSE
26 OF A ROBBERY AND QUALIFIES FOR THE DEATH PENALTY. DO YOU
27 UNDERSTAND THAT?

28 MS. HALL: YES.

B-1

1 THE COURT: NOW, THE MATTER OF THE PENALTY, WHETHER IT
2 SHOULD BE DEATH OR LIFE WITHOUT POSSIBILITY OF PAROLE, NEVER
3 HAS TO BE CONSIDERED BY THE JURY ON THE FIRST PHASE OF THE
4 TRIAL. THE FIRST PHASE OF THE TRIAL, THE JURY IS CALLED UPON
5 TO DETERMINE WHETHER OR NOT THE DEFENDANT IS GUILTY OF MURDER
6 IN THE FIRST DEGREE AND THEN THEY MAKE A DECISION, A FINDING
7 WHETHER OR NOT THAT MURDER IS CALLED A SPECIAL CIRCUMSTANCE,
8 WHETHER THAT MURDER WAS COMMITTED IN THE COURSE OF A ROBBERY.
9 DO YOU UNDERSTAND THAT?

10 MS. HALL: YES.

11 THE COURT: NOTHING ELSE. THE QUESTION OF PENALTY IS
12 NEVER TO BE CONSIDERED. NOW, THUS, WHETHER OR NOT HE COMMITTED
13 A MURDER IN THE FIRST DEGREE AND WHETHER OR NOT IT WAS COMMITTED
14 IN THE COURSE OF A ROBBERY, IS CONSIDERED.

15 IF THE JURY FINDS THE DEFENDANT GUILTY OF MURDER
16 IN THE FIRST DEGREE AND IT WAS COMMITTED IN THE COURSE OF A
17 ROBBERY, THEN WE HAVE A SEPARATE TRIAL WITH THE SAME JURY
18 WHERE ADDITIONAL EVIDENCE IS PRESENTED BY THE DEFENSE AND BY
19 THE PROSECUTION.

20 THE EVIDENCE PRESENTED BY THE DEFENSE WILL BE IN
21 MITIGATION OF THE OFFENSE, IN OTHER WORDS TO LESSEN THE OFFENSE
22 AS TO MITIGATING TESTIMONY OR EVIDENCE WHICH IS RELATED TO
23 THE GOOD THINGS ABOUT THE DEFENDANT.

24 AND YOU MAY CONSIDER ALSO, HIS AGE, HIS BACKGROUND,
25 HIS LACK OF PRIOR CONVICTIONS OR PRIOR CRIMINAL CONDUCT OR
26 AGGRAVATING CIRCUMSTANCES WHICH THE PEOPLE WILL PROPOSE TO
27 SHOW. THEY WILL PROPOSE TO SHOW THAT HE IS REALLY A BAD MAN
28 OR OTHER THINGS ABOUT HIM THAT THEY WILL POINT OUT.

1 YOU ARE TO LISTEN TO ALL OF THAT AND THEN AGAIN,
2 YOU RETIRE TO THE JURY ROOM AND THEM YOU DETERMINE WHAT THE
3 PENALTY SHOULD BE, SHOULD IT BE LIFE WITHOUT POSSIBILITY OF
4 PAROLE OR DEATH.

5 MS. HALL: YES.

6 THE COURT: AND YOU ARE WILLING TO DO ALL OF THAT, ALL
7 RIGHT?

8 MS. HALL: UH-HUH.

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1 THE COURT: NOW, YOU KNOW EXACTLY WHAT IT IS YOU ARE
2 BEING CALLED UPON TO DO IF YOU ARE SELECTED AS A JUROR. ALL
3 RIGHT. DO YOU UNDERSTAND THAT?

4 MS. HALL: YES, I DO.

5 THE COURT: ANY QUESTIONS AT ALL?

6 MS. HALL: WELL, I DON'T KNOW WHETHER I COULD EVER
7 CONVICT ANYBODY TO DEATH. I MEAN --

8 THE COURT: ALL RIGHT. WELL, LET ME ASK YOU THE
9 QUESTIONS, FIRST. ALL RIGHT. DO YOU HAVE ANY OPINION REGARDING
10 THE DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL
11 DECISION AS TO THE GUILT OR INNOCENCE OF THE DEFENDANT? WE
12 ARE NOT IN THE PENALTY PHASE. WE ARE ONLY NOW DETERMINING
13 HIS GUILT OR INNOCENCE. IS YOUR ATTITUDE ABOUT THE DEATH
14 PENALTY SUCH THAT YOU WOULD NOT, CANNOT OR WILL NOT EITHER
15 FIND THE DEFENDANT GUILTY OR NOT GUILTY?

16 MS. HALL: I DON'T KNOW. I HONESTLY DON'T KNOW.

17 THE COURT: YOU MEAN, IF YOU WERE TO FIND THE DEFENDANT
18 GUILTY OF MURDER IN THE FIRST DEGREE WITH SPECIAL CIRCUMSTANCES,
19 THAT MIGHT LEAD POSSIBLY TO A CONSIDERATION OF WHETHER OR NOT
20 HE SHOULD SUFFER DEATH AND YOU WOULD RATHER NOT MAKE THAT
21 DECISION? IS THAT IT?

22 MS. HALL: YES.

23 THE COURT: AND DO YOU THINK THAT MIGHT -- WHEN I ASK
24 YOU YOUR FRANK OPINION, DO YOU THINK THAT IT MIGHT OR MIGHT
25 NOT INFLUENCE YOU IN DETERMINING THE GUILT OR INNOCENCE OF
26 THE DEFENDANT?

27 MS. HALL: NOT THE GUILT OR INNOCENCE. IF HE WAS --
28 IF I FELT THAT HE WAS GUILTY, I WOULD HAVE HIM IN PRISON.

1 BUT I DON'T KNOW WHETHER I COULD HAVE HIM KILLED, YOU SEE.

2 THE COURT: I SEE. WELL, YOU DON'T THINK. NOW, I WANT
3 YOU TO SEARCH YOUR CONSCIENCE.

4 MS. HALL: I HAVE BEEN SEARCHING IT FOR TWO WEEKS NOW.

5 THE COURT: WOULD YOU OR WOULD YOU NOT? TO THINK ABOUT
6 IT ISN'T ENOUGH. THAT SHOWS YOU MIGHT HAVE SOME DOUBT ABOUT
7 IT.

8 MS. HALL: I DON'T THINK I COULD.

9 THE COURT: ALL RIGHT.

10 MR. CHIER: OKAY. DID YOU WANT ME TO QUESTION HER, YOUR
11 HONOR?

12 THE COURT: DO YOU WANT ME TO FINISH THE QUESTIONS?

13 MR. WAPNER: I THINK THAT HE SHOULD, JUST FOR THE SAKE
14 OF THE RECORD.

15 THE COURT: WELL, I THOUGHT THE FIRST QUESTION WAS
16 SUFFICIENT.

17 MR. WAPNER: WELL, SINCE WE HAVE --

18 THE COURT: I THINK I WILL GO THROUGH THE OTHERS.

19 MR. WAPNER: THANK YOU.

20 MR. CHIER: THANK YOU.

21 THE COURT: THE SECOND QUESTION IS: DO YOU HAVE ANY
22 OPINION REGARDING THE DEATH PENALTY THAT WOULD CAUSE YOU TO
23 VOTE FOR FIRST DEGREE MURDER, EVEN WHEN THE PROSECUTION ONLY
24 PROVES THE DEFENDANT GUILTY OF MURDER IN THE SECOND DEGREE
25 OR MANSLAUGHTER?

26 MS. HALL: NO.

27 THE COURT: WELL, DO YOU HAVE ANY OPINION REGARDING THE
28 DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL

1 DECISION CONCERNING THE TRUTH OR FALSITY OF THE SPECIAL
2 CIRCUMSTANCES ALLEGED IN THIS CASE BECAUSE OF YOUR ATTITUDE
3 TOWARD THE DEATH PENALTY WOULD CAUSE YOU IN ANY WAY TO -- WOULD
4 THAT AFFECT YOU IN ANY WAY IN FINDING WHETHER OR NOT THE
5 SPECIAL CIRCUMSTANCES, NAMELY THAT IT WAS COMMITTED DURING
6 THE COURSE OF A ROBBERY, WAS TRUE OR FALSE? DO YOU UNDERSTAND
7 THAT?

8 MS. HALL: I DON'T UNDERSTAND.

9 THE COURT: I TOLD YOU THAT ON THE FIRST PHASE OF THE
10 TRIAL WHICH IS THE GUILT PHASE, WHICH HAS NOTHING TO DO WITH
11 PENALTY --

12 MS. HALL: UH-HUH.

13 THE COURT: NOTHING TO DO WITH PENALTY --

14 MS. HALL: UH-HUH.

15 THE COURT: THEN YOU WOULD BE CALLED UPON TO DETERMINE
16 WHETHER OR NOT THE DEFENDANT IS GUILTY OR NOT GUILTY OF
17 MURDER IN THE FIRST DEGREE. AND IF YOU FIND HIM TO BE GUILTY
18 OF MURDER IN THE FIRST DEGREE, THEN YOU HAVE GOT TO DETERMINE
19 ON THE EVIDENCE BEYOND A REASONABLE DOUBT, WHETHER OR NOT
20 THAT MURDER WAS COMMITTED DURING THE COURSE OF A ROBBERY.

21 NOW, MURDER BEING COMMITTED DURING THE COURSE OF
22 A ROBBERY, IS WHAT IS KNOWN AS A SPECIAL CIRCUMSTANCE.

23 THE MURDER COMMITTED DURING THE COURSE OF A
24 ROBBERY QUALIFIES IT FOR A POSSIBLE DEATH PENALTY. DO YOU
25 UNDEstand THAT?

26 MS. HALL: YES.

27 THE COURT: YOU HAVE GOT TO -- THE JURY HAS TO MAKE A
28 FINDING WHETHER THAT IS COMMITTED IN THE COURSE OF A ROBBERY.

1 THAT IS A SPECIAL CIRCUMSTANCE.

2 BECAUSE OF YOUR ATTITUDE TOWARD THE DEATH PENALTY,
3 WOULD YOU MAKE A FINDING -- WOULD THAT AFFECT YOU IN MAKING
4 YOUR FINDING AS TO WHETHER OR NOT IT WAS COMMITTED IN THE
5 COURSE OF A ROBBERY?

6 MS. HALL: WELL, IF I AM OPPOSED TO THE DEATH PENALTY --

7 THE COURT: BUT IT HAS NOTHING TO DO WITH THE DEATH
8 PENALTY.

9 MS. HALL: WELL, I DON'T KNOW.

10 THE COURT: ALL RIGHT. DO YOU HAVE SUCH AN OPINION
11 REGARDING THE DEATH PENALTY, THAT YOU WOULD AUTOMATICALLY VOTE
12 TO IMPOSE IT -- I DON'T KNOW IF I SHOULD ASK THIS QUESTION.
13 THE ANSWER IS OBVIOUS.

14 DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH
15 PENALTY THAT YOU WOULD AUTOMATICALLY VOTE TO IMPOSE THE DEATH
16 PENALTY AFTER THE JURY, FOR EXAMPLE, HAS FOUND HIM -- COME
17 IN WITH A VERDICT OF GUILTY OF MURDER IN THE FIRST DEGREE WITH
18 THE FINDING OF SPECIAL CIRCUMSTANCES, REGARDLESS OF ANY
19 EVIDENCE THAT MAY BE PRESENTED IN THE PENALTY PHASE?

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1 MS. HALL: NO. I DON'T KNOW. I MEAN -- I MEAN --

2 THE COURT: I MEAN, BECAUSE OF YOUR ATTITUDE --

3 MS. HALL: I DON'T -- I DON'T --

4 THE COURT: WOULD YOU VOTE FOR THE DEATH PENALTY?

5 MS. HALL: NO.

6 THE COURT: UNDER ANY CIRCUMSTANCES?

7 MS. HALL: NO.

8 THE COURT: NEVER?

9 MS. HALL: NO.

10 THE COURT: GO AHEAD.

11 MR. CHIER: THANK YOU, YOUR HONOR. GOOD AFTERNOON, MRS.

12 HALL. MY NAME IS RICHARD CHIER. I AM REPRESENTING JOE HUNT

13 HERE.

14 AND I WANT TO FIRST OF ALL, THANK YOU FOR YOUR
15 OPENNESS AND CANDOR IN EXPOSING YOUR FEELINGS. I WANT TO SAY
16 PRELIMINARILY --

17 MS. HALL: I CAN'T HEAR YOU.

18 MR. CHIER: SORRY. I WANT TO SAY PRELIMINARILY THAT
19 MY VOICE IS GETTING A LITTLE BIT -- PRELIMINARILY, THE QUESTIONS
20 I AM ABOUT TO ASK YOU ARE QUESTIONS TO WHICH THERE IS NO WRONG
21 ANSWER OR NO RIGHT ANSWER. OKAY?

22 AND I WANT YOU TO KNOW THAT I SHARE YOUR CONCERN
23 ABOUT THE DEATH PENALTY --

24 THE COURT: WE ARE NOT INTERESTED IN YOUR OPINION.
25 REFRAIN FROM DOING THAT OR ASKING ANY JUROR ABOUT ANYTHING
26 LIKE THAT.

27 MR. CHIER: ALL RIGHT. MISS HALL, WHAT I WOULD LIKE
28 TO EXPLAIN TO YOU AND ASK YOU ABOUT, IS THAT THERE MAY BE

1 A NUMBER OF PEOPLE IN THIS COURTROOM WHO ARE PERSONALLY
2 OPPOSED TO THE DEATH PENALTY. THE JUDGE MIGHT BE OPPOSED TO
3 THE DEATH PENALTY. THE PROSECUTOR MIGHT BE OPPOSED TO THE
4 DEATH PENALTY.

5 THE BAILIFF MIGHT BE OPPOSED TO THE DEATH PENALTY.
6 BUT AS CITIZENS IN THIS COMMUNITY, THIS IS FIRST OF ALL AN
7 OBLIGATION TO SERVE ON A JURY WHEN CALLED. THAT IS A CIVIL
8 DUTY. DO YOU UNDERSTAND THAT?

9 MS. HALL: YES.

10 MR. CHIER: AND THAT THE DEFENDANT IS ENTITLED TO HAVE
11 A JURY COMPOSED OF A CROSS-SECTION OF THE COMMUNITY?

12 MS. HALL: YES.

13 MR. CHIER: RIGHT. AND THAT THE COMMUNITY IS COMPRISED
14 OF PEOPLE WITH A LOT OF DIVERSE AND DIFFERENT OPINIONS. THERE
15 ARE SOME PEOPLE THAT FAVOR THE DEATH PENALTY. THERE ARE SOME
16 PEOPLE OPPOSED TO THE DEATH PENALTY. THERE ARE SOME PEOPLE --
17 FRANKLY, SOME PEOPLE MILDLY IN FAVOR OR OPPOSED. CORRECT?

18 MS. HALL: YES.

19 MR. WAPNER: WAS THERE ANY AUDIBLE RESPONSE?

20 MS. HALL: YES.

21 MR. CHIER: NOW, I WANT TO ASK YOU A SERIES OF QUESTIONS.
22 IT IS NOT MY INTENTION TO TRY TO CHANGE YOUR MIND ABOUT THE
23 DEATH PENALTY. BUT I WANT TO TRY TO FIND OUT PERHAPS IF I
24 CAN SHOW YOU THAT THERE ARE CIRCUMSTANCES UNDER WHICH YOU
25 MIGHT RETURN THE DEATH PENALTY IN AN APPROPRIATE CASE.

26 YOU HAVE SAID TO THE JUDGE THAT IT IS YOUR FEELING
27 RIGHT NOW THAT UNDER NO CIRCUMSTANCES IN ANY CASE, COULD YOU
28 EVER RETURN A DEATH PENALTY VERDICT AGAINST THE DEFENDANT?

29 MS. HALL: YES, RIGHT.

23-1
1 MR. CHIER: MRS. HALL, NOW DO YOU CONSIDER YOURSELF
2 AN OPEN-MINDED PERSON?

3 MS. HALL: I THINK SO.

4 MR. CHIER: ALL RIGHT. DO YOU CONSIDER YOURSELF A
5 FLEXIBLE PERSON?

6 YOU ARE NOT A RIGID PERSON, CORRECT?

7 MS. HALL: I DON'T KNOW.

8 MR. WAPNER: I AM SORRY. COULD I GET THAT LAST ANSWER
9 READ BACK?

10 THE COURT: YES. READ IT BACK.

11 (THE RECORD WAS READ BY THE REPORTER.)

12 MR. WAPNER: THANK YOU.

13 MR. CHIER: HAVE YOU EVER HAD A STRONG OR WHAT YOU THOUGHT
14 WAS A FIXED OPINION ABOUT SOMETHING AND HEARD OR SAW SOMETHING
15 WHICH CHANGED YOUR MIND AND CAUSED YOU TO RECEDE FROM YOUR
16 POSITION?

17 MS. HALL: YES.

18 MR. CHIER: AND ISN'T IT POSSIBLE THAT IN A CASE WHERE
19 A DEFENDANT IS BEING CHARGED WITH MURDER, AND EVEN THOUGH
20 YOU MAY BE MORALLY OPPOSED TO THE DEATH PENALTY, THAT YOU
21 COULD HEAR TESTIMONY IN THE COURSE OF THE TRIAL SUCH AS
22 PERHAPS THE PARENTS OF THE VICTIM OR OTHER RELATIVES OF THE
23 VICTIM, WHICH WOULD THEN IMPRESS YOU TO SUCH AN EXTENT THAT
24 YOUR FEELINGS ABOUT THE DEATH PENALTY WOULD HAVE TO BE PUT
25 ASIDE IN THAT SITUATION IN THAT YOU WOULD, IF YOU HAD TAKEN
26 AS AN OATH AS A JUROR TO FOLLOW THE LAW, YOU WOULD HAVE TO
27 REMEMBER THAT YOU WOULD CONSIDER THE DEATH PENALTY AS AN
28 ALTERNATIVE; ISN'T THAT CORRECT? CAN'T YOU CONCEIVE OF THAT

3-2
1 HAPPENING?

2 MS. HALL: IT MIGHT.

3 MR. CHIER: ALL RIGHT.

4 MS. HALL: I MEANT I DON'T KNOW. I HAVE NEVER BEEN
5 ON A JURY. I DON'T KNOW ANYTHING ABOUT THE COURTS OR
6 ANYTHING, SO I DON'T KNOW.

7 MR. CHIER: YOU SEE, ALL THE LAW REQUIRES AND ALL I
8 AM ASKING YOU TO DO IS TO BE ABLE TO TELL US WHETHER YOU WOULD
9 KEEP AN OPEN MIND --

10 MS. HALL: YES.

11 MR. CHIER: -- AS TO THE EVIDENCE.

12 AND IF IT PERSUADES YOU THAT -- IF IT PERSUADES
13 THEN, IF IT PERSUADES YOU THAT THE OFFENSE, THAT THE CRIME
14 IS OFFENSIVE ENOUGH AND SERIOUS ENOUGH AND WRONG ENOUGH THAT
15 YOU WOULD CONSIDER -- YOU DON'T HAVE TO PROMISE TO BRING IN
16 THE DEATH PENALTY -- YOU HAVE TO MERELY AGREE THAT YOU WOULD
17 CONSIDER IT AS A VIABLE ALTERNATIVE.

18 MS. HALL: WELL, WHEN YOU ARE ON A JURY, DON'T YOU HAVE
19 TO HAVE AN OPEN MIND AND DON'T YOU HAVE TO LISTEN TO
20 EVERYTHING?

21 MR. CHIER: YES.

22 MS. HALL: OKAY, THEN I DON'T KNOW WHETHER I WOULD DO
23 IT OR NOT BUT I WOULD TRY.

24 MR. CHIER: WELL, ARE YOU SAYING THAT --

25 MS. HALL: THERE ARE TWO WAYS TO GO, EITHER ISN'T IT
26 DEATH OR --

27 MR. CHIER: LIFE WITHOUT --

28 MS. HALL: -- IMPRISONMENT FOR LIFE?

3-3
1 MR. CHIER: LIFE WITHOUT POSSIBILITY OF PAROLE.

2 MS. HALL: THAT'S RIGHT, THAT COULD BE THE ALTERNATIVE,
3 COULDN'T IT?

4 MR. CHIER: YES.

5 AND ARE YOU SAYING THAT YOU ARE SO OPPOSED TO
6 THE DEATH PENALTY THAT YOU WOULD TEND TO ALWAYS VOTE FOR LIFE
7 IN PRISON?

8 MS. HALL: I THINK SO.

9 MR. CHIER: IS IT NOT POSSIBLE THAT YOU COULD RELATE
10 TO THE TESTIMONY DURING THE COURSE OF THE TRIAL BY EITHER
11 FAMILY MEMBERS OR SOMETHING THAT WOULD CAUSE YOU TO FEEL THAT
12 THE DEATH PENALTY WAS MORE APPROPRIATE THAN LIFE WITHOUT
13 POSSIBILITY OF PAROLE, IF DURING THE PENALTY PHASE THERE WERE
14 GOOD THINGS ABOUT THE DEFENDANT AND THERE WERE, LIKE, BAD
15 THINGS ABOUT THE DEFENDANT THAT WERE RECEIVED IN EVIDENCE
16 AND, LET'S SAY IN YOUR MIND, THERE WERE A SUFFICIENT NUMBER
17 OF BAD THINGS OF SUCH A DEGREE THAT YOU THOUGHT IT WAS
18 APPROPRIATE IN THIS PARTICULAR CASE THAT THE DEATH PENALTY
19 BE RETURNED, IF YOU HAD TAKEN AN OATH AS A JUROR TO --

20 MS. HALL: YES.

21 MR. CHIER: -- FOLLOW THE LAW, COULDN'T YOU DO IT IN
22 THIS CASE?

23 MS. HALL: I SUPPOSE.

24 THE COURT: YOU MEAN YOU WOULD VOTE FOR THE DEATH PENALTY?

25 MS. HALL: I DON'T KNOW.

26 MR. CHIER: ALL I AM ASKING YOU TO SAY IS WHETHER OR
27 NOT YOU WOULD KEEP AN OPEN MIND.

28 MS. HALL: I WILL KEEP AN OPEN MIND BUT -- BUT I --

23-4
1 MR. CHIER: IF THE CIRCUMSTANCES WERE OFFENSIVE ENOUGH
2 TO YOU AS A JUROR, YOU COULD RETURN A PENALTY OF DEATH?

3 MS. HALL: I THINK I WOULD HAVE TO REACH THAT POINT
4 TO FIND OUT WHETHER I COULD.

5 MR. CHIER: RIGHT.

6 BUT YOU ARE NOT CLOSED-MINDED AT THIS POINT TO
7 THE EXTENT THAT YOU SAY YOU COULDN'T EVER UNDER ANY
8 CIRCUMSTANCES RETURN A VERDICT OF DEATH, YOU ARE NOT SAYING
9 THAT, ARE YOU?

10 THE COURT: OR ARE YOU SAYING IT?

11 MS. HALL: I DON'T KNOW. I -- I DON'T KNOW.

12 MR. CHIER: WELL, IF YOU WERE SELECTED AS A JUROR IN
13 THIS CASE AND YOU TOOK AN OATH TO FOLLOW THE LAW AS GIVEN
14 TO YOU BY THE COURT?

15 MS. HALL: IF I TOOK AN OATH, I WOULD HAVE TO DO WHAT
16 I HAVE TO DO.

17 MR. CHIER: RIGHT.

18 AND IF ONE OF THE ALTERNATIVES WAS LIFE WITHOUT
19 THE POSSIBILITY OF PAROLE AND THE OTHER WAS DEATH IN THE GAS
20 CHAMBER --

21 MS. HALL: I WOULD TAKE LIFE.

22 MR. CHIER: IN EVERY CASE?

23 MS. HALL: I THINK SO.

24 MR. CHIER: CAN YOU THINK OF ANY CIRCUMSTANCES AT ALL
25 UNDER WHICH -- IN WHICH YOU WOULD RETURN A DEATH PENALTY IF
26 YOU WERE A JUROR ON THE CASE?

27 (PROSPECTIVE JUROR HALL SHAKES HER HEAD
28 FROM SIDE TO SIDE.)

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1 MR. CHIER: WHAT IS THE WORSE CRIME --

2 THE COURT: EXCUSE ME. WHAT DO YOU MEAN. YOU WERE
3 SHAKING YOUR HEAD?

4 MS. HALL: I DON'T KNOW.

5 THE COURT: DO YOU MEAN NO OR YES?

6 MS. HALL: NO.

7 MR. CHIER: WHAT IS THE WORST CRIME YOU CAN THINK OF,
8 MRS. HALL?

9 MS. HALL: WHAT IS THE WORST CRIME?

10 MR. CHIER: YES.

11 THE COURT: WHAT IS THE MATERIALITY OF THAT? I WILL
12 SUSTAIN THE OBJECTION TO THAT. ALTHOUGH COUNSEL IS NOT MAKING
13 IT, I WILL SUSTAIN IT ON THE COURT'S OWN MOTION, WHICH I AM
14 DOING A GREAT DEAL OF.

15 MS. HALL: I DON'T THINK I WOULD MAKE A VERY GOOD JUROR,
16 IF YOU ASK ME.

17 MR. CHIER: I WILL PASS FOR CAUSE, YOUR HONOR.
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1 THE COURT: WELL, YOU MIGHT MAKE A VERY GOOD JUROR,
2 I MEAN ON SOME OTHER CASE, WOULD YOU?

3 MS. HALL: I THINK SO.

4 I HAVE NEVER BEEN ON A JURY AND I HAVE NEVER BEEN
5 IN COURT BEFORE AND I AM SO SCARED THAT I DON'T KNOW WHAT
6 TO DO.

7 THE COURT: I SEE.

8 MR. WAPNER: MRS. HALL, I APPRECIATE THE FACT THAT YOU
9 HAVE BEEN SEARCHING YOUR CONSCIENCE FOR TWO WEEKS NOW AND
10 I ALSO APPRECIATE THE FACT THAT YOU ARE SCARED AND YOU ARE
11 IN A SOMEWHAT UNFAMILIAR SETTING.

12 LET ME TRY AND ASK YOU JUST A COUPLE OF MORE
13 QUESTIONS.

14 MS. HALL: OKAY.

15 MR. WAPNER: IF YOU ARE CHOSEN AS A JUROR IN THIS CASE
16 AND IF YOU GET TO THE PENALTY PHASE OF THE CASE, WHAT YOU
17 WILL BE CALLED UPON TO DO AS A JUROR IS TO GO INTO THE JURY
18 ROOM AND TO MAKE UP YOUR OWN INDIVIDUAL MIND, GIVE YOUR OWN
19 INDIVIDUAL OPINION AS TO WHAT THE APPROPRIATE PUNISHMENT
20 SHOULD BE; DO YOU UNDERSTAND THAT?

21 MS. HALL: YES.

22 MR. WAPNER: NO ONE IS GOING TO TELL YOU WHAT YOU SHOULD
23 DO; DO YOU UNDERSTAND THAT?

24 MS. HALL: YES.

25 MR. WAPNER: AND YOU ALSO UNDERSTAND THAT YOU ARE ONLY
26 GOING TO HAVE TWO CHOICES WHEN YOU GET TO THAT POINT, THAT
27 IS, DEATH AND LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF
28 PAROLE; DO YOU UNDERSTAND THAT?

1 MS. HALL: THAT'S RIGHT.

2 MR. WAPNER: IF YOU ARE FACED WITH THAT AND THOSE ARE
3 YOUR ONLY TWO CHOICES, WITHOUT KNOWING WHAT THE EVIDENCE IS
4 GOING TO BE, HAVE YOU ALREADY MADE UP YOUR MIND AS TO WHAT
5 YOU ARE GOING TO VOTE FOR?

6 MS. HALL: YES.

7 MR. WAPNER: IS THERE ANYTHING THAT YOU COULD HEAR THAT
8 YOU COULD THINK OF THAT WOULD CHANGE YOUR MIND?

9 MS. HALL: IF HE IS PROVEN WITHOUT A DOUBT THAT HE,
10 MAYBE I COULD, BUT I DON'T KNOW, NO.

11 MR. WAPNER: CAN YOU EXPLAIN THAT?

12 MS. HALL: WELL, WITHOUT A DOUBT AT ALL, IF HE IS
13 PROVEN GUILTY, I WOULD STILL, I THINK, SAY -- I WOULD SAY
14 LIFE IMPRISONMENT.

15 I JUST COULDN'T HAVE ON MY CONSCIENCE THE FACT
16 THAT I HAD SENT SOMEBODY TO THE GAS CHAMBER, I THINK.

17 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

18 THE COURT: ALL RIGHT.

19 MR. WAPNER: THERE WILL BE A CHALLENGE BUT OUTSIDE THE
20 PRESENCE OF THE JUROR, YOUR HONOR.

21 THE COURT: WOULD YOU WAIT OUTSIDE A MINUTE, PLEASE,
22 MRS. HALL?

23 MS. HALL: OKAY.

24 (PROSPECTIVE JUROR HALL EXITED THE
25 COURTROOM.)

26 THE COURT: ALL RIGHT, MR. CHIER.

27 MR. CHIER: I MIGHT SAY, YOUR HONOR, THAT THE JUROR'S
28 RESPONSES ARE EQUIVOCAL. AT SOME POINT, SHE FEELS THAT THERE ARE

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1 CERTAIN CIRCUMSTANCES; FOR EXAMPLE, IN RESPONSE TO MR. WAPNER'S
2 QUESTION, IF MR. HUNT WAS ESTABLISHED GUILTY BEYOND A
3 REASONABLE DOUBT, SHE COULD FIND IN FAVOR OF THE DEATH PENALTY
4 AND THEN AT OTHER TIMES, SHE VACILLATES AGAINST THE DEATH
5 PENALTY. I DON'T THINK IT HAS BEEN DEMONSTRATED THAT SHE
6 IS SO OPPOSED TO THE DEATH PENALTY THAT SHE WOULD BE
7 DISQUALIFIED TO SERVE.

8 THE COURT: MR. WAPNER?

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1 MR. WAPNER: YOUR HONOR, I THINK THAT HER LAST ANSWER,
2 SHE WAS ON THE VERGE OF SAYING THAT SHE WOULD BE ABLE TO VOTE
3 FOR THE DEATH PENALTY AND SHE JUST COULDN'T BRING HERSELF
4 TO DO IT. SHE WAS SO -- THE BOTTOM LINE, HER ANSWER WAS THAT
5 SHE COULD NOT HAVE IT ON HER CONSCIENCE. I COULD NOT HAVE
6 IT ON MY CONSCIENCE TO SEND SOMEBODY TO THE GAS CHAMBER.
7 I THINK THAT --

8 THE COURT: I THINK IT IS UNMISTAKABLY CLEAR THAT SHE
9 WOULD NOT RETURN THE DEATH PENALTY. SHE MADE A POINT SEVERAL
10 TIMES TO SAY THAT SHE WOULD ONLY VOTE FOR LIFE IMPRISONMENT
11 WITHOUT POSSIBILITY OF PAROLE.

12 I AM GOING TO SUSTAIN THE CHALLENGE FOR CAUSE.
13 GET HER IN, PLEASE.

14 (PROSPECTIVE JUROR GERTRUDE HALL RE-ENTERS
15 THE COURTROOM.)

16 THE COURT: MRS. HALL, YOU ARE EXCUSED FROM JURY DUTY.
17 YOU MAY QUALIFY IN SOME OTHER CASE. SO REPORT BACK TO THE
18 JURY ASSEMBLY ROOM. THEY WILL ASSIGN YOU TO A COURT FOR A
19 TRIAL.

20 MS. HALL: SORRY.

21 THE COURT: THANK YOU VERY MUCH. THAT IS ALL RIGHT.

22 (PROSPECTIVE JUROR HALL EXITED THE
23 COURTROOM.)

24 (PROSPECTIVE JUROR HECK ENTERED THE
25 COURTROOM.)

26 THE COURT: MR. HECK, WHERE DO YOU LIVE?

27 MR. HECK: TARZANA.

28 THE COURT: ALL RIGHT. HAVE YOU READ ANYTHING AT ALL

1 ABOUT THIS CASE IN THE NEWSPAPER?

2 MR. HECK: NOTHING, YOUR HONOR.

3 THE COURT: NOTHING AT ALL?

4 MR. HECK: NO.

5 THE COURT: YOU KNOW NOTHING ABOUT IT EXCEPT WHAT I
6 TOLD YOU WHEN WE WERE ALL HERE, ISN'T THAT RIGHT?

7 MR. HECK: YES.

8 THE COURT: YOU HAVE NOT DISCUSSED IT IN ANY WAY WITH
9 ANY OF THE OTHER JURORS OR ANYBODY ELSE?

10 MR. HECK: NO.

11 THE COURT: ALL RIGHT. AND IF YOU QUALIFY HERE AND
12 SO FORTH, I WOULD ADMONISH YOU NOT TO TALK TO ANYBODY ABOUT
13 THE CASE OR READ ANYTHING OR IF YOU SEE ANYTHING IN THE NEWSPAPER
14 WHICH TALKS ABOUT IT, DON'T READ IT. IF YOU HEAR ANYTHING
15 ON TELEVISION OR RADIO, SHUT IT OFF. ALL RIGHT?

16 MR. HECK: YES.

17 THE COURT: YOU ARE NOT SUPPOSED TO BE INFLUENCED BY
18 ANYTHING THAT YOU MIGHT READ OR HEAR.

19 MR. HECK: UH-HUH.

20 THE COURT: I WILL ASK YOU A SERIES OF QUESTIONS. AND
21 THE ANSWERS WILL BE EITHER YES OR NO. YOU LISTEN VERY
22 CAREFULLY.

23 IF IT IS UNCLEAR OR YOU WANT IT EXPLAINED TO YOU,
24 YOU MAY ASK ME ABOUT IT. I WILL EXPLAIN IT OR READ IT TO
25 YOU.

26 THE FIRST QUESTION I WILL ASK YOU IS MR. HECK,
27 DO YOU HAVE ANY OPINION REGARDING THE DEATH PENALTY THAT WOULD
28 PREVENT YOU FROM MAKING AN IMPARTIAL DECISION AS TO THE GUILT

1 OR INNOCENCE OF THE DEFENDANT?

2 MR. HECK: NO.

3 THE COURT: DO YOU HAVE ANY OPINION REGARDING THE DEATH
4 PENALTY THAT WOULD CAUSE YOU TO VOTE FOR FIRST DEGREE MURDER,
5 EVEN WHEN THE PROSECUTION ONLY PROVES THE DEFENDANT GUILTY
6 OF MURDER IN THE SECOND DEGREE OR MANSLAUGHTER?

7 MR. HECK: NO.

8 THE COURT: I WILL EXPLAIN TO YOU SOMETHING BEFORE I
9 ASK YOU THE NEXT QUESTION.

10 YOU UNDERSTOOD WHEN I TOLD YOU ABOUT THE CASE
11 THAT THE CHARGE AGAINST THE DEFENDANT IS ONE OF MURDER. IT
12 IS MURDER IN THE FIRST DEGREE. AND IT IS ALSO ALLEGED AND
13 THE JURY WILL HAVE TO MAKE THE FINDING AS TO WHETHER OR NOT
14 THAT MURDER WAS COMMITTED DURING THE COURSE OF A ROBBERY.

15 IF THEY FIND HIM GUILTY OF MURDER IN THE FIRST
16 DEGREE, THEN THE JURY WILL BE INSTRUCTED TO MAKE A FINDING
17 AS TO WHETHER OR NOT IT WAS MURDER IN THE COURSE OF A ROBBERY.
18 THAT IS KNOWN AS A SPECIAL CIRCUMSTANCE. DO YOU UNDERSTAND
19 THAT?

20 MR. HECK: YES.

21 THE COURT: SO IT IS TRUE OR FALSE WITH RESPECT TO THAT.
22 DO YOU UNDERSTAND?

23 MR. HECK: YES.

24 THE COURT: ALL RIGHT. NOW, ALL OF THIS IS ON THE
25 FIRST PHASE OF THE TRIAL WHICH WE CALL THE GUILT PHASE. THE
26 GUILT PHASE IS WHERE THE JURORS HEAR ALL OF THE EVIDENCE WITH
27 RESPECT TO THE ALLEGED CHARGE OF MURDER AND MURDER IN THE
28 FIRST DEGREE AND THE FACT THAT IT WAS COMMITTED DURING THE

1 ROBBERY.

2 AND IF THEY FIND THE DEFENDANT GUILTY OF MURDER
3 IN THE FIRST DEGREE AND THAT IT WAS IN THE COURSE OF A ROBBERY,
4 THEN AFTER THEY COME BACK WITH THAT VERDICT, THEN WE START
5 A SECOND PHASE OF THE TRIAL WHERE ADDITIONAL EVIDENCE WILL
6 COME IN BOTH FROM THE DEFENDANT AND FROM THE PROSECUTION.
7 AND THAT ADDITIONAL EVIDENCE IS FOR THE PURPOSE OF MITIGATING
8 A CHARGE AGAINST THE OFFENSE, AGAINST THE DEFENDANT OR
9 AGGRAVATING IT.

10 IN OTHER WORDS, THE DEFENSE WILL TELL YOU SOME
11 GOOD THINGS ABOUT THE DEFENDANT.

12 WE WANT YOU TO CONSIDER ALSO HIS AGE AND HIS PRIOR
13 LACK OF CONVICTIONS AND SO FORTH. THAT IS WHAT THEY WILL
14 TELL YOU.

15 THE PROSECUTION ON THE OTHER HAND, WILL TRY TO
16 PRODUCE EVIDENCE WHICH WILL SHOW THAT HE IS REALLY A BAD MAN.
17 DO YOU UNDERSTAND THAT? OR, IT WOULD TEND TO SHOW THAT HE
18 IS A BAD MAN, WHICH IS THE JURY'S RIGHT TO CONSIDER THE GOOD
19 THINGS ABOUT HIM AND THE BAD THINGS ABOUT HIM.

20 YOU HAVE HEARD ALL OF THAT BEFORE YOU MAKE UP
21 YOUR MINDS WHETHER OR NOT THE JURY WILL IMPOSE LIFE WITHOUT
22 POSSIBILITY OF PAROLE OR THE DEATH PENALTY.

23 DO YOU UNDERSTAND THAT?

24 MR. HECK: YES.

25 THE COURT: NOW, THE THIRD QUESTION IS DO YOU HAVE ANY
26 OPINION REGARDING THE DEATH PENALTY THAT WOULD PREVENT YOU
27 FROM MAKING AN IMPARTIAL DECISION CONCERNING THE TRUTH OR
28 FALSITY OF THE SPECIAL CIRCUMSTANCE ALLEGED IN THIS CASE?

1 MR. HECK: NO.

2 THE COURT: ALL RIGHT. DO YOU HAVE SUCH AN OPINION
3 CONCERNING THE DEATH PENALTY THAT YOU WOULD AUTOMATICALLY
4 VOTE TO IMPOSE IT AFTER A VERDICT OF GUILTY OF MURDER IN THE
5 FIRST DEGREE WITH A FINDING OF SPECIAL CIRCUMSTANCE, REGARDLESS
6 OF ANY EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY PHASE
7 OF THE TRIAL?

8 MR. HECK: I DO NOT.

9 THE COURT: YOU DO NOT?

10 MR. HECK: NO.

11 THE COURT: ALL RIGHT. NEXT IS THE SAME QUESTION BUT
12 RELATING TO LIFE WITHOUT POSSIBILITY OF PAROLE. DO YOU HAVE
13 SUCH AN OPINION CONCERNING THE DEATH PENALTY THAT YOU WOULD
14 AUTOMATICALLY VOTE FOR LIFE IMPRISONMENT WITHOUT POSSIBILITY
15 OF PAROLE AFTER A VERDICT OF GUILTY OF MURDER IN THE FIRST
16 DEGREE WITH A FINDING OF SPECIAL CIRCUMSTANCES REGARDLESS
17 OF ANY EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY PHASE
18 OF THE TRIAL?

19 MR. HECK: I DO NOT.

20 THE COURT: ALL RIGHT. DO YOU UNDERSTAND THAT THE ISSUE
21 OF THE DEATH PENALTY MAY OR MAY NOT OCCUR IN THIS CASE, AND
22 THAT THESE QUESTIONS HAVE BEEN ASKED ONLY IN THE EVENT THAT
23 YOU REACH THAT PHASE OF THE TRIAL?

24 MR. HECK: ALL RIGHT.

25 THE COURT: ALL RIGHT, SIR.

26 MR. CHIER: THANK YOU, YOUR HONOR.

27 MR. HECK, MY NAME IS RICHARD CHIER. I REPRESENT
28 MR. HUNT. AND BEFORE WE GET INTO THE MATTER OF YOUR ATTITUDES

1 ON THE DEATH PENALTY, I WOULD LIKE TO KNOW IF YOU HAVE HEARD
2 OR READ ANYTHING ABOUT THE CASE.

3 THE COURT: I ASKED HIM THAT.

4 MR. CHIER: SORRY.

5 THE COURT: DIDN'T I ASK YOU WHETHER OR NOT YOU HEARD
6 ABOUT IT?

7 MR. HECK: YES.

8 THE COURT: HE SAID NO.

9 MR. HECK: I SAID NO.

10 MR. CHIER: YOU HAVE NOT SEEN ANY ARTICLES IN THE PAPERS?

11 MR. HECK: NO, NONE.

12 MR. CHIER: ALL RIGHT. THEN, LET ME SAY THAT THIS IS
13 A CASE WHERE THE DEATH PENALTY IS CHARGED. THE APPELLATE
14 COURTS HAVE CALLED FOR THIS PROCEDURE WHEREBY YOU CAN BE
15 EXAMINED OR EXAMINED SEPARATELY FROM THE REST OF THE JURORS.

16 THE IDEA IS, THAT IF YOU HAVE ANY HIDDEN AGENDAS
17 CONCERNING THE DEATH PENALTY, FOR OR AGAINST, THAT IT WILL
18 BE EASIER FOR YOU TO SPEAK YOUR MIND IN THE RELATIVE PRIVACY
19 OF THE COURTROOM WITHOUT THE OTHER JURORS. AND SO, THE
20 SYSTEM CAN WORK IF YOU ARE TRUTHFUL IN YOUR RESPONSES TO THESE
21 QUESTIONS BECAUSE IT IS NOT FAIR TO THE DEFENDANT OR TO THE
22 PEOPLE, AS THE CASE MAY BE, IF YOU TAKE SOME SECRET INTENT
23 NOT TO FOLLOW THE LAW INTO THE JURY ROOM.

24 SO, THERE ARE NO RIGHT OR WRONG ANSWERS TO THESE
25 QUESTIONS. THERE ARE JUST ANSWERS. AND I WOULD LIKE TO
26 START BY ASKING YOU, HOW YOU WOULD ANSWER THIS QUESTION:

27 I AM A PERSON WHO IS STRONGLY IN FAVOR OF THE
28 DEATH PENALTY, SOMEWHAT IN FAVOR OF THE DEATH PENALTY,

1 OPPOSED TO THE DEATH PENALTY OR I HAVE NOT REALLY THOUGHT
2 ABOUT IT.

3 MR. HECK: SOMEWHAT IN FAVOR.

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1 MR. CHIER: OKAY. BY YOUR ANSWER, I WOULD TAKE IT THAT
2 YOU FEEL THAT THE DEATH PENALTY IS APPROPRIATE IN CERTAIN
3 CIRCUMSTANCES?

4 MR. HECK: CORRECT.

5 MR. CHIER: AND YOU VOTED FOR THE DEATH PENALTY WHEN
6 IT WAS ON THE BALLOT, SIR?

7 MR. HECK: YES.

8 MR. CHIER: ALL RIGHT. DID YOU CONSIDER THE WHOLE
9 STATUTORY SCHEME THAT ACCOMPANIED THE VOTER PAMPHLET OR WAS
10 IT MORE A QUESTION OF FEELING THAT THE CRIME LEVEL HAD REACHED
11 SUCH A STATE THAT THE DEATH PENALTY MIGHT BE A DETERRENT,
12 SINCE OTHER THINGS DIDN'T SEEM TO BE WORKING?

13 MR. HECK: YES.

14 MR. CHIER: MORE OF THE LATTER?

15 MR. HECK: YES.

16 MR. CHIER: ALL RIGHT. AND CAN YOU ARTICULATE FOR US,
17 JUST OFFHAND, WHAT TYPES OF CIRCUMSTANCES YOU BELIEVE THE DEATH
18 PENALTY IS APPROPRIATE IN?

19 MR. HECK: IN BRUTAL MURDERS, FOR INSTANCE.

20 THE COURT: I NEGLECTED TO ASK HIM -- TELL HIM THE
21 PRELIMINARY STATEMENT. YOU KNOW, IN CONNECTION WITH THIS
22 VOTING FOR THE DEATH PENALTY, THE LEGISLATURE SAID THAT NOT
23 EVERY MURDER OF COURSE, CALLS FOR THE DEATH PENALTY.

24 THERE ARE CERTAIN TYPES OF MURDER THAT ARE
25 COMMITTED UNDER CERTAIN CIRCUMSTANCES THAT QUALIFY FOR THE
26 DEATH PENALTY. ONE OF THOSE IS THIS CASE.

27 AND IT IS ALLEGED THAT THE MURDER WAS COMMITTED
28 DURING THE COURSE OF A ROBBERY AND IF A MAN RAPES A WOMAN AND

24B-2

1 KILLS HER, THAT ALSO CALLS FOR IT AND MULTIPLE MURDERS, AS
2 I HAVE INDICATED AND KIDNAPPING DURING -- THAT IS, KILLING
3 DURING THE COURSE OF A KIDNAPPING MIGHT BE ANOTHER ONE.
4 TORTURE IS ANOTHER ONE.

5 AND THOSE ARE SOME OF THE INSTANCES WHERE THE
6 LEGISLATURE HAS VOTED OR PRESCRIBES THE DEATH PENALTY MIGHT
7 BE APPROPRIATE. DO YOU UNDERSTAND THAT?

8 MR. HECK: YES, CERTAINLY.

9 THE COURT: ALL RIGHT.

10 MR. CHIER: MR. HECK, IT IS ALLEGED IN THIS CASE THAT
11 THERE WAS A MURDER COMMITTED BY MR. HUNT, IT WAS INTENTIONAL,
12 THAT IT WAS DONE IN THE COURSE OF AND IN THE FURTHERANCE OF
13 A ROBBERY.

14 NOW, ASSUMING YOU WERE SELECTED AS A JUROR IN THIS
15 CASE AND AFTER HEARING ALL OF THE EVIDENCE IN THE GUILT
16 PHASE, YOU FOUND ON THE BASIS OF THE EVIDENCE THAT THOSE
17 ALLEGATIONS WERE TRUE, THAT MR. HUNT WAS GUILTY AS CHARGED,
18 AT THAT POINT, IT WOULD BECOME NECESSARY FOR THE JURY TO THEN
19 HEAR EVIDENCE ABOUT HIS BACKGROUND AND THE TYPE OF PERSON HE
20 IS IN ORDER TO DECIDE PUNISHMENT. RIGHT?

21 MR. HECK: YES.

22 MR. CHIER: DO YOU HAVE SUCH STRONG FEELINGS ABOUT A
23 PERSON WHO COMMITS AN INTENTIONAL MURDER, THAT YOU WOULD GO
24 INTO THE PENALTY PHASE AT LESS THAN NEUTRAL WHEN IT CAME TO
25 DECIDING THE PENALTY?

26 MR. HECK: I WOULD NOT.

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1 MR. CHIER: DO YOU FEEL THAT EVEN THOUGH THE DEATH
2 PENALTY IS AN ALTERNATIVE TO LIFE WITHOUT THE POSSIBILITY OF
3 PAROLE, OR VICE VERSA, THAT THERE ARE CIRCUMSTANCES WHERE
4 LIFE WITHOUT THE POSSIBILITY OF PAROLE MIGHT BE MORE
5 APPROPRIATE THAN DEATH?

6 MR. HECK: YES.

7 MR. CHIER: WITHOUT KNOWING THE LAW, CAN YOU THINK OF
8 ANY CIRCUMSTANCES OFFHAND WHICH MIGHT CAUSE YOU TO VOTE IN
9 FAVOR OF LIFE AS OPPOSED TO DEATH, AFTER HAVING FOUND SOMEBODY
10 GUILTY OF INTENTIONAL MURDER?

11 MR. HECK: CIRCUMSTANCES LIKE UPBRINGING OF THE PERSON,
12 I MEAN, YOU KNOW.

13 MR. CHIER: ALL RIGHT, WHAT ABOUT UPBRINGING? SUPPOSE
14 A PERSON HAD A LOT OF ADVANTAGES IN LIFE, WOULD THAT MAKE A
15 DIFFERENCE TO YOU?

16 MR. HECK: NO.

17 MR. CHIER: WHEN YOU TALK ABOUT UPBRINGING, SIR, COULD
18 YOU BE A LITTLE MORE SPECIFIC ABOUT WHAT YOU HAVE IN MIND?

19 MR. HECK: WELL, IN THE ENVIRONMENT THE PERSON IS BROUGHT
20 UP IN, IF HE IS BROUGHT UP IN, LET'S SAY --

21 THE COURT: PARDON ME. I AM SORRY. READ ME THE LAST
22 TWO QUESTIONS AND ANSWERS.

23 (WHEREUPON, THE RECORD WAS READ BY THE
24 REPORTER.)

25 THE COURT: ALL RIGHT. YOU MAY FINISH WITH YOUR ANSWER.

26 MR. HECK: I AM SAYING IF A PERSON COMES FROM A BROKEN
27 HOME, HAS LIVED IN AN ENVIRONMENT WHERE CRIME IS PREVALENT,
28 THINGS OF THAT NATURE.

1 MR. CHIER: SO NOTWITHSTANDING THE FACT YOU MAY HAVE
2 CONVICTED THIS PERSON OF FIRST DEGREE MURDER, YOU FEEL THERE
3 MIGHT BE ENVIRONMENTAL INFLUENCES WHICH SOMEHOW MITIGATE AGAINST
4 DEATH; IS THAT RIGHT SO FAR?

5 MR. HECK: THAT'S CORRECT.

6 MR. CHIER: AND BY THE SAME TOKEN, IF THE COURT WERE
7 TO INSTRUCT YOU ON THE LIST OF THINGS THAT COULD BE CONSIDERED,
8 SUCH AS THE AGE OF THE DEFENDANT WHEN THIS THING HAPPENED,
9 WOULD YOU CONSIDER THAT?

10 MR. HECK: I WOULD.

11 MR. CHIER: YOU WOULD CONSIDER THAT A VALID CONSIDERATION
12 IN DETERMINING WHETHER HE SHOULD LIVE OR DIE, RIGHT?

13 MR. HECK: YES.

14 MR. CHIER: PRIOR RECORD, IF ANY?

15 MR. HECK: YES.

16 MR. CHIER: ANY KIND OF PSYCHOLOGICAL INFLUENCES WHICH
17 WERE PRESENTED, SHORT OF INSANITY OR DIMINISHED CAPACITY, BUT
18 THINGS THAT MAY EXPLAIN HIS BEHAVIOR?

19 MR. HECK: YES.

20 MR. CHIER: IS THAT RIGHT, SIR?

21 MR. HECK: CORRECT.

22 MR. CHIER: AND IT IS VERY IMPORTANT TO KNOW THIS BECAUSE
23 IF YOU DON'T TELL US, THERE IS NO WAY WE COULD KNOW IF YOU
24 ARE SELECTED AS A JUROR IN THIS CASE, WE CAN BE ASSURED THAT
25 YOU WOULD SIT IN THE GUILT PHASE AS A TOTALLY NEUTRAL PERSON:

26 MR. HECK: YES.

27 MR. CHIER: AND THAT OBVIOUSLY, IF YOU FOUND HIM NOT
28 GUILTY THAT WOULD BE THE END OF IT?

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1 MR. HECK: YES.

2 MR. CHIER: IF, ON THE OTHER HAND, YOU AND THE REST OF
3 THE JURORS FOUND THE DEFENDANT GUILTY, I WOULD BE AT A
4 DISADVANTAGE AT THAT POINT, HAVING HIM FOUND GUILTY, AT THE
5 PENALTY PHASE WHERE I WOULD HAVE TO WORK HARDER TO PERSUADE
6 YOU TO SAVE HIS LIFE THAN MR. WAPNER WOULD HAVE TO, TO
7 PERSUADE YOU TO TAKE IT?

8 MR. HECK: I HOPE NOT.

9 MR. CHIER: DO YOU KNOW WHAT I MEAN?

10 MR. HECK: YES, I KNOW WHAT YOU MEAN.

11 NO, I DON'T THINK SO.

12 MR. CHIER: I MEAN ONCE YOU FINISH THE GUILT PHASE, THEN
13 YOU START OVER IN A NEUTRAL POSITION IN THE PENALTY PHASE;
14 DO YOU UNDERSTAND THAT?

15 MR. HECK: CORRECT, YEAH.

16 MR. CHIER: AND THAT YOU WOULD CONSIDER ALL OF THE
17 EVIDENCE ON THAT, RIGHT?

18 MR. HECK: YES.

19 MR. CHIER: I HAVE NO FURTHER QUESTIONS. PASS FOR
20 CAUSE.

21 THE COURT: PASS FOR CAUSE?

22 MR. WAPNER: IF I CAN ASK ONE OR TWO QUESTIONS, MAYBE
23 NOT EVEN QUESTIONS.

24 MR. HECK, YOU UNDERSTAND THIS PORTION OF THE
25 QUESTIONING IS TO DETERMINE WHETHER OR NOT A PERSON CAN BE
26 A FAIR JUROR ON THE GUILT AND ON THE PENALTY PHASE?

27 MR. HECK: I UNDERSTAND.

28 MR. WAPNER: WITH THAT IN MIND, I AM NOT GOING TO ASK

1 ANY MORE QUESTIONS.

2 PASS FOR CAUSE, YOUR HONOR.

3 THE COURT: ALL RIGHT, MR. HECK, AS YOU UNDERSTAND, WE
4 ARE GOING THROUGH ALL OF THE REMAINING JURORS, YOUR NAME
5 BEGINS WITH H AND WE HAVE TO GO THROUGH Z BEFORE WE FINISH.

6 MR. HECK: YES, SIR, I UNDERSTAND.

7 THE COURT: THAT IS BEFORE WE FINISH THIS ASPECT OF OUR
8 JURY QUESTIONING.

9 IT IS EXPECTED WE WILL FINISH ON ABOUT DECEMBER
10 2ND SO I WILL ASK YOU TO GO TO THE JURY ASSEMBLY ROOM ON
11 DECEMBER 2ND AT 10:30 A.M.

12 MR. HECK: OKAY.

13 THE COURT: WE HAVE YOUR TELEPHONE NUMBER AND JUST IN
14 CASE WE RUN BEHIND OR SOMETHING, IT MIGHT TAKE ANOTHER DAY
15 OR TWO, WE WILL CALL YOU AND TELL YOU WHEN TO COME IN.

16 MR. HECK: OKAY.

17 THE COURT: IN THE MEANTIME, DON'T TALK TO ANYBODY ABOUT
18 THE CASE OR ANYTHING ABOUT IT.

19 MR. HECK: ALL RIGHT.

20 THE COURT: NOR READ ANYTHING ABOUT IT.

21 MR. HECK: AM I EXCUSED?

22 THE COURT: YES. THANK YOU VERY MUCH. YOU COME BACK
23 ON DECEMBER 2ND AT 10:30.

24 MR. HECK: DID YOU SAY 10:30?

25 THE COURT: DECEMBER 2ND.

26 MR. HECK: WHAT TIME?

27 MR. WAPNER: 10:30.

28 THE COURT: 10:30.

1 MR. HECK: 10:30, THANK YOU.

2 (WHEREUPON, THE COURT CALLED ANOTHER COURT
3 MATTER.)

4 (PROSPECTIVE JUROR HEICHMAN ENTERS THE
5 COURTROOM.)

6 THE COURT: MR. HEICHMAN, WHERE DO YOU LIVE, SIR?

7 MR. HEICHMAN: SANTA MONICA, SIR.

8 THE COURT: MR. HEICHMAN, HAVE YOU READ ANYTHING AT ALL
9 ABOUT THIS CASE?

10 MR. HEICHMAN: NO, SIR, I HAVEN'T.

11 THE COURT: EVERYTHING YOU KNOW IS WHAT I TOLD YOU HERE
12 IN THE COURTROOM WHEN I TOLD YOU ABOUT THE CASE?

13 MR. HEICHMAN: YES, SIR.

14 THE COURT: AND YOU HAVEN'T TALKED TO ANY JURORS ABOUT
15 IT IN ANY WAY?

16 MR. HEICHMAN: NO, SIR.

17 THE COURT: THEY HAVEN'T TALKED TO YOU?

18 MR. HEICHMAN: NO, SIR.

19 THE COURT: OR ANYBODY ELSE?

20 MR. HEICHMAN: NO, SIR.

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1 THE COURT: ALL RIGHT. NOW YOU UNDERSTAND WHEN YOU
2 WERE HERE, I TOLD YOU WHAT THE CASE WAS ABOUT, I TOLD YOU
3 IT WAS A CASE WHERE THE PEOPLE ARE CHARGING THE DEFENDANT
4 WITH MURDER IN THE FIRST DEGREE AND THAT MURDER WAS COMMITTED
5 DURING THE COURSE OF A ROBBERY; DO YOU UNDERSTAND THAT?

6 MR. HEICHMAN: YES, SIR.

7 THE COURT: NOW, THE LEGISLATURE HAS SAID THAT WHEN
8 A MURDER IS COMMITTED DURING THE COURSE OF A ROBBERY, THE
9 PEOPLE MAY ASK FOR THE DEATH PENALTY; YOU UNDERSTAND THAT?

10 MR. HEICHMAN: YES, SIR.

11 THE COURT: NOT ONLY IN THAT PARTICULAR TYPE OF CASE,
12 OR A CASE LIKE KIDNAPPING WHERE SOMEBODY IS KILLED DURING
13 THE COURSE OF A KIDNAPPING OR RAPE OR TORTURE OR MULTIPLE
14 MURDERS, THE LEGISLATURE SAYS IN ALL OF THOSE CASES IN ADDITION
15 TO SEVERAL OTHERS, THE DEATH PENALTY MIGHT BE APPROPRIATE;
16 DO YOU UNDERSTAND?

17 MR. HEICHMAN: YES, SIR.

18 THE COURT: NOW, THE DEATH PENALTY IS APPROPRIATE,
19 ACCORDING TO THE DISTRICT ATTORNEY'S OFFICE IN THIS CASE,
20 WHO ASKED FOR IT BECAUSE OF THE FACT IT WAS A MURDER COMMITTED
21 ALLEGEDLY DURING THE COURSE OF A ROBBERY, ALL RIGHT?

22 MR. HEICHMAN: YES, SIR.

23 THE COURT: NOW IF YOU WERE CHOSEN AS A JUROR, THE FIRST
24 THING THE JURORS WOULD HAVE TO DETERMINE IN WHAT WE CALL THE
25 GUILT PHASE, THEY WOULD HAVE TO DETERMINE WHETHER OR NOT THE
26 DEFENDANT COMMITTED A MURDER AND THAT THAT MURDER WAS COMMITTED
27 DURING THE COURSE OF A ROBBERY; DO YOU UNDERSTAND?

28 MR. HEICHMAN: YES, SIR.

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1 THE COURT: NOW, COMMITTED IN THE COURSE OF A ROBBERY
2 IS KNOWN AS A SPECIAL CIRCUMSTANCE; THAT QUALIFIES IT FOR
3 THE DEATH PENALTY, DO YOU UNDERSTAND?

4 MR. HEICHMAN: YES, SIR.

5 THE COURT: SO THE JURY, IF THEY FIND THE DEFENDANT
6 GUILTY OF MURDER IN THE FIRST DEGREE, THEN THEY WILL HAVE
7 TO MAKE A FINDING, IS IT TRUE OR IS IT NOT TRUE THAT IT WAS
8 COMMITTED DURING THE COURSE OF A ROBBERY, OKAY?

9 MR. HEICHMAN: YES, SIR.

10 THE COURT: NOW AFTER THEY HAVE DONE THAT, IF THEY SAY
11 YES, IT IS TRUE, THEN WE HAVE ANOTHER SORT OF MINI TRIAL,
12 ANOTHER TRIAL IN WHAT WE CALL THE PENALTY PHASE WHEN THE JURY
13 THEN IS TO DETERMINE WHETHER OR NOT THE DEFENDANT IS TO GET
14 LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE OR HE
15 SHOULD GET DEATH; DO YOU UNDERSTAND?

16 MR. HEICHMAN: YES, SIR.

17 THE COURT: DURING THE COURSE OF THAT PARTICULAR PHASE
18 OF THE TRIAL, THE DEFENDANT IS EXPECTED TO INTRODUCE TESTIMONY
19 THAT HE IS ESSENTIALLY A VERY DECENT PERSON, HE HAS DONE A
20 LOT OF VERY GOOD THINGS AND YOU HAVE A RIGHT TO CONSIDER HIS
21 YOUTH. YOU HAVE THE RIGHT TO CONSIDER ANY ABSENCE OF ANY
22 CRIMINAL CONVICTIONS OR ANYTHING ABOUT HIM WHICH IS FAVORABLE
23 TOWARD HIM.

24 THE PEOPLE, ON THE OTHER HAND, HAVE THE RIGHT
25 TO INTRODUCE TESTIMONY TO SHOW UNFAVORABLE THINGS ABOUT HIM,
26 BAD THINGS ABOUT HIM; DO YOU UNDERSTAND THAT?

27 MR. HEICHMAN: YES, SIR.
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1 THE COURT: AFTER THE JURY HAS HEARD ALL OF THAT AND
2 THEY HAVE ARGUED TO YOU AND I HAVE INSTRUCTED YOU IN THE LAW,
3 YOU AGAIN RETURN TO THE JURY ROOM TO DETERMINE WHAT PENALTY
4 SHOULD BE IMPOSED. AND THERE ARE TWO POSSIBLE PENALTIES THAT
5 I TOLD YOU ABOUT, LIFE WITHOUT POSSIBILITY OF PAROLE OR DEATH.

6 DO YOU UNDERSTAND THAT?

7 MR. HEICHMAN: YES, SIR.

8 THE COURT: OKAY. NOW, I WILL ASK YOU THE QUESTIONS.
9 I WILL ASK A SERIES OF QUESTIONS. NOW, THEY ARE ALL
10 INTRODUCTORY.

11 I WILL ASK YOU A SERIES OF QUESTIONS THAT RELATE
12 TO THE DEATH PENALTY ASPECT OF IT. THEY RELATE TO YOUR
13 ATTITUDE TOWARD THE DEATH PENALTY. ALL RIGHT.

14 DO YOU HAVE ANY OPINION REGARDING THE DEATH PENALTY
15 THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION AS
16 TO THE GUILT OR INNOCENCE OF THE DEFENDANT?

17 MR. HEICHMAN: YES I DO, YOUR HONOR.

18 THE COURT: WHAT IS THAT?

19 MR. HEICHMAN: I HAVE A VERY STRONG CONVICTION THAT
20 LIFE IS SACRED AND THE ONLY BEING THAT HAS A RIGHT TO TAKE
21 LIFE OR TO GIVE LIFE IS OUR CREATOR.

22 THE COURT: WELL, HOW ABOUT IF THE DEFENDANT TOOK A
23 GUN AND TOOK THE LIFE OF ANOTHER PERSON? DOES THAT CHANGE
24 YOUR OPINION?

25 MR. HEICHMAN: NO, SIR.

26 THE COURT: UNDER NO CIRCUMSTANCES THEREFORE, WOULD
27 YOU -- YOU HAVE SUCH A CONSCIENTIOUS OBJECTION TO THE DEATH
28 PENALTY THAT UNDER NO CIRCUMSTANCES, WOULD YOU EVER VOTE FOR

1 THE DEATH PENALTY IN A CASE, IRRESPECTIVE OF WHAT THE EVIDENCE
2 SHOWS?

3 MR. HEICHMAN: I WOULD NOT.

4 THE COURT: ALL RIGHT, YOU MAY INQUIRE.

5 MR. CHIER: JUST BRIEFLY, YOUR HONOR.

6 MR. HEICHMAN OR IS IT HEICHMAN?

7 MR. HEICHMAN: NEITHER ONE. IT IS HEICHMAN.

8 MR. CHIER: DO I UNDERSTAND YOUR ANSWERS TO THE JUDGE,
9 THAT UNDER NO CIRCUMSTANCES, REGARDLESS OF THE NATURE OF THE
10 CRIME, WOULD YOU BE ABLE TO RETURN A VERDICT OF DEATH?

11 MR. HEICHMAN: YOUR UNDERSTANDING IS CORRECT.

12 MR. CHIER: THERE IS ABSOLUTELY NO SITUATION THAT YOU
13 COULD THINK OF THAT IS SO BAD THAT YOU WOULD BE ABLE TO DO
14 THAT?

15 MR. HEICHMAN: THAT'S CORRECT.

16 MR. CHIER: I PASS FOR CAUSE.

17 MR. WAPNER: I HAVE NO QUESTIONS.

18 THE COURT: ALL RIGHT. MR. HEICHMAN, I THANK YOU VERY
19 MUCH FOR YOUR FRANKNESS AND FOR YOUR BEING HERE AND WAITING
20 AROUND ALL THIS TIME.

21 SINCE YOU ARE NOT GOING TO SERVE IN THIS CASE
22 BECAUSE OF YOUR CONVICTIONS AS TO THE DEATH PENALTY, YOU WILL
23 RETURN TO THE JURY ASSEMBLY ROOM. THAT IS, IF THEY ARE OPEN
24 NOW.

25 IF THEY ARE NOT OPEN NOW, PLEASE RETURN MONDAY.
26 BE AVAILABLE TO SERVE IN SOME OTHER KIND OF A CASE. ALL RIGHT?

27 MR. HEICHMAN: YES, SIR.

28 THE COURT: THANK YOU.

1 MR. HEICHMAN: YOU SAID TO RETURN NOW OR IF THEY ARE
2 NOT OPEN, RETURN MONDAY?

3 THE COURT: THAT'S RIGHT. THANK YOU. TELL THEM THAT
4 YOU ARE AVAILABLE TO SERVE IN SOME OTHER CASE. ALL RIGHT?
5 THANK YOU.

6 MR. HEICHMAN: THANK YOU.

7 (PROSPECTIVE JUROR HEICHMAN EXITED
8 THE COURTROOM.)

9 MR. WAPNER: FOR THE RECORD, I WAS JUST GOING TO SAY
10 THAT --

11 THE COURT: I HAVE EXCUSED MR. HEICHMAN, IN VIEW OF
12 HIS UNALTERABLE OPINION ABOUT THE DEATH PENALTY.

13 MR. WAPNER: WELL, IN THAT EVENT, I JUST WANTED TO PUT
14 ON THE RECORD THAT THE PEOPLE WOULD HAVE AND DO CHALLENGE
15 HIM FOR CAUSE.

16 THE COURT: ALL RIGHT.

17 (PROSPECTIVE JUROR JOHANNA HOFER ENTERED
18 THE COURTROOM.)

19 THE COURT: THAT IS MISS HOFER?

20 MS. HOFER: MISS.

21 THE COURT: ALL RIGHT. MISS HOFER, WHERE DO YOU LIVE?

22 MS. HOFER: I LIVE IN WEST LOS ANGELES.

23 THE COURT: I WILL ASK YOU -- BEFORE I DO ASK YOU A
24 SERIES OF QUESTIONS, DID YOU READ ANYTHING AT ALL ABOUT THIS
25 CASE OR DO YOU KNOW ANYTHING ABOUT IT EXCEPT WHAT I TOLD YOU
26 IN COURT?

27 MS. HOFER: JUST WHAT YOU TOLD ME.

28 THE COURT: YOU HAVE NOT TALKED TO ANY OF THE OTHER

1 JURORS OR READ OR HEARD ANYTHING ELSE?

2 MS. HOFER: NO, SIR.

3 THE COURT: ALL RIGHT. I DID TELL YOU, MISS HOFER,
4 THAT THE CHARGE AGAINST THE DEFENDANT IS ONE OF MURDER OF
5 THE FIRST DEGREE AND THAT IT WAS COMMITTED DURING THE COURSE
6 OF A ROBBERY.

7 NOW, BECAUSE IT WAS COMMITTED IN THE COURSE OF
8 A ROBBERY, QUALIFIES UNDER THE LAW, FOR A POSSIBLE DEATH PENALTY
9 OR LIFE WITHOUT POSSIBILITY OF PAROLE. DO YOU UNDERSTAND
10 THAT?

11 MS. HOFER: YES, SIR.

12 THE COURT: ALL RIGHT. NOW, IT IS NOT EVERY MURDER
13 THAT CALLS FOR IT. IT HAS GOT TO BE UNDER SPECIAL
14 CIRCUMSTANCES.

15 THE SPECIAL CIRCUMSTANCES WOULD BE THAT IT WAS
16 COMMITTED DURING A ROBBERY. THE SPECIAL CIRCUMSTANCE COULD
17 ALSO BE THAT IT WAS COMMITTED DURING A KIDNAPPING. SPECIAL
18 CIRCUMSTANCES COULD BE THAT IT WAS COMMITTED DURING A RAPE
19 OR A TORTURE OR MULTIPLE MURDERS. DO YOU UNDERSTAND THAT?

20 MS. HOFER: YES.

21 THE COURT: NOT EVERY MURDER QUALIFIES FOR THE DEATH
22 PENALTY.

23 MS. HOFER: YES, SIR.

24 THE COURT: BUT THERE ARE SOME THAT DO. NOW, IF YOU
25 ARE SELECTED AS A JUROR, THE JURORS WILL DETERMINE FIRST,
26 THE GUILT OR INNOCENCE OF THE DEFENDANT ON THE QUESTION AS
27 TO WHETHER OR NOT HE COMMITTED A MURDER. THEY WILL DETERMINE
28 WHETHER IT WAS MURDER IN THE FIRST DEGREE.

1 AND THEY WILL HAVE TO HAVE A FINDING WHETHER OR
2 NOT -- IT IS A SPECIAL FINDING WHETHER OR NOT IT WAS COMMITTED
3 DURING THE COURSE OF A ROBBERY. THAT IS WHAT IS KNOWN AS
4 SPECIAL CIRCUMSTANCES.

5 MR. HOFER: YES.

6 THE COURT: AND THE JURY THEN HAS TO MAKE A FINDING
7 WHETHER IT IS TRUE OR WHETHER IT IS FALSE THAT IT WAS
8 COMMITTED DURING THE COURSE OF A ROBBERY. NOW, IF THAT IS
9 SO AND IF THE JURY FINDS THE DEFENDANT GUILTY OF MURDER IN
10 THE FIRST DEGREE IN THE COURSE OF A ROBBERY, THEN WE HAVE
11 A SECOND PHASE OF THE TRIAL KNOWN AS THE PENALTY PHASE.

12 AND DURING THE PENALTY PHASE, EACH SIDE HAS THE
13 RIGHT TO INTRODUCE ADDITIONAL TESTIMONY, ADDITIONAL TO WHICH
14 YOU HAVE HEARD AS TO THE GUILT OR INNOCENCE.

15 THERE WILL BE ADDITIONAL TESTIMONY FOR THE
16 DEFENDANT WHICH WILL BE FACTORS OR FACTS WHICH ARE FAVORABLE
17 TO HIM, HIS YOUTH AND THE FACT THAT HE HAS NO PRIOR FELONY
18 CONVICTIONS OR ANYTHING WHICH WILL BE FAVORABLE TO HIM.

19 THE PEOPLE ON THE OTHER HAND, HAVE A RIGHT TO
20 SHOW THE AGGRAVATING CIRCUMSTANCES. AGGRAVATING CIRCUMSTANCES
21 WILL SHOW THAT HE HAD DONE THINGS WHICH ARE BAD AND THEREFORE,
22 NO CONSIDERATION SHOULD BE SHOWN TO HIM BECAUSE OF THE THINGS
23 HE HAS DONE IN THE PAST. ALL OF THAT IS LISTENED TO BY THE
24 JURY.

25 AND THAT WILL BE THE THINGS THAT YOU CONSIDER.
26 THEN THE JURY RETIRES TO THE JURY ROOM AND DELIBERATES AND
27 THEY HAVE AN INSTRUCTION FROM THE COURT AND THEY HAVE
28 ARGUMENT OF COUNSEL AND THEN THEY MAKE UP THEIR MINDS AS

1 TO WHETHER IT WILL BE LIFE WITHOUT POSSIBILITY OF PAROLE OR
2 DEATH.

3 DO YOU UNDERSTAND THAT?

4 MS. HOFER: YES.

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1 THE COURT: ALL RIGHT. NOW I WILL ASK YOU A SERIES OF
2 QUESTIONS TO WHICH YOUR ANSWERS WILL BE YES OR NO. AND IF
3 THE QUESTION IS UNCLEAR, ASK ME TO REPEAT IT OR IF YOU WANT
4 ME TO EXPLAIN IT, I WILL.

5 DO YOU HAVE ANY OPINION REGARDING THE DEATH PENALTY
6 THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION AS
7 TO THE GUILT OR INNOCENCE OF THE DEFENDANT?

8 MS. HOFFER: NO.

9 THE COURT: DO YOU HAVE ANY OPINION REGARDING THE DEATH
10 PENALTY THAT WOULD CAUSE YOU TO VOTE FOR FIRST DEGREE MURDER,
11 EVEN WHEN THE PROSECUTION ONLY PROVES THE DEFENDANT GUILTY
12 OF MURDER IN THE SECOND DEGREE OR MANSLAUGHTER?

13 MS. HOFFER: NO.

14 THE COURT: DO YOU HAVE ANY OPINION REGARDING THE DEATH
15 PENALTY THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION
16 CONCERNING THE TRUTH OR FALSITY OF THE SPECIAL CIRCUMSTANCE
17 ALLEGED IN THIS CASE?

18 MS. HOFFER: MAY I HAVE THAT AGAIN, PLEASE?

19 THE COURT: YES, SURE. REMEMBER, I TOLD YOU THAT IF
20 YOU FIND THE DEFENDANT GUILTY OF MURDER IN THE FIRST DEGREE,
21 THEN YOU WILL HAVE TO MAKE A FINDING AS TO WHETHER OR NOT IT
22 WAS DURING THE COURSE OF A ROBBERY?

23 MS. HOFFER: YES.

24 THE COURT: AND THAT IS KNOWN AS A SPECIAL CIRCUMSTANCE.

25 MS. HOFFER: OKAY.

26 THE COURT: SO, YOU WILL HAVE TO SAY YES OR NO, TRUE
27 OR FALSE.

28 MS. HOFFER: YES.

1 THE COURT: NOW, THE QUESTION IS: DO YOU HAVE ANY OPINION
2 REGARDING THE DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING
3 AN IMPARTIAL DECISION CONCERNING THE TRUTH OR FALSITY OF THE
4 SPECIAL CIRCUMSTANCE ALLEGED IN THIS CASE?

5 MS. HOFFER: NO.

6 THE COURT: THE NEXT QUESTION IS: DO YOU HAVE SUCH AN
7 OPINION CONCERNING THE DEATH PENALTY THAT YOU WOULD AUTOMATICALLY
8 VOTE TO IMPOSE IT AFTER A VERDICT OF GUILTY OF MURDER IN THE
9 FIRST DEGREE WITH A FINDING OF SPECIAL CIRCUMSTANCE, REGARDLESS
10 OF ANY EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY PHASE
11 OF THE TRIAL?

12 MS. HOFFER: NO.

13 THE COURT: AGAIN, ANOTHER ASPECT OF THAT QUESTION IS:
14 DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH PENALTY THAT
15 YOU WOULD AUTOMATICALLY VOTE FOR LIFE IMPRISONMENT WITHOUT
16 POSSIBILITY OF PAROLE AFTER A VERDICT OF GUILTY OF MURDER IN
17 THE FIRST DEGREE WITH A FINDING OF SPECIAL CIRCUMSTANCES REGARDLESS
18 OF ANY EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY PHASE
19 OF THE TRIAL?

20 MS. HOFFER: NO.

21 THE COURT: ALL RIGHT. DO YOU UNDERSTAND THAT THE ISSUE
22 OF THE DEATH PENALTY MAY OR MAY NOT OCCUR IN THIS CASE, AND
23 THAT THESE QUESTIONS HAVE BEEN ASKED ONLY IN THE EVENT THAT
24 YOU REACH THAT PHASE OF THE TRIAL?

25 MS. HOFFER: YES.

26 THE COURT: DO YOU UNDERSTAND THAT?

27 MS. HOFFER: YES.

28 THE COURT: THANK YOU VERY MUCH. COUNSEL FOR THE DEFENSE

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1 HAS A RIGHT TO ASK YOU QUESTIONS. HIS NAME IS RICHARD CHIER.
2 MR. CHIER?

3 MR. CHIER: SORRY, MISS HOFFER. I MAY HAVE BEEN ASLEEP
4 AT THE SWITCH, HERE. DID THE JUDGE ASK YOU ABOUT ANY
5 PUBLICITY YOU MAY HAVE HEARD IN THIS CASE?

6 MS. HOFFER: YES, HE DID.

7 MR. CHIER: YOU SAID THAT YOU HAD NOT HEARD ANYTHING?

8 MS. HOFFER: THAT'S RIGHT.

9 MR. CHIER: ALL RIGHT. WELL, MY NAME IS CHIER. I REP-
10 RESENT MR. HUNT. I HAVE NEVER MET YOU BEFORE?

11 MS. HOFFER: NO, SIR.

12 MR. CHIER: I HATE TO LIKE, RIGHT OFF THE BAT, START
13 ASKING YOU A LOT OF PERSONAL QUESTIONS SUCH AS HOW DO YOU FEEL
14 ABOUT THE DEATH PENALTY.

15 AND THERE ARE NO RIGHT OR WRONG ANSWERS. I WANT
16 TO EXPLAIN THAT TO YOU. THERE ARE NO FAIR OR UNFAIR ANSWERS.
17 I AM NOT TRYING TO TRICK YOU.

18 I AM NOT TRYING TO YOU KNOW, GET YOU TO --I AM
19 NOT TRYING TO PUT WORDS INTO YOUR MOUTH. WHAT THIS INQUIRY
20 IS ABOUT, IS TO SEE WHETHER YOU HAVE SOME HIDDEN AGENDA,
21 STRONGLY IN FAVOR OF OR STRONGLY AGAINST THE DEATH PENALTY
22 THAT WOULD INFLUENCE YOUR ABILITY TO DELIBERATE AS A JUROR
23 IN THIS CASE.

24 BECAUSE WE ARE LOOKING FOR NEUTRAL, IMPARTIAL
25 JURORS. IF YOU HAVE A REALLY STRONG, HIDDEN AGENDA, THEN YOU
26 WOULD NOT BE AN APPROPRIATE PERSON TO BE A JUROR.

27 MS. HOFFER: I UNDERSTAND.

28 MR. CHIER: IT DOESN'T MEAN THAT YOU ARE A BAD PERSON

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1 OR A GOOD PERSON. OKAY?

2 AND THERE IS NO GOOD OR BAD POSITION ON THE ISSUE
3 OF THE DEATH PENALTY. THERE IS JUST YOUR POSITION. OKAY?

4 MS. HOFFER: SURE.

5 MR. CHIER: SO WITH THAT, CAN I ASK YOU HOW YOU WOULD
6 ANSWER THIS QUESTION -- DID YOU HAVE A QUESTION?

7 MS. HOFFER: NO.

8 MR. CHIER: ALL RIGHT. OKAY. I AM A PERSON STRONGLY
9 IN FAVOR OF THE DEATH PENALTY, SOMEWHAT IN FAVOR OF THE DEATH
10 PENALTY, OPPOSED TO THE DEATH PENALTY OR I HAVE NOT REALLY
11 THOUGHT ABOUT IT. WHICH ONE OF THOSE WOULD BE YOURSELF?

12 MS. HOFFER: I WOULD SAY THAT I AM NOT OPPOSED TO THE
13 DEATH PENALTY.

14 THE COURT: STRONGLY OR MODERATELY OR WHAT?

15 MS. HOFFER: WELL, JUDGE, I THINK IT WOULD DEPEND UPON
16 THE FACTS OF THE CASE.

17 THE COURT: UH-HUH.

18 MR. CHIER: AS A GENERAL PROPOSITION -- I MEAN, DO YOU
19 THINK THAT THE DEATH PENALTY IS DEFINITELY A GOOD THING?
20 DO YOU THINK IT IS A GOOD THING WE HAVE THE DEATH PENALTY?

21 MS. HOFFER: YES. I THINK IT IS A GOOD THING WE HAVE
22 THE DEATH PENALTY.

23 MR. CHIER: YES. YOU THINK IT IS GOOD WE HAVE THE DEATH
24 PENALTY BECAUSE THERE IS A LOT OF STREET CRIME OUT THERE?
25 IS THAT ONE OF THE REASONS WHY? SORRY. I DON'T WANT TO PUT
26 WORDS IN YOUR MOUTH.

27 CAN YOU TELL ME WHY IT IS A GOOD THING WE HAVE
28 THE DEATH PENALTY, MS. HOFFER?

6B-5

1 MS. HOFFER: YES. I THINK GIVEN THE CIRCUMSTANCES OF
2 WHATEVER, THAT I THINK THE DEATH PENALTY WOULD PREVENT SOME
3 CRIMES -- SOME CRIMINALS FROM DOING WHAT THEY MIGHT OTHERWISE
4 DO.

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1 THE COURT: IN OTHER WORDS, IT IS A DETERRENT, IS THAT
2 IT?

3 MS. HOFFER: YES.

4 THANK YOU, SIR.

5 MR. CHIER: ARE YOU SAYING IF UNDER THE APPROPRIATE
6 CIRCUMSTANCES, MR. HUNT IS PUT TO DEATH, IT MIGHT DETER OTHER
7 PEOPLE FROM DOING WHAT HE DID?

8 MS. HOFFER: THAT IS MY HOPE.

9 MR. CHIER: OKAY, SO IS IT YOUR IMPRESSION THERE IS ANY
10 CRIME FOR WHICH THE DEATH PENALTY IS MANDATORY IN CALIFORNIA?

11 MS. HOFFER: NO, SIR, I DON'T BELIEVE THAT.

12 MR. CHIER: ALL RIGHT. YOU UNDERSTAND THAT FOR ALL
13 CRIMES WHERE THERE IS THE DEATH PENALTY, THEN THEY ARE ALSO
14 PUNISHABLE BY LIFE WITHOUT THE POSSIBILITY OF PAROLE?

15 MS. HOFFER: THAT IS WHAT THE JUDGE SAID, YES.

16 MR. CHIER: OKAY. SOMETIMES THE PEOPLE ARGUE WITH THE JUDGE
17 JUST BECAUSE HE IS A JUDGE AND -- BUT MOST OF THE PEOPLE
18 UNDERSTAND WHAT HE IS SAYING, BUT I DON'T KNOW THAT.

19 MS. HOFFER: YES.

20 MR. CHIER: SO I HAVE TO SOMETIMES --

21 THE COURT: SO FAR AS THE LAW IS CONCERNED, I AM THE
22 LAST WORD ON IT, ALL RIGHT?

23 MS. HOFFER: YES, SIR.

24 THE COURT: AS FAR AS YOU ARE CONCERNED.

25 MS. HOFFER: YES, SIR.

26 MR. CHIER: OKAY. NOW YOU ARE OBVIOUSLY OPPOSED TO
27 MURDER, EVERY PERSON IS OPPOSED TO MURDER, RIGHT?

28 MS. HOFFER: YES, SIR.

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1 MR. CHIER: DO YOU BELIEVE THAT IN ALL CASES WHERE THERE
2 HAS BEEN AN INTENTIONAL MURDER COMMITTED DURING A ROBBERY THAT
3 THAT OFFENSE SHOULD BE PUNISHED BY DEATH?

4 MS. HOFFER: I DON'T THINK I COULD SAY THAT AT THIS
5 POINT.

6 I WOULD HAVE TO KNOW ALL OF THE FACTS OF THE
7 CASE.

8 MR. CHIER: DO YOU THINK THAT AS A BASIC PROPOSITION,
9 WITHOUT MORE, DO YOU THINK THAT THE DEATH PENALTY IS APPROPRIATE
10 JUST FROM GROUND ZERO?

11 THE COURT: SHE JUST ANSWERED THE QUESTION. SHE SAID --

12 MR. CHIER: I AM NOT ASKING YOU TO MAKE A DECISION.

13 I AM SAYING AS WE GO ALONG, I WILL GIVE YOU MORE
14 INFORMATION AND I WANT TO, LIKE, SEE HOW YOUR ATTITUDE CHANGES
15 IF AT ALL, OKAY?

16 SO FAR ALLOF THE INFORMATION YOU HAVE RIGHT NOW,
17 MISS HOFFER, IS THAT A PERSON HAS BEEN CONVICTED OF AN
18 INTENTIONAL MURDER WHICH MEANS THAT IT HAS BEEN -- THERE IS
19 NO SELF-DEFENSE OR NO MENTAL STATE THAT WOULD MITIGATE AGAINST
20 THE INTENT. IT IS JUST AN INTENTIONAL STRAIGHT-ON MURDER
21 COMMITTED IN THE COURSE OF A ROBBERY AND A PERSON HAS BEEN
22 CONVICTED OF THAT.

23 NOW WE HAVE TO HAVE A HEARING TO DECIDE WHAT IS
24 THE PUNISHMENT. WITHOUT ANYTHING MORE, IS IT YOUR FEELING
25 THAT DEATH IS MORE APPROPRIATE THAN LIFE WITHOUT THE POSSIBILITY
26 OF PAROLE, WITHOUT ANY MORE INFORMATION?

27 MS. HOFFER: WITHOUT ANY MORE INFORMATION, I WOULD SAY
28 YES.

1 MR. CHIER: OKAY, THE COURT WILL INSTRUCT YOU OR WOULD
2 INSTRUCT YOU -- NOT WILL -- I AM ANTICIPATING THIS BUT IN THE
3 EVENT THAT IT EVER BECOMES NECESSARY IF YOU ARE A JUROR AND
4 IT BECOMES NECESSARY TO HAVE A PENALTY PHASE, THE COURT WILL
5 INSTRUCT YOU ON WHAT CAN BE CONSIDERED IN MITIGATION AND IN
6 AGGRAVATION AND THEN IT IS UP TO YOU, THE JURY, TO DECIDE
7 WHAT TO DO.

8 AND WITHOUT KNOWING WHAT SORTS OF THINGS THE JUDGE
9 MIGHT INSTRUCT YOU, DO YOU HAVE ANY FEELING AS YOU SIT THERE
10 NOW ABOUT WHAT TYPE OF THING MIGHT CONSTITUTE ANY KIND OF
11 MITIGATION AGAINST DEATH?

12 MS. HOFFER: YES.

13 I DON'T WANT TO BE DIFFICULT BUT, YOU KNOW, THAT
14 IS A -- THAT IS A SUPPOSITION THAT I AM JUST NOT READY TO
15 ANSWER TO. I AM SORRY.

16 MR. CHIER: NO, I WILL GIVE YOU MORE AS WE GO ALONG.

17 MS. HOFFER: YES.

18 MR. CHIER: LET'S JUST SAY THE PERSON HAS BEEN
19 CONVICTED OF THE OFFENSE ALLEGED --

20 MS. HOFFER: YES.

21 MR. CHIER: -- THE CHARGE, RIGHT?

22 MS. HOFFER: RIGHT.

23 MR. CHIER: AND NOW ALL YOU KNOW IS IT IS A FIRST DEGREE
24 INTENTIONAL MURDER IN THE COURSE OF A ROBBERY, YOU ARE LEANING
25 TOWARD DEATH, RIGHT?

26 THE COURT: WAIT A MINUTE NOW. SHE DIDN'T SAY THAT.

27 MS. HOFFER: I DIDN'T SAY THAT.

28 MR. CHIER: YOU LEAN TOWARD DEATH?

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1 THE COURT: SHE DIDN'T SAY THAT.

2 MS. HOFFER: I DIDN'T SAY THAT.

3 MR. CHIER: LET ME SEE. WITHOUT ANY MORE INFORMATION,
4 DO YOU THINK THE DEATH PENALTY WOULD BE MORE APPROPRIATE THAN
5 LIFE IMPRISONMENT -- YOU DID SAY THAT, I THINK -- WITHOUT
6 HEARING ANY INFORMATION ABOUT THE PERSON, RIGHT?

7 MR. WAPNER: I AM NOT SURE THAT IT IS CLEAR TO THIS
8 JUROR THAT SHE CAN GIVE AN EXPLANATION TO THE ANSWERS AS
9 OPPOSED TO BEING FORCED TO PICK ONE SIDE OR THE OTHER OF THE
10 QUESTION AND IN THAT SENSE, I THINK IT IS AN UNFAIR QUESTION.

11 THE COURT: I WILL SUSTAIN THE OBJECTION.

12 MS. HOFFER: THANK YOU.

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1 MR. CHIER: LOOK, LET ME PUT IT ANOTHER WAY.

2 MS. HOFER: OKAY.

3 MR. CHIER: LET'S ASSUME YOU CONVICTED THE DEFENDANT
4 AND IT IS NOW TIME TO DECIDE WHETHER TO IMPOSE DEATH OR LIFE,
5 RIGHT?

6 THE COURT: THAT IS AFTER YOU HEARD ALL OF THE TESTIMONY
7 IN THE SECOND PHASE OF THE TRIAL AND THIS IS THE PHASE WHERE
8 YOU PRESENT GOOD AND BAD ABOUT THE DEFENDANT AND THEN YOU
9 MAKE UP YOUR MIND.

10 MS. HOFER: YES, YES.

11 MR. CHIER: NO, IT IS NOT BEFORE THAT. IT IS THE PENALTY
12 PHASE.

13 STARTING WHERE YOU ARE ABOUT TO HEAR EVIDENCE
14 ON GOOD AND BAD ABOUT THE DEFENDANT, WOULD YOU SAY THAT AT
15 THAT POINT YOU WOULD BE, HAVING NOW JUST CONVICTED HIM OF
16 FIRST DEGREE INTENTIONAL MURDER, YOU WOULD BE LEANING MORE
17 TOWARD THE DEATH PENALTY THAN TOWARD LIFE AT THIS PARTICULAR
18 POINT?

19 MS. HOFER: NOT NECESSARILY.

20 MR. CHIER: AFTER HAVING CONVICTED MR. HUNT, IF THAT
21 WERE THE CASE, OF FIRST DEGREE MURDER, DO YOU THINK THAT IN
22 THE PENALTY PHASE I WOULD HAVE TO WORK HARDER TO CONVINCING
23 YOU TO SPARE HIS LIFE THAN MR. WAPNER WOULD HAVE TO, TO
24 CONVINCING YOU TO TAKE HIS LIFE?

25 DO YOU UNDERSTAND MY QUESTION?

26 MS. HOFER: YES, BUT IT DOESN'T JUST MAKE AN AWFUL LOT
27 OF SENSE TO ME, YOU KNOW.

28 AS I UNDERSTAND IT, YOU KNOW, I AM GOING TO BE

7A-2, 1 CALLED -- I WOULD BE CALLED UPON TO MAKE A JUDGMENT. NOW,
2 WHETHER YOU WORK HARD OR HE WORKS HARD IS IMMATERIAL TO ME.

3 IT IS THE FACTS OF THE CASE, OKAY?

4 MR. CHIER: ALL RIGHT. WHAT I MEAN, ARE YOU GOING TO,
5 LIKE, PUT A GREATER BURDEN ON ME TO PROVE TO YOU THAT HE IS
6 SOMEBODY WORTH SAVING THAN MR. WAPNER, WHO IS GOING TO BE
7 ASKING YOU TO TAKE HIS LIFE?

8 MS. HOFER: I WOULD NOT, I HOPE SO. I HOPE I WOULDN'T.

9 MR. CHIER: DO YOU THINK THAT YOUR ATTITUDE TOWARDS
10 THE DEATH PENALTY AND MURDER IS SUCH THAT YOU COULD GO INTO
11 A PENALTY PHASE, IF IT WERE NECESSARY, TOTALLY NEUTRAL AND
12 IMPARTIAL, MISS HOFER?

13 THE COURT: HE MEANS TOTALLY NEUTRAL AND IMPARTIAL ABOUT
14 WHETHER YOU WOULD GIVE THE DEATH PENALTY OR LIFE IMPRISONMENT
15 WITHOUT THE POSSIBILITY OF PAROLE.

16 MR. CHIER: RIGHT.

17 BEARING IN MIND THAT YOU HAVE JUST CONVICTED THE
18 PERSON OF FIRST DEGREE INTENTIONAL MURDER IN THE COURSE OF
19 A ROBBERY AND YOU NOW HAVE TO START OVER AGAIN ON THE PENALTY
20 PHASE AND HAVE TO KIND OF COME BACK INTO A NEUTRAL MODE AS
21 RESPECTS PENALTY, BECAUSE THE GUILT PART IS OVER, THAT IS
22 DONE WITH AND THE SYSTEM CAN ONLY WORK IF PEOPLE LIKE
23 YOURSELF GIVE TRUTHFUL ANSWERS BECAUSE IT IS NOT FAIR TO THE
24 DEFENDANT FOR YOU TO, LIKE, GO INTO DELIBERATION HAVING KIND
25 OF A SECRET AGENDA.

26 SO WE CAN ONLY DEPEND ON YOU TO TELL US AND IF
27 YOU FEEL YOU MIGHT BE LEANING ONE WAY OR THE OTHER, NOW IS
28 THE TIME TO SPEAK.

27A-3
1 MS. HOFER: WELL, I WOULD AGREE WITH YOU ON THAT AND
2 I THINK IF I WERE NOT ABLE TO BE IMPARTIAL, I WOULD HAVE
3 RIGHT OFF THE BAT HAD INDICATED THAT THERE IS NO QUESTION
4 AS TO HOW I FEEL.

5 MR. CHIER: SO AT LEAST AS OF THIS MOMENT, YOU FEEL
6 THAT YOU ARE ONE OF THOSE PEOPLE WHO ARE NEUTRAL AND
7 IMPARTIAL AND COULD BE A FAIR JUROR?

8 MS. HOFER: I THINK I WOULD BE.

9 MR. CHIER: ALL RIGHT. IF THE JUDGE WERE TO INSTRUCT
10 YOU ABOUT THE THINGS YOU COULD CONSIDER IN MITIGATION DURING
11 THE PENALTY PHASE AND HE TOLD YOU THAT THE DEFENDANT'S AGE
12 WAS A CONSIDERATION --

13 THE COURT: I THINK I ASKED HER THAT. I TOLD HER THAT.

14 MR. CHIER: YOU ASKED HER BUT I AM WANTING TO KNOW IF
15 AGE WOULD MAKE ANY DIFFERENCE.

16 WOULD AGE MAKE ANY DIFFERENCE TO YOU, ASSUMING
17 YOU WERE PERMITTED TO CONSIDER THE AGE, WOULD IT REALLY MAKE
18 ANY DIFFERENCE TO YOU HOW OLD, WHAT AGE THE DEFENDANT WAS?

19 MR. WAPNER: I THINK IT IS ASKING THE JUROR TO PREJUDGE.

20 THE COURT: I WILL SUSTAIN THE OBJECTION TO THE QUESTION.

21 YOU WILL CONSIDER IT, WON'T YOU?

22 MS. HOFER: YES, SIR.

23 MR. CHIER: WHEN YOU SAY YOU WOULD CONSIDER IT, DOES
24 THAT MEAN YOU WOULD LISTEN TO IT, YOU WOULDN'T CLOSE YOUR
25 EARS TO IT?

26 MS. HOFER: I WOULD LISTEN TO IT.

27 MR. CHIER: WOULD YOU FEEL IT WOULD MAKE ANY DIFFERENCE,
28 THOUGH? I MEAN IS AGE SOMETHING THAT YOU --

1 DO YOU ASSOCIATE AGE WITH INEXPERIENCE AT ALL?

2 MS. HOFER: NOT REALLY.

3 MR. CHIER: YOU THINK THAT AGE REALLY IS NOT A
4 CRITERIA BY ITSELF, OBVIOUSLY, BUT IS IT SOMETHING THAT
5 SHOULDN'T FIGURE AS TO WHETHER A PERSON LIVES OR DIES?

6 MS. HOFER: YES, I BELIEVE THAT.

7 MR. CHIER: YOU BELIEVE THAT AGE IS IMMATERIAL?

8 MS. HOFER: THAT'S RIGHT.

9 MR. CHIER: OKAY. HOW ABOUT IF THE JUDGE WERE TO
10 INSTRUCT YOU THAT YOU COULD CONSIDER A PERSON'S PRIOR
11 CRIMINAL RECORD, DO YOU THINK IT REALLY MAKES ANY DIFFERENCE
12 IF A PERSON IS CONVICTED OF MURDER IF THEY HAVE ANY PRIOR
13 RECORD OR NOT?

14 MS. HOFER: I WOULD THINK SO.

15 MR. CHIER: DO YOU THINK A PERSON SHOULD BE LESS LIKELY
16 TO RECEIVE THE DEATH PENALTY IF THEY HAVE NO RECORD?

17 THE COURT: WHAT DOES THAT MEAN?

18 MR. CHIER: WELL, THAT IS A BAD QUESTION. I AGREE WITH
19 YOUR HONOR.

20 ALL RIGHT, WHEN WE WERE TALKING ABOUT A PRIOR
21 CRIMINAL RECORD, IF A PERSON HAS --

22 WHAT DIFFERENCE DO YOU THINK IT WOULD MAKE IF
23 A PERSON HAS OR DOESN'T HAVE A PRIOR RECORD, IF ANY DIFFERENCE?

24 MS. HOFER: YES, I THINK IT WOULD MAKE A DIFFERENCE.

25 MR. CHIER: IN WHAT SENSE?

26 THE COURT: WELL, WOULD YOU CONSIDER IT A FACTOR IN
27 HIS FAVOR IF HE HAD NO CRIMINAL RECORD OF ANY KIND?

28 MS. HOFER: PROBABLY.

29 THANK YOU, JUDGE.

28-1
1 MR. CHIER: OKAY. WOULD YOU IF THE JUDGE TOLD YOU THAT
2 YOU COULD CONSIDER ENVIRONMENTAL FACTORS THAT MAY HAVE AFFECTED
3 HIS PSYCHOLOGY, NOT THAT HE WOULD BE INSANE OR ANYTHING, BUT
4 THAT MIGHT HAVE KIND OF EXPLAINED HIS BEHAVIOR, DO YOU THINK
5 THAT ENVIRONMENTAL FACTORS IN THAT SENSE WOULD MAKE A
6 DIFFERENCE WHETHER A PERSON SHOULD LIVE OR DIE?

7 MS. HOFER: I PROBABLY WOULDN'T FEEL THAT THAT WAS ALL
8 THAT IMPORTANT.

9 MR. CHIER: OKAY. WHAT THINGS DO YOU THINK WOULD BE
10 IMPORTANT IN REACHING THE DECISION WHETHER A PERSON OUGHT
11 TO LIVE OR DIE, AFTER HAVING BEEN CONVICTED OF FIRST DEGREE
12 MURDER?

13 MS. HOFER: I THINK PROBABLY LISTENING TO THE FACTS
14 OF THE CASE FROM BOTH ATTORNEYS. THAT WOULD PROBABLY SWAY
15 MY OPINION.

16 MR. CHIER: ALL RIGHT. LET'S ASSUME --

17 THE COURT: WELL, AT THE PENALTY PHASE IF I TOLD YOU
18 THAT GOOD THINGS WOULD BE ADDUCED, WOULD YOU CONSIDER THAT?

19 MS. HOFER: YES.

20 THE COURT: AND YOU WOULD CONSIDER THE BAD THINGS THAT
21 THE PEOPLE WILL ADDUCE, TOO?

22 MS. HOFER: YES.

23 THE COURT: AND THEN YOU WOULD MAKE UP YOUR MIND,
24 BALANCING EVERYTHING, WOULD YOU NOT?

25 MS. HOFER: YES, THAT'S TRUE.

26 THE COURT: ALL RIGHT.

27 MR. CHIER: ASSUMING THAT DURING THE PENALTY PHASE,
28 THAT YOU DON'T HEAR ANY GOOD THINGS ABOUT THE DEFENDANT --

1 MS. HOFER: THAT'S TOO BAD.

2 MR. CHIER: OBVIOUSLY, THERE IS ONLY ONE PENALTY THAT
3 WOULD BE APPROPRIATE, DEATH, WOULDN'T IT?

4 MS. HOFER: NOT NECESSARILY.

5 MR. CHIER: COULD YOU CONCEIVE OF A SITUATION WHERE
6 HE HAS BEEN CONVICTED OF MURDER AND YOU HEARD NOTHING GOOD
7 ABOUT HIM, WHERE YOU WOULD STILL FIND HIM --

8 MS. HOFER: IT IS POSSIBLE.

9 MR. CHIER: WELL, I PASS FOR CAUSE, YOUR HONOR.

10 THE COURT: ALL RIGHT. DO YOU HAVE ANY QUESTIONS?

11 MR. WAPNER: JUST A COUPLE.

12 MISS HOFER, IF I UNDERSTAND YOU RIGHT, ARE YOU
13 SAYING THAT IF YOU GET TO THE PENALTY PHASE, THAT YOU ARE
14 WILLING TO PUT INTO THE EQUATION, ALL OF THE FACTORS THAT
15 THE JUDGE TELLS YOU THAT YOU CAN CONSIDER AND GIVE TO EACH
16 ONE OF THEM THE WEIGHT THAT YOU THINK THEY ARE ENTITLED TO?

17 MS. HOFER: YES, SIR.

18 MR. WAPNER: SO IF HE TELLS YOU THAT YOU CAN CONSIDER
19 AGE AND BACKGROUND AND ALL OF THESE THINGS AND IT IS UP TO
20 YOU TO DETERMINE HOW MUCH EMPHASIS YOU WANT TO GIVE TO EACH
21 ONE, YOU COULD DO THAT?

22 MS. HOFER: YES, SIR.

23 MR. WAPNER: OKAY. SO IF THE CIRCUMSTANCES OF THE CRIME
24 WERE MORE IMPORTANT TO YOU THAN HIS AGE, YOU WOULD PUT THAT
25 INTO THE EQUATION IN YOUR MIND?

26 MS. HOFER: YES, SIR.

27 MR. WAPNER: OKAY. THANK YOU. I HAVE NOTHING FURTHER.

28 THE COURT: DO YOU PASS FOR CAUSE?

1 MR. WAPNER: I PASS FOR CAUSE.

2 THE COURT: ALL RIGHT. DO YOU PASS FOR CAUSE?

3 MR. WAPNER: YES. I PASS FOR CAUSE.

4 MR. CHIER: I PASS FOR CAUSE.

5 THE COURT: MISS HOFER, THIS IS ALL. WE HAVE TO GO
6 THROUGH THIS WITH EVERY PROSPECTIVE JUROR. WE HAVE ONLY GONE
7 THROUGH H. WE HAVE GOT TO GO THROUGH THE REST OF THE
8 ALPHABET. IT IS GOING TO TAKE AT LEAST UNTIL DECEMBER 2ND.

9 SO I WILL ASK YOU TO COME BACK TO THE JURY
10 ASSEMBLY ROOM ON DECEMBER 2ND AT 10:30 A.M.

11 MS. HOFER: IS THAT A TUESDAY?

12 THE COURT: YES. DECEMBER 2ND IS A TUESDAY.

13 THE CLERK: YES.

14 THE COURT: IN THE EVENT THAT WE HAVE NOT FINISHED GOING
15 THROUGH ALL OF THESE QUESTIONS WITH THE OTHERS, THE SAME KINDS
16 OF THINGS THAT WE HAVE ASKED YOU, WE HAVE YOUR TELEPHONE NUMBER,
17 WE WILL CALL YOU AND TELL YOU WHEN TO COME IN.

18 MS. HOFER: THANK YOU VERY MUCH.

19 THE COURT: OTHERWISE IT WILL BE DECEMBER THE 2ND AT
20 10:30.

21 MS. HOFER: AT 10:30 A.M.

22 THE COURT: IN THE JURY ASSEMBLY ROOM.

23 MR. WAPNER: CAN YOU ASK MISS HOFER --

24 THE COURT: INCIDENTALY, IN THE MEANTIME, DON'T TALK
25 TO ANYBODY ABOUT THE CASE. DON'T TALK ABOUT ANY OF THE
26 QUESTIONS THAT HAVE BEEN ASKED OF YOU.

27 MS. HOFER: NO, SIR. THANK YOU VERY MUCH.

28 THE COURT: DON'T READ ANYTHING ABOUT THE CASE THAT

1 YOU MIGHT FIND IN THE NEWSPAPERS.

2 MS. HOFER: THANK YOU, SIR.

3 THE COURT: ALL RIGHT.

4 (AT 4:52 P.M. A RECESS WAS TAKEN UNTIL
5 MONDAY, NOVEMBER 24, 1986, AT 10:30 A.M.)
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