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COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT

FEB 24 1987

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 15 OF 101  
(PAGES 2020 TO 2199, INCLUSIVE)

COPY

ROSEMARIE GOODBODY, CSR NO. 932  
SALLY YERGER, CSR NO. 2008  
OFFICIAL REPORTERS

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 DEPARTMENT WEST C

HON. LAURENCE J. RITTENBAND, JUDGE

4  
5 THE PEOPLE OF THE STATE OF CALIFORNIA, )

6 PLAINTIFF, )

7 VS. )

NO. A-090435

8 JOSEPH HUNT, )

9 DEFENDANT. )

10  
11 REPORTERS' DAILY TRANSCRIPT

12 TUESDAY, DECEMBER 2, 1986

13 VOLUME 15

14 (PAGES 2020 TO 2199, INCLUSIVE)

15 APPEARANCES:

16 FOR THE PEOPLE:

IRA REINER, DISTRICT ATTORNEY  
BY: FREDERICK N. WAPNER, DEPUTY  
17 1725 MAIN STREET  
18 SANTA MONICA, CALIFORNIA 90401

19 FOR THE DEFENDANT:

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

21 AND

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

23  
24  
25  
26 ROSEMARIE GOODBODY, CSR NO. 932  
SALLY YERGER, CSR NO. 2008  
27 OFFICIAL REPORTERS

28 COPY

1 TUESDAY, DECEMBER 2, 1986 VOLUME 15 PAGES 2020 TO 2199

2 A.M. 2020

3 P.M. 2071

4 -----  
5 PROCEEDINGS

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7  
8 VOIR DIRE OF PROSPECTIVE JURORS (CONTINUED) 2020  
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1 SANTA MONICA, CALIFORNIA; TUESDAY, DECEMBER 2, 1986; 10:35 A.M.

2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE

3 (APPEARANCES AS HERETOFORE NOTED  
4 EXCEPT MR. CHIER IS NOT PRESENT.)

5

6 (THE FOLLOWING PROCEEDINGS WERE HELD  
7 IN CHAMBERS:)

8 MR. BARENS: GOOD MORNING, YOUR HONOR.

9 THE COURT: HOW ABOUT A CHAIR FOR YOU?

10 MR. WAPNER: THAT IS ALL RIGHT. I CAN SIT HERE.

11 THE COURT: I AM NOT GOING TO DISMISS -- THIS LADY THAT  
12 WE HAD IN HERE DURING THE HARDSHIP HEARINGS, HER NAME IS  
13 MRS. PEARL FEDERER, SHE IS A POSTAL EMPLOYEE AND YOU ALL  
14 AGREED THAT SHE SHOULD SERVE AND NOW SHE COMES ALONG WITH  
15 ANOTHER LETTER SAYING: "IT IS REQUESTED THAT MRS. PEARL  
16 FEDERER, A POSTAL EMPLOYEE, BE EXCUSED FROM JURY DUTY FOR THE  
17 MONTH OF DECEMBER AS HAS BEEN THE PAST PRACTICE FOR POSTAL  
18 EMPLOYEES DURING THIS MONTH."

19 DO YOU KNOW ANYTHING OF THAT?

20 WELL, AT ANY RATE, HAVE YOU ANY FEELING ABOUT WHAT  
21 WE OUGHT TO DO ABOUT HER?

22 MR. BARENS: I DEFER TO YOUR HONOR.

23 THE COURT: I THINK SHE OUGHT TO SERVE. I DON'T THINK  
24 BECAUSE SHE IS NEEDED IN THE POST OFFICE, THEY CAN GET SOME-  
25 BODY ELSE TO REPLACE HER.

26 WHAT IS YOUR FEELING?

27 MR. WAPNER: MAY I HAVE A MOMENT WITH COUNSEL?

28 I HAVE A FEELING ABOUT HER IN PARTICULAR.

1 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

2 MR. BARENS: BOTH SIDES WILL STIPULATE THAT SHE BE  
3 EXCUSED, YOUR HONOR.

4 IS THAT AGREEABLE, MR. WAPNER?

5 MR. WAPNER: YES, THAT IS AGREEABLE. I DISCUSSED THE  
6 MATTER WITH MR. BARENS AND IT IS AGREEABLE.

7 THE COURT: INCIDENTALLY, I AM GLAD YOU CAME IN, I  
8 THOUGHT -- MAYBE I AM MISTAKEN BUT I THOUGHT YOU MADE A REMARK  
9 THAT THE PEOPLE HAVE THE BURDEN OF PROOF BEYOND A REASONABLE  
10 DOUBT ON THE PENALTY PHASE. WHERE DID YOU GET THAT FROM?

11 MR. WAPNER: I DID NOT MAKE THAT REMARK. I BELIEVE THAT  
12 MR. CHIER MADE THE REMARK AND THE FIRST TIME THAT HE MADE IT,  
13 I DIDN'T OBJECT BECAUSE HE QUALIFIED IT BY SAYING "ON CERTAIN  
14 EVIDENCE." AND IT IS TRUE IF THERE IS EVIDENCE INTRODUCED  
15 OF OTHER CRIMES, FOR EXAMPLE --

16 THE COURT: THAT IS CORRECT.

17 MR. WAPNER: -- THEN YOU HAVE TO PROVE THE OTHER CRIMES  
18 BEYOND A REASONABLE DOUBT. BUT THERE IS NO BEYOND A REASONABLE  
19 DOUBT STANDARD AS FAR AS --

20 THE COURT: DO YOU AGREE WITH THAT?

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1 MR. BARENS: YES, I DO.

2 THE COURT: BECAUSE I WILL REFER TO A CASE. THE BURDEN OF  
3 PROOF IN A CALIFORNIA DEATH PENALTY WHICH DOES NOT SPECIFY  
4 THE BURDEN OF PROOF FOR THE PENALTY PHASE BUT DOES REQUIRE  
5 A BEYOND-A-REASONABLE-DOUBT STANDARD FOR PROVING SPECIAL  
6 CIRCUMSTANCES AND THEY REQUIRE THE JURY TO CONSIDER, TO TAKE  
7 INTO ACCOUNT ALL MITIGATING AND AGGRAVATING CIRCUMSTANCES IN  
8 DETERMINING WHETHER TO IMPOSE THE DEATH PENALTY IS  
9 CONSTITUTIONAL.

10 THEN THERE IS A CASE THAT SAYS THE STATE DOES NOT  
11 HAVE TO PROVE THE DEATH PENALTY IS APPROPRIATE BEYOND A  
12 REASONABLE DOUBT.

13 MR. WAPNER: RIGHT. I THINK THE STANDARD IS SOMETHING  
14 TO THE EFFECT THAT THE AGGRAVATING CIRCUMSTANCES SUBSTANTIALLY  
15 OUTWEIGH THE MITIGATING CIRCUMSTANCES.

16 MR. BARENS: I WOULD CONCUR. I HAVE ALSO VIEWED THIS  
17 AS A SUBSTANTIALLY OUTWEIGHED TEST.

18 THE COURT: ALL RIGHT. I JUST WANTED TO BE SURE THAT  
19 THAT IS NOT MISUNDERSTOOD.

20 (IN CAMERA PROCEEDINGS REPORTED BUT  
21 NOT TRANSCRIBED AT THE ORDER OF THE  
22 COURT. NOTES SEALED.)  
23  
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1 (THE PRIOR GAG ORDER HAVING BEEN  
2 RECINDED, THE FOLLOWING PROCEEDINGS  
3 ARE NOW INCLUDED IN THE RECORD:)  
4 (THE FOLLOWING IN CAMERA HEARING WAS  
5 HELD IN CHAMBERS IN THE PRESENCE OF  
6 MR. BARENS, MR. WAPNER AND THE  
7 DEFENDANT.)

8 THE COURT: ALL RIGHT. NOW, YOU WANTED A CONFERENCE IN  
9 CHAMBERS?

10 MR. WAPNER: YES, YOUR HONOR. I WANTED TO DISCLOSE TO  
11 THE COURT AND TO MR. BARENS AND MR. HUNT, THAT THERE HAS BEEN  
12 A MURDER IN HOLLYWOOD IN EARLY OCTOBER THAT DEAN KARNY, WHO  
13 WAS A WITNESS IN THIS CASE, IS A POSSIBLE SUSPECT IN THAT  
14 MURDER.

15 THE MURDER IS CURRENTLY UNDER INVESTIGATION. I  
16 HAVE NO REPORTS, AS YET. SO I DON'T HAVE ANY REPORTS TO TURN  
17 OVER.

18 AND AS SOON AS I GET REPORTS FROM THE DETECTIVES  
19 THAT ARE HANDLING THAT CASE, I WILL FORWARD THEM TO THE DEFENSE  
20 IN THIS CASE.

21 THIS CAME TO OUR ATTENTION ABOUT THREE WEEKS  
22 AGO. AND THE REASON THAT IT HAS BEEN UNTIL NOW, UNTIL WE  
23 HAVE DISCLOSED IT, IS THAT THE INVESTIGATION WAS ONGOING AND  
24 WE DID NOT WANT TO DO ANYTHING IN THE MEANTIME, TO COMPROMISE  
25 THE INTEGRITY OF THE INVESTIGATION.

26 IT STILL IS CONTINUING. AND AS SOON AS WE HAVE --

27 THE COURT: WHAT DETAILS DO YOU HAVE ABOUT THIS MURDER?

28 MR. WAPNER: WELL, I HAVE CERTAIN DETAILS ABOUT IT. BUT

1 SINCE -- I DON'T WANT TO MAKE ANY REPRESENTATIONS THAT ARE  
2 INACCURATE. I HAVE DETAILS ABOUT WHERE AND APPROXIMATELY WHEN  
3 IT OCCURRED AND THINGS OF THAT NATURE THAT WILL BE IN THE  
4 REPORTS THAT ARE FORTHCOMING.

5 MR. BARENS: MIGHT I INQUIRE, YOUR HONOR?

6 THE COURT: YES.

7 MR. BARENS: MR. WAPNER, IS THIS A MURDER THAT ALLEGEDLY  
8 OCCURRED AT THE HOLLYWOODLAND MOTEL?

9 MR. WAPNER: I DON'T KNOW THE EXACT NAME OF THE MOTEL.  
10 WHAT WAS THE NAME?

11 MR. BARENS: HOLLYWOODLAND MOTEL.

12 THE COURT REPORTER: HOW DO YOU SPELL THAT?

13 MR. BARENS: IT IS HOLLYWOODLAND, I BELIEVE ONE WORD,  
14 MOTEL.

15 MR. WAPNER: AND DO YOU KNOW WHERE THAT IS LOCATED?

16 MR. BARENS: I BELIEVE, IN HOLLYWOOD.

17 MR. WAPNER: ALL RIGHT. WELL, I WOULD LIKE TO FOLLOW  
18 UP ON THE COURT'S QUESTION, WHICH IS HOW DOES MR. BARENS HAVE  
19 THAT INFORMATION?

20 MR. BARENS: I WOULD LIKE TO DECLINE TO REVEAL THE SOURCE  
21 OF THE INFORMATION FOR NOW, EXCEPT TO SAY THAT IT DID NOT COME  
22 TO ME THROUGH ANY OFFICIAL CHANNEL, BUT RATHER A STORY,  
23 BASICALLY.

24 WELL, I SUPPOSE I CAN BE CANDID ON THE RECORD.  
25 HOWEVER --

26 THE COURT: THIS WILL BE SEALED.

27 MR. BARENS: I REQUEST THAT IT BE SEALED. MR. WAPNER,  
28 UPON RETURNING FROM COURT YESTERDAY, YOU WILL RECALL THAT I



1 LEFT ABOUT A QUARTER OF 2:00.

2 WHEN I CAME IN, MY RECEPTIONIST MARIA, WHO OPENS  
3 ALL OF THE MAIL FOR US, OPENED AN ENVELOPE AND HANDED ME AN  
4 ENVELOPE THAT HAD MY ADDRESS STENCILED ON THE FRONT OF IT,  
5 INSTEAD OF BEING HANDWRITTEN OR TYPED.

6 SOMEONE HAD STENCILED -- AND I WOULD BE HAPPY TO  
7 BRING IT TO COURT, TO SHOW HIS HONOR AND COUNSEL.

8 THERE WAS NO RETURN ADDRESS. IT WAS POSTMARKED,  
9 I BELIEVE, NOVEMBER 24TH. AND IT WAS JUST ADDRESSED TO ME.

10 THEN SHE HAD OPENED IT SOMEWHAT CAREFULLY AND  
11 AVOIDED HANDLING IT BECAUSE IT LOOKED PECULIAR TO US.

12 INSIDE, THERE WAS A SINGLE SHEET OF PAPER WHERE  
13 SOMEONE HAD STENCILED IN BLACK INK, A MESSAGE THAT SAYS -- AND  
14 I AM NOT QUOTING VERBATIM BECAUSE I DID NOT MEMORIZE THE  
15 MESSAGE.

16 BUT IT SAID THAT THERE WAS A COVER-UP BY THE  
17 HOLLYWOOD POLICE DEPARTMENT REGARDING A MURDER AT THE  
18 HOLLYWOODLAND MOTEL REGARDING DEAN KARNY.

19 AND THEN WHERE IT WOULD BE SIGNED IT SAID "FRIEND  
20 OF HONEST COP."

21 NOW, I RECEIVED THAT YESTERDAY ABOUT 2:00 O'CLOCK  
22 OR 2:30.

23 AT THAT TIME, I ATTEMPTED TO CONTACT OUR  
24 INVESTIGATOR, A MAN NAMED BILL WELCH, WHO HAS DONE INVESTIGATIONS  
25 FOR US ON THIS MATTER SINCE IT STARTED.

26

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1 I WAS UNABLE TO REACH MR. WELCH FOR FOLLOW-UP  
2 PURPOSES ON THIS EITHER LAST NIGHT OR THIS MORNING.

3 IT IS THE DEFENSE'S INTENT, OBVIOUSLY, TO TRY TO  
4 INVESTIGATE THE SOURCE OF THAT PIECE OF PAPER. I HANDLED THE  
5 PIECE OF PAPER CAREFULLY.

6 I WOULD BE WILLING UNDER THE COURT'S SUPERVISION  
7 TO MAKE THE ORIGINAL AVAILABLE TO THE P.D. FOR FINGERPRINTING.  
8 HOW I HANDLED IT WAS TO PUT A PAPER CLIP -- ONCE I HAD  
9 REALIZED WHAT IT WAS -- ON THE UPPER LEFT-HAND CORNER AND  
10 HANDLED IT VIA THE PAPER CLIP ONLY, ALTHOUGH I AM SURE MY  
11 FINGERPRINTS WERE ON THERE BEFORE I PAPER-CLIPPED IT.

12 BUT I WOULD BE HAPPY IF THE PEOPLE WOULD MAKE  
13 KNOWN TO THE DEFENSE WHATEVER PRINTS THEY WERE ABLE TO IDENTIFY  
14 ON THE PIECE OF PAPER.

15 I WOULD BE HAPPY TO SHARE FOR PURPOSES OF COMMON  
16 INVESTIGATION THAT PIECE OF PAPER WITH THE PEOPLE, ALONG WITH  
17 THE ENVELOPE. WOULD YOU AGREE TO THAT, MR. WAPNER?

18 MR. WAPNER: WELL, WHAT I THINK IS THAT THE ORIGINAL  
19 SHOULD BE TUREND OVER TO THE POLICE DEPARTMENT AND KEPT BY THE  
20 POLICE DEPARTMENT. OBVIOUSLY, MR. BARENS CAN HAVE A COPY.  
21 WHAT YOU NEED FOR THE PURPOSES OF YOUR INVESTIGATION IS NOT  
22 THE ORIGINAL PIECE OF PAPER BUT --

23 THE COURT: I THINK IT IS YOUR DUTY ANYWAY TO TURN IT  
24 OVER BECAUSE IT INVOLVES A HOMICIDE INVESTIGATION.

25 MR. BARENS: YES.

26 I WILL BE CANDID WITH YOUR HONOR, UNTIL MR. WAPNER  
27 ADDRESSED IT THIS MORNING, MY INITIAL REACTION WAS THAT PERHAPS  
28 IT WAS A CRANK TYPE THING, EVEN THOUGH WE WERE GOING TO SPEND

1 A LIMITED AMOUNT OF INVESTIGATION DOLLARS ON IT.

2 THE COURT: AND NOW YOU KNOW IT ISN'T?

3 MR. BARENS: NOW I REALIZE THAT THERE IS SOME SUBSTANCE  
4 TO IT.

5 I WOULD BE HAPPY TO TURN IT OVER. WOULD THE PEOPLE,  
6 HOWEVER, AGREE THAT THEY WOULD BE PROVIDED INFORMATION  
7 CONCERNING ANY PRINTS LOCATED ON THE ORIGINAL?

8 MR. WAPNER: OF COURSE.

9 MR. BARENS: AND NOW I HAVE NOT MADE A COPY OF THIS  
10 BECAUSE I WAS AFRAID TO COPY IT OUT OF CONCERN THAT THE MACHINE  
11 COULD SOMEHOW CORRUPT THE ORIGINAL. WELL, I DON'T KNOW --

12 MR. WAPNER: I DON'T KNOW ANYTHING MORE ABOUT IT THAN  
13 YOU DO. THE ONLY REASON I'M SMILING IS I DON'T KNOW ANYTHING  
14 MORE ABOUT IT THAN YOU DO.

15 MR. BARENS: MY UNDERSTANDING IS IF A COPY IS MADE ON  
16 A FLASH SYSTEM, RATHER THAN A ROLLING SYSTEM, IT DOESN'T  
17 CORRUPT IT.

18 WHAT I AM GOING TO DO IS BRING IT TOMORROW.

19 THE WAY WE ARE PROCEEDING TODAY IS I AM HERE IN  
20 THE MORNING AND MR. CHIER THE AFTERNOON AND I WAS GOING TO  
21 BRING IT TOMORROW. I WILL BRING IT TOMORROW MORNING AND MAKE  
22 IT AVAILABLE TO MR. WAPNER OR TO THE JUDGE.

23 MR. WAPNER: NO.

24 THE COURT: WELL, SINCE IT IS AN INVESTIGATION, I HAVE  
25 NOTHING TO DO WITH THAT ASPECT OF IT.

26 MR. BARENS: ALL RIGHT, YOUR HONOR.

27 THE COURT: THAT IS NOT BEFORE ME.

28 BUT YOU GIVE IT TO HIM AND HE WILL ARRANGE EITHER

1 TO GET A COPY TO YOU OR WHATEVER AFTER THEY HAVE TAKEN THE  
2 FINGERPRINTS. IN FACT, IT COULD BE RELEASED BACK TO YOU.

3 MR. BARENS: I WOULD APPRECIATE THAT.

4 OR CERTAINLY, I WILL ACCEPT A REPRESENTATION THAT  
5 I WILL GET A COPY OF BOTH THE DOCUMENT AND THE ENVELOPE IT CAME  
6 IN, MR. WAPNER.

7 MR. WAPNER: I WILL MAKE ARRANGEMENTS TO HAVE THAT  
8 DOCUMENT TAKEN FROM MR. BARENS AND PUT IN THE HANDS OF THE  
9 POLICE. EXACTLY HOW THAT IS DONE, I AM NOT SURE. I WILL TALK  
10 TO MR. BARENS AND MAKE THAT ARRANGEMENT.

11 THE COURT: HE WILL GET THAT BACK OR HE WILL GET BACK  
12 SOME COPY OF IT SO HE CAN KEEP IT FOR HIS RECORDS.

13 MR. WAPNER: I THINK THAT PROBABLY NEITHER MR. BARENS  
14 NOR MYSELF WANTS TO BE IN THE POSITION OF BEING IN THE CHAIN  
15 OF CUSTODY IN TERMS OF BRINGING IT FROM HIS OFFICE AND TO THE  
16 COURT AND THEN GIVING IT TO SOME POLICE OFFICER, SO I MAY MAKE  
17 SOME ARRANGEMENTS TO HAVE IT PICKED UP FROM HIS OFFICE.

18 MR. BARENS: I AM GOING TO BE GOING DIRECTLY BACK TO MY  
19 OFFICE WHEN WE BREAK TODAY AND I WILL BE THERE UNTIL AT LEAST  
20 7:30 TONIGHT.

21 THE COURT: DOESN'T IT SAY SOMETHING ABOUT A COVER-UP?

22 MR. BARENS: IT SAID "COVER-UP AT HOLLYWOOD POLICE  
23 DEPARTMENT REGARDING DEAN KARNY MURDER OR HOMICIDE AT THE  
24 HOLLYWOODLAND MOTEL" AND IT CONCLUDES "FRIEND OF HONEST COP."

25 I MIGHT INDICATE AS WELL THAT ASIDE FROM IT BEING  
26 STENCILED ON THE CORRESPONDENCE SIDE, IT LOOKS LIKE SOMEONE  
27 HAD TAKEN A PENCIL AND MADE LINES TO LINE UP THE STRAIGHT LINING  
28 OF THE STENCILED LETTERS OR INTERSECT WHERE THE PRINTING PART --

1 OR THE STENCILING PART IS.

2 THE COURT: ALL RIGHT. THEN YOU FOLLOW IT UP.

3 LET'S GET THE SHOW ON THE ROAD.

4 MR. WAPNER: ALL RIGHT, BEFORE WE ADJOURN FROM CHAMBERS,  
5 I WOULD PLEASE REQUEST THE COURT ISSUE A GAG ORDER AS FAR AS  
6 THIS INFORMATION IS CONCERNED, AS WE DID WITH THE OTHER.

7 THE COURT: IS THAT AGREEABLE?

8 MR. BARENS: THAT IS AGREEABLE TO ME.

9 THE COURT: ALL RIGHT, THAT WILL BE THE ORDER OF THE  
10 COURT.

11 MR. WAPNER: SO THAT THE ORDER IS THAT THIS INFORMATION  
12 NOT BE DISCLOSED TO ANY THIRD PARTY.

13 THE COURT: AND WE WILL SEAL THE TRANSCRIPT.

14 MR. BARENS: BEFORE WE PROCEED, YOUR HONOR, COULD I  
15 JUST QUICKLY CALL MY OFFICE? IT WILL TAKE A MINUTE. I WISH  
16 TO TELL MY OFFICER MANAGER TO SECURE THAT DOCUMENT. I HAD LEFT  
17 IT SOMEWHAT CASUALLY ON MY DESK WHEN I LEFT THIS MORNING.

18 THE COURT: GO AHEAD. USE MY PHONE.

19 (PAUSE IN PROCEEDINGS WHILE MR. BARENS  
20 MAKES TELEPHONE CALL.)

21 THE COURT: HOW DO THEY KNOW YOU ARE INTERESTED IN  
22 THAT?

23 MR. BARENS: IN THE KARNY MATTER, OBVIOUSLY MR. KARNY  
24 IS THE PEOPLE'S PRIMARY WITNESS. MY SECRETARY TELLS ME THAT  
25 ONE OF THE COUNSEL IN THE SAN FRANCISCO CASE CALLED THIS  
26 MORNING REFERABLE TO THIS MATTER.

27 THE COURT: IS THAT RIGHT?

28 MR. WAPNER: TO WHICH MATTER?

1 MR. BARENS: WELL, ONE OF THE COUNSEL FOR ONE OF THE  
2 OTHER DEFENDANTS IN THE SAN FRANCISCO CASE, MY SECRETARY JUST  
3 ADVISED ME, CALLED SAYING HE UNDERSTOOD THERE WAS SOME NEW  
4 EVIDENCE IN THE L.A. CASE THAT MIGHT BE HELPFUL TO THE DEFENSE.  
5 I COULD THINK OF NOTHING ELSE HE COULD BE REFERRING TO.

6 MR. WAPNER: WHO WAS THE ATTORNEY WHO CALLED?

7 MR. BARENS: IT WAS FOR MR. DOSTI.

8 MR. WAPNER: WAS THAT MR. PARNES?

9 MR. BARENS: PINES, IS IT?

10 MR. WAPNER: PARNES.

11 MR. BARENS: PARNES. I AM SORRY.

12 I AM TRYING TO BE AS CANDID AS I CAN BE, MR. WAPNER,  
13 IN WHAT I AM HEARING ABOUT THIS AND THIS IS THE FIRST I HAVE  
14 HEARD FROM HIM IN SOME TIME.

15 THE COURT: I APPRECIATE IT VERY MUCH THAT YOU VOLUNTEERED  
16 THAT INFORMATION.

17 ALL RIGHT, SHALL WE GET THE SHOW ON THE ROAD?

18 MR. BARENS: THANK YOU, YOUR HONOR.

19 (THE FOLLOWING PROCEEDINGS WERE HELD  
20 IN OPEN COURT:)

21 MR. BARENS: YOUR HONOR, A POINT OF CLARIFICATION. MR.  
22 HUNT HAS ASKED ME IF THE OTHER MATTERS THAT ARE SUBJECT TO THE  
23 GAG ORDER NOW IN EXISTENCE, IF HE CAN DISCUSS THEM WITH MR.  
24 KELLY, WHO IS HIS COUNSEL IN SAN FRANCISCO.

25 THE COURT: I THINK THAT WOULD BE INDICATED, YES.

26 MR. WAPNER: YOUR HONOR, AS FAR AS THIS PARTICULAR  
27 INFORMATION IS CONCERNED, THERE IS AN APPEARANCE SCHEDULED IN  
28 THAT MATTER ON THIS FRIDAY. I WOULD ASK THE COURT PLEASE TO

1 DEFER A RULING ON WHETHER OR NOT MR. HUNT CAN DISCUSS THAT  
2 WITH HIS COUNSEL UNTIL I HAVE A CHANCE TO TALK TO MR. VANCE.  
3 I BELIEVE --

4 WELL, I DON'T KNOW EXACTLY WHAT IS GOING TO HAPPEN  
5 ON FRIDAY IN THAT CASE BUT, OBVIOUSLY, NOW MR. PARNES HAS SOME  
6 INKLING OF WHAT IS GOING ON AND IF YOU CAN JUST DEFER RULING  
7 ON THAT UNTIL TOMORROW OR EVEN THIS AFTERNOON, ALTHOUGH MR.  
8 BARENS WON'T BE HERE.

9 MR. BARENS: THE ONLY POINT, OBVIOUSLY, THE DEFENSE IS  
10 MAKING -- I DON'T KNOW HOW MR. HUNT AND HIS COUNSEL CAN PROPERLY  
11 PREPARE FOR THE HEARING IF MR. HUNT ISN'T ABLE TO FULLY  
12 DISCUSS THINGS HE IS AWARE OF IN THIS CASE WITH HIS OWN LAWYER.

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1 MR. WAPNER: MY ONLY CONCERN IS OBVIOUSLY, THAT MR.  
2 KELLY IS NOT SUBJECT TO THE ORDER OF THIS COURT THAT HE NOT  
3 DISCLOSE TO ANYONE. THEREFORE, ONCE IT IS DISCLOSED TO MR.  
4 KELLY, WE HAVE NO CONTROL.

5 THE COURT: WELL, WHY DON'T WE CONDITIONALLY SAY THAT  
6 HE MAY DISCUSS IT, PROVIDED WE GET A COMMITMENT FROM MR. KELLY  
7 THAT HE WILL NOT DISCLOSE IT TO ANY THIRD PARTIES.

8 MR. BARENS: MR. HUNT, I WANT YOU TO UNDERSTAND WHAT  
9 HIS HONOR HAS INDICATED, THAT MR. KELLY MUST MAKE A COMMITMENT.  
10 BY THAT, I WOULD LIKE A WRITTEN LETTER FROM MR. KELLY ADDRESSED  
11 TO HIS HONOR INDICATING THAT THE SUBJECT OF THE GAG ORDER THAT  
12 YOU DISCUSSED WITH HIM, HE WILL NOT DISCUSS WITH ANY THIRD  
13 PERSON, WITHOUT EXCEPTION OR CONDITION.

14 THE DEFENDANT: SHOULD HIS HONOR BE IN RECEIPT OF THAT  
15 BEFORE WE DISCUSS ANYTHING?

16 THE COURT: YOU WILL KNOW WHETHER IT IS IN ACCORD WITH  
17 THIS.

18 MR. BARENS: I WOULD LIKE THAT SENT DOWN FORTHWITH.

19 THE DEFENDANT: ALL RIGHT.

20 THE COURT: OKAY, THANK YOU. LET'S GET MISS FIDERER  
21 IN, PLEASE.

22 (PROSPECTIVE JUROR FIDERER ENTERS THE  
23 COURTROOM.)

24 THE COURT: YOU ARE EXCUSED. THANK YOU VERY MUCH.

25 MS. FIDERER: ALL RIGHT.

26 THE COURT: YOU CAN GO TO THE JURY ASSEMBLY ROOM TO TELL  
27 THEM YOU ARE AVAILABLE FOR SOME OTHER CASE.

28 MS. FIDERER: BUT NOT DURING THE MONTH OF DECEMBER.



1 THE COURT: ALL RIGHT. TELL THEM YOU WILL COME IN IN  
2 JANUARY.

3 MS. FIDERER: THANK YOU.

4 (PROSPECTIVE JUROR FIDERER EXITS THE  
5 COURTROOM.)

6 (PROSPECTIVE JUROR WILLOUGHBY ENTERS  
7 THE COURTROOM.)

8 THE COURT: GOOD MORNING, MR. WILLOUGHBY. HAVE YOU READ  
9 ANYTHING AT ALL ABOUT THIS CASE?

10 MR. WILLOUGHBY: VERY LITTLE.

11 THE COURT: VERY LITTLE?

12 MR. WILLOUGHBY: VERY LITTLE.

13 THE COURT: WHAT HAVE YOU READ?

14 MR. WILLOUGHBY: WELL, I AM NOT EVEN SURE WHAT THE CASE  
15 IS. I HAVE HEARD RUMORS ABOUT --

16 THE COURT: YOU MEAN FROM OTHER JURORS?

17 MR. WILLOUGHBY: YES.

18 THE COURT: BUT HAVE YOU ACTUALLY READ ANYTHING IN THE  
19 NEWSPAPER OR A PUBLICATION?

20 MR. WILLOUGHBY: JUST THE PIECE ABOUT THE REPORTERS BEING  
21 THROWN OUT THE LAST DAY I WAS HERE.

22 THE COURT: YOU MEAN AT THE TIME WE HAD SOME DISCUSSION  
23 IN CHAMBERS AND WE ISSUED A GAG ORDER AND REQUESTED COUNSEL --

24 MR. WILLOUGHBY: THAT'S RIGHT.

25 THE COURT: BUT OTHER THAN THAT, YOU READ NOTHING ABOUT  
26 IT EXCEPT IN THE DAILY NEWS?

27 MR. WILLOUGHBY: RIGHT.

28 THE COURT: BUT NO FACTS WERE DISCUSSED AS TO THIS

1 PARTICULAR CASE?

2 MR. WILLOUGHBY: NO.

3 THE COURT: OTHER THAN THAT, HAVE YOU HEARD ANYTHING  
4 AT ALL ABOUT THIS CASE, OTHER THAN WHAT I TOLD YOU WHEN YOU  
5 WERE ALL HERE?

6 MR. WILLOUGHBY: NO.

7 THE COURT: ALL RIGHT. I WOULD SUGGEST IN THE FUTURE,  
8 IF THERE IS ANYTHING TO READ ABOUT THE CASE, DON'T READ IT.

9 IF IT IS ON THE RADIO, DON'T LISTEN TO IT. IF  
10 IT IS ON TELEVISION, DON'T LOOK AT IT IF YOU CAN, ALL RIGHT?

11 MR. WILLOUGHBY: YES.

12 THE COURT: BECAUSE WE WANT TO HAVE NOTHING AT ALL THAT  
13 YOU HAVE HEARD IN ANY WAY WHICH MAKES AN IMPRESSION UPON YOU  
14 SO THAT YOU WOULD PREJUDGE THE EVIDENCE IN THIS CASE.

15 MR. WILLOUGHBY: NO.

16 THE COURT: ALL RIGHT. THANK YOU.

17 DO YOU REMEMBER THAT I TOLD YOU -- WELL, I WILL  
18 BRIEFLY REVIEW THE NATURE OF THE CASE WE ARE ABOUT TO TRY.  
19 THE DEFENDANT HAS BEEN CHARGED WITH A MURDER. THE MURDER  
20 WAS COMMITTED IN THE COURSE OF A ROBBERY.

21 NOW, MURDERS IN THE FIRST DEGREE DON'T NECESSARILY  
22 ENTAIL THE DEATH PENALTY. IT IS ONLY WHEN THE MURDER IS  
23 COMMITTED UNDER CERTAIN SPECIAL CIRCUMSTANCES THAT THE  
24 LEGISLATURE SAYS THAT THE DEATH PENALTY MIGHT BE IMPLIED IN  
25 THAT PARTICULAR CASE, ONE OF WHICH IS A MURDER COMMITTED IN  
26 THE COURSE OF A ROBBERY OR BURGLARY OR A KIDNAPPING OR A RAPE  
27 OR A CHILD MOLESTATION WHERE THE CHILD DIES OR MULTIPLE  
28 MURDERS.

1           THERE ARE 19 OF THEM THAT THE LEGISLATURE HAS SAID  
2           IN THOSE SPECIAL CIRCUMSTANCE CASES, THE DEATH PENALTY WOULD  
3           BE APPLICABLE. DO YOU UNDERSTAND?

4           MR. WILLOUGHBY: YES.

5           THE COURT: SO THE FUNCTION OF THE JURY IN THIS PARTICULAR  
6           CASE, IF YOU ARE SELECTED AND YOU ARE ON THE JURY, WOULD BE  
7           FIRST, TO DETERMINE WHETHER OR NOT THE DEFENDANT IS GUILTY  
8           OF MURDER IN THE FIRST DEGREE.

9           IF THEY SAY HE IS GUILTY OF MURDER IN THE FIRST  
10          DEGREE OR HE IS INNOCENT, AS THE CASE MAY BE OR IF HE IS GUILTY  
11          OF MURDER IN THE FIRST DEGREE, THEN THEY HAVE ANOTHER QUESTION  
12          TO DECIDE.

13          THAT QUESTION IS, WAS THAT MURDER COMMITTED IN  
14          THE COURSE OF A ROBBERY, WHICH WOULD QUALIFY FOR A POSSIBLE  
15          DEATH PENALTY. DO YOU UNDERSTAND THAT?

16          MR. WILLOUGHBY: YES.

17          THE COURT: AND IF THEY SAY YES, IT IS TRUE THAT IT WAS  
18          COMMITTED IN THE COURSE OF A ROBBERY, THEN THAT SAME JURY  
19          LISTENS TO THE TESTIMONY AND LISTENS TO OTHER TESTIMONY AS  
20          TO THE PENALTY PHASE.

21          AND THEN THE JURY, HAVING HEARD ALL OF THE EVIDENCE,  
22          WILL THEN HAVE TO MAKE UP ITS MIND IF IT IS GOING TO BE LIFE  
23          WITHOUT POSSIBILITY OF PAROLE OR DEATH, ONE OF THE TWO OF THEM.

24          WHEN WE TALK ABOUT THE DEATH PENALTY, IT INVOLVES  
25          BOTH. NOW, ON THE GUILT PHASE WHERE YOU DETERMINE WHETHER  
26          HE IS GUILTY OR NOT GUILTY, THE MATTER OF PENALTY IS NOT  
27          DISCUSSED AND YOU SHOULD NEVER TAKE THAT INTO CONSIDERATION.

28          IT IS ONLY DURING THE PENALTY PHASE OF IT.

1                   THE DEFENDANT WILL PRODUCE TESTIMONY WHICH WOULD  
2 BE FAVORABLE TO HIM AND THE PROSECUTION, I ASSUME, WILL PRODUCE  
3 EVIDENCE THAT WOULD BE UNFAVORABLE. IN OTHER WORDS, IT WOULD  
4 MITIGATING AND AGGRAVATING CIRCUMSTANCES. DO YOU UNDERSTAND  
5 THAT?

6                   MR. WILLOUGHBY: YES.  
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1 THE COURT: SO, WE DON'T WANT YOU TO MAKE UP YOUR MIND  
2 UNTIL YOU HEAR ALL OF THAT TESTIMONY. THEN YOU WILL DECIDE  
3 WHAT IT IS GOING TO BE. RIGHT?

4 MR. WILLOUGHBY: SURE.

5 THE COURT: ALL RIGHT, NOW I AM GOING TO ASK YOU A SERIES  
6 OF QUESTIONS FOR THE PURPOSE OF EXPLORING THE STATE OF YOUR  
7 MIND AS TO OPINION OR FEELINGS ABOUT THE DEATH PENALTY. ALL  
8 RIGHT?

9 NOW, THE FIRST QUESTION I AM GOING TO ASK YOU IS --  
10 THE FIRST TWO QUESTIONS RELATE TO THE GUILT PHASE OF THE  
11 TRIAL, NOT THE PENALTY. JUST THE GUILT PHASE OF THE TRIAL.  
12 FIRST, DO YOU HAVE ANY OPINION REGARDING THE DEATH PENALTY  
13 THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION AS  
14 TO THE GUILT OR INNOCENCE OF THE DEFENDANT?

15 MR. WILLOUGHBY: YOU MEAN IF I KNEW THAT HE WAS GUILTY,  
16 WOULD I --

17 THE COURT: NO. THE PURPOSE OF THE QUESTION WOULD BE  
18 TO DETERMINE WHETHER, BECAUSE YOU HAVE A FEELING ABOUT THE  
19 DEATH PENALTY, IS THAT GOING TO AFFECT YOU IN DETERMINING THE  
20 GUILT OR INNOCENCE OF THE DEFENDANT?

21 MR. WILLOUGHBY: WELL, I DON'T BELIEVE IN THE DEATH  
22 PENALTY. BUT AS FAR AS THE GUILT GOES, I THINK I COULD FIND  
23 HIM GUILTY IF I KNEW THAT HE WAS --

24 THE COURT: SO YOUR ANSWER IS NO, YOUR OPINION ON THE  
25 DEATH PENALTY WOULD NOT AFFECT YOU IN DETERMINING WHETHER OR  
26 NOT HE IS GUILTY OR NOT GUILTY?

27 MR. WILLOUGHBY: NO. I DON'T BELIEVE IT WOULD.

28 THE COURT: ALL RIGHT. NOW, THE SECOND QUESTION RELATES

1 ALSO IN CONNECTION WITH THE GUILT PHASE. I TOLD YOU THAT IF  
2 YOU FIND THE DEFENDANT GUILTY OF MURDER IN THE FIRST DEGREE,  
3 THEN YOU DETERMINE WHETHER OR NOT IT IS TRUE OR FALSE THAT  
4 IT WAS COMMITTED DURING THE COURSE OF A ROBBERY. THAT HAS  
5 TO BE A SEPARATE FINDING.

6 NOW, THE QUESTION THAT I WILL ASK YOU IS, DO YOU  
7 HAVE ANY OPINION REGARDING THE DEATH PENALTY THAT WOULD PREVENT  
8 YOU FROM MAKING AN IMPARTIAL DECISION CONCERNING THE TRUTH  
9 OR FALSITY OF THE SPECIAL CIRCUMSTANCES ALLEGED IN THE CASE?

10 MR. WILLOUGHBY: NO. I DON'T THINK IT WOULD AFFECT THAT  
11 PART OF IT, EITHER.

12 THE COURT: YES. DO YOU HAVE SUCH AN OPINION CONCERNING  
13 THE DEATH PENALTY THAT YOU WOULD AUTOMATICALLY VOTE TO  
14 IMPOSE THE DEATH PENALTY, REGARDLESS OF ANY EVIDENCE THAT MAY  
15 BE PRESENTED AT THE PENALTY PHASE OF THE TRIAL?

16 MR. WILLOUGHBY: NO, DEFINITELY NOT.

17 THE COURT: DO YOU HAVE ANY OPINION WITH RESPECT TO --  
18 ALL RIGHT. THE NEXT QUESTION IS THE SAME SUBJECT BUT A  
19 DIFFERENT ASPECT OF THE SAME QUESTION.

20 DO YOU HAVE ANY OPINION CONCERNING THE DEATH  
21 PENALTY SO THAT YOU WOULD AUTOMATICALLY VOTE FOR LIFE WITHOUT  
22 POSSIBILITY OF PAROLE, REGARDLESS OF ANY EVIDENCE THAT MAY  
23 BE PRESENTED?

24 MR. WILLOUGHBY: YES, I DO. YES.

25 THE COURT: SO WHAT YOU WOULD DO IF I UNDERSTAND YOU,  
26 ON THE GUILT PHASE, IF YOU FOUND THE DEFENDANT GUILTY OF MURDER  
27 IN THE FIRST DEGREE AND YOU FIND THAT IT WAS COMMITTED DURING  
28 THE COURSE OF A ROBBERY IN THE PENALTY PHASE, YOU WILL NEVER

1 VOTE THE DEATH PENALTY BUT YOU MIGHT VOTE LIFE WITHOUT THE  
2 POSSIBILITY OF PAROLE?

3 MR. WILLOUGHBY: YES, SIR.

4 THE COURT: IS THAT CORRECT?

5 MR. WILLOUGHBY: YES.

6 THE COURT: ALL RIGHT.

7 MR. BARENS: MIGHT I INQUIRE BRIEFLY?

8 THE COURT: YES, SURELY.

9 MR. BARENS: THANK YOU, YOUR HONOR. GOOD MORNING, MR.  
10 WILLOUGHBY. I AM ARTHUR BARENS. I REPRESENT MR. HUNT, THE  
11 DEFENDANT.

12 OF CONCERN TO THE COURT AND ALL COUNSEL AT THIS  
13 TIME, IS THE FACT THAT BOTH THE PEOPLE OF THE STATE AND THE  
14 DEFENSE ARE ENTITLED TO NEUTRAL JURORS OR A JURY AS NEUTRAL  
15 AS WE HUMANS GET.

16 THAT MEANS A PERSON, THE WAY I SEE IT, WHO BOTH  
17 ON THE ISSUE OF GUILT AND INNOCENCE IS NEUTRAL AND ON THE  
18 PENALTY PHASE, THE SECOND PHASE THAT HIS HONOR SPOKE ABOUT  
19 IN TERMS OF THE PENALTY PHASE, IS NEUTRAL, WHETHER IT SHOULD  
20 BE LIFE WITHOUT POSSIBILITY OF PAROLE OR THE DEATH PENALTY.

21 IN THIS CONTEXT, I BELIEVE WHAT WE ARE TALKING  
22 ABOUT, IS YOUR ABILITY WITH AN OPEN MIND, TO CONSIDER BOTH  
23 PENALTIES AND A WILLINGNESS ON YOUR PART AS A JUROR, TO  
24 CONSIDER LIFE WITHOUT POSSIBILITY OF PAROLE AND TO CONSIDER  
25 THE DEATH PENALTY AS AN ALTERNATIVE.

26 IF YOU WERE A JUROR IN THIS CASE, COULD YOU  
27 CONSIDER THOSE TWO POSSIBILITIES?

28 MR. WILLOUGHBY: TRUTHFULLY, I DON'T BELIEVE THAT I

1 COULD. I DON'T THINK I COULD CONSIDER THE DEATH PENALTY.

2 MR. BARENS: THANK YOU, SIR.

3 THE COURT: ALL RIGHT. THANK YOU VERY MUCH FOR YOUR  
4 FRANKNESS AND CANDOR.

5 YOU SEE, BECAUSE OF WHAT YOU HAVE SAID, YOU DO  
6 NOT QUALIFY AS A JUROR IN THIS PARTICULAR CASE BECAUSE OF YOUR  
7 ATTITUDE TOWARD THE DEATH PENALTY.

8 MR. WILLOUGHBY: SORRY.

9 THE COURT: YOU WILL QUALIFY VERY WELL FOR SOME OTHER  
10 CASE. YOU TELL THE JURY CLERK IN THE JURY ASSEMBLY ROOM THAT  
11 YOU ARE NOT TO BE A JUROR ON THIS CASE BUT YOU CAN QUALIFY  
12 FOR SOME OTHER CASE.

13 MR. WILLOUGHBY: OKAY.

14 THE COURT: THANK YOU VERY MUCH FOR BEING HERE. SORRY  
15 TO KEEP YOU WAITING ALL THIS TIME.

16 (PROSPECTIVE JUROR WILLOUGHBY EXITS THE  
17 COURTROOM.)

18 (PROSPECTIVE JUROR WINTE ENTERS THE  
19 COURTROOM.)

20 THE COURT: MR. WINTE?

21 MR. WINTE: YES.

22 THE COURT: MR. WINTE, WHERE DO YOU LIVE?

23 MR. WINTE: VAN NUYS.

24 THE COURT: HAVE YOU READ ANYTHING AT ALL ABOUT THIS  
25 CASE IN ANY PUBLICATION OR ANY NEWSPAPER?

26 MR. WINTE: NO.

27 THE COURT: DO YOU KNOW ANYTHING ABOUT IT EXCEPT WHAT  
28 I TOLD YOU WHEN ALL OF YOU WERE HERE A COUPLE OF WEEKS AGO?



1 MR. WINTE: THAT'S RIGHT.

2 THE COURT: YOU HAVE NOT DISCUSSED IT WITH ANY OF THE  
3 OTHER JURORS, IS THAT RIGHT?

4 MR. WINTE: UH-HUH.

5 THE COURT: KEEP IT UP. DON'T TALK TO ANYBODY ABOUT  
6 IT OR READ ANYTHING.

7 IF YOU SEE ANYTHING IN THE NEWSPAPER WHICH REMINDS  
8 YOU OF THIS CASE, DON'T READ IT. IF YOU HEAR ANYTHING ON THE  
9 RADIO OR TELEVISION, DON'T LOOK AT IT OR LISTEN TO IT.

10 MR. WINTE: YES, SIR.

11 THE COURT: ALL RIGHT. THANK YOU. BRIEFLY, I AM GOING  
12 TO TELL YOU WHAT THE CASE IS ABOUT. I WILL ASK YOU SOME  
13 QUESTIONS. THE PURPOSE OF ALL OF THOSE QUESTIONS WILL BE TO  
14 DISCOVER YOUR ATTITUDES AND YOUR OPINIONS WITH RESPECT TO THE  
15 DEATH PENALTY.

16 FIRST, LET ME TELL YOU THE PROCEDURES. THE  
17 DEFENDANT HAS BEEN ACCUSED OF COMMITTING A MURDER. THAT MURDER  
18 WAS IN THE FIRST DEGREE, BEING COMMITTED IN THE COURSE OF A  
19 ROBBERY.

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1                   NOW DURING THE COURSE OF A ROBBERY CERTAIN  
2 SIGNIFICANCE. IT HAS CERTAIN SIGNIFICANCE BECAUSE THE  
3 LEGISLATURE HAS SAID THAT IF A MURDER IS COMMITTED, EVEN IF  
4 IT IS A DELIBERATE, PLANNED MURDER, THAT DOESN'T CALL FOR  
5 THE DEATH PENALTY. IT ONLY HAS TO BE COMMITTED UNDER CERTAIN  
6 CIRCUMSTANCES, SPECIAL CIRCUMSTANCES, THEY SAY, LIKE COMMITTED  
7 DURING A ROBBERY, COMMITTED DURING A BURGLARY, COMMITTED  
8 DURING A KIDNAPPING, COMMITTED DURING A RAPE; DO YOU  
9 UNDERSTAND?

10                 MR. WINTE: UH-HUH.

11                 THE COURT: AND COMMITTED DURING A TORTURE OR THAT HE  
12 COMMITTED MULTIPLE MURDERS; DO YOU UNDERSTAND?

13                   THERE ARE 19 OF THOSE SPECIAL CIRCUMSTANCE CASES  
14 WHERE THE LEGISLATURE HAS SAID IN THESE CASES THE DEATH PENALTY  
15 MAY BE IMPOSED, DEPENDING UPON ALL OF THE FACTS THAT I WILL  
16 TELL YOU ABOUT; DO YOU UNDERSTAND?

17                 MR. WINTE: UH-HUH.

18                 THE COURT: SO IF YOU ARE A JUROR SELECTED IN THIS CASE,  
19 THE JURY WILL FIRST HAVE TO DETERMINE WHAT WE CALL THE GUILT  
20 PHASE AND THEY WILL HEAR EVIDENCE ON THE GUILT PHASE. DURING  
21 THE GUILT PHASE, EVIDENCE WILL BE PRESENTED AS TO THE FACTS  
22 OF THE ALLEGED MURDER AND THE JURY WILL HAVE TO DETERMINE  
23 FIRST WHETHER OR NOT THE DEFENDANT HAD COMMITTED THE MURDER,  
24 MURDER IN THE FIRST DEGREE. AND IF THE JURY DECIDES THAT  
25 IT HAS BEEN COMMITTED, THEN THEY HAVE TO DECIDE THE AUXILIARY  
26 QUESTION AS TO WHETHER OR NOT THAT MURDER WAS COMMITTED DURING  
27 THE COURSE OF A ROBBERY, THAT IS THE SPECIAL CIRCUMSTANCE  
28 I TOLD YOU ABOUT; DO YOU UNDERSTAND?

1 MR. WINTE: UH-HUH.

2 THE COURT: AND IF THEY SAY YES, IT WAS COMMITTED DURING  
3 THE COURSE OF A ROBBERY, THEN WE GO INTO THE SECOND PHASE  
4 OF THE TRIAL WITH THE SAME JURY. THE SAME JURY THEN WILL  
5 LISTEN TO THE TESTIMONY, OTHER TESTIMONY BY THE DEFENDANT  
6 TO MITIGATE THE OFFENSE, TO SHOW FAVORABLE ASPECTS ABOUT HIM  
7 AND HIS BACKGROUND, AND THE PROSECUTION WILL SHOW AGGRAVATING  
8 CIRCUMSTANCES TO AGGRAVATE THE OFFENSE, TO SHOW THAT HE IS  
9 A BAD MAN, SO TO SPEAK, OR ANYTHING WHICH WOULD BE UNFAVORABLE  
10 TO HIM WILL BE PRESENTED BY THE DISTRICT ATTORNEY AND ANYTHING  
11 FAVORABLE WILL BE PRESENTED BY THE DEFENSE.

12 NOT ONLY DO YOU CONSIDER THE OFFENSE ITSELF WHICH  
13 YOU HAVE ALREADY HEARD THE CIRCUMSTANCES OF THAT, YOU CONSIDER  
14 THAT ALSO ON THE PENALTY PHASE, THE NATURE OF THE OFFENSE  
15 OF WHICH HE HAS BEEN CONVICTED AND YOU ALSO CONSIDER THE  
16 DEFENDANT'S CHARACTER, HIS BACKGROUND, HIS HISTORY, HIS MENTAL  
17 AND PHYSICAL CONDITION, ANYTHING THAT RELATES TO THE DEFENDANT,  
18 YOU WILL BE HEARING ABOUT, INCLUDING HIS AGE, WHICH IS A FACTOR  
19 TO BE CONSIDERED, AND ALSO WHETHER OR NOT THERE IS ANY PRIOR  
20 FELONY RECORD HE MIGHT HAVE. IF HE HASN'T, THAT IS FAVORABLE  
21 TO HIM. IF HE HAS, THAT IS UNFAVORABLE. DO YOU UNDERSTAND?

22 MR. WINTE: YES, I UNDERSTAND THAT.

23 THE COURT: ALL RIGHT, NOW I AM GOING TO ASK YOU A SERIES  
24 OF QUESTIONS. THIS IS ALL TO DETERMINE ONCE MORE YOUR STATE  
25 OF MIND AND YOUR OPINIONS WITH RESPECT TO THE DEATH PENALTY.

26 NOW THE FIRST TWO QUESTIONS APPLY TO THE GUILT  
27 PHASE OF THE TRIAL.

28 FIRST: DO YOU HAVE ANY OPINION REGARDING THE

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

3 MR. WINTE: NO.

4 THE COURT: NOW THE SECOND QUESTION ALSO IS AS TO THE  
5 GUILT PHASE AND HAS TO DO WITH THE SPECIAL CIRCUMSTANCES I  
6 TOLD YOU ABOUT, WAS IT COMMITTED DURING THE COURSE OF A  
7 ROBBERY: DO YOU HAVE ANY OPINION REGARDING THE DEATH PENALTY  
8 THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION  
9 CONCERNING THE TRUTH OR FALSITY OF THE SPECIAL CIRCUMSTANCE?

10 MR. WINTE: NO.

11 THE COURT: NOW, THE NEXT TWO QUESTIONS ARE ON THE  
12 ASSUMPTION THAT THE JURY HAS FOUND THE DEFENDANT GUILTY OF  
13 MURDER IN THE FIRST DEGREE AND THEY FOUND THE SPECIAL  
14 CIRCUMSTANCE TO BE TRUE. THESE HAVE TO DO WITH THE PENALTY  
15 ASPECT AND THE FIRST QUESTION UNDER THE PENALTY ASPECT IS:  
16 DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH PENALTY THAT  
17 YOU WOULD AUTOMATICALLY VOTE TO IMPOSE THE DEATH PENALTY  
18 REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY  
19 PHASE OF THE TRIAL?

20 MR. WINTE: NO.

21 THE COURT: AND THE NEXT QUESTION IS ANOTHER ASPECT  
22 OF THAT SAME QUESTION: DO YOU HAVE SUCH AN OPINION CONCERNING  
23 THE DEATH PENALTY THAT YOU WOULD AUTOMATICALLY VOTE FOR LIFE  
24 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE, REGARDLESS  
25 OF ANY EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY PHASE  
26 OF THE TRIAL?

27 MR. WINTE: NO.

28 THE COURT: ALL RIGHT. AND LASTLY, YOU UNDERSTAND THAT

5-4

1 THE ISSUE OF THE DEATH PENALTY MAY OR MAY NOT TAKE PLACE IN  
2 THIS CASE AND THAT THESE QUESTIONS HAVE BEEN ASKED ONLY IN  
3 THE EVENT THAT YOU REACH THAT PHASE OF THE TRIAL?

4 MR. WINTE: UH-HUH, THAT'S RIGHT.

5 MR. BARENS: THANK YOU, YOUR HONOR.

6 MR. WINTE, I AM ARTHUR BARENS AND I REPRESENT  
7 THE DEFENDANT, JOE HUNT, IN THIS MATTER.

8 IT IS MY DUTY AT THIS PART OF THE PROCEEDINGS  
9 TO INQUIRE AS TO YOUR VIEWS ON THE DEATH PENALTY. THERE ARE  
10 NO RIGHT OR WRONG ANSWERS TO MY QUESTIONS AND NO GOOD OR BAD  
11 ANSWERS. WE ARE JUST INTERESTED IN YOUR OPINIONS THIS MORNING.

12 MR. WINTE: UH-HUH.

13 MR. BARENS: HOW DO YOU FEEL ABOUT THE DEATH PENALTY  
14 AS A GENERAL PROPOSITION IN OUR SOCIETY?

15 MR. WINTE: WELL, I THINK WE SHOULD HAVE IT.

16 MR. BARENS: AND COULD YOU TELL ME WHY YOU FEEL THAT  
17 WAY, SIR?

18 MR. WINTE: WELL, I BELIEVE, MY OPINION THERE, I THINK  
19 WHERE AN INDIVIDUAL THAT TAKES THE LIFE SHOULD GIVE HIS OWN  
20 THEN, TO ME, BECAUSE LIFE IS THE MOST IMPORTANT THING A PERSON  
21 HAS.

22 MR. BARENS: ABSOLUTELY, SIR.

23 MR. WINTE: AND IF HE LOSES IT UNDER CERTAIN  
24 CIRCUMSTANCES, THEN THERE SHOULD BE A PENALTY FOR THAT TO  
25 THE INDIVIDUAL THAT CREATES IT.

26 MR. BARENS: WHEN YOU SAY "CERTAIN CIRCUMSTANCES,"  
27 MR. WINTE, LET ME TRY TO FOCUS IN ON THAT ALONG WITH YOU.  
28 IF YOU HAD A SITUATION WHERE THERE WAS AN INTENTIONAL KILLING

5 1 DURING A ROBBERY SOMEWHAT LIKE HIS HONOR SPOKE ABOUT THAT  
2 MAKES SPECIAL CIRCUMSTANCES, IN OTHER WORDS, SOMEONE HAS SHOT  
3 TO DEATH SOMEONE, LET'S SAY, AND THE PERSON THAT DID THE  
4 SHOOTING DID IT BECAUSE THEY WANTED TO GET SOMETHING AWAY  
5 FROM THE VICTIM, MONEY OR PROPERTY OR SOMETHING OF THAT NATURE;  
6 IT IS YOUR OPINION, ISN'T IT, THAT THAT TYPE OF PERSON SHOULD  
7 GET THE DEATH PENALTY?

8 MR. WINTE: YES, SIR.

9 MR. WAPNER: OBJECTION TO THE FORM OF THAT QUESTION  
10 BECAUSE IF THOSE ARE THE ONLY FACTS THAT HE HAS GIVEN AND  
11 THE QUESTION DOESN'T LIMIT IT TO THOSE FACTS, IN OTHER WORDS,  
12 WITHOUT TELLING HIM, WITHOUT KNOWING MORE.

13 MR. BARENS: I PLAN TO EXPAND IT. I WOULD LIKE TO FIRST  
14 QUALIFY THE BIAS AND GO ON TO THE BIGGER QUESTION I BELIEVE  
15 YOUR HONOR WILL PUT.

16 THE COURT: WELL, THAT IS NOT A COMPLETE QUESTION.

17 WE ASSUME THAT THERE HAS BEEN A MURDER IN THE  
18 FIRST DEGREE AND IT WAS DURING THE COURSE OF A ROBBERY.

19 MR. BARENS: YES, YOUR HONOR.

20 THE COURT: THEN WE ARE TO CONSIDER AT THE PENALTY PHASE  
21 OF THE TRIAL WHERE WE HAVE OTHER EVIDENCE THAT WILL BE  
22 ADDUCED. AS I TOLD YOU, THERE WILL BE THINGS FAVORABLE TO  
23 THE DEFENDANT AND UNFAVORABLE TO THE DEFENDANT, EVERYTHING  
24 ABOUT HIS BACKGROUND AND EVERYTHING ELSE MUST BE CONSIDERED  
25 BY THE JURY BEFORE THEY CAN MAKE UP THEIR MINDS AS TO WHETHER  
26 OR NOT IT SHOULD BE LIFE IMPRISONMENT WITHOUT THE POSSIBILITY  
27 OF PAROLE OR DEATH; WILL YOU FOLLOW THAT?

28 MR. WINTE: YES, SIR.

5A-1

1 MR. BARENS: AS I UNDERSTAND IT, YOU HAVE A BELIEF THAT  
2 IF YOU TAKE A LIFE YOUR LIFE SHOULD BE TAKEN?

3 MR. WINTE: YES, SIR.

4 MR. BARENS: NOW, WOULD THAT BELIEF THAT YOU HAVE, WHICH  
5 IS AN ENTIRELY UNDERSTANDABLE BELIEF, SUBSTANTIALLY IMPAIR  
6 YOUR ABILITY TO CONSIDER FACTORS LIKE THE DEFENDANT'S AGE  
7 OR WHETHER OR NOT THE DEFENDANT HAD A PRIOR CRIMINAL RECORD  
8 OR WOULD YOUR BELIEF SYSTEM SAY TO YOU THAT AUTOMATICALLY,  
9 SINCE HE TOOK A LIFE HE IS GOING TO HAVE TO SACRIFICE HIS  
10 LIFE?

11 MR. WINTE: NO, SIR.

12 IT WOULD BE UNDER THE CIRCUMSTANCES OF THE ISSUE  
13 THAT IS BEING BROUGHT UP AT THE TIME, BEING HIS BACKGROUND,  
14 ALONG THOSE LINES, PRIOR TO THAT, SHOULD HAVE NO BEARING ON  
15 IT WHATSOEVER.

16 THE COURT: WELL, SUPPOSE I INSTRUCT YOU THAT YOU MUST  
17 CONSIDER ON THE PENALTY PHASE EVERYTHING ABOUT THE DEFENDANT,  
18 THE FAVORABLE ASPECTS --

19 MR. WINTE: OH.

20 THE COURT: -- WHICH WOULD MITIGATE THE OFFENSE; DO  
21 YOU SEE WHAT I MEAN?

22 MR. WINTE: YES, SIR, I DO.

23 THE COURT: WOULD YOU CONSIDER ALSO THE AGGRAVATING  
24 CIRCUMSTANCES? IN OTHER WORDS, SUPPOSE HE HAD A CLEAN RECORD  
25 AND HAD NEVER BEEN INVOLVED WITH THE LAW AND HIS AGE AND HE  
26 LIVED AN EXEMPLARY LIFE, A FINE LIFE AND EVERYTHING ELSE BEFORE  
27 THIS, WOULD YOU CONSIDER THAT BEFORE YOU MAKE UP YOUR MIND  
28 AS TO WHAT THE PENALTY WOULD BE?

1 MR. WINTE: I BELIEVE I WOULD, YES.

2 THE COURT: THAT IS THE LAW AND I AM TELLING YOU YOU  
3 MUST DO THAT.

4 MR. WINTE: UH-HUH.

5 THE COURT: ALL RIGHT.

6 MR. BARENS: SIR, THE PEOPLE OF THE STATE OF CALIFORNIA  
7 AND THE DEFENDANT UNDER OUR SYSTEM ARE ENTITLED TO AS NEUTRAL  
8 A JUROR AS WE CAN GET FOR BOTH THE GUILT PHASE AND THE PENALTY  
9 PHASE.

10 MR. WINTE: UH-HUH.

11 MR. BARENS: I AM CONCERNED, MR. WINTE, THAT YOUR BELIEF  
12 SYSTEM MAY GIVE ME A LITTLE BIT WHERE I AM AT A DISADVANTAGE  
13 TO BEGIN WITH IN APPROACHING YOU, IF WE ARE EVER TO GET TO  
14 THE PENALTY PHASE, THAT I AM GOING TO HAVE A HARDER JOB THAN  
15 THE PROSECUTOR IS TO CONVINCING YOU THAT MY CLIENT SHOULD GET  
16 LIFE WITHOUT THE POSSIBILITY OF PAROLE, RATHER THAN THE DEATH  
17 PENALTY, BECAUSE YOU HAVE THE BELIEF SYSTEM THAT YOU HAVE,  
18 WHICH I DON'T -- I AM NOT SAYING I DISAGREE WITH -- I AM JUST  
19 SAYING I AM INTERESTED IN GETTING MY CLIENT AS NEUTRAL A JUROR  
20 AS POSSIBLE.

21 MR. WINTE: YES, SIR.

22 MR. BARENS: DO YOU FEEL I WOULD HAVE A HARDER TIME  
23 CONVINCING YOU THAT HE SHOULD GET LIFE WITHOUT THE POSSIBILITY  
24 OF PAROLE THAN THE PROSECUTOR WOULD CONVINCING YOU HE SHOULD  
25 GET THE DEATH PENALTY?

26 MR. WINTE: NO, SIR, I DON'T THINK SO.

27

28



1 MR. BARENS: IN OTHER WORDS, AS HIS HONOR HAS SAID, YOU  
2 NEED TO CONSIDER BACKGROUND AND LACK OR PRESENCE OF PRIOR  
3 CRIMINAL RECORD. YOU ARE SAYING YOU WOULD CONSIDER THOSE  
4 FACTORS?

5 MR. WINTE: YES, SIR.

6 MR. BARENS: IS IT POSSIBLE IN YOUR MIND SIR, THAT YOUR  
7 CONSIDERATION OF THOSE FACTORS COULD OVERCOME YOUR PRIOR  
8 BELIEF SYSTEM THAT THERE SHOULD BE A LIFE FOR A LIFE?

9 MR. WINTE: I DON'T THINK SO.

10 MR. BARENS: YOU DON'T THINK THAT COULD HAPPEN, DO YOU?

11 MR. WINTE: NO.

12 THE COURT: DID YOU UNDERSTAND THE QUESTION?

13 MR. WINTE: I THINK SO.

14 MR. BARENS: COULD WE HAVE IT READ BACK, YOUR HONOR?

15 THE COURT: YES.

16 (THE RECORD WAS READ BY THE REPORTER.)

17 MR. BARENS: AND COULD WE PLEASE HAVE THE ANSWER READ?

18 (THE RECORD WAS READ BY THE REPORTER.)

19 MR. BARENS: ISN'T THAT IN FACT HOW YOU REALLY FEEL,  
20 SIR, THE WAY YOU ANSWERED JUST NOW?

21 THE COURT: IN OTHER WORDS, WHAT MR. BARENS IS ASKING  
22 YOU IS, WITH YOUR MIND SET OUT TO THE DEATH PENALTY -- IS IT  
23 SUCH THAT UNDER NO CIRCUMSTANCES WOULD YOU VOTE FOR LIFE WITHOUT  
24 POSSIBILITY OF PAROLE?

25 MR. WINTE: YES, SIR. I WOULD.

26 THE COURT: WHAT DID YOU MEAN WHEN YOU ANSWERED NO TO  
27 HIS LAST QUESTION?

28 MR. WINTE: WELL, MAYBE I MISUNDERSTOOD IT.

1 THE COURT: OR MAYBE YOU DIDN'T UNDERSTAND IT.

2 MR. WINTE: I COULD HAVE MISUNDERSTOOD IT THEN.

3 MR. BARENS: MR. WINTE, I DON'T WANT IN ANY WAY TO  
4 TRICK OR MISLEAD YOU. I WANT TO MAKE SURE THAT BOTH HIS HONOR  
5 AND MYSELF UNDERSTAND YOUR POINT OF VIEW.

6 SO, I AM GOING TO RESPECTFULLY TRY TO RESTATE THAT  
7 QUESTION TO YOU.

8 THE COURT: GO AHEAD.

9 MR. BARENS: MR. WINTE, ALTHOUGH THE JUDGE IS GOING TO  
10 SAY TO YOU THAT YOU NEED TO CONSIDER THE AGE OF THE DEFENDANT  
11 AND WHETHER OR NOT HE HAD A PRIOR CRIMINAL RECORD AMONG OTHER  
12 FACTORS, IF WE GET TO A PENALTY PHASE, IT IS MY FEELING THAT  
13 EVEN THOUGH YOU MIGHT CONSIDER THOSE FACTORS, THAT YOUR BELIEF  
14 IS THAT IF YOU TAKE A LIFE, YOU SHOULD SACRIFICE A LIFE AND  
15 THAT THAT BELIEF WOULD TOTALLY OVERWHELM ANY OF THOSE  
16 CONSIDERATIONS AND THAT YOU WOULD FIND IN THOSE INSTANCES THAT  
17 THERE SHOULD BE A DEATH PENALTY. IS THAT HOW YOU FEEL, SIR?

18 MR. WINTE: I WOULD SAY THAT IT WOULD NOT OVERWHELM,  
19 NO, IF I UNDERSTAND THAT PART RIGHT.

20 MR. BARENS: COULD YOU TELL ME WHAT THE CORRECT  
21 STATEMENT WOULD BE, IF MY STATEMENT ABOUT IT OVERWHELMING IS  
22 THAT CORRECT? CAN YOU ANSWER THAT? WHAT WOULD A CORRECT  
23 STATEMENT BE?

24 MR. WINTE: WELL, EVERYTHING WOULD HAVE TO BE TAKEN  
25 INTO CONSIDERATION AS IT IS GIVEN, JUST LIKE THE JUDGE MENTIONED  
26 IN REGARD TO THE CIRCUMSTANCES OF HIS AGE AND OTHER THINGS  
27 THAT ARE GOING TO BE INVOLVED. IT ALL HAS TO BE TAKEN IN.

28 MR. BARENS: DO YOU BELIEVE, MR. WINTE, THAT IF YOU

1 HAD A CASE OF A FIRST DEGREE MURDER FOR A GAIN OF SOME KIND  
2 BY THE DEFENSE, THAT THERE COULD EVER BE CIRCUMSTANCES WHERE  
3 YOU WOULD VOTE FOR LIFE WITHOUT POSSIBILITY OF PAROLE AS  
4 OPPOSED TO THE DEATH PENALTY?

5 MR. WINTE: I DON'T THINK SO.

6 MR. BARENS: YOU NEVER COULD DO THAT?

7 MR. WINTE: NO.

8 MR. BARENS: YOU WOULD ALWAYS VOTE FOR THE DEATH  
9 PENALTY?

10 THE COURT: YOU UNDERSTAND THAT UNDER THE CIRCUMSTANCES,  
11 YOU COULD VOTE LIFE WITHOUT POSSIBILITY OF PAROLE AND YOU  
12 COULD ALSO VOTE FOR THE DEATH PENALTY, IRRESPECTIVE OF WHAT  
13 THE BACKGROUND AND THE CIRCUMSTANCES ARE THAT ARE FAVORABLE  
14 TO THE DEFENDANT? IS THAT WHAT YOU MEAN OR --

15 MR. WINTE: WELL, I BELIEVE -- THERE AGAIN, THERE ARE  
16 GOING TO BE CIRCUMSTANCES THAT WOULD BE BROUGHT OUT, WHETHER  
17 IT IS GOING TO BE ONE WAY OR THE OTHER.

18 MR. BARENS: I KNOW THAT, SIR. BUT WHAT YOU HAVE TOLD  
19 ME EARLIER AND WHAT I BELIEVE YOU REALLY FEEL IN YOUR HEART,  
20 IS THAT IF YOU HAD A DEFENDANT THAT WAS CONVICTED OF FIRST  
21 DEGREE MURDER DURING A ROBBERY, WHERE THE DEFENDANT GAINED  
22 SOMETHING BY THAT COLD BLOODED MURDER, THAT YOU WOULD ALWAYS  
23 VOTE THE -- THAT THAT GUY SHOULD GET THE DEATH PENALTY?

24 MR. WINTE: YES. HE WOULD. I WOULD GO WITH THAT.

25 THE COURT: IRRESPECTIVE OF THE PENALTY PHASE THAT WE  
26 TALKED ABOUT IN THE BEGINNING, ALL THE THINGS YOU MIGHT HAVE  
27 HEARD THEN?

28 IS YOUR MIND MADE UP THAT IF A MAN IS CONVICTED

1 OF MURDER IN THE FIRST DEGREE AND IT WAS DURING THE COURSE  
2 OF A ROBBERY, UNDER THOSE CIRCUMSTANCES, YOU WOULD NOT VOTE  
3 ANYTHING BUT THE DEATH PENALTY?

4 MR. WINTE: THE DEATH PENALTY. I BELIEVE THAT, YES.

5 THE COURT: ALL RIGHT.

6 MR. WAPNER: NOTHING.

7 MR. BARENS: THANK YOU, YOUR HONOR.

8 THE COURT: THANK YOU VERY MUCH. IN VIEW OF YOUR  
9 ATTITUDE TOWARD THE DEATH PENALTY, UNFORTUNATELY, YOU DON'T  
10 QUALIFY FOR A TRIAL JUROR IN THIS CASE. AND SURE, YOU MIGHT  
11 BELIEVE IN THE DEATH PENALTY AND A LOT OF PEOPLE DO. BUT THAT  
12 BELIEF WON'T BE SUFFICIENT TO OVERCOME A LOT OF THE EVIDENCE  
13 WHICH WOULD SHOW GOOD THINGS ABOUT THE DEFENDANT, IN OTHER  
14 WORDS, THE FAVORABLE ASPECTS OF THE DEFENDANT'S LIFE WHICH  
15 WOULD BE PRESENTED TO YOU IF YOU HAD AN OPEN MIND AND YOU  
16 MIGHT CONSIDER LIFE WITHOUT POSSIBILITY OF PAROLE.

17 BUT YOU SAY THAT IN ALL CASES, NO MATTER WHAT IT  
18 IS, YOU WOULD ALWAYS VOTE THE DEATH PENALTY. UNFORTUNATELY,  
19 YOU DON'T QUALIFY.

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1 MR. WINTE: YES, SIR.

2 THE COURT: THANK YOU VERY MUCH. YOU CAN TELL THE CLERK  
3 IN THE JURY ASSEMBLY ROOM THAT YOU ARE VERY QUALIFIED FOR SOME  
4 OTHER CASE BUT NOT THIS ONE.

5 MR. WINTE: THANK YOU.

6 (PROSPECTIVE JUROR WINTE EXITS THE  
7 COURTROOM.)

8 MR. BARENS: THE DEFENSE APPRECIATES YOUR HELP, YOUR  
9 HONOR.

10 (PROSPECTIVE JUROR WODEHOUSE ENTERS  
11 THE COURTROOM.)

12 THE COURT: IS IT WODEHOUSE?

13 MR. WODEHOUSE: WODEHOUSE.

14 THE COURT: WASN'T P. G. WODEHOUSE A FAMOUS ENGLISH  
15 WRITER?

16 MR. WODEHOUSE: YES.

17 THE COURT: NO RELATION?

18 MR. WODEHOUSE: HE WAS MY DAD'S SECOND COUSIN. WAS A  
19 RELATION.

20 THE COURT: VERY GOOD. IS IT WODEHOUSE?

21 MR. WODEHOUSE: IN ENGLAND THEY USED TO SAY WODEHOUSE.

22 THE COURT: WHERE DO YOU LIVE, MR. WODEHOUSE?

23 MR. WODEHOUSE: NEAR BUNDY AND MONTANA, IN THAT AREA.

24 THE COURT: WEST LOS ANGELES?

25 MR. WODEHOUSE: WEST LOS ANGELES, JUST ACROSS THE BORDER  
26 FROM SANTA MONICA.

27 THE COURT: YES. MR. WODEHOUSE, HAVE YOU READ ANYTHING  
28 AT ALL ABOUT THIS CASE?

1 MR. WODEHOUSE: NO. I DON'T KNOW WHICH CASE THIS IS.

2 THE COURT: I SEE. YOU HAVE NOT DISCUSSED IT WITH ANY  
3 OF THE OTHER PROSPECTIVE JURORS?

4 MR. WODEHOUSE: NO, BECAUSE I DON'T KNOW ANYTHING ABOUT  
5 IT.

6 THE COURT: ALL RIGHT. YOU CONTINUE NOT TO TALK ABOUT  
7 IT OR NOT TO READ ANYTHING ABOUT IT.

8 IF YOU SEE ANYTHING IN THE NEWSPAPER OR ON  
9 TELEVISION OR THE RADIO, DON'T LISTEN TO IT. DON'T HEAR IT.

10 MR. WODEHOUSE: YES, SIR.

11 THE COURT: ALL RIGHT. DO YOU REMEMBER WHEN YOU WERE  
12 ALL HERE SEVERAL WEEKS AGO AND I TOLD YOU GENERALLY WHAT THE  
13 CASE WAS ABOUT?

14 MR. WODEHOUSE: YES.

15 THE COURT: NOW, JUST TO REPEAT IT IN BRIEF, THE  
16 DEFENDANT IS CHARGED WITH THE COMMISSION OF THE CRIME OF  
17 MURDER IN THE FIRST DEGREE AND THAT IT WAS COMMITTED DURING  
18 THE COURSE OF A ROBBERY.

19 MR. WODEHOUSE: YES.

20 THE COURT: NOW, COMMITTED IN THE COURSE OF A ROBBERY  
21 ADDS SPECIAL SIGNIFICANCE IN THE LAW. THE LEGISLATURE HAS  
22 SAID IN FACT, THAT MERELY COMMITTING A MURDER IN THE FIRST  
23 DEGREE DOESN'T CALL FOR THE PENALTY OF LIFE WITHOUT POSSIBILITY  
24 OF PAROLE OR DEATH.

25 IT IS ONLY WHEN IT IS COMMITTED UNDER CERTAIN  
26 SPECIAL CIRCUMSTANCES THAT IT THEN QUALIFIES FOR THE DEATH  
27 PENALTY.

28 WHEN I TALK ABOUT THE DEATH PENALTY, I MEAN ONE

1 OF TWO THINGS, LIFE WITHOUT POSSIBILITY OF PAROLE OR DEATH  
2 IN THE GAS CHAMBER.

3 NOW, THE LEGISLATURE HAS SAID THAT WHEN A ROBBERY  
4 OR WHEN A MURDER IS COMMITTED DURING THE COURSE OF A ROBBERY  
5 OR A BURGLARY OR A KIDNAPPING OR CHILD MOLESTATION WHERE A  
6 CHILD DIES AS A RESULT OF IT OR TORTURE OR MULTIPLE MURDERS  
7 OR ANY NUMBER OF OTHER INSTANCES -- THERE ARE 19 OF THEM --  
8 THAT THOSE INSTANCES, A POSSIBLE DEATH PENALTY INVOLVED.

9 MR. WODEHOUSE: YES, SIR.

10 THE COURT: NOW, WE HAVE TWO PHASES OF THE TRIAL. THE  
11 FIRST PHASE OF THE TRIAL IF YOU ARE A JUROR, IS THAT THE JURY  
12 DETERMINES WHETHER OR NOT THE DEFENDANT COMMITTED A CRIME OF  
13 MURDER AND IF IT WAS MURDER IN THE FIRST DEGREE. THEN THEY  
14 ANSWER A SPECIAL QUESTION, IS IT TRUE OR FALSE THAT THE MURDER  
15 WAS COMMITTED IN THE COURSE OF A ROBBERY.

16 IF THEY SAY YES, IT IS TRUE, THEN WE ENTER INTO  
17 ANOTHER PHASE OF THE TRIAL KNOWN AS THE PENALTY PHASE WHERE  
18 THE SAME JURY LISTENS TO OTHER TESTIMONY, A LOT OF OTHER  
19 TESTIMONY.

20 THAT TESTIMONY HAS TO DO WITH FIRST, WHAT WE CALL  
21 THE MITIGATING CIRCUMSTANCES, CIRCUMSTANCES ABOUT THE  
22 DEFENDANT'S BACKGROUND, HIS YOUTH, HIS LACK OF CRIMINAL  
23 RECORD, HIS UPBRINGING AND EVERYTHING NECESSARY AND ABOUT HIM  
24 AND THE COURSE OF HIS LIFE UP UNTIL THIS TIME. IT WILL BE  
25 PRESENTED BY THE DEFENDANT.

26 THE PROSECUTION ON THE OTHER HAND, WILL PRESENT  
27 WHAT IS KNOWN AS AGGRAVATING CIRCUMSTANCES, CIRCUMSTANCES TO  
28 SHOW THAT HE IS NOT SUCH A GOOD MAN AFTER ALL AND PRODUCE

1 EVIDENCE TO THE CONTRARY.

2 IT IS THEN THAT THE JURORS ARE IN WHAT WE CALL  
3 THE PENALTY PHASE. AND AFTER ALL THE TESTIMONY HAS BEEN HEARD  
4 ON THAT ASPECT OF IT, THE JURY THEN RETIRES TO THE JURY ROOM  
5 TO DETERMINE WHAT THE PENALTY SHOULD BE.

6 THEY WILL THEN CONSIDER ALL OF THE TESTIMONY THEY  
7 HEARD OF THE MITIGATING CIRCUMSTANCES AND AGGRAVATING  
8 CIRCUMSTANCES. THEY WILL CONSIDER THE AGE OF THE DEFENDANT,  
9 HIS LACK OF CRIMINAL RECORD OR HIS CRIMINAL RECORD IF HE HAS  
10 ANY, HIS HISTORY, HIS BACKGROUND AND HIS MENTAL CONDITION AND  
11 HIS PHYSICAL CONDITION AND ALL THOSE FACTORS WHICH WILL BE  
12 TAKEN INTO CONSIDERATION BY THE JURY BEFORE THEY REACH A  
13 CONCLUSION, SHOULD IT BE LIFE WITHOUT THE POSSIBILITY OF  
14 PAROLE OR SHOULD IT BE DEATH.

15 NOW, WITH THAT BACKGROUND, I WANT TO EXPLORE YOUR  
16 MIND. THERE ARE CERTAIN QUESTIONS I AM GOING TO ASK YOU TO  
17 WHICH ANSWERS WILL BE YES OR NO TO DETERMINE WHAT YOUR ATTITUDE IS  
18 TOWARD THE DEATH PENALTY TO SEE WHETHER OR NOT YOU QUALIFY  
19 AS A JUROR IN THIS CASE.

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1 THE COURT: NOW THE FIRST TWO QUESTIONS RELATE ONLY  
2 TO THE GUILT PHASE OF THE TRIAL.

3 THE FIRST QUESTION IS: DO YOU HAVE ANY OPINION  
4 REGARDING THE DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING  
5 AN IMPARTIAL DECISION AS TO THE GUILT OR INNOCENCE OF THE  
6 DEFENDANT?

7 MR. WODEHOUSE: GOSH, IT IS HARD FOR ME TO ANSWER JUST  
8 YES OR NO.

9 THE COURT: WELL, I HAVE GOT TO KNOW, YES OR NO.

10 TELL US WHAT YOUR ATTITUDE IS TOWARDS THE DEATH  
11 PENALTY.

12 MR. WODEHOUSE: WELL, MAY I MAKE A LITTLE STATEMENT?

13 THE COURT: YES.

14 MR. WODEHOUSE: MY OPINION IS, IF SOMEBODY KILLS SOMEBODY  
15 FOR, LIKE A ROBBERY OR IT ISN'T NECESSARY, HE IS NOT DEFENDING  
16 HIMSELF, I THINK THAT HE SHOULD GET THE DEATH PENALTY,  
17 INCLUDING MYSELF; THAT IS MY OPINION.

18 THE COURT: WELL, BUT YOU SEE THE LAW IS -- OF COURSE,  
19 I CAN UNDERSTAND THAT IS YOUR OPINION.

20 MR. WODEHOUSE: YES, SIR.

21 THE COURT: YOU MEAN UNDER ALL CIRCUMSTANCES, NO MATTER  
22 WHAT THE NATURE OF THE CRIME WAS, HOW IT WAS COMMITTED, ALL  
23 OF THE CIRCUMSTANCES ABOUT THE CRIME, ALL OF THE CIRCUMSTANCES  
24 ABOUT THE BACKGROUND OF THE DEFENDANT, GOOD AND BAD, IRRESPECTIVE  
25 OF ALL OF THAT, YOU WILL JUST THROW IT ASIDE AND SAY NO, ONLY  
26 THE DEATH PENALTY?

27 MR. WODEHOUSE: NO, NOT QUITE THAT FAR, SIR.

28 BECAUSE I BELIEVE THAT HIS BACKGROUND, I DON'T

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1 THINK THAT BEARS IF HE TAKES SOMEBODY'S LIFE.

2 THE COURT: SUPPOSE I TELL YOU THAT YOU MUST CONSIDER  
3 HIS BACKGROUND, YOU MUST CONSIDER THE AGE, YOU MUST CONSIDER  
4 THE LACK OF CRIMINAL RECORD, YOU MUST CONSIDER HIS HISTORY  
5 AND HIS -- SUPPOSE HE HAD A VERY EXEMPLARY AND FINE LIFE BEFORE  
6 THE ALLEGED COMMISSION OF THE OFFENSE, ALL OF THOSE THINGS  
7 MUST BE TAKEN INTO CONSIDERATION. YOU MEAN YOU WILL NOT  
8 CONSIDER THAT AT ALL, IS THAT THE IDEA?

9 MR. WODEHOUSE: NO, I WOULDN'T -- IF I AM NOT SAYING  
10 YES OR NO, JUDGE --

11 THE COURT: WELL, SUPPOSE I TELL YOU BEFORE YOU REACH  
12 YOUR DECISION --

13 MR. WODEHOUSE: YES.

14 THE COURT: -- AS TO WHETHER IT BE LIFE IMPRISONMENT  
15 OR DEATH, THAT YOU MUST CONSIDER THAT, YOU MEAN YOU WILL NOT  
16 CONSIDER IT, IS THAT THE IDEA?

17 MR. WODEHOUSE: HIS BACKGROUND AND MITIGATING  
18 CIRCUMSTANCES YOU ARE TALKING ABOUT?

19 THE COURT: YES.

20 MR. WODEHOUSE: I WOULD CONSIDER, I WOULD CONSIDER THEM  
21 BUT --

22 THE COURT: YOU WOULDN'T CONSIDER THEM VERY MUCH?

23 MR. WODEHOUSE: I WOULD STILL BE PREJUDICED AND USE  
24 MY OWN OPINION.

25 THE COURT: AND STILL VOTE THE DEATH PENALTY?

26 MR. WODEHOUSE: I AM SURE I WOULD.

27 MR. BARENS: THANK YOU, YOUR HONOR.

28 THE COURT: ANY QUESTIONS?

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1 MR. WAPNER: NO.

2 THE COURT: ALL RIGHT, THANK YOU VERY MUCH FOR YOUR  
3 FRANKNESS AND CANDOR.

4 MR. WODEHOUSE: WELL, THANK YOU.

5 THE COURT: IN THIS PARTICULAR CASE, WE HAVE TO HAVE  
6 A JUROR WHOSE OPINION --

7 MR. WODEHOUSE: I UNDERSTAND, YES, SIR.

8 THE COURT: -- WHOSE OPINION ON THE DEATH PENALTY IS  
9 SUCH HE WOULD HAVE AN OPEN MIND ON THE PENALTY PHASE --

10 MR. WODEHOUSE: YES.

11 THE COURT: -- EVEN IF HE BELIEVES IN THE DEATH PENALTY.

12 MR. WODEHOUSE: YES, SIR.

13 THE COURT: SO I WILL ASK YOU TO GO BACK TO THE JURY  
14 ASSEMBLY ROOM AND TELL THE CLERK THERE THAT YOU QUALIFY IN  
15 SOME OTHER CASE BUT NOT IN THIS PARTICULAR ONE.

16 MR. WODEHOUSE: I UNDERSTAND. YES. THANK YOU.

17 THE COURT: THANK YOU VERY MUCH FOR YOUR FRANKNESS AND  
18 CANDOR.

19 MR. WODEHOUSE: ALL RIGHT, SIR.

20 (PROSPECTIVE JUROR WODEHOUSE EXITED  
21 THE COURTROOM.)

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1 (PROSPECTIVE JUROR RAINE ENTERED THE  
2 COURTROOM.)

3 THE COURT: IS THAT MRS. RAINE?

4 MS. RAINE: YES.

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

6 MS. RAINE: PACIFIC PALISADES.

7 THE COURT: HAVE YOU READ ANYTHING AT ALL ABOUT THIS  
8 CASE?

9 MS. RAINE: NO.

10 I DON'T EVEN KNOW WHAT -- I DON'T HAVE AN IDEA  
11 WHAT THE CASE IS ABOUT.

12 THE COURT: ALL RIGHT, I WILL TELL YOU WHAT IT IS ALL  
13 ABOUT.

14 AT ANY RATE, YOU HAVEN'T READ ANYTHING ABOUT IT  
15 AND HAVEN'T DISCUSSED IT WITH ANY OF THE PROSPECTIVE JURORS,  
16 HAVE YOU?

17 MS. RAINE: NO.

18 THE COURT: ALL RIGHT, FINE. I WILL TELL YOU WHAT IT  
19 IS ALL ABOUT.

20 MS. RAINE: ALL RIGHT, FINE, BECAUSE I WASN'T HERE THE  
21 DAY YOU EXPLAINED IT.

22 THE COURT: I SEE. NOW LET ME EXPLAIN IT TO YOU: THE  
23 DEFENDANT IN THIS CASE, JOE HUNT, IS CHARGED WITH THE  
24 COMMISSION OF THE CRIME OF MURDER, THAT IT IS MURDER IN THE  
25 FIRST DEGREE AND THAT THAT MURDER WAS COMMITTED DURING THE  
26 COURSE OF A ROBBERY.

27 NOW IN THE COURSE OF A ROBBERY HAS SOME SPECIAL  
28 SIGNIFICANCE BECAUSE THE LEGISLATURE HAS SAID IN EFFECT THAT

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1 MERELY COMMITTING A MURDER, MURDER IN THE FIRST DEGREE DOESN'T  
2 QUALIFY IT FOR THE DEATH PENALTY. IT IS ONLY WHEN IT IS  
3 COMMITTED UNDER CERTAIN SPECIAL CIRCUMSTANCES THAT IT DOES  
4 QUALIFY FOR THE DEATH PENALTY; DO YOU UNDERSTAND?

5 MS. RAINE: YES, I UNDERSTAND.

6 THE COURT: CASES LIKE A MURDER COMMITTED DURING THE  
7 COURSE OF A ROBBERY, LIKE THIS ONE, OR A CASE COMMITTED IN  
8 THE COURSE OF A BURGLARY, COMMITTED IN THE COURSE OF A RAPE,  
9 COMMITTED IN THE COURSE OF A KIDNAPPING, COMMITTED IN THE  
10 COURSE OF A TORTURE OR MULTIPLE MURDERS, ALL OF THOSE TOGETHER  
11 WITH TEN OR MORE OTHERS QUALIFY FOR THE CONSIDERATION OF THE  
12 DEATH PENALTY.

13 WHEN I TALK ABOUT THE DEATH PENALTY, THE DEATH  
14 PENALTY CONSISTS OF TWO THINGS. THE JURY, WHEN IT COMES TO  
15 THAT PHASE OF THE TRIAL, WILL DETERMINE WHETHER OR NOT UNDER  
16 ALL OF THE CIRCUMSTANCES WHICH I AM GOING TO OUTLINE TO YOU,  
17 WHETHER IT SHOULD BE LIFE IMPRISONMENT WITHOUT THE POSSIBILITY  
18 OF PAROLE OR SHOULD IT BE DEATH; DO YOU UNDERSTAND?

19 MS. RAINE: YES.

20 THE COURT: NOW, IF YOU ARE SELECTED AS A JUROR, THE  
21 JURY FIRST WILL HAVE TO DETERMINE AT THE FIRST PHASE OF THE  
22 TRIAL, THE GUILT PHASE WHERE THE JURY DETERMINES WHETHER OR  
23 NOT THE DEFENDANT COMMITTED A MURDER AND WHETHER IT IS MURDER  
24 IN THE FIRST DEGREE.

25 IF THEY DECIDE YES, A MURDER WAS COMMITTED AND  
26 IT IS MURDER IN THE FIRST DEGREE, THEN THEY HAVE AN  
27 AUXILIARY QUESTION TO ANSWER: IS IT TRUE OR IS IT FALSE THAT  
28 IT WAS COMMITTED DURING THE COURSE OF A ROBBERY?

1           IF THEY SAY YES, IT WAS COMMITTED DURING THE COURSE  
2 OF A ROBBERY, THEN THEY GO TO A SECOND PHASE OF THE TRIAL  
3 KNOWN AS THE PENALTY PHASE. THE PENALTY PHASE IS ONE WHERE  
4 WE HAVE A NEW TRIAL AND NEW EVIDENCE IN ADDITION TO WHICH  
5 YOU HAVE ALREADY HEARD ON THE GUILT PHASE, WHERE THE DEFENDANT  
6 WILL SHOW HIS BACKGROUND, HIS EDUCATION AND HIS AGE, HIS LACK  
7 OF ANY CRIMINAL RECORD, WHICH WE CALL MITIGATING CIRCUMSTANCES,  
8 AND THE PROSECUTION WILL SHOW AGGRAVATING CIRCUMSTANCES TO  
9 SHOW UNFAVORABLE THINGS ABOUT HIM, THAT HE IS A BAD MAN  
10 ESSENTIALLY; DO YOU UNDERSTAND THAT?

11           MS. RAINE: UH-HUH.

12           THE COURT: NOW, THE JURY HEARS ALL OF THAT, TAKES INTO  
13 CONSIDERATION HIS BACKGROUND, HIS HISTORY AND HIS AGE, HIS  
14 LACK OF RECORD, IF ANY, ET CETERA, ET CETERA, THEN THEY MAKE  
15 UP THEIR MINDS ON THE PENALTY PHASE WHETHER IT SHOULD BE LIFE  
16 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE OR SHOULD IT  
17 BE DEATH, THAT IS ON THE PENALTY PHASE.

18           YOU HAVE ALREADY DECIDED IS HE GUILTY OF MURDER  
19 IN THE FIRST DEGREE AND AT THE PENALTY PHASE, YOU SHOULD  
20 DECIDE WHICH OF THOSE TWO PENALTIES SHOULD BE IMPOSED.

21           NOW, ALL OF THOSE CONSIDERATIONS THAT I HAVE  
22 INDICATED, HIS MENTAL AND PHYSICAL CONDITION ARE WHAT YOU  
23 CONSIDER DURING THAT PARTICULAR PHASE; DO YOU UNDERSTAND THAT?

24           MS. RAINE: YES.

25           THE COURT: NOW, THE QUESTIONS I AM GOING TO ASK YOU  
26 RELATE TO YOUR STATE OF MIND, YOUR OPINION, YOUR BELIEFS WITH  
27 RESPECT TO THE DEATH PENALTY AND HOW THEY WOULD AFFECT YOU,  
28 YOU BEING A JUROR ON THIS PARTICULAR CASE.

1                   NOW THE FIRST TWO QUESTIONS WHICH I AM GOING TO  
2 ASK YOU RELATE TO THE GUILT PHASE OF IT: DO YOU HAVE ANY  
3 OPINION REGARDING THE DEATH PENALTY THAT WOULD PREVENT YOU  
4 FROM MAKING AN IMPARTIAL DECISION AS TO THE GUILT OR INNOCENCE  
5 OF THE DEFENDANT? REMEMBER, THE FIRST PHASE OF THE TRIAL  
6 IS GUILT OR INNOCENCE.

7                   DO YOU, BECAUSE OF THE BELIEFS THAT YOU HOLD AS  
8 TO THE DEATH PENALTY, WOULD YOU BE IMPARTIAL IN DECIDING WHETHER  
9 OR NOT HE IS GUILTY OR INNOCENT?

10                  MS. RAINE: WELL, I BELIEVE IN THE DEATH PENALTY BUT  
11 THAT WOULDN'T AFFECT WHETHER --

12                  THE COURT: THE DEATH PENALTY HAS NOTHING TO DO WITH  
13 IT -- I MEAN, HAVE YOU GOT SUCH A FEELING ABOUT THE DEATH  
14 PENALTY THAT YOU --

15                  MS. RAINE: THAT I WOULD?

16                  THE COURT: -- THAT YOU COULD NOT DECIDE THE QUESTION  
17 OF GUILT OR INNOCENCE OF THE DEFENDANT IMPARTIALLY?

18                  MS. RAINE: NO.

19                  THE COURT: SO YOUR ANSWER TO THAT IS NO; IS THAT RIGHT?

20                  MS. RAINE: YES.

21                  THE COURT: ALSO, WITH RESPECT TO THE GUILT PHASE OF  
22 IT, REMEMBER I TOLD YOU THAT IF YOU FOUND HIM GUILTY OF FIRST  
23 DEGREE MURDER AND THEN YOU DETERMINE WHETHER IT IS TRUE OR  
24 FALSE THAT IT WAS COMMITTED DURING THE COURSE OF A ROBBERY  
25 AND NOW MY QUESTION IS: DO YOU HAVE ANY OPINION REGARDING  
26 THE DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING AN  
27 IMPARTIAL DECISION CONCERNING THE TRUTH OR FALSITY OF THE  
28 SPECIAL CIRCUMSTANCE?

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MS. RAINE: NO.

THE COURT: NOW THERE ARE TWO QUESTIONS I AM GOING TO ASK YOU THAT TOUCH UPON THE PENALTY PHASE. YOU HAVE ALREADY DECIDED THAT THE DEFENDANT IS GUILTY OF MURDER IN THE FIRST DEGREE AND IT WAS COMMITTED DURING THE COURSE OF A ROBBERY AND THE NEXT TWO QUESTIONS HAVE TO DO WITH THE PENALTY PHASE AND THEY ARE AS FOLLOWS:

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1 THE COURT: DO YOU HAVE SUCH AN OPINION CONCERNING THE  
2 DEATH PENALTY, THAT YOU WOULD AUTOMATICALLY VOTE TO IMPOSE  
3 THE DEATH PENALTY, REGARDLESS OF ANY EVIDENCE THAT MAY BE  
4 PRESENTED AT THE PENALTY PHASE OF THE TRIAL?

5 MS. RAINE: NO.

6 THE COURT: ALL RIGHT. NOW, THE NEXT QUESTION IS A  
7 DIFFERENT ASPECT OF THE SAME THING THAT I HAVE ASKED YOU. DO  
8 YOU HAVE SUCH AN OPINION CONCERNING THE DEATH PENALTY THAT  
9 YOU WOULD AUTOMATICALLY VOTE FOR LIFE WITHOUT THE POSSIBILITY  
10 OF PAROLE, REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED  
11 IN THE PENALTY PHASE OF THE TRIAL?

12 MS. RAINE: NO.

13 THE COURT: OKAY. NOW, YOU UNDERSTAND THAT THE ISSUE  
14 OF THE DEATH PENALTY MAY OR MAY NOT OCCUR IN THIS CASE?

15 MS. RAINE: YES.

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

18 MS. RAINE: YES.

19 THE COURT: GOOD.

20 MR. BARENS: THANK YOU, YOUR HONOR. MISS RAINE, I AM  
21 ARTHUR BARENS. I REPRESENT THE DEFENDANT, JOE HUNT.

22 AND AS HIS HONOR DID, IT IS MY DUTY AT THIS PART  
23 OF THE PROCEEDINGS, TO ASK YOU ABOUT YOUR POINT OF VIEW  
24 CONCERNING THE DEATH PENALTY.

25 NOW, PARENTHETICALLY, THERE ARE NO RIGHT OR WRONG  
26 ANSWERS TO THE QUESTIONS I AM GOING TO GIVE YOU. AND THERE  
27 ARE NO GOOD OR BAD ANSWERS. I AM JUST INTERESTED IN WHAT YOUR  
28 OPINIONS ARE AND WHAT YOUR STATE OF MIND IS ABOUT THE DEATH

1 PENALTY.

2 HOW DO YOU FEEL ABOUT THE DEATH PENALTY AS A  
3 GENERAL PROPOSITION IN OUR SOCIETY?

4 MS. RAINE: I BELIVE THAT IT IS A GOOD THING.

5 MR. BARENS: DO YOU HAVE A BELIEF AS TO WHEN IT SHOULD  
6 BE APPLIED?

7 MS. RAINE: I BELIEVE WHEN SOMEONE HAS COMMITTED A MURDER.

8 MR. BARENS: AND --

9 MS. RAINE: A PREMEDITATED MURDER, A MURDER THAT IS --

10 MR. BARENS: AN INTENTIONAL MURDER?

11 MS. RAINE: UH-HUH.

12 MR. BARENS: SO WOULD IT BE YOUR OPINION THAT IN EVERY  
13 INSTANCE WHERE YOU HAVE SOMEONE THAT COMMITS AN INTENTIONAL  
14 MURDER, THAT THERE SHOULD BE A LIFE FOR A LIFE IN THAT  
15 INSTANCE?

16 MS. RAINE: I AM AFRAID SO.

17 THE COURT: WHAT? PARDON ME?

18 MS. RAINE: YES.

19 MR. BARONS: NOW, THE JUDGE MAY SAY THAT --

20 THE COURT: JUST A MINUTE. NOW, I TOLD YOU THAT THERE  
21 WERE TWO PHASES OF THE TRIAL. THE FIRST PHASE IS THE GUILTY  
22 OR NOT GUILTY, RIGHT?

23 MS. RAINE: RIGHT.

24 THE COURT: WAS IT DURING THE COURSE OF A ROBBERY? IS  
25 THAT RIGHT?

26 MS. RAINE: RIGHT.

27 THE COURT: WE ARE NOT STOPPING THERE. I TOLD YOU THAT.  
28 WE GO ON TO A SECOND PHASE WHERE THE JURY DETERMINES, AFTER

1 LISTENING TO ALL OF THE THINGS GOOD AND BAD ABOUT THE  
2 DEFENDANT'S BACKGROUND, THEY THEN HAVE TO MAKE UP THEIR MINDS  
3 WHETHER IT SHOULD BE ONE OR THE OTHER, LIFE WITHOUT POSSIBILITY  
4 OF PAROLE OR DEATH.

5 IS IT YOUR ANSWER THAT YOU WOULDN'T LISTEN TO  
6 ANYTHING ON THE SENTENCING PHASE? YOU WOULD AUTOMATICALLY  
7 VOTE FOR THE DEATH PENALTY?

8 MS. RAINE: NO. I WOULDN'T SAY THAT. NO, BASICALLY  
9 I --

10 THE COURT: THAT'S RIGHT. AS TO THE DEATH PENALTY --

11 MS. RAINE: I HAVE TO SAY THAT PERHAPS I AM PARTIAL,  
12 YOU KNOW. PERHAPS I AM BIASED.

13 THE COURT: WHAT YOU MEAN IS, I ASKED YOU THE QUESTION --

14 MS. RAINE: I KNOW THAT INTELLECTUALLY I SAID NO, I WOULD  
15 WEIGH IT. BUT EMOTIONALLY, IN ANSWER TO HIS QUESTION, MY  
16 RESPONSE EMOTIONALLY IS TO SAY THAT I BELIEVE IN A LIFE FOR  
17 A LIFE.

18 AND I --

19 THE COURT: IN OTHER WORDS, IRRESPECTIVE OF THE SECOND  
20 PHASE OF THE TRIAL, IT DOESN'T MAKE ANY DIFFERENT WHAT  
21 TESTIMONY IS GIVEN? YOU WILL VOTE FOR THE DEATH PENALTY?

22 MS. RAINE: INTELLECTUALLY, NO. IT IS HARD FOR ME TO  
23 SAY IT.

24 THE COURT: I UNDERSTAND. YOU MEAN EMOTIONALLY, YOU  
25 FEEL THAT -- INTELLECTUALLY --

26 MS. RAINE: I WOULD TRY TO BE --

27 THE COURT: YOU WOULD TRY TO BE DISPASSIONATE. BUT  
28 EMOTIONALLY, DEEP DOWN, YOU FEEL THAT YOU WANT TO IMPOSE THE

1 DEATH PENALTY, IS THAT RIGHT?

2 MS. RAINE: RIGHT. IN OTHER WORDS, IF I WERE DISCUSSING  
3 THE DEATH PENALTY WITH MY FRIENDS, I WOULD BE ALL FOR IT, YOU  
4 KNOW, A LIFE FOR A LIFE.

5 BUT INTELLECTUALLY AS A HUMAN BEING, A CARING HUMAN  
6 BEING, I WOULD TEND TO SAY NO. WE HAVE TO WEIGH IT.

7 THE COURT: BUT YOU DON'T THINK YOU COULD DO THAT?

8 MS. RAINE: I DON'T THINK SO.

9 THE COURT: YOU DON'T THINK YOU CAN WEIGH THE CONSIDER-  
10 ATIONS ON THE PENALTY PHASE OF THE TRIAL?

11 MS. RAINE: WELL, I THINK THAT --

12 THE COURT: BE FRANK ABOUT IT.

13 MS. RAINE: I AM VERY AMBIVALENT. I THINK SO YET --

14 THE COURT: ALL RIGHT. DO YOU HAVE ANY QUESTIONS?

15 MR. WAPNER: I HAVE A FEW, YES.

16 MR. BARENS: I WILL RESERVE A MOTION.

17 MR. WAPNER: WELL, I WOULD PREFER THAT IF WE ARE GOING  
18 TO GO ON, WE CONTINUE THE ORDER AND THAT MR. BARENS, IF HE  
19 HAS ANY MORE QUESTIONS, ASK THEM.

20 THEN I WILL ASK MINE.

21 THE COURT: ALL RIGHT. DO YOU HAVE ANY FURTHER QUESTIONS  
22 OF THIS WITNESS AND --

23 MR. BARENS: I WILL PROCEED. I APPRECIATE YOUR CANDOR  
24 TOO, BECAUSE WE ARE TALKING ABOUT REAL SERIOUS STUFF HERE.

25 BOTH SIDES ARE ENTITLED TO A NEUTRAL JUROR ON THE  
26 SUBJECT BOTH OF THE GUILT AND THE SUBJECT OF WHAT SHOULD  
27 HAPPEN. THAT IS WHAT I AM LOOKING FOR, A JUROR WHO IS GOING  
28 TO CONSIDER OPENMINDEDLY AND UNBIASEDLY, DEATH AND LIFE.

1 BY THE TIME WE EVER TALK ABOUT THIS, YOU WOULD  
2 HAVE ALREADY BELIEVED THAT MY CLIENT HAD COMMITTED AN  
3 INTENTIONAL, FIRST DEGREE MURDER DURING A ROBBERY?

4 WHAT I WANT TO KNOW IS, I DON'T BELIEVE THERE IS  
5 ANY POSSIBILITY IN THE WORLD THAT YOU WOULD CONSIDER ANYTHING  
6 AT THAT POINT, EXCEPT THE DEATH PENALTY.

7 MR. WAPNER: I THINK IT IS IMPROPER TO STATE IT THAT  
8 WAY, WHAT COUNSEL'S BELIEFS ARE.

9 THE COURT: WELL, ASK THE QUESTION. DON'T TELL HER HOW  
10 YOU FEEL.

11 MR. BARENS: HOW DO YOU FEEL? IS THERE ANY POSSIBILITY  
12 THAT YOU WOULD CONSIDER IT, REALISTICALLY, ANYTHING BUT THE  
13 DEATH PENALTY FOR SOMEBODY WHO HAD DONE THAT?

14 MS. RAINE: PROBABLY NOT.

15 MR. BARENS: ALL RIGHT. NOW, WHEN YOU SAY "PROBABLY  
16 NOT," I WANT TO SEE IF IT IS REALLY NOT. EARLIER ON, I BELIEVE  
17 YOU TOLD HIS HONOR THAT EMOTIONALLY, FROM YOUR HEART, YOU  
18 DIDN'T THINK YOU COULD EVER VOTE ANYTHING BUT THE DEATH PENALTY.

19 MS. RAINE: RIGHT. WITHOUT THINKING.

20 MR. BARENS: NOW, ALTHOUGH WE OPERATE ON AN INTELLECTUAL  
21 LEVEL, WOULDN'T YOU BELIEVE YOU WOULD VOTE FROM YOUR HEART  
22 ON HOW YOU FELT ON THAT LEVEL WHEN IT CAME TIME TO VOTE?

23 MS. RAINE: PROBABLY, YES.

24 MR. BARENS: AND ISN'T IT TRUE THAT YOU WOULD DO WHAT  
25 YOUR HEART OF HEARTS SAID?

26 MS. RAINE: PROBABLY, YES. MAYBE I MISUNDERSTOOD.  
27 UNLESS I HAVE ANSWERED WRONG.

28 I AM SAYING YES, I PROBABLY WOULD GO WITH THE DEATH

1 PENALTY.

2 MR. BARENS: AND WOULDN'T YOUR HEART OF HEARTS TELL YOU  
3 THAT FOR A PERSON WHO COMMITTED A COLD BLOODED MURDER, THAT  
4 HE HAS GOT TO SACRIFICE HIS LIFE IN EVERY INSTANCE? WE HAVE  
5 TO HAVE A LIFE FOR A LIFE?

6 MS. RAINE: I WOULD PROBABLY SAY YES. PROBABLY I WOULD  
7 DO THAT.

8 MR. BARENS: THANK YOU VERY MUCH.

9 THE COURT: ANY QUESTIONS?

10 MR. WAPNER: A COUPLE. GOOD MORNING. I AM FRED  
11 WAPNER, THE DEPUTY DISTRICT ATTORNEY PROSECUTING THIS CASE.  
12 I HAVE A FEW QUESTIONS FOR YOU.

13 FIRST OF ALL, DO YOU UNDERSTAND THAT IN THIS  
14 PARTICULAR CASE, YOU WOULD NEVER GET TO THE QUESTION OF LIFE  
15 OR DEATH UNLESS AND UNTIL YOU HAVE PREVIOUSLY DECIDED THAT  
16 THERE WAS AN INTENTIONAL MURDER COMMITTED DURING THE COURSE  
17 OF A ROBBERY?

18 MS. RAINE: YES.

19 MR. WAPNER: OKAY. SO THAT IS A PREREQUISITE, BEFORE  
20 WE START THE ISSUE OF LIFE WITHOUT THE POSSIBILITY OF PAROLE  
21 OR DEATH.

22 MS. RAINE: YES.

23 MR. WAPNER: ALL RIGHT. SECOND OF ALL, WHAT I WANT TO  
24 ASK YOU IS, WAS YOUR HESITATION WHEN YOU USED THE WORD  
25 "PROBABLY" AND YOU USED THE PHRASE "VERY AMBIVALENT" THAT --

26 MS. RAINE: THAT I JUST FEEL THAT I CAN'T PREDICT WHAT  
27 I WILL DO, ACTUALLY. AT TIMES, I HAVE SAID I WOULD DO SOMETHING.  
28 THEN I WILL DO TOTALLY THE OPPOSITE.

1 I JUST CAN'T PREDICT. I CAN'T SAY WHAT I WOULD  
2 DO IN A GIVEN SITUATION. I THINK I AM PRETTY SURE THAT I WOULD  
3 VOTE FOR THE DEATH PENALTY IF I FELT SOMEBODY COMMITTED A COLD  
4 BLOODED MURDER.

5 I AM SURE OF IT. I AM SURE I WOULD.

6 MR. WAPNER: OKAY. HOW DO YOU DEFINE "COLD BLOODED  
7 MURDER"?

8 MS. RAINE: MURDER. TAKING A LIFE THAT IS NOT ACCIDENTAL.  
9 TAKING A LIFE WILLINGLY WHEN SOMEBODY MEANS TO TAKE SOMEONE  
10 ELSE'S LIFE FOR HIS OWN GAIN, WHATEVER THAT MIGHT BE.

11 MR. WAPNER: THANK YOU VERY MUCH, MISS RAINE.

12 THE COURT: WE THINK THAT YOU WOULD MAKE A VERY FINE  
13 JUROR IN SOME OTHER CASE, UNFORTUNATELY NOT OUR DEATH PENALTY  
14 CASE BECAUSE OF THE BELIEFS THAT YOU HAVE. DO YOU UNDERSTAND?

15 MS. RAINE: YES.

16 THE COURT: WHAT I WILL ASK YOU TO DO IS TO GO BACK TO  
17 THE JURY ASSEMBLY ROOM AND TELL THE CLERK THAT YOU QUALIFY  
18 FOR SOME OTHER CASE BUT NOT A MURDER CASE OF THIS TYPE.  
19 THANK YOU VERY MUCH FOR YOUR FRANKNESS AND CANDOR.

20 (PROSPECTIVE JUROR RAINE EXITS THE  
21 COURTROOM.)

22 MR. BARENS: I WOULD APPRECIATE IT IF WE COULD FINISH  
23 THE NEXT JUROR THAT WE START BECAUSE I WON'T BE HERE THIS  
24 AFTERNOON. MR. CHIER WILL BE HERE.

25 THE COURT: WHY DO WE NEED TWO COUNSEL, IF YOU ARE  
26 ALTERNATING?

27 MR. BARENS: TODAY WE HAD AN APPEARANCE SCHEDULED IN  
28 FEDERAL COURT. IT WAS A MATTER THAT MR. CHIER HAD PRIOR TO

1 THIS MATTER.

2 (PROSPECTIVE JUROR SCHAFFNER ENTERS THE  
3 COURTROOM.)

4 THE COURT: WHERE DO YOU LIVE?

5 MR. SCHAFFNER: WEST LOS ANGELES.

6 THE COURT: HAVE YOU READ ANYTHING AT ALL ABOUT THE  
7 CASE?

8 MR. SCHAFFNER: NO.

9 THE COURT: YOU HAVE NOT TALKED TO ANYBODY ABOUT IT  
10 EXCEPT WHEN WE EXPLAINED IT TO ALL THE JURORS IN THE EARLY  
11 SESSION?

12 MR. SCHAFFNER: THAT'S RIGHT.

13 THE COURT: LET ME BRIEFLY SUMMARIZE AND TELL YOU WHAT  
14 IT IS ABOUT AND ASK YOU SOME QUESTIONS WHICH WILL BE DESIGNED  
15 TO DETERMINE WHETHER OR NOT YOU HAVE AN ATTITUDE TOWARD THE  
16 DEATH PENALTY WHICH WOULD DISQUALIFY YOU FROM ACTING AS A TRIAL  
17 JUROR IN THIS CASE.

18 FIRST, LET ME TELL YOU WHAT THE CASE IS ABOUT.  
19 THE DEFENDANT IS CHARGED WITH THE COMMISSION OF THE CRIME OF  
20 MURDER, MURDER IN THE FIRST DEGREE IN THAT IT WAS COMMITTED  
21 DURING THE COURSE OF A ROBBERY.

22 COMMITTED DURING THE COURSE OF A ROBBERY HAS  
23 SPECIAL SIGNIFICANCE IN THIS CASE. WHERE ONE COMMITS A MURDER  
24 OF THE FIRST DEGREE UNDER SPECIAL CIRCUMSTANCES LIKE THE  
25 COMMISSION OF A ROBBERY, DURING THE COMMISSION OF A ROBBERY  
26 OR A KIDNAPPING OR DURING A RAPE OR A TORTURE OR A MULTIPLE  
27 MURDER, THE LEGISLATURE HAS SAID THAT ALL OF THOSE CASES  
28 QUALIFY FOR SPECIAL CIRCUMSTANCES. THERE ARE 19 OF THEM AND



1 THEY QUALIFY FOR THE DEATH PENALTY.

2 AND THE PURPOSE OF THIS IS TO DETERMINE WHAT YOUR  
3 ATTITUDE IS TOWARD THE DEATH PENALTY SO WE CAN SEE WHETHER  
4 OR NOT YOU WILL QUALIFY AS A JUROR ON THIS PARTICULAR TYPE  
5 OF CASE.

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1 THE COURT: NOW, THE JURY WHICH WILL BE SELECTED IN  
2 THIS CASE WILL HAVE FIRST TO DETERMINE ON WHAT WE CALL THE  
3 GUILT PHASE WHETHER OR NOT THE DEFENDANT IS GUILTY OR NOT  
4 GUILTY OF THE CRIME OF MURDER IN THE FIRST DEGREE AND THEN  
5 IF THEY SAY YES, THEN THEY HAVE TO ANSWER THE QUESTION: WAS  
6 IT COMMITTED DURING THE COURSE OF A ROBBERY?

7 AND THE QUESTION IS PUT: IS IT TRUE OR IS IT  
8 FALSE THAT IT WAS COMMITTED DURING THE COURSE OF A ROBBERY?  
9 IF THEY SAY YES, IT WAS COMMITTED DURING THE COURSE OF A  
10 ROBBERY, THAT QUALIFIES THE CASE FOR THE NEXT PHASE OF THE  
11 TRIAL, WHICH IS THE PENALTY PHASE, WHAT SHOULD BE DONE.

12 AND THERE ARE ONE OF TWO CHOICES: IT WOULD BE  
13 LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE OR IS  
14 IT DEATH, DEPENDING UPON A NUMBER OF FACTORS, WHICH I WILL  
15 EXPLAIN TO YOU WHICH YOU MUST CONSIDER IN REACHING THAT  
16 PARTICULAR DECISION.

17 FIRST, ONE OF THE FACTORS IS THE FACT OF THE  
18 CRIME ITSELF, WHICH YOU HAVE JUST HEARD.

19 MR. SCHAFFNER: EXCUSE ME?

20 THE COURT: THE FACT OF THE CRIME WHICH YOU HAVE HEARD,  
21 THE MURDER.

22 SECONDLY, THE BACKGROUND OF THE DEFENDANT, ANY  
23 FELONIES, FOR INSTANCE, ANY FELONY CONVICTION, IF HE HAD ANY,  
24 AND THE LACK OF IT AND HIS HISTORY, HIS PAST HISTORY, HIS  
25 MENTAL AND PHYSICAL CONDITION AND OTHER FACTORS WHICH THE  
26 COURT WILL TELL YOU ABOUT IF YOU ARE A JUROR ON THE CASE ON  
27 THE SECOND PHASE OF THE TRIAL OR THE PENALTY PHASE, THEN YOU  
28 MUST CONSIDER ALL OF THOSE FACTORS.

9-2

1                   NOW, WHAT I WANT TO DO IS ASK YOU CERTAIN  
2 SPECIFIC QUESTIONS TO SEE WHAT YOUR ATTITUDE IS AND EXPLORE  
3 YOUR MIND, AS I SAID, WITH RESPECT TO THE DEATH PENALTY.

4                   NOW, THE FIRST TWO QUESTIONS ARE RELATED ONLY  
5 TO THE -- AND YOUR ATTITUDE TOWARD THE DEATH PENALTY -- ARE  
6 RELATED ONLY TO THE FIRST PHASE OF THE TRIAL: DO YOU HAVE  
7 ANY OPINION REGARDING THE DEATH PENALTY THAT WOULD PREVENT  
8 YOU FROM MAKING AN IMPARTIAL DECISION AS TO THE GUILT OR  
9 INNOCENCE OF THE DEFENDANT?

10                  MR. SCHAFFNER: WELL, I FEEL THAT IT IS NOT APPLIED  
11 ENOUGH.

12                  THE COURT: WELL, YOU SEE, WE WILL COME TO THAT LATER.

13                         I AM ASKING YOU DO YOU HAVE AN OPINION AS TO THE  
14 DEATH PENALTY, IS IT SUCH THAT YOU CANNOT IMPARTIALLY REACH  
15 A DECISION AS TO THE GUILT OR INNOCENCE OF THE DEFENDANT?

16                  MR. SCHAFFNER: THAT MAY BE POSSIBLE.

17                  THE COURT: IN WHAT WAY?

18                  MR. SCHAFFNER: IN WHAT WAY IS THAT IF A DETERMINATION  
19 OF MURDER WAS RESOLVED -- RESOLVED, WE SUPPORT TOO MANY PEOPLE  
20 IN PRISON, I FEEL, AND THAT IF THAT --

21                  THE COURT: WE HAVEN'T REACHED THAT POINT YET, YOU SEE.  
22 IF YOU ARE A JUROR ON THE CASE AND EVEN BEFORE WE START THE  
23 TRIAL --

24                  MR. SCHAFFNER: I AM NOT AGAINST IT --

25                  THE COURT: NO, NO.

26                         EVEN BEFORE WE START THE TRIAL, IS YOUR MIND SO  
27 MADE UP THAT YOU ARE GOING TO VOTE INNOCENT OR GUILTY WITHOUT  
28 HEARING THE EVIDENCE?

9-3

1 MR. SCHAFFNER: WELL, I GUESS NOT EXACTLY IF I WAS ON  
2 THE JURY.

3 THE COURT: YOU WOULD FIRST LISTEN AND SEE WHETHER OR  
4 NOT HE IS GUILTY OR NOT GUILTY, IS THAT WHAT YOU ARE TELLING  
5 ME?

6 MR. SCHAFFNER: YEAH, BUT I WOULD PROBABLY BE PARTIAL  
7 TO A CERTAIN PUNISHMENT.

8 THE COURT: BE PARTIAL TO THE DEATH PENALTY, YOU MEAN?

9 MR. SCHAFFNER: IF -- IF THAT IS, YEAH, I THINK SO.

10 THE COURT: WELL, WHAT IS YOUR ATTITUDE TOWARDS THE  
11 DEATH PENALTY?

12 MR. SCHAFFNER: I BELIEVE THAT --

13 THE COURT: YOU BELIEVE IN THE DEATH PENALTY?

14 MR. SCHAFFNER; I BELIEVE IT HASN'T BEEN USED ENOUGH.  
15 WE HAVE TOO MANY PEOPLE THAT GET OFF, THEY ARE NOT REALLY  
16 DETERRED FROM IT. IT DOESN'T DETER ENOUGH PEOPLE. THERE  
17 IS TOO MUCH CRIME GOING ON ALREADY.

18 THE COURT: YOU MEAN IT DOESN'T ACT AS A DETERRENT,  
19 IS THAT WHAT YOU ARE TELLING US?

20 MR. SCHAFFNER: NO.

21 IT SHOULD ACT MORE AS A DETERRENT BUT IT IS NOT  
22 APPLIED.

23 THE COURT: I SEE. SO YOUR STATE OF MIND IS SUCH THAT  
24 AUTOMATICALLY YOU ARE GOING TO VOTE THE DEATH PENALTY IF YOU  
25 BELIEVE THAT THE MAN HAD COMMITTED A MURDER AND IT IS MURDER  
26 IN THE FIRST DEGREE WITH DELIBERATE PLANNING?

27 MR. SCHAFFNER: YES.

28 THE COURT: AUTOMATICALLY?

9-4

1 MR. SCHAFFNER: I DON'T SEE ANY -- THERE ARE TOO MANY  
2 PEOPLE KILLED, YOU KNOW, ON PURPOSE THAT MANY PEOPLE HAVE  
3 GOTTEN OFF ON JUST BECAUSE --

4 THE COURT: THAT IS OTHER PEOPLE.

5 I AM TALKING TO YOU NOW ABOUT THIS SPECIFIC CASE.  
6 JUST BECAUSE OTHER PEOPLE HAVE GOTTEN OFF DOESN'T  
7 MEAN THIS DEFENDANT SHOULD GET OFF OR HE SHOULDN'T GET OFF.

8 IS YOUR STATE OF MIND THAT YOU ARE NOT IMPARTIAL  
9 AT THE MOMENT, ARE YOU?

10 MR. SCHAFFNER: NO, I AM NOT.

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9A-1

1 THE COURT: ANY QUESTIONS?

2 MR. WAPNER: NO.

3 MR. BARENS: THANK YOU, YOUR HONOR.

4 THE COURT: ALL RIGHT, THANK YOU VERY MUCH FOR YOUR  
5 FRANKNESS AND CANDOR. YOU GO BACK TO THE JURY ASSEMBLY ROOM  
6 AND TELL THE CLERK THERE THAT YOU QUALIFY FOR SOME OTHER CASE  
7 BUT NOT ON THIS TYPE OF CASE, ALL RIGHT?

8 MR. SCHAFFNER: OKAY. THANK YOU.

9 THE COURT: THANK YOU VERY MUCH, MR. SCHAFFNER.

10 THE CLERK: THE NEXT IS JANET SCHULTZ.

11 MR. WAPNER: YOUR HONOR, SINCE MR. BARENS HAS TO LEAVE,  
12 WE WILL NEVER FINISH THIS JUROR UNTIL AFTER LUNCH.

13 MR. BARENS: I WOULD APPRECIATE IT, YOUR HONOR.

14 THE COURT: ALL RIGHT, WE WILL TAKE A RECESS.

15 THERE ARE FOUR MORE, ARE THERE?

16 MR. BARENS: THERE ARE FOUR MORE I SEE, YES, YOUR HONOR.  
17 WE DID FIVE THIS MORNING.

18 THE COURT: HOW MANY HAVE YOU GOT FOR THIS AFTERNOON?

19 THE BAILIFF: WE HAVE FOUR LEFT OVER FROM THIS MORNING.

20 WE HAVE GOT SCHULTZ, SHAW, SHELBY AND  
21 SILVERSTEIN.

22 THE BAILIFF: YES, THEN WE HAVE GOT SIX THIS AFTERNOON  
23 SO WE HAVE TEN.

24 THE COURT: ALL RIGHT, TELL THEM TO COME BACK THIS  
25 AFTERNOON, WILL YOU?

26 SORRY YOU AREN'T STAYING. WE GET MORE ACCOMPLISHED.

27 MR. BARENS: YOUR HONOR, POSSIBLY I COULD RETURN. I  
28 WILL SEE HOW MY SCHEDULE IS.

9A-2

1 ONE LAST POINT OF CLARIFICATION --

2 THE BAILIFF: JUDGE, 1:30 OR 1:45?

3 THE COURT: 1:30.

4 MR. BARENS: DOES THE GAG ORDER APPLY TO MR. BRODEY,  
5 THE COUNSEL FOR MR. PITTMAN?

6 THE COURT: YES, I THINK IT WOULD, WOULDN'T IT?

7 MR. WAPNER: WE HAVE TO GET MR. BRODEY IN HERE AND  
8 DISCLOSE IT TO HIM AND THEN HAVE HIM BOUND BY THE GAG ORDER,  
9 OBVIOUSLY.

10 I WILL CALL MR. BRODEY'S OFFICE.

11 MR. BARENS: IF YOU WOULD, ONLY AS A PRACTICAL MATTER,  
12 AS OUR OFFICES SPEAK OCCASIONALLY.

13 THE COURT: ALL RIGHT, SURE.

14 MR. WAPNER: IF THE QUESTION IS, DOES THE GAG ORDER  
15 APPLY TO MR. BARENS DISCLOSING IT TO MR. BRODEY, I THINK THE  
16 ANSWER IS CLEARLY YES.

17 MR. BARENS: YES, I WILL NOT ADDRESS MR. BRODEY ON THE  
18 SUBJECT UNTIL HE HAS --

19 THE COURT: WHY DON'T YOU HAVE HIM IN HERE AND YOU CAN  
20 ADDRESS HIM ON THE SUBJECT? YOU CAN TELL HIM ABOUT IT.

21 MR. WAPNER: THAT IS FINE.

22 THE COURT: ALL RIGHT, OKAY?

23 MR. BARENS: THANK YOU, YOUR HONOR.

24 THE COURT: SEE YOU THIS AFTERNOON, MR. BARENS.

25 MR. BARENS: I CAN'T PROMISE THAT, YOUR HONOR.

26 THE COURT: ALL RIGHT.

27 (AT 12 NOON A RECESS WAS TAKEN UNTIL  
28 1:30 P.M. OF THE SAME DAY.)

1 SANTA MONICA, CALIFORNIA; TUESDAY, DECEMBER 2, 1986; 1:35 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: ALL RIGHT.

7 MR. WAPNER: YOUR HONOR, BEFORE WE START, APROPOS OF  
8 THE DISCUSSION THAT WE HAD WITH MR. BARENS IN CHAMBERS, I HAVE  
9 A CALL PUT INTO THE POLICE DEPARTMENT. I HAVE ASKED THEM TO  
10 CALL ME IN COURT AND INTERRUPT ME.

11 IF THIS CALL COMES IN, MAY I ASK THE COURT FOR  
12 A BREAK?

13 THE COURT: SURELY.

14 MR. WAPNER: THANK YOU.

15 (PROSPECTIVE JUROR SCHULTZ ENTERS THE  
16 COURTROOM.)

17 THE COURT: IS IT MISS SCHULTZ?

18 MS. SCHULTZ: YES.

19 THE COURT: MISS SCHULTZ, GOOD AFTERNOON. WHERE DO YOU  
20 LIVE?

21 MS. SCHULTZ: I LIVE IN WEST LOS ANGELES.

22 THE COURT: DID YOU EVER READ ANYTHING AT ALL ABOUT THIS  
23 CASE IN THE NEWSPAPERS OR HEAR ANYTHING ABOUT IT ON THE RADIO  
24 OR TELEVISION?

25 MS. SCHULTZ: NO.

26 THE COURT: YOU NEVER TALKED TO ANY JURORS ABOUT THE  
27 CASE?

28 MS. SCHULTZ: NO.



1 THE COURT: YOU KNOW NOTHING ABOUT IT?

2 MS. SCHULTZ: NO.

3 THE COURT: WELL, WHAT I WILL DO IS, TELL YOU SOMETHING  
4 ABOUT IT. OKAY?

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1 THE COURT: THE DEFENDANT, JOE HUNT, HAS BEEN ACCUSED  
2 OF COMMITTING A MURDER AND THAT IT IS MURDER IN THE FIRST  
3 DEGREE AND IT IS ALLEGED THAT THAT MURDER WAS COMMITTED DURING  
4 THE COURSE OF A ROBBERY.

5 IN THE COURSE OF A ROBBERY HAS SOME SPECIAL  
6 SIGNIFICANCE. THE LEGISLATURE HAS SAID THAT WHEN A MURDER  
7 IS COMMITTED IN THE COURSE OF A ROBBERY OR A BURGLARY OR RAPE  
8 OR KIDNAPPING, TORTURE OR MULTIPLE MURDERS, TOGETHER WITH A  
9 NUMBER OF OTHERS, IN THOSE PARTICULAR MURDERS, THAT THOSE  
10 SPECIAL CIRCUMSTANCES QUALIFY THEM FOR THE IMPOSITION POSSIBLY  
11 OF A DEATH PENALTY; DO YOU UNDERSTAND THAT?

12 MS. SCHULTZ: YES.

13 THE COURT: WHEN I TALK ABOUT THE DEATH PENALTY, THE  
14 JURY ULTIMATELY CHOSEN TO TRY THIS CASE WILL FIRST HAVE TO  
15 DECIDE FIRST WHETHER OR NOT THE DEFENDANT IS GUILTY OR NOT  
16 GUILTY OF THE COMMISSION OF FIRST DEGREE MURDER AND IF THEY  
17 SAY YES, THEN THEY HAVE A COLLATERAL QUESTION TO DECIDE: WAS  
18 THAT MURDER COMMITTED DURING THE COURSE OF A ROBBERY?

19 IF IT WAS COMMITTED DURING THE COURSE OF A ROBBERY  
20 AND THEY SO FIND, THEN WE COME TO A SECOND PHASE OF THE TRIAL.

21 THE FIRST PHASE OF THE TRIAL IS GUILTY OR NOT  
22 GUILTY. IF IT IS GUILTY, THEN WE COME TO THE SECOND PHASE  
23 OF THE TRIAL WHICH IS KNOWN AS THE PENALTY PHASE.

24 DURING THE PENALTY PHASE OF THE TRIAL, BOTH SIDES,  
25 THAT IS, THE DEFENDANT AND THE PEOPLE WILL INTRODUCE ADDITIONAL  
26 TESTIMONY. THE PURPOSE OF THE TESTIMONY OF THE DEFENDANT WOULD  
27 BE TO SHOW THAT THERE ARE EXTENUATING CIRCUMSTANCES, THAT THERE  
28 ARE FAVORABLE THINGS ABOUT HIM THAT THE JURY SHOULD KNOW. THE

1 PROSECUTION WILL TRY TO SHOW THAT THERE ARE UNFAVORABLE ASPECTS  
2 ABOUT THE DEFENDANT THAT THE JURY OUGHT TO KNOW. AND ALL OF  
3 THOSE FACTS ARE INTENDED FOR THE PURPOSE OF -- ARE FACTORS  
4 WHICH THE JURY SHOULD CONSIDER IN DETERMINING WHETHER OR NOT  
5 ONE OF THE TWO PENALTIES I TOLD YOU ABOUT SHOULD BE IMPOSED;  
6 DO YOU UNDERSTAND THAT?

7 MS. SCHULTZ: RIGHT.

8 THE COURT: OKAY, NOW DURING THE GUILT PHASE OF THE TRIAL,  
9 PENALTY IS NOT TO BE CONSIDERED AT ALL IN ANY WAY, JUST THE  
10 MERITS OR FACTS OF THE CASE AS TO WHETHER OR NOT HE DID OR  
11 DIDN'T COMMIT MURDER IN THE COURSE OF A ROBBERY; DO YOU UNDER-  
12 STAND?

13 MS. SCHULTZ: YES.

14 THE COURT: ALL RIGHT. NOW THE SECOND PHASE, AS I TOLD  
15 YOU, IS THE PENALTY PHASE AND THE JURY WOULD HAVE THE RIGHT  
16 TO CONSIDER OR SHOULD CONSIDER, OR WILL CONSIDER AND SHOULD  
17 CONSIDER, AS I SAY, FIRST, THE AGE OF THE DEFENDANT, WHETHER  
18 OR NOT THERE ARE ANY FELONY CONVICTIONS THAT HE HAS HAD, THE  
19 ABSENCE OR THE PRESENCE OF THEM, HIS HISTORY, HIS BACKGROUND,  
20 HIS MENTAL OR PHYSICAL CONDITION AND ALL OF THOSE -- AND ALSO  
21 THE FACTS OF THE COMMISSION OF THE CRIME ITSELF WHICH THEY  
22 HAVE ALREADY HEARD WILL BE TAKEN INTO CONSIDERATION BY THE  
23 JURY IN DETERMINING ONE OF THOSE TWO PENALTIES THAT I TOLD  
24 YOU ABOUT.

25 NOW THE QUESTIONS I AM GOING TO ASK YOU ARE  
26 DESIGNED FOR THE PURPOSE OF TRYING TO ASCERTAIN WHAT YOUR  
27 STATE OF MIND IS ON THE QUESTION OF THE DEATH PENALTY, WHAT  
28 YOUR BELIEF AND OPINION IS WITH RESPECT TO THAT. DO YOU

1 UNDERSTAND?

2 NOW, THE FIRST TWO QUESTIONS I AM GOING TO ASK  
3 YOU HAVE TO DO WITH THE GUILT PHASE. OF COURSE, THEY ONLY  
4 RELATE TO THAT PHASE.

5 NOW, FOR EXAMPLE I AM GOING TO ASK YOU: DO YOU  
6 HAVE ANY OPINION REGARDING THE DEATH PENALTY THAT WOULD PREVENT  
7 YOU FROM MAKING AN IMPARTIAL DECISION AS TO THE GUILT OR INNOCENCE  
8 OF THE DEFENDANT?

9 MS. SCHULTZ: NO.

10 THE COURT: NOW THE SECOND QUESTION -- IS STILL ON THE  
11 GUILT PHASE -- YOU REMEMBER I TOLD YOU ABOUT THE SPECIAL  
12 CIRCUMSTANCES, WHICH IS TO DETERMINE IF IT WAS COMMITTED IN  
13 THE COURSE OF A ROBBERY, AND THE JURY WILL DETERMINE WHETHER  
14 OR NOT IT IS TRUE OR FALSE THAT IT WAS COMMITTED DURING THE  
15 COURSE OF A ROBBERY.

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1 THE COURT: DO YOU HAVE ANY OPINION REGARDING THE DEATH  
2 PENALTY THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL  
3 DECISION CONCERNING THE TRUTH OR FALSITY OF THE SPECIAL  
4 CIRCUMSTANCES?

5 MS. SCHULTZ: NO.

6 THE COURT: NOW, THE NEXT TWO QUESTIONS I AM GOING TO  
7 ASK YOU RELATE TO THE PENALTY PHASE. THE JURORS -- ASSUMING  
8 THAT THE JURORS HAVE ALREADY DECIDED THAT THE DEFENDANT IS  
9 GUILTY OF MURDER IN THE FIRST DEGREE COMMITTED DURING THE  
10 COURSE OF A ROBBERY, THEN ON THE PENALTY PHASE, THESE ARE  
11 THE QUESTIONS I WILL ASK YOU.

12 FIRST, DO YOU HAVE SUCH AN OPINION CONCERNING  
13 THE DEATH PENALTY THAT YOU WOULD AUTOMATICALLY VOTE TO IMPOSE  
14 THE DEATH PENALTY, REGARDLESS OF ANY EVIDENCE THAT MAY BE  
15 PRESENTED AT THE PENALTY PHASE OF THE TRIAL?

16 MS. SCHULTZ: NO.

17 THE COURT: THE NEXT QUESTION IS ALMOST EXACTLY LIKE  
18 IT BUT IT RELATES TO LIFE IN PRISON WITHOUT POSSIBILITY OF  
19 PAROLE.

20 DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH  
21 PENALTY, THAT YOU WOULD AUTOMATICALLY VOTE FOR LIFE IN PRISON  
22 WITHOUT THE POSSIBILITY OF PAROLE, REGARDLESS OF ANY EVIDENCE  
23 THAT MAY BE PRESENTED IN THE PENALTY PHASE OF THE TRIAL?

24 MS. SCHULTZ: NO.

25 THE COURT: ALL RIGHT. THE LAST QUESTION IS, YOU  
26 UNDERSTAND, DON'T YOU, THAT THE ISSUE OF THE DEATH PENALTY  
27 MAY OR MAY NOT OCCUR IN THIS CASE AND THAT THESE QUESTIONS  
28 HAVE BEEN ASKED ONLY IN THE EVENT THAT YOU REACH THAT PHASE

1 OF THE TRIAL? DO YOU UNDERSTAND THAT?

2 MS. SCHULTZ: YES.

3 THE COURT: ALL RIGHT.

4 MR. CHIER: MS. SCHULTZ, MY NAME IS RICHARD CHIER.

5 I REPRESENT MR. HUNT, ALONG WITH ANOTHER ATTORNEY. THIS IS  
6 THE TIME AND PLACE TO ASK YOU A NUMBER OF PERSONAL QUESTIONS,  
7 ALONG THE LINES OF THE JUDGE'S QUESTIONS.

8 WITHOUT INTENDING TO BE REPETITIOUS, I HAVE TO  
9 SOMETIMES REPEAT SOME OF THE THINGS OR SAY THINGS PRELIMINARY  
10 TO MY QUESTION. I JUST WANTED TO SAY TO YOU THAT WE DEPEND  
11 UPON YOU PROSPECTIVE JURORS FOR CANDOR IN YOUR ANSWERS.

12 WE HAVE NEVER MET BEFORE. HERE WE ARE, HAVING  
13 A DISCUSSION ABOUT SERIOUS MATTERS. BUT THE SYSTEM CAN ONLY  
14 WORK IF YOU GIVE TRUTHFUL ANSWERS.

15 THIS IS NOT A PROCEEDING TO JUDGE YOU AS A PERSON.  
16 IT IS JUST A PROCEEDING WHEREBY WE ARE TRYING TO FIND PEOPLE  
17 TO SIT ON THIS PARTICULAR CASE, WHO ARE AS NEUTRAL AS CAN  
18 BE.

19 MS. SCHULTZ: OKAY.

20 MR. CHIER: ALL RIGHT. NOW, LET'S START BY ASKING YOU  
21 IF YOU WOULD LIKE TO SIT IN A CASE WHERE THE DEATH PENALTY  
22 IS BEING SOUGHT BY THE PEOPLE?

23 MS. SCHULTZ: NO I WOULD NOT.

24 MR. CHIER: OKAY. HOW WOULD YOU ANSWER THIS QUESTION.  
25 I AM A PERSON WHO IS: A, STRONGLY IN FAVOR OF THE DEATH PENALTY;  
26 B, SOMEWHAT IN FAVOR OF THE DEATH PENALTY; C, OPPOSED TO THE  
27 DEATH PENALTY; D, HAVE NOT REALLY THOUGHT ABOUT IT BEFORE  
28 TODAY; OR E, OTHER.

1 MS. SCHULTZ: B.

2 MR. CHIER: SOMEWHAT IN FAVOR OF THE DEATH PENALTY?

3 MS. SCHULTZ: B.

4 MR. CHIER: COULD YOU TELL US IN YOUR OWN WORDS

5 MS. SCHULTZ, HOW YOU SEE YOURSELF IN REGARD TO THE ISSUE OF  
6 THE DEATH PENALTY?

7 MS. SCHULTZ: I BELIEVE THERE ARE CRIMES THAT WARRANT  
8 THE DEATH PENALTY, CRIMES THAT INVOLVED INNOCENT PEOPLE LIKE  
9 CHILDREN, LIKE JUST RANDOM KILLINGS AND THINGS OF THAT NATURE.

10 MR. CHIER: HOW ABOUT A BUSINESS KILLING? WOULD THAT  
11 BE WITHIN --

12 MS. SCHULTZ: I PERSONALLY WAS IN A BANK WHEN IT WAS  
13 HELD UP AT GUNPOINT. I KNOW IT IS A FRIGHTENING SITUATION.  
14 AND I THINK THAT I COULD BE FOR IT IN A SITUATION LIKE THAT.

15 MR. CHIER: WAS THERE A KILLING THAT TOOK PLACE?

16 MS. SCHULTZ: NO. BUT HE HAD A GUN. HE THREATENED  
17 TO USE IT, YES.

18 MR. CHIER: OKAY. THIS IS A CASE WHERE THE PEOPLE HAVE  
19 ALLEGED AGAINST MR. HUNT HERE, THAT AN INTENTIONAL MURDER  
20 TOOK PLACE IN THE COURSE OF A ROBBERY.

21 GIVEN YOUR FEELINGS ABOUT THE DEATH PENALTY IN  
22 PARTICULAR, DO YOU THINK THAT YOU ARE A PERSON WHO OUGHT TO  
23 SIT ON THIS PARTICULAR JURY IN THIS CASE?

24 MS. SCHULTZ: NO.

25 MR. CHIER: OKAY. DO YOU THINK THAT YOU MIGHT BE BIASED  
26 IN FAVOR OF THE PROSECUTION BECAUSE OF THE NATURE OF THE  
27 CHARGES?

28 MS. SCHULTZ: POSSIBLY.

1 MR. CHIER: IS THERE ANY OTHER REASON WHY YOU THINK  
2 THAT YOU WOULD NOT BE SUITABLE AS A JUROR IN THIS CASE?

3 MS. SCHULTZ: NO. I THINK THAT'S AN EXPERIENCE THAT  
4 I WENT THROUGH THAT COULD POSSIBLY BE THE ONLY THING.

5 MR. CHIER: ALL RIGHT. IT WAS A TYPE OF EXPERIENCE  
6 THAT IS AWFULLY DIFFICULT TO PUT OUT OF YOUR MIND?

7 MS. SCHULTZ: YES.

8 MR. CHIER: WERE YOU VERY CLOSE TO THE --

9 MS. SCHULTZ: YES.

10 MR. CHIER: WERE YOU THE PERSON THAT HAD THE IMMEDIATE  
11 CONTACT WITH THE --

12 MS. SCHULTZ: NO. I WAS NOT THE TELLER, NO.

13 I WAS A CUSTOMER IN THE BANK. BUT HE WAS NOT  
14 TOO FAR FROM WHERE I WAS. IT WAS A SMALL BANK.

15 MR. CHIER: IT WAS NOT TOO LONG AGO THAT THIS HAPPENED?

16 MS. SCHULTZ: ABOUT A YEAR AND A HALF AGO.

17 MR. CHIER: SO THE MEMORY OF THIS IS STILL VERY FRESH  
18 IN YOUR MIND?

19 MS. SCHULTZ: YES.

20 THE COURT: ANYTHING ELSE?

21 MR. CHIER: I HAVE A MOTION.

22 THE COURT: YOU MAY MAKE YOUR MOTION AFTER THE DISTRICT  
23 ATTORNEY GETS FINISHED.

24 MR. CHIER: ALL RIGHT.

25 MR. WAPNER: GOOD AFTERNOON, MISS SCHULTZ. I AM FRED  
26 WAPNER, THE DEPUTY DISTRICT ATTORNEY PROSECUTING THIS CASE.

27 MS. SCHULTZ: GOOD AFTERNOON.

28 MR. WAPNER: WHY IS IT THAT YOU WOULD NOT WANT TO SIT



1 OR LIKE TO SIT ON A CASE LIKE THIS?

2 MR. CHIER: SORRY. I THINK THAT SHE SAID THAT SHE DIDN'T  
3 THINK SHE WAS SUITABLE.

4 THE COURT: NO. YOU ASKED HER WHETHER SHE WANTED TO  
5 SIT ON THIS CASE AND SHE SAID NO. HE IS NOW ASKING A  
6 FOLLOW-UP QUESTION THAT IS PROPER.

7 MR. WAPNER: THANK YOU, YOUR HONOR.

8 MS. SCHULTZ: WOULD YOU REPEAT THE QUESTION?

9 MR. WAPNER: SURE.

10 THE COURT: HE ASKED YOU WHY YOU DON'T THINK YOU WANT  
11 TO SIT ON A CASE OF THIS KIND.

12 MS. SCHULTZ: THE NATURE OF IT. AS I SAID, FROM BEING  
13 HELD UP AT GUNPOINT, IT REMINDS ME OF THAT BANK INCIDENT.  
14 THAT IS THE PRIMARY REASON.

15 THE COURT: WELL, THIS CASE WON'T BE THE KIND OF A CASE  
16 THAT YOU EXPERIENCED. IT IS NOT A HOLDUP IN THE SENSE THAT  
17 A BANK IS BEING ROBBED OR ANYBODY WAS HELD UP ON A STREET  
18 OR ANYTHING LIKE THAT. IT IS NOT THAT TYPE OF CASE.

19 MS. SCHULTZ: I UNDERSTOOD IT WAS A ROBBERY.

20 THE COURT: WELL, IT WAS A ROBBERY BUT THE CIRCUMSTANCES  
21 WERE ALTOGETHER DIFFERENT THAN WHAT YOU --

22 MS. SCHULTZ: WELL THEN, I HAVE A DIFFERENT IMPRESSION  
23 OF WHAT THE CASE IS.

24 MR. WAPNER: WHAT IS IT ABOUT THE INCIDENT THAT YOU  
25 WERE INVOLVED IN, THAT MAKES YOU -- STRIKE THAT.

26 WHAT IS IT ABOUT THE INCIDENT THAT YOU WERE  
27 INVOLVED IN, THAT YOU THINK WOULD AFFECT YOU IN DECIDING THIS  
28 CASE?

1 MS. SCHULTZ: IT WAS AN INCIDENT WHERE YOU HAD NO CONTROL  
2 OVER THE OUTCOME. SOMEBODY HAD A PURPOSE OF ROBBERY AND THEY  
3 SAW FIT TO HAVE A GUN.

4 I DIDN'T KNOW IF HE WOULD USE IT OR NOT. IT IS  
5 JUST THE IDEA THAT YOU COULD BE KILLED.

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1 MR. WAPNER: IN THAT PARTICULAR INSTANCE THAT YOU WERE  
2 INVOLVED IN, I TAKE IT, YOU DIDN'T KNOW THE PERSON WHO HAD  
3 THE GUN?

4 MS. SCHULTZ: THAT'S CORRECT.

5 MR. WAPNER: AND IN THAT PARTICULAR INSTANCE, HE DIDN'T  
6 HAPPEN TO SHOOT THE GUN OR KILL ANYBODY WITH IT, RIGHT?

7 MS. SCHULTZ: THAT'S CORRECT.

8 MR. WAPNER: LET'S SAY FOR A MOMENT THAT YOU WERE A JUROR  
9 ON THAT CASE AND, OF COURSE, IT WOULDN'T BE PROPER BECAUSE  
10 YOU ARE A WITNESS, BUT SINCE THIS IS JUST A HYPOTHETICAL  
11 QUESTION, LET'S SAY YOU ARE CALLED AS A JUROR ON THAT CASE  
12 AND LET'S SAY THAT THAT PERSON HAD SHOT AND KILLED SOMEONE  
13 IN THE BANK, OKAY?

14 MS. SCHULTZ: OKAY

15 MR. WAPNER: AND THE JURY THEN FOUND HIM GUILTY OF  
16 THE ROBBERY AND OF A MURDER THAT HAPPENED DURING A ROBBERY  
17 AND THAT HE COMMITTED THE MURDER INTENTIONALLY, OKAY?

18 MS. SCHULTZ: OKAY.

19 MR. WAPNER: NOW WE GET TO THE PHASE OF THAT CASE THAT  
20 WE HAVE BEEN REFERRING TO AS THE PENALTY PHASE; WOULD YOU BE  
21 ABLE TO LISTEN TO ANY EVIDENCE THAT WAS PRESENTED IN THE  
22 PENALTY PHASE TO DETERMINE WHAT THE PUNISHMENT SHOULD BE OR  
23 WOULD YOU HAVE ALREADY MADE UP YOUR MIND BASED ON THE FACTS  
24 OF THE CASE, JUST OF THE ROBBERY ITSELF?

25 MS. SCHULTZ: I WOULD BE ABLE TO LISTEN TO THE FACTS,  
26 WHATEVER THEY WERE.

27 MR. WAPNER: IF YOU SAT ON THAT CASE AND THE JUDGE IN  
28 THAT CASE TOLD YOU THAT YOU HAD THE CHOICE BETWEEN LIFE

1 IMPRISONMENT AND DEATH IN THE GAS CHAMBER, WOULD YOU  
2 AUTOMATICALLY PICK ONE OR THE OTHER?

3 MS. SCHULTZ: I WOULD HAVE TO PICK ONE OR THE OTHER,  
4 WOULDN'T I?

5 MR. WAPNER: OKAY. BUT WOULD YOU AUTOMATICALLY PICK  
6 DEATH WITHOUT KNOWING MORE?

7 MS. SCHULTZ: NO.

8 MR. WAPNER: WOULD YOU AUTOMATICALLY PICK LIFE WITHOUT  
9 KNOWING ANY MORE?

10 MS. SCHULTZ: NO.

11 MR. WAPNER: WOULD YOU, IF YOU WERE A JUROR ON THIS CASE,  
12 LISTEN TO THE THINGS ABOUT THAT PERSON WHO COMMITTED THAT  
13 ROBBERY THAT WERE GOOD, LIKE MAYBE THIS WAS THE FIRST TIME  
14 HE HAD EVER DONE THAT, HE HAD LIVED AN EXEMPLARY LIFE UP TO  
15 THAT POINT, THINGS LIKE THAT?

16 MS. SCHULTZ: I WOULD LISTEN TO THEM, YES.

17 MR. WAPNER: AND ON THE OTHER HAND, WOULD YOU LISTEN  
18 TO ANYTHING BAD THAT MIGHT BE INTRODUCED TO SHOW THAT HE SHOULD  
19 GET THE DEATH PENALTY?

20 MS. SCHULTZ: YES.

21 MR. WAPNER: AND DO YOU THINK THAT YOU ARE CAPABLE OF  
22 RENDERING AN IMPARTIAL DECISION ON WHETHER THE PUNISHMENT  
23 SHOULD BE LIFE OR IT SHOULD BE DEATH?

24 MS. SCHULTZ: YES.

25 MR. WAPNER: ALL RIGHT. WHY DID YOU SAY THAT YOU WERE  
26 POSSIBLY BIASED IN FAVOR OF THE PROSECUTION?

27 MS. SCHULTZ: BASED ON THE CRIME, I WAS, AS YOU SAY,  
28 A WITNESS TO AT THE BANK, THAT SINCE I THOUGHT THIS WAS A

1 SIMILAR TYPE OF SITUATION, THAT I COULD UNDERSTAND THE  
2 PROSECUTION EASIER.

3 MR. WAPNER: AND IF IT TURNS OUT TO BE, IF THE FACTS  
4 OF THIS CASE TURN OUT TO BE DIFFERENT, IT DIDN'T HAPPEN IN  
5 A BANK, FOR EXAMPLE, IS THE CASE THAT YOU ARE A WITNESS TO,  
6 NEVERTHELESS, GOING TO AFFECT YOU IN DECIDING THIS CASE?

7 MS. SCHULTZ: WELL, IT WAS A ROBBERY AT GUNPOINT.

8 I MEAN IT MAY NOT HAVE BEEN A BANK BUT I THINK  
9 I CAN HAVE EMPATHY FOR THE SITUATION.

10 MR. WAPNER: EMPATHY FOR THE VICTIM, FOR EXAMPLE?

11 MS. SCHULTZ: YES.

12 MR. WAPNER: DOES THAT MEAN THAT YOU CAN'T TREAT THE  
13 DEFENDANT IN THIS CASE FAIRLY?

14 MS. SCHULTZ: I WOULD SAY PROBABLY NOT, NO.

15 MR. WAPNER: WHAT ABOUT IT, WHAT IS THERE ABOUT IT?

16 OBVIOUSLY I UNDERSTAND WHAT YOU MEAN WHEN YOU SAY  
17 YOU HAVE EMPATHY FOR THE VICTIM.

18 WHAT IS THERE ABOUT THAT FACT ALONE THAT MAKES  
19 YOU NOT ABLE TO BE FAIR TO THE DEFENDANT IN THIS CASE?

20 MS. SCHULTZ: WELL, WHEN YOU ARE GOING ABOUT YOUR  
21 BUSINESS, AND YOU KNOW, IN A NORMAL FASHION, NOT EXPECT ANY-  
22 THING TO OCCUR AND SOMEBODY COMES AT YOU WITH A GUN, FOR  
23 WHATEVER PURPOSE, USUALLY TO ROB YOU OR TO HOLD YOU UP OR  
24 WHATEVER, I THINK IT IS A SITUATION THAT IS TRAUMATIC AND  
25 ALTHOUGH IT WASN'T ME PERSONALLY WHO HE WAS TAKING THE MONEY  
26 FROM, I WAS -- I WAS THERE.

27 I WAS TOLD TO GET ON THE FLOOR AND NOT TO LOOK  
28 AT HIM AND THINGS LIKE THAT.

1           MR. WAPNER: DOES THAT MEAN THAT IN EVERY CASE WHERE  
2 THERE IS A ROBBERY -- EXCUSE ME -- A MURDER IN THE COURSE OF  
3 A ROBBERY THAT YOU WOULD FIND THE PERSON GUILTY, REGARDLESS  
4 OF THE EVIDENCE?

5           MR. CHIER: YOUR HONOR, I AM GOING TO OBJECT TO THE  
6 QUESTION "IN EVERY CASE." WE ARE TALKING ABOUT THIS CASE AND  
7 THIS IS THE CASE WHERE SHE WOULD BE A JUROR ON.

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1 THE COURT: ALL RIGHT. YOU MAY ANSWER THE QUESTION.

2 MS. SCHULTZ: I AM NOT SAYING IN EVERY CASE.

3 IT IS JUST THAT I FEEL I UNDERSTAND MORE HOW A  
4 VICTIM FEELS, THAT IS HOW I FEEL.

5 I KNOW MORE -- I KNOW MORE OF WHAT THEY WENT  
6 THROUGH, PERHAPS.

7 THE COURT: DO YOU REMEMBER ME ASKING YOU THIS QUESTION:  
8 DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH PENALTY THAT  
9 YOU WOULD AUTOMATICALLY VOTE TO IMPOSE THE DEATH PENALTY  
10 REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY  
11 PHASE OF THE TRIAL AND YOUR ANSWER WAS NO?

12 MS. SCHULTZ: THAT'S RIGHT.

13 THE COURT: HAVE YOU CHANGED YOUR MIND?

14 MS. SCHULTZ: NO.

15 I DON'T AUTOMATICALLY FEEL I WOULD VOTE SOMEBODY  
16 THE DEATH PENALTY.

17 THE COURT: YOU WILL HEAR ALL OF THE EVIDENCE ON THE  
18 PENALTY PHASE?

19 MS. SCHULTZ: YES.

20 THE COURT: PRO AND CON, GOOD AND BAD ABOUT THE DEFENDANT  
21 AND THEN YOU WILL MAKE UP YOUR MIND --

22 MS. SCHULTZ: YES.

23 THE COURT: -- IS THAT WHAT YOU ARE GOING TO DO?

24 MS. SCHULTZ: YES.

25 THE COURT: YOU ARE SURE ABOUT THAT?

26 MS. SCHULTZ: WELL, I WOULD HEAR IT, YOU KNOW, BUT I  
27 STILL HAVE MY FEELINGS.

28 THE COURT: YES, I UNDERSTAND. NOBODY WANTS TO DIVORCE

1 YOU FROM YOUR FEELINGS.

2 BUT WHAT HE WANTS TO KNOW IS HOW YOUR FEELINGS  
3 ARE GOING TO AFFECT YOUR ACTING AS A JUROR IN THIS CASE.

4 ARE YOUR FEELINGS SUCH THAT YOU WOULD AUTOMATICALLY  
5 VOTE FOR THE DEATH PENALTY, REGARDLESS OF ANY EVIDENCE THAT  
6 MAY BE ADDUCED AT THE TIME OF THE PENALTY PHASE OF THE TRIAL?

7 MS. SCHULTZ: I CAN'T SAY I WOULD AUTOMATICALLY VOTE  
8 FOR THE DEATH PENALTY, NO.

9 I STILL HOLD WITH MY "NO."

10 THE COURT: ALL RIGHT. YOU HOLD "NO" WHAT, THAT YOU  
11 WOULD NOT VOTE AUTOMATICALLY?

12 MS. SCHULTZ: YES.

13 THE COURT: WOULD YOU LISTEN TO ALL OF THE EVIDENCE AND  
14 THEN MAKE UP YOUR OWN MIND?

15 MS. SCHULTZ: YES.

16 THE COURT: YOU UNDERSTAND THERE ARE TWO PENALTIES?

17 MS. SCHULTZ: YES, DEATH AND LIFE IN PRISON.

18 THE COURT: AND LIFE IN PRISON WITHOUT THE POSSIBILITY  
19 OF PAROLE.

20 AND YOU WILL MAKE UP YOUR MIND AFTER YOU HAVE  
21 HEARD ALL OF THE EVIDENCE?

22 MS. SCHULTZ: YES, I UNDERSTAND THAT.

23 THE COURT: YOU ARE SURE ABOUT THAT NOW?

24 MS. SCHULTZ: YES, I AM SURE ABOUT THAT BUT --

25 THE COURT: BUT WHAT?

26 MS. SCHULTZ: BUT IT IS LIKE YOUR SAYING, BECAUSE I WENT  
27 THROUGH THIS EXPERIENCE, THAT WILL AFFECT ME. BUT ALL YOUR  
28 EXPERIENCES IN LIFE AFFECT YOU AND I FEEL THAT --



1 THE COURT: THERE IS NO QUESTION ABOUT THAT.

2 BUT BECAUSE OF THAT PERSON'S EXPERIENCE AND YOUR  
3 FEELINGS ABOUT THE DEATH PENALTY -- NOBODY IS TAKING THAT  
4 AWAY FROM YOU AS TO THE DEATH PENALTY, HAVE IT. KEEP IT.  
5 ALL RIGHT?

6 MS. SCHULTZ: OKAY.

7 THE COURT: BUT WILL YOU EXERCISE THAT AND VOTE FOR THE  
8 DEATH PENALTY IRRESPECTIVE, REGARDLESS OF ANY TESTIMONY THAT  
9 MAY COME UP IN THIS CASE?

10 MS. SCHULTZ: NO.

11 THE COURT: YOU WILL CONSIDER ALL OF THAT TESTIMONY?

12 MS. SCHULTZ: YES.

13 THE COURT: ALL RIGHT.

14 MR. WAPNER: UNDERSTANDING THAT YOU MAY HAVE EMPATHY  
15 FOR THE VICTIM IN THIS CASE, ARE YOU ABLE TO RECOGNIZE THAT  
16 AND SET IT ASIDE IN TRYING TO DETERMINE WHAT THE APPROPRIATE  
17 PUNISHMENT SHOULD BE?

18 LET ME BACK UP. MAYBE THAT IS NOT A GOOD QUESTION.

19 CAN YOU SET ASIDE YOUR FEELINGS BASED ON WHAT  
20 HAPPENED TO YOU?

21 I MEAN IT MAY TURN OUT FROM THE EVIDENCE IN THIS  
22 CASE, REGARDLESS OF YOUR OWN EXPERIENCE, THAT AFTER YOU LISTEN  
23 TO THE EVIDENCE THAT YOU WOULD HAVE EMPATHY FOR THE VICTIM  
24 AND, ON THE OTHER HAND, IT MAY TURN OUT AFTER YOU LISTEN TO  
25 THE EVIDENCE THAT IN THIS PARTICULAR CASE, YOU WOULDN'T HAVE  
26 EMPATHY FOR THE VICTIM. SINE YOU DON'T KNOW THE EVIDENCE IN  
27 THIS CASE, I AM NOT GOING TO ASK YOU HOW YOU WOULD JUDGE  
28 THIS PARTICULAR PERSON. BUT WHAT I AM ASKING YOU IS: WHETHER

1 OR NOT YOU CAN PUT ASIDE THE GENERAL FEELINGS THAT YOU HAVE  
2 EXPRESSED AND DECIDE THIS CASE BASED ON THE FACTS IN THIS  
3 CASE AND THE LAW THAT THE JUDGE GIVES TO YOU?

4 MS. SCHULTZ: YES.

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14A-1

1 MR. WAPNER: HAVE YOU GIVEN ANY THOUGHT TO THE ISSUE  
2 OF THE DEATH PENALTY BEFORE YOU WERE CALLED AS A JUROR IN  
3 THIS CASE?

4 MS. SCHULTZ: JUST WHEN YOU HEAR THE RECENT VOTE, YOU  
5 KNOW, WITH ROSE BIRD AND THINGS LIKE THAT. IT WAS IN THE  
6 NEWS AND POLITICALLY, THINGS LIKE THAT.

7 MR. WAPNER: DID YOU HAVE ANY OPINIONS ON THAT ISSUE,  
8 ONE WAY OR ANOTHER, ON THE ISSUE OF THE DEATH PENALTY OR ROSE  
9 BIRD, VIS A VIS THE DEATH PENALTY?

10 MS. SCHULTZ: WELL, I AM FOR THE DEATH PENALTY AS A  
11 PENALTY, YES.

12 MR. WAPNER: AND WHAT IS THAT BASED ON, IF YOU KNOW?  
13 IS IT RELIGIOUS OR MORAL OR PHILOSOPHICAL OR POLITICAL?

14 MS. SCHULTZ: I THINK IT IS A MORAL BASIS.

15 MR. WAPNER: AND HOW LONG HAVE YOU BEEN IN FAVOR OF  
16 THE DEATH PENALTY?

17 MS. SCHULTZ: FOR SOME TIME. I COULDN'T GIVE YOU A  
18 NUMBER OF YEARS.

19 MR. WAPNER: AND CAN YOU TELL ME OR EXPLAIN TO ME A  
20 LITTLE BIT MORE ABOUT THAT, WHAT THAT GENERAL STATEMENT MEANS  
21 IN TERMS OF BEING IN FAVOR OF THE DEATH PENALTY?

22 MS. SCHULTZ: WELL, I BELIEVE THERE ARE CRIMES THAT  
23 WARRANT THAT PENALTY.

24 MR. WAPNER: SUCH AS?

25 MS. SCHULTZ: SUCH AS MURDERS OF INNOCENT PEOPLE, WHEN  
26 SOMEBODY ABDUCTS A CHILD AND TORTURES THEM AND MURDERS THEM.  
27 THINGS LIKE THAT.

28 MR. WAPNER: WHEN YOU SAY THERE ARE CRIMES THAT DESERVE

14A-2

1 THAT PENALTY, IF A CRIME FIT INTO THAT CATEGORY, WOULD YOU  
2 SAY WITHOUT MORE, THAT THAT PERSON DESERVES THE DEATH PENALTY?

3 MS. SCHULTZ: I WOULD LISTEN TO THE EVIDENCE. I DON'T  
4 AUTOMATICALLY SAY, BASED ON SOMEBODY TELLING ME THAT THEY  
5 DID THIS -- I MEAN, THAT PERSON COULD BE LYING TO ME. SO  
6 I WOULD HAVE TO KNOW MORE ABOUT IT.

7 MR. WAPNER: IN OTHER WORDS, LET'S SAY, TAKING YOUR  
8 EXAMPLE OF THE MURDER IN THE COURSE OF A CHILD ABDUCTION,  
9 WHERE SOMEONE STEALS A CHILD AND DURING THE COURSE OF THE  
10 KIDNAPPING OF THAT CHILD, THE PERSON INTENTIONALLY KILLS THEM  
11 AND MAYBE ONE PERSON WHO DOES IT, KILLS THAT CHILD BY LET'S  
12 SAY, SHOOTING THEM ONE TIME IN THE HEAD.

13 ANOTHER PERSON KILLS THAT CHILD IN SOME KIND OF  
14 TORTUROUS MANNER, BRUTALLY WITH A LOT OF STABBINGS. CAN YOU  
15 SEE A DIFFERENCE BETWEEN THOSE TWO INCIDENTS?

16 MS. SCHULTZ: I CAN SEE A DIFFERENCE IN THE WAY THAT  
17 THE DEATH OCCURRED. BUT I STILL THINK THAT THEY ARE TERRIBLE  
18 CRIMES, BOTH OF THEM.

19 MR. WAPNER: COULD YOU JUDGE EACH ONE OF THOSE PEOPLE  
20 IF YOU WERE ON A JURY IN THOSE INDIVIDUAL CASES, EACH ONE  
21 OF THEM INDIVIDUALLY IN TERMS OF WHAT SHOULD HAPPEN?

22 OR, WOULD YOU HAVE ALREADY MADE UP YOUR MIND,  
23 BASED ON THE NATURE OF THE CRIME, WHAT SHOULD HAPPEN TO THEM?

24 MS. SCHULTZ: I COULD LISTEN. I CAN LISTEN TO THE FACTS  
25 AND DECIDE. I WOULD NATURALLY, BE HORRIFIED.

26 I CAN'T SAY THAT I WOULD AUTOMATICALLY KILL THEM.  
27 BUT THAT IS THE TYPE OF CRIME THAT APPEARS TO ME TO WARRANT  
28 THAT TYPE OF PUNISHMENT.

14A-3

1 MR. WAPNER: BUT EVEN IN THOSE CASES, WOULD YOU BE WILLING  
2 TO LISTEN TO THINGS THAT THE PERSON CHARGED WITH THE CRIME  
3 MIGHT HAVE TO SAY THAT THEY WOULD ARGUE SHOULD CAUSE YOU TO  
4 SPARE THEIR LIFE?

5 MR. CHIER: OBJECTION. THIS IS AN IMPROPER TEST. THERE  
6 IS NO QUESTION WHETHER A JUROR IS WILLING TO LISTEN. UNLESS  
7 THEY PUT PLUGS IN THEIR EARS, THEY HAVE TO LISTEN, JUDGE.  
8 IT IS NOT PROPER.

9 MR. WAPNER: WELL, IF IT IS SEMANTIC DIFFERENCE, I WILL  
10 CHANGE IT TO CONSIDER.

11 THE COURT: ALL RIGHT.

12 MR. CHIER: IT WAS NOT A PROPER INQUIRY.

13 MR. WAPNER: WOULD YOU BE WILLING TO CONSIDER THINGS  
14 THAT THAT PERSON PRESENTED TO YOU THAT WERE GOOD ABOUT HIM,  
15 THAT HE WOULD ARGUE SHOULD CAUSE YOU TO CONSIDER SPARING HIS  
16 LIFE?

17 MS. SCHULTZ: I WOULD LISTEN, YES.

18 MR. WAPNER: AND YOU WOULD CONSIDER THOSE THINGS? IN  
19 OTHER WORDS, WHAT WE ARE SAYING IS, ARE YOU JUST LISTENING  
20 AS AN INTELLECTUAL EXERCISE OR WOULD YOU REALLY PAY ATTENTION  
21 AND CONSIDER IT AND ANYTHING ABOUT WHETHER OR NOT THOSE FACTORS  
22 SHOULD CAUSE YOU TO SPARE HIS LIFE OR --

23 MS. SCHULTZ: I WOULD FEEL UNCOMFORTABLE ON A CASE OF  
24 THAT TYPE, NUMBER ONE. I WOULD LISTEN BECAUSE IT WOULD BE  
25 PART OF MY FUNCTION AS A JUROR TO LISTEN AND TO COME TO A  
26 DECISION BASED ON THE FACTS.

27 IF THAT IS WHAT YOU ARE ASKING, YES. I COULD.  
28 BUT I WOULD BE VERY UNCOMFORTABLE IN THAT KIND OF A SITUATION.

1           MR. WAPNER: OKAY. I THINK THAT JURORS PROBABLY IN  
2 THIS SITUATION GENERALLY WHERE YOU ARE ASKED TO MAKE A LIFE  
3 OR DEATH DECISION, ARE GOING TO BE UNCOMFORTABLE. I GUESS  
4 THE REAL INQUIRY IS WHETHER YOU ARE SO BIASED ONE WAY OR  
5 ANOTHER THAT YOU COULDN'T BE FAIR TO BOTH SIDES.

6                       HOW DO YOU FEEL WHEN IT COMES DOWN TO THAT  
7 QUESTION?

8           MS. SCHULTZ: WELL, YOU HAVE SOMEBODY'S LIFE IN YOUR  
9 HANDS, NO MATTER THE CRIME. I WOULD HATE TO THINK THAT I  
10 WOULD NOT BE FAIR, BASED ON THAT. BUT --

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1 MR. WAPNER: BUT WHAT?

2 MS. SCHULTZ: IT WOULD BE DIFFICULT. IT IS A DIFFICULT  
3 SITUATION. IT IS UNCOMFORTABLE.

4 THAT IS ABOUT IT. I DON'T KNOW WHAT ELSE TO SAY.

5 THE COURT: WELL, YOU KNOW, IN LIFE, YOU HAVE TO MAKE  
6 UNCOMFORTABLE DECISIONS, DON'T YOU?

7 MS. SCHULTZ: YES YOU DO.

8 THE COURT: NOW, IF YOU ARE SWORN AS A JUROR AND YOU  
9 ARE CALLED UPON TO DETERMINE WHETHER OR NOT THE DEFENDANT  
10 COMMITTED MURDER IN THE FIRST DEGREE IN THE COURSE OF A  
11 ROBBERY, WOULD YOU HAVE ANY DIFFICULTY ARRIVING AT A VERDICT,  
12 IF THE EVIDENCE INDICATED IT?

13 MS. SCHULTZ: NO.

14 THE COURT: ALL RIGHT. SO WE ARE PAST THE MURDER  
15 PHASE OF IT. DO YOU UNDERSTAND?

16 THE NEXT QUESTION IS, WHAT ARE YOU GOING TO DO  
17 WITH HIM? ONE OF TWO THINGS IS WHAT YOU DO WITH HIM, DEPENDING  
18 ON THE EVIDENCE IN THE SECOND PART OF THE TRIAL, THE GOOD  
19 THINGS AND THE BAD THINGS.

20 EVEN BEFORE YOU HEAR -- OR EVEN IF YOU DO HEAR  
21 IT, YOU WILL DISREGARD ANY TESTIMONY FOR THE DEFENDANT IN  
22 MAKING UP YOUR MIND AS TO WHAT THE PENALTY WOULD BE, IS THAT  
23 RIGHT?

24 MS. SCHULTZ: WELL, I WOULD SAY NO. YOU KNOW, I WOULD  
25 LISTEN TO THE GOOD, AS WELL AS THE BAD.

26 THE COURT: AND THEN MAKE UP YOUR MIND?

27 MS. SCHULTZ: YES.

28 THE COURT: YOU ARE NOT GOING TO AUTOMATICALLY VOTE

1 FOR THE DEATH PENALTY BECAUSE HE COMMITTED A MURDER IN THE  
2 COURSE OF A ROBBERY, ARE YOU?

3 MS. SCHULTZ: HOPEFULLY NOT, NO.

4 THE COURT: NOW, I WANT YOU TO BE PERFECTLY FRANK WITH  
5 US. WOULD YOU OR WOULDN'T YOU? WOULD YOU CONSIDER EVERYTHING  
6 YOU HEAR?

7 MS. SCHULTZ: YES.

8 THE COURT: ANY FURTHER QUESTIONS?

9 MR. CHIER: YES, YOUR HONOR. MS. SCHULTZ, IT IS TRUE  
10 THAT THIS ALLEGED ROBBERY IS NOT ALLEGED TO HAVE TAKEN PLACE  
11 IN A BANK.

12 BUT IN A CASE WHERE THE PEOPLE ARE ALLEGING THAT  
13 A ROBBERY TOOK PLACE IN THE VICTIM'S HOME AT GUNPOINT AND  
14 WHERE A CLAIM IS BEING MADE THAT THE DEFENDANT PRIED PROPERTY  
15 OUT OF THE VICTIM AT GUNPOINT AND THEREAFTER, HE WAS SHOT  
16 AND KILLED, IS THIS THE TYPE OF CASE WHERE YOU WOULD GO INTO  
17 THE PROCEEDINGS KIND OF TILTED IN FAVOR OF THE PROSECUTION,  
18 BASED ON YOUR EXPERIENCE GOING IN?

19 MS. SCHULTZ: YES. I WOULD BE TILTED GOING IN.

20 MR. CHIER: TO THE POINT THAT IT WOULD BE IN THE BEST  
21 INTEREST OF THE DEFENDANT IF SOMEBODY OTHER THAN YOURSELF  
22 WERE A JUROR IN THIS CASE?

23 MS. SCHULTZ: YES.

24 MR. CHIER: I SUBMIT IT, YOUR HONOR.

25 THE COURT: MR. WAPNER?

26 MR. WAPNER: NO FURTHER QUESTIONS.

27 THE COURT: WOULD YOU WAIT OUTSIDE? WE ARE GOING TO  
28 HAVE A DISCUSSION.



1 (PROSPECTIVE JUROR SCHULTZ EXITED THE  
2 COURTROOM.)

3 MR. WAPNER: YOUR HONOR, I DON'T KNOW IF WHAT SHE SAID  
4 REGARDING THE DEATH PENALTY WOULD NECESSARILY DISQUALIFY HER  
5 UNDER EITHER THE WITT OR WITHERSPOON TEST.

6 BUT I THINK A GENERAL PROPOSITION, AS A CHALLENGE  
7 FOR CAUSE, IF WE WERE ON THE GENERAL PART OF THE JURY  
8 SELECTION, THAT SHE IS CHALLENGEABLE FOR CAUSE.

9 AND RATHER THAN WAIT UNTIL THAT POINT, I THINK  
10 THAT THE BASIS IS REALLY IMMATERIAL. I THINK THE CHALLENGE  
11 LIES.

12 THE COURT: ALL RIGHT. THEN I WILL EXCUSE HER. GET  
13 HER IN, PLEASE.

14 MR. CHIER: I THINK IT IS KIND OF OVERLAPPING, ACTUALLY,  
15 JUDGE. IS A LITTLE OF THIS AND A LITTLE OF THAT.

16 I THINK YOU ARE RIGHT, MR. WAPNER.

17 (PROSPECTIVE JUROR SCHULTZ RE-ENTERED  
18 THE COURTROOM.)

19 THE COURT: MISS SCHULTZ, I THINK THAT IN VIEW OF YOUR  
20 UNHAPPY EXPERIENCE THAT YOU HAD WHICH YOU STATED YOUR MIND  
21 IS PROBABLY SUCH THAT YOU COULDN'T BE ENTIRELY IMPARTIAL AS  
22 A JUROR IN THIS CASE, THAT WE WILL EXCUSE YOU.

23 HOWEVER, YOU LOOK LIKE YOU CAN BE A VERY FINE  
24 JUROR IN SOME OTHER TYPE OF CASE. SO, PLEASE GO BACK AND  
25 TELL THE JURY CLERK THAT I SAID THAT YOU COULD SERVE IN SOME  
26 OTHER TYPE OF CASE BUT NOT THIS ONE.

27 MS. SCHULTZ: OKAY.

28 THE COURT: THANK YOU VERY MUCH.

1 (PROSPECTIVE JUROR SCHULTZ EXITED THE  
2 COURTROOM.)

3 (PROSPECTIVE JUROR SHAW ENTERED THE  
4 COURTROOM.)

5 THE COURT: IS IT MRS. SHAW?

6 MS. SHAW: YES.

7 THE COURT: MRS. SHAW, WHERE DO YOU LIVE?

8 MS. SHAW: PLAYA DEL REY.

9 THE COURT: DID YOU READ ANYTHING AT ALL ABOUT THIS  
10 CASE OR DO YOU KNOW ANYTHING AT ALL ABOUT IT?

11 MS. SHAW: NO.

12 THE COURT: EXCEPT WHAT I SAID TO YOU AT THE TIME YOU  
13 WERE ALL TOGETHER?

14 MS. SHAW: NO. I HAVE NOT READ ANYTHING.

15 THE COURT: ALL RIGHT.

16 MS. SHAW: I HAVE BEEN A BIT CURIOUS BUT I HAVE NOT  
17 READ ANYTHING.

18 THE COURT: WELL, I WILL SATISFY YOUR CURIOSITY AND  
19 TELL YOU A LITTLE BIT ABOUT IT NOW.

20 WHAT I WILL TELL YOU IS ONLY A NECESSARY,  
21 PRELIMINARY BACKGROUND TO MY ASKING YOU WHAT YOUR ATTITUDE  
22 IS TOWARD THE DEATH PENALTY AND HOW IT MIGHT AFFECT YOUR  
23 JUDGMENT IF YOU ARE SELECTED AS A JUROR.

24 FIRST, I WILL TELL YOU THAT THE CHARGE AGAINST  
25 THIS DEFENDANT IS THAT HE COMMITTED A MURDER. IT WAS A MURDER  
26 IN THE FIRST DEGREE AND THAT THE MURDER WAS COMMITTED DURING  
27 THE COURSE OF A ROBBERY.

28 THE SIGNIFICANCE OF IT BEING COMMITTED IN THE

1 COURSE OF A ROBBERY IS THAT THE LEGISLATURE HAS SAID THAT  
2 IN THAT TYPE OF CIRCUMSTANCE ACCOMPANYING A MURDER, IT QUALIFIES  
3 FOR THE DEATH PENALTY.

4 IT IS NOT THAT IT SHOULD OR SHOULD NOT, BUT THAT  
5 IT QUALIFIES, IT IS THE KIND OF CASE WHERE THE DEATH PENALTY  
6 MAY BE REQUESTED.

7 THE LEGISLATURE HAS ALSO SAID THAT A MURDER WHICH  
8 IS COMMITTED DURING THE COURSE OF A BURGLARY OR A RAPE OR  
9 A KIDNAPPING OR IF A CHILD HAS BEEN ABDUCTED OR MOLESTED AND  
10 KILLED, IN THE COURSE OF THAT, THE LEGISLATURE HAS SAID THAT  
11 THOSE ARE THE KINDS OF CASES WHERE THERE ARE SPECIAL  
12 CIRCUMSTANCES PRESENT. THAT CASE QUALIFIES FOR THE DEATH  
13 PENALTY. DO YOU UNDERSTAND THAT?

14 MS. SHAW: I SEE, UH-HUH.

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1 THE COURT: ALL RIGHT, ONLY IN THOSE KINDS. IN OTHER  
2 WORDS, YOU MIGHT HAVE A DELIBERATE, PLANNED MURDER, JUST A  
3 MURDER, BUT THAT DOESN'T QUALIFY BY ITSELF FOR THE DEATH  
4 PENALTY. IT HAS GOT TO BE ONE OF THOSE SPECIAL CIRCUMSTANCES  
5 SUCH AS IN THE COURSE OF A ROBBERY, MURDER, KILLING IN THE  
6 COURSE OF A RAPE, BURGLARY, KIDNAPPING AND SO ON AND SO FORTH.  
7 DO YOU UNDERSTAND THAT?

8 MS. SHAW: YES.

9 THE COURT: YOU HAVE SOME DOUBT ABOUT IT?

10 MS. SHAW: YES, I DO HAVE A DOUBT.

11 WELL, IN THE COURSE OF ANY OF THOSE, YOU MEAN?

12 THE COURT: THAT IS THE IDEA. ONLY IN THE COURSE OF  
13 THOSE SPECIAL CIRCUMSTANCES OF ROBBERY, OR BURGLARY, OF  
14 KIDNAPPING OR RAPE, THINGS OF THAT KIND, WHERE THE DEATH  
15 PENALTY MAY BE SOUGHT; DO YOU UNDERSTAND?

16 MS. SHAW: UH-HUH.

17 THE COURT: MERELY BECAUSE THERE MIGHT BE A MURDER  
18 DELIBERATELY PLANNED AND AN INTENTIONAL MURDER DOESN'T MEAN  
19 THAT THE DEATH PENALTY CAN BE IMPOSED IN THAT TYPE OF CASE.

20 IT IS ONLY WHEN IT IS ACCOMPANIED UNDER THE  
21 CIRCUMSTANCES OF A ROBBERY OR A BURGLARY OR SO ON AND SO FORTH;  
22 DO YOU UNDERSTAND?

23 MS. SHAW: YES.

24 THE COURT: NOT EVERY FIRST DEGREE MURDER CALLS FOR THE  
25 DEATH PENALTY OR LIFE IMPRISONMENT WITHOUT THE POSSIBILITY  
26 OF PAROLE.

27 MS. SHAW: UH-HUH.

28 THE COURT: THERE ARE OTHER PENALTIES FOR THAT.

1                   BUT IS THAT CLEAR?

2           MS. SHAW:   DEPENDING UPON THE CIRCUMSTANCES.

3           THE COURT:   DEPENDING UPON THE FINDING OF SPECIAL  
4 CIRCUMSTANCES THAT IT WAS COMMITTED DURING THE COURSE OF A  
5 ROBBERY, IS THAT OKAY?

6           MS. SHAW:   YES.

7           MR. WAPNER:   YOUR HONOR, I THINK THE REPLY WAS "DEPENDING  
8 UPON THE CIRCUMSTANCES".

9           MS. SHAW:   SPECIAL CIRCUMSTANCES.

10          THE COURT:   THE SPECIAL CIRCUMSTANCES, WHETHER IT  
11 OCCURRED DURING THE COURSE OF A ROBBERY OR ANYTHING LIKE THAT;  
12 DO YOU UNDERSTAND THAT?

13          MS. SHAW:   YES, I AM PRETTY SURE I DO.

14          THE COURT:   WELL, IF THERE IS ANY DOUBT ABOUT IT, I WILL  
15 EXPLAIN.

16          MS. SHAW:   WELL, I DON'T MEAN TO -- OH, YES, I DO  
17 UNDERSTAND THAT UNDER CERTAIN, UNDER THE SPECIFIC CIRCUMSTANCES.

18          THE COURT:   THAT'S RIGHT.

19          MS. SHAW:   I WANT TO BE SURE THAT I GET THEM MEMORIZED.

20          THE COURT:   THE SPECIAL CIRCUMSTANCE IN THIS CASE  
21 OCCURRED DURING THE COURSE OF A ROBBERY; IS THAT RIGHT?

22          MS. SHAW:   YES, YES.   OKAY.

23                    WILL THAT BE EXPLAINED?   THAT IS EXPLAINED, ISN'T  
24 IT, IN THE CASE?

25          THE COURT:   OH, YES, YES, SURE.

26                    YOU WILL FULLY UNDERSTAND WHAT THE FACTS ARE AND  
27 YOU WILL FULLY UNDERSTAND WHAT THE LAW IS AT THE CONCLUSION  
28 OF THIS CASE.

1 MS. SHAW: UH-HUH.

2 THE COURT: NOW THE FIRST THING THAT HAPPENS WHEN A JURY  
3 IS SELECTED, THE JURY WILL HAVE TO DETERMINE FIRST WHETHER  
4 OR NOT A MURDER HAD BEEN COMMITTED IN THE FIRST DEGREE. IF  
5 THE JURY CONCLUDES THAT A MURDER HAS BEEN COMMITTED AND IT  
6 IS A DELIBERATE, FIRST DEGREE MURDER, THEN THEY HAVE TO SAY  
7 WHETHER IT IS TRUE OR FALSE THAT IT WAS COMMITTED DURING THE  
8 COURSE OF A ROBBERY. THERE ARE TWO FINDINGS THEY HAVE TO MAKE:  
9 ONE, GUILTY OR NOT GUILTY. IF IT IS GUILTY OF MURDER IN THE  
10 FIRST DEGREE, THEN THEY HAVE TO DECIDE WHETHER OR NOT IT WAS  
11 IN THE COURSE OF A ROBBERY.

12 MS. SHAW: I UNDERSTAND.

13 THE COURT: IF THEY SAY IT WAS COMMITTED IN THE COURSE  
14 OF A ROBBERY, THEN WE ENTER A SECOND PHASE.

15 THE FIRST PHASE IS THE GUILT PHASE.

16 THE SECOND PHASE IS THE PENALTY PHASE WHERE THE  
17 JURY COMES INTO COURT AND THEY SIT IN THAT JURY BOX AND THEN  
18 BOTH SIDES INTRODUCE EVIDENCE ON WHETHER OR NOT THE DEATH  
19 PENALTY SHOULD BE IMPOSED OR LIFE IMPRISONMENT WITHOUT THE  
20 POSSIBILITY OF PAROLE. THAT EVIDENCE WILL CONSIST OF FACTORS  
21 BY THE DEFENSE OF THINGS WHICH ARE FAVORABLE TO HIM, THE GOOD  
22 THINGS IN HIS LIFE, HIS HISTORY, HIS BACKGROUND, HIS CHARACTER,  
23 WHETHER OR NOT HE HAS EVER BEEN CONVICTED OF A FELONY AND HIS  
24 AGE, AND THE FACTS OF THE CASE OF ITSELF, ALL OF THOSE MUST  
25 BE TAKEN INTO CONSIDERATION BEFORE THE JURY MAKES UP ITS MIND  
26 AS TO WHETHER IT SHOULD BE LIFE IMPRISONMENT OR DEATH; DO  
27 YOU UNDERSTAND?

28 MS. SHAW: YES.

15-4

1 THE COURT: NOW, WHAT I WANT TO DO IS TO EXPLORE YOUR  
2 MIND WITH RESPECT TO YOUR OPINIONS AS TO THE DEATH PENALTY  
3 AND IF IT WOULD AFFECT YOU IN ANY WAY.

4 MY FIRST QUESTION: DO YOU HAVE ANY OPINION REGARDING  
5 THE DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL  
6 DECISION AS TO THE GUILT OR INNOCENCE OF THE DEFENDANT?

7 MS. SHAW: NO.

8 IT WOULD BE A VERY SERIOUS DECISION.  
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1 THE COURT: OH, OF COURSE, IT ALWAYS WILL BE SERIOUS.  
2 BUT WOULD THAT IN ANY WAY AFFECT YOU? WOULD YOU  
3 BE IMPARTIAL?

4 MS. SHAW: BUT I FEEL I COULD BE IMPARTIAL IF IT IS  
5 ABSOLUTELY -- IF I FEEL THAT IT IS BEYOND ANY DOUBT.

6 THE COURT: BEYOND ANY DOUBT? NO, NO.

7 MS. SHAW: ANY DOUBT.

8 THE COURT: THAT IS NO GOOD. IT IS BEYOND A REASONABLE  
9 DOUBT.

10 MS. SHAW: ANY REASONABLE DOUBT? OKAY.

11 THE COURT: YOU HAVE TO FIND BEYOND A REASONABLE DOUBT.

12 MS. SHAW: RIGHT, REASONABLE DOUBT.

13 THE COURT: YES.

14 BUT I AM TALKING NOW ABOUT YOUR OPINION WITH  
15 RESPECT TO THE DEATH PENALTY: WOULD THAT IN ANY WAY AFFECT  
16 YOU IN REACHING YOUR DECISION AS TO THE GUILT OR INNOCENCE  
17 OF THE DEFENDANT?

18 MS. SHAW: NO.

19 THE COURT: ALL RIGHT, INCIDENTALLY, DO YOU HAVE AN  
20 OPINION AS TO THE DEATH PENALTY?

21 MS. SHAW: WELL, I VOTED FOR IT.

22 THE COURT: ALL RIGHT. MY SECOND QUESTION IS --

23 MS. SHAW: NOT BECAUSE I -- I MEAN I DO VALUE HUMAN  
24 LIFE.

25 THE COURT: YES, OF COURSE.

26 LET ME ASK YOU THE SECOND QUESTION: DO YOU HAVE  
27 ANY OPINION REGARDING THE DEATH PENALTY THAT WOULD PREVENT  
28 YOU FROM MAKING AN IMPARTIAL DECISION CONCERNING THE TRUTH



1 OR FALSITY OF THE SPECIAL CIRCUMSTANCE?

2 I TOLD YOU THE JURY HAS TO DECIDE TRUE OR FALSE  
3 THAT IT WAS COMMITTED DURING THE COURSE OF A ROBBERY.

4 WOULD YOUR FEELINGS ABOUT THE DEATH PENALTY IN  
5 ANY WAY INTERFERE WITH YOUR MAKING AN IMPARTIAL DECISION ON  
6 THAT?

7 MS. SHAW: NO.

8 THE COURT: NOW THE NEXT TWO QUESTIONS HAVE TO DO WITH  
9 THE PENALTY PHASE.

10 NOW ASSUME NOW THAT THE DEFENDANT HAS BEEN FOUND  
11 GUILTY OF MURDER IN THE FIRST DEGREE AND IT WAS COMMITTED IN  
12 THE COURSE OF A ROBBERY AND YOU NOW HAVE TO CONSIDER WHAT  
13 PENALTY SHOULD BE IMPOSED AFTER YOU HAVE HEARD ALL OF THE  
14 EVIDENCE PRO AND CON AS TO THE DEFENDANT; DO YOU UNDERSTAND  
15 THAT?

16 MS. SHAW: YES.

17 THE COURT: ALL RIGHT. NOW WE ARE OVER THE GUILT PHASE,  
18 THEY HAVE DECIDED GUILTY OF MURDER IN THE FIRST DEGREE,  
19 COMMITTED DURING THE COURSE OF A ROBBERY AND NOW WE COME TO  
20 DECIDE WHAT PENALTY SHOULD BE IMPOSED: DO YOU HAVE SUCH AN  
21 OPINION CONCERNING THE DEATH PENALTY THAT YOU WOULD AUTOMATICALLY  
22 VOTE TO IMPOSE IT, THE DEATH PENALTY, REGARDLESS OF ANY  
23 EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY PHASE OF THE  
24 CASE?

25 MS. SHAW: NO.

26 THE COURT: NOW THE NEXT QUESTION IS SUBSTANTIALLY THE  
27 SAME THING, ONLY IT RELATES TO LIFE IN PRISON: DO YOU HAVE  
28 SUCH AN OPINION CONCERNING THE DEATH PENALTY THAT YOU WOULD

1 AUTOMATICALLY VOTE FOR LIFE IMPRISONMENT WITHOUT THE POSSIBILITY  
2 OF PAROLE, REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED  
3 AT THE PENALTY PHASE OF THE CASE?

4 MS. SHAW: NO, NOT AUTOMATICALLY.

5 THE COURT: THAT IS RIGHT.

6 NOW YOU UNDERSTAND THAT THE ISSUE OF THE DEATH  
7 PENALTY MAY OR MAY NOT TAKE PLACE IN THIS CASE AND THAT THESE  
8 QUESTIONS HAVE BEEN ASKED ONLY IN THE EVENT THAT YOU REACH  
9 THAT PHASE OF THE TRIAL?

10 MS. SHAW: UH-HUH.

11 MR. WAPNER: IS THAT A YES?

12 THE COURT: "UH-HUH" DOES THAT MEAN YES?

13 MS. SHAW: YES.

14 THE COURT: ALL RIGHT.

15 MR. CHIER: MISS SHAW, GOOD AFTERNOON. MY NAME IS  
16 RICHARD CHIER AND I, WITH ANOTHER LAWYER, REPRESENT MR. HUNT.

17 MS. SHAW: UH-HUH.

18 MR. CHIER: AND ALTHOUGH WE HAVE NEVER MET BEFORE AND  
19 I DON'T KNOW ANYTHING ABOUT YOU, WE HAVE TO START TALKING ABOUT  
20 SOME SERIOUS STUFF SUCH AS YOUR VIEWS ON THE DEATH PENALTY  
21 AS IT MIGHT AFFECT OR NOT AFFECT YOUR QUALIFICATIONS AS A JUROR  
22 IN THIS CASE.

23 MS. SHAW: UH-HUH.

24 MR. CHIER: I WANT TO PREFACE WHAT I AM GOING TO SAY  
25 BY MAKING SURE THAT YOU UNDERSTAND MR. HUNT IS PRESUMED TO  
26 BE INNOCENT AT THIS POINT IN TIME.

27 MS. SHAW: YES.

28 MR. CHIER: RIGHT?

1                   AND THAT THE FACT THAT WE ARE HAVING THIS TYPE  
2 OF PROCEEDING SHOULD NOT BE CONSTRUED BY YOU AS A SUGGESTION  
3 THAT WE ARE GOING TO HAVE TO HAVE IT DOWN THE LINE. IT IS  
4 JUST SOMETHING THAT NECESSARILY HAS TO BE DONE ON THIS END  
5 RATHER THAN AT THE OTHER END, RIGHT?

6                   MS. SHAW: YES, I UNDERSTAND.

7                   MR. CHIER: I WANT TO ASK YOU THESE QUESTIONS, TO WHICH  
8 THERE IS NO RIGHT OR WRONG ANSWER, MISS SHAW. THERE IS JUST --

9                   MS. SHAW: YEAH, RIGHT.

10                  MR. CHIER: IT IS JUST YOUR MOST TRUTHFUL ANSWER.

11                  MS. SHAW: THAT IS RIGHT, JUST ME.

12                  MR. CHIER: IT IS MOSTLY ABOUT FEELINGS, YOUR FEELINGS,  
13 YOUR EMOTIONAL ATTITUDES TOWARDS CERTAIN THINGS AS THESE  
14 ATTITUDES MIGHT AFFECT YOUR ABILITY TO DELIBERATE IN A NEUTRAL  
15 KIND OF FRAME OF MIND.

16                         SO WITHOUT FURTHER ADO, LET ME BEGIN BY ASKING  
17 YOU TO ANSWER THIS QUESTION, WHICH IS AS GOOD AS ANY PLACE  
18 TO START: HOW WOULD YOU ANSWER THIS QUESTION: I AM A PERSON  
19 WHO IS:

20                         A. STRONGLY IN FAVOR OF THE DEATH PENALTY.

21                         B. SOMEWHAT IN FAVOR OF THE DEATH PENALTY.

22                         C. OPPOSED TO THE DEATH PENALTY.

23                         D. HAVEN'T REALLY THOUGHT ABOUT IT BEFORE NOW.

24                         OR E. SOME OTHER ANSWER.

25                         DO YOU HAVE ALL OF THOSE IN MIND?

26                   MS. SHAW: YES. -- WHAT WAS THE FIRST THING AGAIN,  
27 "STRONGLY"?

28                   MR. CHIER: STRONGLY IN FAVOR.

1 MS. SHAW: IN FAVOR?

2 MR. CHIER: OR SOMEWHAT IN FAVOR.

3 IN FAVOR OF.

4 OPPOSED TO.

5 HAVEN'T THOUGHT ABOUT IT.

6 OR OTHER.

7 MS. SHAW: WELL, I SAY STRONGLY IN FAVOR OF IT TO BE  
8 ENFORCED ONLY, I MEAN WHEN IT IS NEEDED.

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16A-1

1 MR. CHIER: OKAY.

2 MS. SHAW: I WOULD HATE TO SAY SOMEWHAT, BECAUSE THAT  
3 IS NOT DEFINITE ENOUGH.

4 MR. CHIER: IT IS KIND OF TENTATIVE. SO, YOU ARE A  
5 PERSON WHO HAS NO MISGIVINGS ABOUT THE NECESSITY FOR A DEATH  
6 PENALTY?

7 MS. SHAW: THAT'S IT.

8 MR. CHIER: ALL RIGHT. DO YOU THINK THAT THE DEATH  
9 PENALTY IS AN APPROPRIATE THING TO HAVE IN CERTAIN CASES?

10 MS. SHAW: YES.

11 MR. CHIER: SO THAT IN AN APPROPRIATE CASE, YOU FEEL  
12 STRONGLY THAT IT IS A GOOD THING TO HAVE?

13 MS. SHAW: I FEEL -- MY OPINION IS THAT IT DOES HELP  
14 PREVENT SO MUCH CRIME.

15 MR. CHIER: OKAY. AND I ASSUME THAT BY VIRTUE OF YOUR  
16 FEELINGS IN THAT REGARD, YOU VOTED FOR THE DEATH PENALTY?

17 MS. SHAW: YES I DID.

18 MR. CHIER: OKAY. IN THE BELIEF THAT CRIME WOULD BE  
19 DETERRED?

20 MS. SHAW: YES.

21 MR. CHIER: OKAY. THERE ARE A NUMBER OF WAYS IN WHICH  
22 A DEATH PENALTY CAN BE SEEN AS DETERRING CRIMES. DO YOU SEE  
23 IT AS LIKE, STOPPING OTHER PEOPLE FROM DOING THE SAME THING?  
24 IS THAT THE TYPE OF DETERRENT?

25 MS. SHAW: YES.

26 MR. CHIER: DO YOU SEE IT AS RIDDING SOCIETY OF  
27 UNDESIRABLE TYPES OF PERSONS WHO GO AROUND COMMITTING MURDERS  
28 THAT --

100-2

1 MS. SHAW: NO. I DON'T FEEL THAT.

2 MR. CHIER: ALL RIGHT. SO IT IS NOT A SOCIAL PURGING  
3 OF ANY KIND?

4 MS. SHAW: NO.

5 MR. CHIER: ANY OTHER WAY IN WHICH YOU SEE IT AS A  
6 DETERRENT?

7 MS. SHAW: WELL, JUST THAT THE PEOPLE WILL THINK TWICE,  
8 A LONG TIME BEFORE THEY COMMIT A LOT OF CRIMES.

9 MR. CHIER: ALL RIGHT. SO PRIMARILY AS A PUBLIC EXAMPLE  
10 IN YOUR OPINION? IT HELPS TO STOP CRIME?

11 MS. SHAW: YES.

12 MR. CHIER: CRIMES OF A SIMILAR NATURE, RIGHT?

13 MS. SHAW: YES.

14 MR. CHIER: OKAY.

15 MS. SHAW: I DON'T FEEL THAT PEOPLE SHOULD BE KILLED  
16 JUST TO GET RID OF THEM BECAUSE THEY HAVE THEIR PROBLEMS THE  
17 SAME AS I DO OR ANYBODY ELSE.

18 MR. CHIER: ALL RIGHT. DO YOU UNDERSTAND THAT A PERSON'S  
19 PROBLEMS AND BACKGROUND COULD, SOMETHING SHORT OF BEING  
20 INSANE, COULD AFFECT THE WAY THE PERSON ACTS IN LIFE?

21 MS. SHAW: WELL, SURE.

22 MR. CHIER: SO WOULD YOU SAY THAT THERE ARE ANY  
23 INSTANCES IN WHICH AN INTENTIONAL MURDER COULD BE COMMITTED  
24 WHERE A DEATH PENALTY WOULD NOT BE THE ANSWER, NECESSARILY?

25 MS. SHAW: YES.

26 MR. CHIER: OKAY. IN ARRIVING AT SUCH A DECISION, ARE  
27 THERE ANY TYPES OF THINGS THAT YOU THINK ARE IMPORTANT TO  
28 CONSIDER JUST BEFORE YOU HEAR ANY INSTRUCTIONS FROM THE COURT

16A-3

1 AS TO WHAT -- JUST YOUR POINT OF VIEW AS TO WHAT THINGS YOU  
2 THINK MIGHT MAKE A DIFFERENCE WHETHER A PERSON LIVES OR DIES  
3 WHO HAS BEEN FOUND TO BE A MURDERER? ARE YOU ABLE TO FORMULATE  
4 AN ANSWER?

5 MS. SHAW: YES. I AM JUST THINKING ABOUT IT. WELL,  
6 THE EVIDENCE WOULD NEED TO BE QUITE -- THERE WOULD HAVE TO  
7 BE EVIDENCE AS I SAID BEFORE, BEYOND A REASONABLE DOUBT.  
8 IT IS HARD FOR ME TO SAY.

9 MR. CHIER: WELL, LET ME ASK YOU SOME LESS OPEN-ENDED  
10 QUESTIONS, THEN. MAYBE WE CAN GET TO THE SAME PLACE.

11 DID YOU UNDERSTAND WHEN THE JUDGE EXPLAINED THAT  
12 THE PROCEDURE WHERE YOU HAVE THE FIRST STAGE AND THE SECOND  
13 STAGE IN A CASE OF THIS TYPE --

14 MS. SHAW: YES.

15 MR. CHIER: THE GUILT PHASE AND THE PENALTY PHASE?

16 MS. SHAW: YES.

17 MR. CHIER: THE PENALTY PHASE PART IS BASICALLY KIND  
18 OF STARTING ALL OVER AGAIN. THIS TIME, YOU FOCUS NOT SO MUCH  
19 ON THE GUILT, ALTHOUGH THE CIRCUMSTANCES OF THE CRIME --  
20 ALTHOUGH IT COMES INTO IT, BUT MORE ON THE PERSON BECAUSE  
21 NOW YOU ARE LOOKING FOR THE APPROPRIATE PENALTY FOR THIS PERSON  
22 WHOM YOU HAVE JUST CONVICTED OF FIRST DEGREE MURDER. NOW,  
23 DO YOU UNDERSTAND THAT WHEN YOU CONVICT A PERSON OF FIRST  
24 DEGREE MURDER THAT IT IS BEYOND A REASONABLE DOUBT?

25 MS. SHAW: UH-HUH.

26 MR. CHIER: THERE ARE NO --

27 MS. SHAW: YES. I REALIZE THE ANSWER I GAVE WAS NOT  
28 REALLY VERY DEFINITE.

1 THE COURT: WHAT DID YOU SAY?

2 MS. SHAW: THE ANSWER TO THAT QUESTION THAT YOU ASKED  
3 ABOUT THE DEATH PENALTY, WHAT IF IT WAS -- LET ME SEE --  
4 WHETHER A PERSON -- WHETHER THERE WAS CIRCUMSTANCES THAT THE  
5 DEATH PENALTY MIGHT NOT BE RECOMMENDED OR I MIGHT NOT FEEL  
6 THAT IT SHOULD BE -- THAT THEY SHOULD GET THE DEATH PENALTY  
7 RATHER THAN NOT.

8 MR. CHIER: LET ME SEE IF I COULD MAKE IT EASIER ON  
9 ALL OF US, MS. SHAW.

10 MS. SHAW: SORRY.

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1 MR. CHIER: DO YOU THINK THAT IF YOU WERE SELECTED AS  
2 A JUROR IN THIS CASE OR A CASE OF THIS TYPE, THAT YOU COULD  
3 MAINTAIN YOUR NEUTRALITY THROUGHOUT THE ENTIRE CASE UP UNTIL  
4 THE TIME THAT IT WAS TIME TO GO IN TO DELIBERATE?

5 MS. SHAW: YES.

6 MR. CHIER: ALL RIGHT. SO THAT IS THE REASON THAT --

7 MS. SHAW: IT IS DIFFICULT FOR ME TO ANSWER THAT.

8 MR. CHIER: OKAY.

9 MS. SHAW: BECAUSE I HAVE NOT HEARD ANYTHING.

10 MR. CHIER: WELL, I UNDERSTAND. WE ARE NOT ASKING YOU  
11 TO SAY HOW YOU WOULD VOTE BUT TO BASICALLY LOOK INTO YOURSELF  
12 AND TO LET US KNOW IF YOU THINK YOU HAVE ANY HIDDEN AGENDAS  
13 OR SECRET INTENTIONS THAT MIGHT CAUSE YOU TO BE BIASED OR  
14 TILTED IN FAVOR OF ONE SIDE OR THE OTHER.

15 MS. SHAW: NO.

16 MR. CHIER: BEFORE YOU ACTUALLY WENT IN THERE.

17 MS. SHAW: NO.

18 MR. CHIER: ALL RIGHT. SO AT ALL TIMES, YOU WOULD BE  
19 A PERSON WHO COULD STAY AS NEUTRAL AS WE ARE HUMANLY CAPABLE  
20 OF BEING AND YOU WOULDN'T BRING TO THIS TASK ANY SECRET  
21 INTENTIONS?

22 MS. SHAW: NO. I DON'T BELIEVE IN LETTING YOUR  
23 EMOTIONS RULE BECAUSE THIS IS A COURT OF LAW.

24 MR. CHIER: ALL RIGHT.

25 MS. SHAW: THIS IS THE WAY I FEEL. I MEAN, IT SHOULD  
26 BE OBJECTIVE.

27 MR. CHIER: YOU UNDERSTAND THAT A DEFENDANT IN A CASE  
28 SUCH AS THIS CAN ONLY HAVE A FAIR TRIAL IF PEOPLE COME IN

1 AND ANNOUNCE THEIR NEUTRALITY?

2 MS. SHAW: YES.

3 MR. CHIER: DO YOU UNDERSTAND THAT?

4 MS. SHAW: YES.

5 MR. CHIER: THAT IS WHY --

6 MS. SHAW: THAT IS WHY I HAD DIFFICULTY ANSWERING THAT  
7 QUESTION, I SUPPOSE.

8 MR. CHIER: WE WILL PASS FOR CAUSE.

9 THE COURT: ALL RIGHT. ANY QUESTIONS?

10 MR. WAPNER: YES. MS. SHAW, WHEN YOU ARE DECIDING THE  
11 GUILT OR INNOCENCE IN THE FIRST PART OF THE CASE, YOU HAVE  
12 TO MAKE THAT DECISION PUTTING OUT OF YOUR MIND ENTIRELY, THE  
13 QUESTION OF PENALTY. DO YOU THINK YOU CAN DO THAT?

14 MS. SHAW: YES.

15 MR. WAPNER; IN OTHER WORDS --

16 MS. SHAW: FIRST THINGS FIRST.

17 MR. WAPNER: EXACTLY. WE ARE SITTING HERE, SPENDING  
18 A LOT OF TIME TALKING ABOUT THE DEATH PENALTY.

19 BUT WHEN YOU ARE DECIDING GUILT OR INNOCENCE,  
20 YOU HAVE TO IN ESSENCE, PRETEND THAT YOU DON'T KNOW ANYTHING  
21 ABOUT WHAT MIGHT HAPPEN TO HIM IF YOU FIND HIM GUILTY. DO  
22 YOU UNDERSTAND THAT?

23 MS. SHAW: UH-HUH.

24 MR. WAPNER: IS THAT YES?

25 MS. SHAW: YES, UH-HUH.

26 MR. WAPNER: THAT IS HARD FOR THE REPORTER TO WRITE  
27 DOWN.

28 MS. SHAW: UH-HUH.

1 MR. WAPNER: AND THE JUDGE WILL TELL YOU WHEN WE ARE  
2 DOING THE GUILTY PART OF THE TRIAL, THAT IN THAT PART OF THE  
3 CASE, THE PROSECUTION IS REQUIRED TO PROVE THE DEFENDANT  
4 GUILTY BEYOND A REASONABLE DOUBT. YOU UNDERSTAND THAT, RIGHT?

5 MS. SHAW: YES.

6 MR. WAPNER: ORIGINALLY, YOUR STATEMENT TO THE JUDGE  
7 WAS THAT IF YOU WERE GOING TO CONSIDER THE DEATH PENALTY,  
8 THAT IT WOULD HAVE TO BE BEYOND ALL DOUBT. IS THAT WHAT YOU  
9 ORIGINALLY SAID TO HIM BEFORE HE CORRECTED YOU?

10 MS. SHAW: YES.

11 MR. WAPNER: AND DID YOU --

12 MS. SHAW: DID I SAY THAT?

13 THE COURT: NO, NO. THAT IS NOT THE LAW.

14 MS. SHAW: I KNOW. YOU SAID THAT --

15 THE COURT: ONLY ON THE GUILTY PHASE OF IT THAT YOU HAVE  
16 TO DECIDE WHETHER OR NOT THE DEFENDANT IS GUILTY AND IF IT  
17 IS GUILTY, YOU HAVE TO DECIDE THAT BEYOND A REASONABLE DOUBT.  
18 DO YOU GET THE IDEA?

19 MS. SHAW: YES.

20 THE COURT: BEYOND A REASONABLE DOUBT. BUT ON THE  
21 PENALTY PHASE, THAT IS NOT THE LAW.

22 MS. SHAW: RIGHT.

23 THE COURT: EXCEPT IN CERTAIN THINGS THAT YOU WILL LEARN  
24 ABOUT LATER.

25 IN THE PENALTY PHASE OF IT, IT IS NOT BEYOND A  
26 REASONABLE DOUBT. YOU ARE TO CONSIDER EVERYTHING PRO AND  
27 CON AND THEN MAKE UP YOUR MIND.

28 MS. SHAW: UH-HUH.

1           MR. WAPNER: RIGHT NOW, WHAT I AM TALKING ABOUT IS THE  
2 GUILT PART OF THE TRIAL. WHAT I AM CONCERNED ABOUT IS WHETHER,  
3 SINCE YOU NOW KNOW -- BECAUSE WE ARE ASKING YOU THESE QUESTIONS,  
4 THAT THERE MIGHT BE THE ISSUE OF THE DEATH PENALTY IN THIS  
5 CASE, WHEN YOU ARE DECIDING THE QUESTION OF GUILT OR INNOCENCE,  
6 ARE YOU GOING TO REQUIRE THE PROSECUTION TO PROVE IT TO A  
7 HIGHER STANDARD THAN PROOF BEYOND A REASONABLE DOUBT? DO  
8 YOU UNDERSTAND THE QUESTION?

9           MS. SHAW: WELL, NO. I DON'T THINK --

10          MR. WAPNER: OKAY. WHAT I AM ASKING YOU IS, BECAUSE  
11 YOU HAVE IN THE BACK OF YOUR MIND THAT YOU MIGHT HAVE TO GET  
12 TO THE QUESTION OF THE DEATH PENALTY, ARE YOU GOING TO REQUIRE  
13 ME TO PROVE THE CASE TO YOU TO A HIGHER STANDARD THAN BEYOND  
14 A REASONABLE DOUBT?

15          THE COURT: ON THE PENALTY PHASE?

16          MR. WAPNER: NO. I AM TALKING ABOUT THE GUILT PHASE,  
17 YOUR HONOR.

18          MS. SHAW: BEYOND A REASONABLE DOUBT? WELL, DEPENDS  
19 UPON -- WOULD IT DEPEND UPON MY OPINION OF A REASONABLE DOUBT?

20          MR. WAPNER: WELL, THE JUDGE IS GOING TO GIVE YOU A  
21 DEFINITION OF WHAT REASONABLE DOUBT IS THAT YOU MAY OR MAY  
22 NOT FIND HELPFUL.

23          MS. SHAW: OKAY.

24          MR. WAPNER: BUT THAT'S THE ONLY DEFINITION THAT YOU  
25 ARE GOING TO GET.

26                 THE QUESTION IS, LET'S SAY THAT YOU HAVE TWO CASES.  
27 AND THE FACTS ARE -- WHAT THE FACTS ARE, ARE NOT REALLY  
28 IMPORTANT. BUT THE FACTS ARE THE SAME IN EACH CASE, EXCEPT

1 THAT IN ONE CASE WHEN YOU ARE DECIDING GUILT OR INNOCENCE,  
2 YOU KNOW THAT THAT IS GOING TO BE THE END OF IT.

3 HE IS EITHER GUILTY OR HE IS NOT GUILTY. YOU  
4 DON'T HAVE TO DO ANY MORE.

5 IN THE OTHER CASE, WHEN YOU ARE DECIDING GUILT  
6 OR INNOCENCE, YOU KNOW THAT IF YOU FIND HIM GUILTY, THAT YOU  
7 MIGHT HAVE TO DECIDE THE PENALTY. OKAY?

8 DO YOU HAVE THOSE TWO EXAMPLES IN MIND?

9 MS. SHAW: YES.

10 MR. WAPNER: OKAY. NOW, IN BOTH OF THOSE CASES ON THE  
11 GUILT PART OF THE CASE, THE JUDGE IS GOING TO TELL YOU THAT  
12 THE STANDARD OF PROOF IS THE SAME, THAT IS BEYOND A REASONABLE  
13 DOUBT. DO YOU UNDERSTAND THAT?

14 MS. SHAW: YES.

15 MR. WAPNER: IN THE ONE CASE, YOU KNOW YOU MIGHT  
16 POSSIBLY HAVE TO GET TO THE QUESTION OF THE DEATH PENALTY.  
17 ARE YOU GOING TO SAY WELL, THAT REASONABLE DOUBT STANDARD  
18 IS NOT HIGH ENOUGH AND IT HAS TO BE BEYOND ALL DOUBT?

19 MS. SHAW: NO.

20 MR. WAPNER: DO YOU HAVE SOME HESITATION ABOUT THAT?

21 MS. SHAW: WELL, NO.

22 MR. WAPNER: ARE YOU SURE?

23 MS. SHAW: YES.

24 MR. WAPNER: OKAY. LET ME TALK TO YOU A LITTLE BIT  
25 NOW ABOUT THE PENALTY PART OF THE CASE.

26 IF YOU WERE CHOSEN AS A JUROR IN THIS CASE, AFTER  
27 YOU LISTENED TO ALL OF THE EVIDENCE ON BOTH PHASES OF THE  
28 CASE, YOU WILL BE CALLED UPON TO MAKE A DECISION AS TO WHAT

1 THE APPROPRIATE PUNISHMENT SHOULD BE, LIFE WITHOUT POSSIBILITY  
2 OF PAROLE OR DEATH. DO YOU UNDERSTAND THAT?

3 MS. SHAW: YES.

4 MR. WAPNER: THE JUDGE WILL TELL YOU THAT ALTHOUGH YOU  
5 DELIBERATE ON THE CASE WITH 11 OTHER PEOPLE, YOU WILL BE  
6 REQUIRED TO VOICE AND VOTE YOUR OWN, INDIVIDUAL OPINION. DO  
7 YOU UNDERSTAND THAT?

8 MS. SHAW: YES.

9 MR. WAPNER: I AM ASKING YOU A QUESTION BASED ON MAYBE  
10 WHAT YOU COULD CONSIDER INTESTINAL FORTITUDE. IF YOU ARE  
11 DELIBERATING ON THE CASE AND YOU FEEL THAT BASED ON THE FACTS  
12 OF THE CASE THAT DEATH IS THE APPROPRIATE PUNISHMENT, DO YOU  
13 THINK THAT YOU ARE THE KIND OF A PERSON WHO IS CAPABLE OF  
14 RENDERING THAT TYPE OF A VERDICT?

15 MS. SHAW: YES.

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1 MR. WAPNER: IN OTHER WORDS, IF YOU FEEL THAT THE  
2 FACTS WARRANT IT, ARE YOU THE KIND OF PERSON WHO CAN SIT IN  
3 THE JURY BOX AND LOOK AT THE DEFENDANT AND SAY "MY VERDICT  
4 IS THAT YOU SHOULD DIE?"

5 MR. CHIER: THAT HAS BEEN ASKED AND ANSWERED, JUDGE.

6 THE COURT: SUSTAINED.

7 MR. WAPNER: ON THE OTHER SIDE OF THAT QUESTION IS: ARE  
8 YOU THE KIND OF PERSON WHO, IF THE FACTS WARRANTED IT, CAN  
9 VOTE FOR THE PUNISHMENT OF LIFE IMPRISONMENT WITHOUT THE  
10 POSSIBILITY OF PAROLE?

11 MS. SHAW: YES.

12 MR. WAPNER: OKAY, WITHOUT KNOWING ANYTHING ABOUT THE  
13 PARTICULAR FACTS OF THIS CASE AND ONLY KNOWING THAT IN ORDER  
14 TO GET TO THE PENALTY PHASE YOU WOULD HAVE TO FIND THAT THERE  
15 WAS A MURDER, AN INTENTIONAL MURDER IN THE COURSE OF A  
16 ROBBERY, DO YOU HAVE ANY BIAS ONE WAY OR THE OTHER AS TO --  
17 FOR THE DEATH PENALTY OR FOR LIFE IN PRISON?

18 MS. SHAW: NO.

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

20 THE COURT: ALL RIGHT, PASS FOR CAUSE.

21 ALL RIGHT, MRS. SHAW, THE QUESTIONS NOW ARE ENDED.

22 MS. SHAW: ALL RIGHT.

23 THE COURT: WE FEEL THAT YOU ARE QUALIFIED TO SERVE AS  
24 A TRIAL JUROR IN THIS CASE.

25 MS. SHAW: OH, YOU DO? ALL RIGHT.

26 THE COURT: SO WHAT WE ARE GOING THROUGH NOW, WE ARE  
27 GOING THROUGH THE REST OF THE ALPHABET AND THAT MAY TAKE US  
28 ALL OF THE REST OF TODAY AND ALL DAY TOMORROW, SO WHAT I AM

1 GOING TO ASK YOU TO DO IS TO COME BACK ON THURSDAY, THAT IS  
2 THE 4TH OF DECEMBER, THURSDAY AND THAT IS AT 10:30 IN THE  
3 MORNING, 10:30 A.M.

4 MS. SHAW: ALL RIGHT.

5 THE COURT: AND THEN I THINK WE WILL BE READY FOR YOU  
6 AND ALL OF THE JURORS WHO HAVE BEEN QUESTIONED THE SAME WAY  
7 AS YOU HAVE BEEN, WHO HAVE BEEN PASSED AS PROPER JURORS, WILL  
8 ALL COME IN HERE AND WE WILL START THE TRIAL, ALL RIGHT?

9 MS. SHAW: OKAY.

10 THE COURT: SO YOU COME TO THE JURY ASSEMBLY ROOM ON  
11 THURSDAY AT 10:30.

12 MS. SHAW: ALL RIGHT.

13 THE COURT: OKAY?

14 MS. SHAW: OKAY.

15 THE COURT: AND WE WILL SEE YOU THEN.

16 MS. SHAW: ALL RIGHT. THANK YOU.

17 THE COURT: YOU CAN EVEN GO HOME AND COME BACK ON  
18 THURSDAY.

19 MS. SHAW: THURSDAY AT WHAT TIME AGAIN?

20 THE COURT: 10:30.

21 MS. SHAW: 10:30. ALL RIGHT.

22 THE COURT: 10:30 ON THURSDAY, NOT BEFORE.

23 MS. SHAW: THANK YOU.

24 THE COURT: ALL RIGHT, THANK YOU.

25 (PROSPECTIVE JUROR SHAW EXITS THE  
26 COURTROOM.)

27 (PROSPECTIVE JUROR SHELBY ENTERS THE  
28 COURTROOM.)



1 MS. SHELBY: HELLO.

2 THE COURT: GOOD AFTERNOON, MISS SHELBY.

3 THAT IS MISS SHELBY, IS IT?

4 MS. SHELBY: MISS.

5 THE COURT: MISS SHELBY, WHERE DO YOU LIVE, PLEASE?

6 MS. SHELBY: LOS ANGELES.

7 DO YOU WANT THE STREET NAME?

8 THE COURT: WHERE?

9 MS. SHELBY: IN LOS ANGELES.

10 THE COURT: WHAT PART?

11 MS. SHELBY: I LIVE ON BRONSON AVENUE.

12 THE COURT: OH, YES.

13 HAVE YOU READ ANYTHING AT ALL ABOUT THIS CASE?

14 MS. SHELBY: I DON'T BELIEVE SO.

15 THE COURT: YOU KNOW NOTHING ABOUT IT EXCEPT FOR THE

16 FACTS OF WHAT I TOLD YOU?

17 MS. SHELBY: WHAT YOU TOLD US THE FIRST DAY I WAS HERE.

18 THE COURT: ALL RIGHT. AND YOU MAINTAIN THAT LACK OF

19 INFORMATION FROM NOW ON. IN OTHER WORDS, DON'T READ ANYTHING

20 ABOUT IT IN THE NEWSPAPER OR LISTEN TO IT ON THE RADIO OR ON

21 TELEVISION, ALL RIGHT?

22 MS. SHELBY: YOU SAY HAVE I HEARD ANYTHING ABOUT IT?

23 THE COURT: NO, NO.

24 I SAID DON'T YOU LISTEN TO ANYTHING.

25 MS. SHELBY: THAT'S RIGHT.

26 THE COURT: JUST KEEP ON THAT WAY.

27 MS. SHELBY: THAT'S RIGHT. I DON'T KNOW ANYTHING ABOUT

28 IT.

1 THE COURT: JURORS AREN'T SUPPOSED TO READ ANYTHING OR  
2 LISTEN TO ANYTHING ABOUT THE CASE IF THEY ARE POTENTIAL  
3 JURORS, OKAY?

4 MS. SHELBY: ALL RIGHT.

5 THE COURT: I DID TELL YOU SOMETHING ABOUT THE CASE AT  
6 THE TIME WE ALL MET HERE, REMEMBER, A COUPLE OF WEEKS AGO?

7 MS. SHELBY: RIGHT.

8 THE COURT: WHAT I WANT TO DO IS TO SUMMARIZE SOME OF  
9 THE FACTS AND ASK YOU CERTAIN QUESTIONS.

10 THE PURPOSE OF THESE QUESTIONS WILL BE TO DETERMINE  
11 WHAT YOUR STATE OF MIND IS WITH RESPECT TO YOUR OPINIONS ABOUT  
12 THE DEATH PENALTY, ALL RIGHT?

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1 MS. SHELBY: OKAY, UH-HUH.

2 THE COURT: NOW BY DEATH PENALTY, WHEN WE TALK ABOUT  
3 THE DEATH PENALTY, THERE ARE SOME ASPECTS TO THAT WHICH I WILL  
4 EXPLAIN TO YOU IN JUST A MINUTE.

5 FIRST OF ALL, THE COMPLAINT AGAINST THE DEFENDANT,  
6 THE CHARGE AGAINST HIM IS THAT HE COMMITTED A MURDER, THAT  
7 IS FIRST DEGREE MURDER AND IT WAS COMMITTED DURING THE COURSE  
8 OF A ROBBERY.

9 NOW IN THE COURSE OF A ROBBERY HAS A SPECIAL  
10 SIGNIFICANCE BECAUSE THE LEGISLATURE HAS SAID THAT THERE ARE  
11 CERTAIN KINDS OF CRIMES, OF MURDERS WHERE THERE ARE CERTAIN  
12 SPECIAL CIRCUMSTANCES INVOLVED WHICH QUALIFY THOSE CASES FOR  
13 THE DEATH PENALTY.

14 MERELY BECAUSE A CRIME HAS BEEN COMMITTED, LIKE  
15 MURDER IN THE FIRST DEGREE, THAT DOESN'T AUTOMATICALLY QUALIFY  
16 IT FOR THE DEATH PENALTY. AS A MATTER OF FACT, IT DOESN'T,  
17 JUST DEATH BY ITSELF.

18 IT IS ONLY WHEN THERE ARE ACCOMPANYING CIRCUMSTANCES,  
19 THE TYPE OF SPECIAL CIRCUMSTANCES THAT I AM GOING TO DESCRIBE  
20 TO YOU THAT THE DEATH PENALTY MAY BE IMPOSED THAT IT MAY BE  
21 REQUESTED BY THE DISTRICT ATTORNEY.

22 MS. SHELBY: YES, I UNDERSTAND.

23 THE COURT: THOSE SPECIAL CIRCUMSTANCES MAY BE ROBBERY  
24 AS ALLEGED IN THIS CASE OR IN ANOTHER CASE BURGLARY, OR RAPE,  
25 OR KIDNAPPING, OR A CHILD WHO HAS BEEN MOLESTED AND DIES IN  
26 THE COURSE OF MOLESTATION, MULTIPLE MURDERS, TORTURE, CRIMES  
27 OF THAT KIND, THE LEGISLATURE HAS SAID THAT THOSE CRIMES  
28 QUALIFY UNDER THE SPECIAL CIRCUMSTANCES THAT ARE DESCRIBED

1 FOR THE DEATH PENALTY, ALL RIGHT?

2 THE JURORS WHO ARE IMPANELED TO TRY THIS CASE WILL  
3 FIRST HAVE TO DECIDE THE QUESTION OF GUILT OR INNOCENCE OF  
4 THE DEFENDANT: DID HE COMMIT A MURDER? WAS IT A MURDER IN  
5 THE FIRST DEGREE?

6 OR IF HE DID, THEN THEY HAVE A COLLATERAL QUESTION  
7 TO ANSWER: IS IT TRUE OR IS IT FALSE THAT IT WAS COMMITTED  
8 DURING THE COURSE OF A ROBBERY?

9 IF THEY SAY YES, IT WAS COMMITTED DURING THE COURSE  
10 OF A ROBBERY, IF THEY SAY IT IS TRUE, THEN THAT SAME JURY HAS  
11 TO CONSIDER WHAT THE PENALTY IS THAT THE DEFENDANT WILL SUFFER.

12 THERE ARE ONE OF TWO PENALTIES: EITHER LIFE  
13 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE OR DEATH.  
14 NOW, BEFORE THE JURY DECIDES THAT, THEY ARE GOING TO HEAR  
15 SOME MORE EVIDENCE ON THE QUESTION OF MITIGATION OR  
16 AGGRAVATION, THINGS THAT ARE FAVORABLE TO THE DEFENDANT WHICH  
17 WOULD DISINCLINE THE JURY TO VOTE FOR THE DEATH PENALTY, AND  
18 THINGS WHICH ARE UNFAVORABLE TO HIM WHICH MIGHT INCLINE THEM  
19 TO VOTE FOR THE DEATH PENALTY. THERE ARE A NUMBER OF  
20 CONSIDERATIONS. THEY ALSO CONSIDER ALL OF THE TESTIMONY THEY  
21 HEARD ON THE GUILT PHASE, ALL OF THAT, TOO, AND ANYTHING  
22 RELATING TO THE CHARACTER OF THE DEFENDANT, HIS HISTORY, HIS  
23 LACK OF CRIMINAL INVOLVEMENT IN THE PAST OR IF HE DID HAVE  
24 CRIMINAL ACTIVITY IN THE PAST, HIS BACKGROUND AND HIS HISTORY  
25 AND CHARACTER, HIS MENTAL AND PHYSICAL CONDITION, ALL OF THOSE  
26 ARE TO BE CONSIDERED BY THE JURY ON THE PENALTY PHASE OF THE  
27 TRIAL.

28 IN OTHER WORDS, THEY DON'T MAKE UP THEIR MINDS

1 AS TO WHAT THE PENALTY WOULD BE UNTIL THEY HAVE BROUGHT IN  
2 A VERDICT OF MURDER IN THE FIRST DEGREE AND THAT IT WAS  
3 COMMITTED IN THE COURSE OF A ROBBERY. BEFORE THEY MAKE UP  
4 THEIR MINDS, THEY HAVE TO CONSIDER ALL OF THESE THINGS BEFORE  
5 THEY MAKE UP THEIR MINDS. I AM SURE YOU UNDERSTAND.

6 MS. SHELBY: YES.

7 THE COURT: ON THE GUILT PHASE OF THE TRIAL, THE  
8 QUESTION OF PENALTY OR PUNISHMENT IS NOT TO BE CONSIDERED IN  
9 ANY WAY. IT DOESN'T ENTER INTO IT AT ALL. IT IS ONLY WHEN  
10 THE JURY HAS COME IN WITH A VERDICT OF GUILT DURING THE COURSE  
11 OF A ROBBERY, THEN IN THAT SECOND PHASE THEY WILL CONSIDER  
12 ALL OF THE OTHER CIRCUMSTANCES AS TO WHAT THE PENALTY SHOULD  
13 BE; DO YOU UNDERSTAND?

14 MS. SHELBY: YES.

15 THE COURT: NOW I AM GOING TO ASK YOU A SERIES OF  
16 QUESTIONS TO EXPLORE YOUR MIND, YOUR FEELINGS, YOUR OPINIONS  
17 ABOUT THE DEATH PENALTY.

18 NOW, THE FIRST TWO QUESTIONS I AM GOING TO ASK  
19 YOU DON'T RELATE TO THE PENALTY AT ALL, EXCEPT YOUR STATE OF  
20 MIND, YOUR STATE OF MIND AS TO THE DEATH PENALTY MIGHT  
21 BE APPLICABLE.

22 SO THE FIRST QUESTION IS: DO YOU HAVE ANY OPINION  
23 REGARDING THE DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING  
24 AN IMPARTIAL DECISION AS TO THE GUILT OR INNOCENCE OF THE  
25 DEFENDANT?

26 MS. SHELBY: NO, I DON'T THINK SO.

27 THE COURT: NOW, STILL ON THE GUILT PHASE OF IT --  
28 REMEMBER, I TOLD YOU THAT THE SPECIAL CIRCUMSTANCES HAVE TO

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1 BE FOUND, AS I SAID, BY THE JURY, TRUE OR FALSE.

2 DO YOU HAVE AN OPINION REGARDING THE DEATH PENALTY  
3 THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION  
4 CONCERNING THE TRUTH OR FALSITY OF THE SPECIAL CIRCUMSTANCE?

5 MS. SHELBY: NO.

6 THE COURT: NOW THE NEXT TWO QUESTIONS HAVE TO DO WITH --  
7 ASSUMING THE DEFENDANT HAS BEEN FOUND GUILTY OF MURDER IN THE  
8 FIRST DEGREE AND THAT IT WAS COMMITTED DURING THE COURSE OF  
9 A ROBBERY, THEN YOU HAVE TO CONSIDER THE PENALTY AND AS I TOLD  
10 YOU, THESE TWO QUESTIONS APPLY TO THE PENALTY PHASE: DO YOU  
11 HAVE SUCH AN OPINION CONCERNING THE DEATH PENALTY THAT YOU  
12 WOULD AUTOMATICALLY VOTE THE DEATH PENALTY REGARDLESS OF THE  
13 EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY PHASE OF THE  
14 TRIAL?

15 MS. SHELBY: NO, I DO NOT.

16 THE COURT: AND THE FIFTH QUESTION IS ALMOST EXACTLY  
17 THE SAME BUT ONLY RELATES TO LIFE IMPRISONMENT: DO YOU HAVE  
18 SUCH AN OPINION CONCERNING THE DEATH PENALTY THAT YOU WOULD  
19 AUTOMATICALLY VOTE FOR LIFE IMPRISONMENT WITHOUT THE POSSIBILITY  
20 OF PAROLE, REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED  
21 AT THE PENALTY PHASE OF THE TRIAL?

22 MS. SHELBY: NO.

23 THE COURT: NOW YOU UNDERSTAND THAT THE ISSUE OF THE  
24 DEATH PENALTY MAY OR MAY NOT OCCUR IN THIS CASE AND THAT  
25 THESE QUESTIONS HAVE BEEN ASKED ONLY IN THE EVENT YOU REACH  
26 THAT PHASE OF THE CASE?

27 MS. SHELBY: YES.

28 THE COURT: ALL RIGHT, GO AHEAD.

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1 MR. CHIER: THANK YOU, YOUR HONOR.

2 MS. SHELBY, MY NAME IS RICHARD CHIER. I AM ONE  
3 OF THE ATTORNEYS FOR MR. HUNT.

4 MS. SHELBY: OKAY.

5 MR. CHIER: AND THE JUDGE HAS ASKED YOU A SERIES OF  
6 QUESTIONS WHICH ARE DESIGNED BASICALLY TO DETECT ANY MAJOR  
7 TYPE OF REACTION, AUTOMATIC RESPONSES.

8 THE QUESTIONS I WANT TO PUT TO YOU ARE OF A  
9 SIMILAR NATURE BUT THEY ARE DIFFERENT IN DEGREE RATHER THAN  
10 KIND AND I WANT TO JUST PREFACE MY REMARKS BY SAYING THAT THIS  
11 IS AWKWARD IN A WAY, NOT HAVING MET ANYBODY BEFORE --

12 MS. SHELBY: YES.

13 MR. CHIER: -- TO BE STARTING OFF A CONVERSATION ABOUT  
14 SOME DEEPLY HELD PERSONAL VIEWS.

15 THE QUESTIONS I AM GOING TO ASK YOU HAVE NO RIGHT  
16 OR WRONG ANSWER AND THERE ARE NO GOOD OR BAD ANSWERS. THEY  
17 ARE NOT BEING ASKED TO JUDGE YOU AS A PERSON.

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1           THEY ARE GOING TO BE ASKED TO ONLY DETERMINE --  
2 TO HELP US DETERMINE WHETHER THIS IS THE KIND OF A CASE WHICH  
3 YOU ARE SUITABLE ON AS A JUROR, FROM AN ATTITUDINAL STANDPOINT,  
4 IF YOU HAVE THE RIGHT ATTITUDE. IT IS NOT AN ATTITUDE TEST.

5           ARE YOU IN FAVOR OF OR OPPOSED TO THE DEATH PENALTY?

6           MS. SHELBY: IS THAT A YES OR NO QUESTION?

7           MR. CHIER: LET ME REPHRASE IT, THEN. LET ME DO IT  
8 THIS WAY. THIS MIGHT HELP YOU.

9           HOW WOULD YOU ANSWER THIS QUESTION: I AM A PERSON  
10 WHO IS A, STRONGLY IN FAVOR OF THE DEATH PENALTY; B, SOMEWHAT  
11 IN FAVOR OF THE DEATH PENALTY; C, OPPOSED TO THE DEATH PENALTY;  
12 D, HAVE NOT REALLY THOUGHT ABOUT IT BEFORE NOW; OR E, OTHER?  
13 DOES THAT HELP?

14          MS. SHELBY: NOT MUCH. BUT IT WOULD DEPEND UPON WHAT  
15 THE CIRCUMSTANCES WERE AFTER HEARING THE EVIDENCE. BUT I  
16 THINK I AM IN FAVOR IN SOME CASES OF THE DEATH PENALTY. YES.

17          MR. CHIER: YES, WE SHOULD HAVE THE DEATH PENALTY? NO,  
18 WE SHOULDN'T GO OUT KILLING EVERYBODY AROUND BUT IN CERTAIN  
19 CIRCUMSTANCES, IT IS A GOOD IDEA THAT WE HAVE ONE AND IT SHOULD  
20 BE USED?

21          MS. SHELBY: RIGHT. THAT IS HOW I FEEL ABOUT IT.

22          MR. CHIER: DOES THAT SUM IT UP FOR YOU?

23          MS. SHELBY: UH-HUH.

24          MR. CHIER: ALL RIGHT. DO YOU UNDERSTAND THAT MR. HUNT  
25 IS AT THIS MOMENT IN TIME AND UNTIL THE JURY GOES OUT,  
26 PRESUMED INNOCENT OF ANYTHING?

27          MS. SHELBY: THAT'S RIGHT.

28          MR. CHIER: AND THAT THE FACT THAT WE ARE HAVING THIS --



1 THIS IS KIND OF LIKE HAVING THE FUNERAL BEFORE THE PATIENT  
2 DIES OR THE PERSON DIES. WE HAVE TO HAVE IT NOW BECAUSE YOU  
3 CAN'T HAVE IT LATER.

4 MS. SHELBY: RIGHT.

5 MR. CHIER: OKAY. WHAT WE ARE LOOKING FOR IS PEOPLE  
6 THAT ARE ESSENTIALLY NEUTRAL AND DON'T HAVE LEANINGS FOR OR  
7 AGAINST EITHER SIDE OR EITHER ISSUE, DEATH PENALTY OR AGAINST  
8 THE DEATH PENALTY SO THAT THEY WOULD TAKE THIS HIDDEN AGENDA  
9 OR THIS SECRET INTENT INTO THE JURY ROOM WITH THEM AND ONE  
10 SIDE OR THE OTHER WOULD BE HANDICAPPED. DO YOU KNOW WHAT  
11 I MEAN?

12 MS. SHELBY: YES.

13 MR. CHIER: OKAY. LET ME JUST ASK YOU THIS. IT CAN  
14 PROBABLY WRAP THIS UP.

15 ARE YOU A PERSON WHO IS ESSENTIALLY NEUTRAL INSOFAR  
16 AS BEING A JUROR IN THIS TYPE OF CASE? DO YOU SEE YOURSELF  
17 AS BEING NEUTRAL?

18 MS. SHELBY: UNTIL I HEAR ALL OF THE EVIDENCE.

19 MR. CHIER: RIGHT, OF COURSE.

20 MS. SHELBY: RIGHT.

21 MR. CHIER: SO THAT AFTER YOU HAVE HEARD ALL OF THE  
22 EVIDENCE, ARE YOU GOING TO THEN SAY WELL, I HAVE ALWAYS BEEN  
23 SECRETLY IN FAVOR OF THE DEATH PENALTY, LET'S GAS THIS GUY?

24 MS. SHELBY: NO.

25 MR. CHIER: SO YOU WILL KEEP AN OPEN MIND RIGHT DOWN  
26 TO THE VERY END?

27 MS. SHELBY: YES.

28 MR. CHIER: PASS FOR CAUSE, YOUR HONOR.

1 THE COURT: ALL RIGHT.

2 MR. WAPNER: IS IT MISS SHELBY?

3 MS. SHELBY: YES.

4 MR. WAPNER: GOOD AFTERNOON. I AM FRED WAPNER, THE  
5 DEPUTY DISTRICT ATTORNEY PROSECUTING THIS CASE. HAD YOU GIVEN  
6 ANY THOUGHT TO THE ISSUE OF THE DEATH PENALTY BEFORE YOU WERE  
7 CALLED TO SERVE AS A JUROR IN THIS CASE?

8 MS. SHELBY: YES.

9 MR. WAPNER: AND WOULD THAT BE WHEN IT WAS ON THE BALLOT  
10 OR SOME OTHER TIME?

11 MS. SHELBY: I WAS HERE ABOUT A YEAR AND A HALF AGO  
12 ON JURY DUTY FOR A MURDER TRIAL. AND I WAS ASKED SOME OF  
13 THE SAME QUESTIONS.

14 MR. WAPNER: DID YOU ACTUALLY SIT ON THAT CASE?

15 MS. SHELBY: I DID NOT.

16 MR. WAPNER: ALL RIGHT. AND DID YOU MAKE IT THROUGH  
17 THIS PART OF THE CASE AND INTO THE GENERAL PART OF THE JURY  
18 SELECTION?

19 MS. SHELBY: I DID.

20 MR. WAPNER: OTHER THAN THAT ONE OTHER TIME, HAVING  
21 THOUGHT ABOUT THESE QUESTIONS, HAVE YOU SPENT ANY TIME BETWEEN  
22 THEN AND NOW OR BEFORE THEN THINKING ABOUT THE ISSUE OF THE  
23 DEATH PENALTY?

24 MS. SHELBY: NO.

25 MR. WAPNER: DO YOU REMEMBER IT BEING ON THE BALLOT  
26 AT ALL?

27 MS. SHELBY: I THINK SO. I MEAN, I AM NOT REALLY SURE.  
28 I THINK I REMEMBER IT BEING ON THE BALLOT AT ONE TIME.

1           MR. WAPNER: DO YOU HAVE ANY STRONGLY HELD BELIEFS ABOUT  
2 THE DEATH PENALTY ONE WAY OR THE OTHER, IN WHAT CIRCUMSTANCES  
3 IT SHOULD BE USED OR NOT USED OR ANYTHING LIKE THAT?

4           MS. SHELBY: WELL, I GUESS YES. I DO.

5           MR. WAPNER: OKAY. WHY DON'T YOU TELL ME ABOUT THAT?

6           MS. SHELBY: IF THE EVIDENCE WAS PRESENTED AND SHOWS  
7 THAT THE PERSON -- I GUESS LIKE THE JUDGE SAYS TORTURED OR  
8 KIDNAPPED OR MURDERED SOMEONE, THEN I WOULD IN SOME CIRCUMSTANCES,  
9 BELIEVE THAT THE PERSON SHOULD GET THE DEATH PENALTY.

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1 MR. WAPNER: IN THIS PARTICULAR CASE, YOU WILL NEVER  
2 GET TO THE ISSUE OF WHAT PUNISHMENT SHOULD BE IMPOSED UNLESS  
3 YOU HAVE FIRST DECIDED THAT THERE WAS AN INTENTIONAL MURDER  
4 DURING THE COURSE OF A ROBBERY. DO YOU UNDERSTAND THAT?

5 MS. SHELBY: RIGHT. I UNDERSTAND THAT.

6 MR. WAPNER: IF YOU HAVE DECIDED THAT THERE WAS AN  
7 INTENTIONAL MURDER IN THE COURSE OF A ROBBERY, AS FAR AS YOU  
8 ARE CONCERNED, IS THE INQUIRY OVER AS TO THE PUNISHMENT OR  
9 IS IT JUST STARTING? OR, DO YOU UNDERSTAND THAT QUESTION?

10 MR. CHIER: I DON'T THINK I UNDERSTAND IT.

11 THE COURT: I ALREADY TOLD YOU THAT --

12 MS. SHELBY: OKAY. BASED ON WHAT THE JUDGE SAYS, IF  
13 HE IS FOUND GUILTY, THEN THERE IS MORE EVIDENCE.

14 THE COURT: THAT IS EXACTLY RIGHT.

15 MS. SHELBY: IT IS GIVEN TO MAKE OUR DECISION ON THE  
16 PENALTY PHASE.

17 THE COURT: THAT'S RIGHT.

18 MR. WAPNER: MY LAST QUESTION WAS DIRECTED TO WHETHER  
19 OR NOT YOU WERE GOING TO PAY ATTENTION TO THAT EVIDENCE AND  
20 WHETHER IT IS GOING TO MAKE ANY DIFFERENCE TO YOU OR WHETHER  
21 YOUR MIND WOULD BE SOMEWHAT MADE UP ABOUT THE PUNISHMENT,  
22 ONCE YOU HAVE ALREADY HEARD THAT HE WAS GUILTY OF A ROBBERY,  
23 YOU DECIDED HE WAS GUILTY OF A ROBBERY AND AN INTENTIONAL  
24 MURDER DURING A ROBBERY.

25 MS. SHELBY: NO. I THINK I WOULD NEED TO HEAR THE OTHER  
26 EVIDENCE.

27 MR. WAPNER: OKAY.

28 MS. SHELBY: TO SAY THAT HE SHOULD BE GIVEN THE DEATH

1 PENALTY.

2 MR. WAPNER: WHAT I AM SAYING IS, ONCE YOU KNOW THAT  
3 THERE WAS AN INTENTIONAL MURDER DURING A ROBBERY, IS YOUR  
4 MIND CLOSED TO ANYTHING ELSE OTHER THAN THE DEATH PENALTY  
5 OR ANYTHING ELSE OTHER THAN LIFE WITHOUT POSSIBILITY OF PAROLE?

6 IN OTHER WORDS, WILL YOU LISTEN TO THE SECOND  
7 PHASE OF THE TRIAL?

8 MS. SHELBY: SURE. YES. I WOULD NOT JUST SAY THAT  
9 THE JURY FOUND HIM GUILTY OF THIS AND HE SHOULD AUTOMATICALLY  
10 GET THE DEATH PENALTY. I WOULD WANT TO LISTEN TO THE OTHER  
11 PART.

12 MR. WAPNER: THAT IS EXACTLY WHAT I WAS ASKING YOU.

13 MS. SHELBY: OKAY.

14 THE COURT: ANYTHING FURTHER?

15 MR. WAPNER: NO, NOTHING FURTHER.

16 THE COURT: DO YOU PASS FOR CAUSE?

17 MR. WAPNER: YES.

18 THE COURT: YOU QUALIFY FOR BEING A JUROR ON THIS CASE.  
19 SO, YOU WILL BE WITH A NUMBER OF OTHERS WHO WILL BE ACCEPTABLE  
20 AS A TRIAL JUROR IN THIS CASE.

21 WHAT I WILL ASK YOU TO DO, UNTIL WE FINISH UP  
22 WITH THE OTHERS WHICH WILL PROBABLY BE TOMORROW IS THAT ON  
23 THURSDAY, YOU WILL ALL BE HERE TO START THE TRIAL. WE WILL  
24 REALLY START PICKING THE JURY AND EVERYTHING ELSE. SO WHAT  
25 I WILL ASK YOU TO DO IS, COME BACK INTO THE JURY ASSEMBLY  
26 ROOM ON THURSDAY. THAT IS DECEMBER THE 4TH AT 10:30 A.M.  
27 OKAY?

28 MS. SHELBY: YES.

1 THE COURT: MAKE A MENTAL NOTE OF IT AT 10:30 A.M. ON  
2 THURSDAY, DECEMBER 4TH IN THE JURY ASSEMBLY ROOM. SEE YOU  
3 THEN.

4 MS. SHELBY: OKAY. THANK YOU.

5 THE COURT: OKAY. WE WILL NOW RECESS.

6 (RECESS.)

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1 (WHEREUPON THE FOLLOWING PROCEEDINGS WERE  
2 HELD IN CHAMBERS.)

3 THE COURT: ALL RIGHT, THE RECORD WILL INDICATE THAT  
4 COUNSEL AND THE DEFENDANT ARE IN CHAMBERS WITH THE COURT.

5 MR. WAPNER: YOUR HONOR, WITH RESPECT TO MR. HUNT'S  
6 INQUIRY OF THIS MORNING ABOUT WHETHER OR NOT THE GAG ORDER  
7 SHOULD INCLUDE A DISCUSSION OF THE INFORMATION WITH HIS  
8 ATTORNEY, PARKER KELLY, WHO REPRESENTS HIM IN THE SAN MATEO  
9 ACTION, I HAVE SPOKEN WITH JOHN VANCE, THE DEPUTY ATTORNEY  
10 GENERAL PROSECUTING THAT CASE. HE INDICATES TO ME THAT THEY  
11 INTEND TO MAKE A DISCLOSURE REGARDING THIS ON FRIDAY, WHICH  
12 IS WHEN THEY HAVE AN APPEARANCE IN THAT CASE, AND SO I WOULD  
13 ASK YOU TO ORDER MR. HUNT NOT TO DISCLOSE IT TO MR. KELLY  
14 UNTIL THAT TIME BECAUSE AT THAT TIME, MR. KELLY THEN COULD  
15 BE SUBJECT TO A GAG ORDER, IF ANY, IMPOSED BY THE JUDGE IN  
16 THAT COURT.

17 THE COURT: DO YOU HAVE ANY OBJECTION TO THAT?

18 MR. CHIER: COULD I CONFER WITH MY CLIENT? I DON'T  
19 KNOW AT THIS POINT, JUDGE, WHAT IS GOING ON WITH MR. HUNT AND  
20 HIS ATTORNEY IN THAT CASE BUT --

21 THE COURT: DO YOU WANT TO FLY UP THERE TO FIND OUT FIRST?

22 MR. CHIER: NO. I WOULD JUST LIKE TO TALK TO MR. HUNT,  
23 YOUR HONOR.

24 THE COURT: GO AHEAD.

25 (UNREPORTED COLLOQUY BETWEEN MR. CHIER  
26 AND THE DEFENDANT.)

27 MR. CHIER: THERE SEEMS TO BE LIKE A MISUNDERSTANDING  
28 HERE. IT IS OUR UNDERSTANDING, YOUR HONOR JUST SPOKE TO

1 MR. KELLY AND THE COURT --

2 THE COURT: I TOLD MR. KELLY THAT AS FAR AS I AM  
3 CONCERNED, AND THERE HAS BEEN NO OBJECTION FROM HIM, HE ASKED  
4 ABOUT IT, THAT HE CAN TALK TO HIS LAWYER ABOUT WHAT WE  
5 DISCUSSED HERE, PROVIDED HE KEPT IT SECRET AND QUIET AND DID  
6 NOT DISCLOSE IT TO ANYBODY ELSE.

7 MR. CHIER: AND DID HE AGREE TO THAT?

8 THE COURT: YES.

9 MR. WAPNER: THAT IS FINE. I HAVE NO OBJECTION TO THAT.

10 THE COURT: THANK YOU. WE DON'T NEED ANYTHING MORE HERE.  
11 WE WILL GO OUTSIDE.

12 MR. CHIER: THAT IS IT THEN?

13 THE COURT: YES.

14 WE ARE GOING TO HAVE, TOMORROW AFTERNOON WE ARE  
15 GOING TO HAVE ABOUT 70 JURORS. WE WILL NEED MORE JURORS, AS  
16 YOU KNOW, PROBABLY.

17 MR. CHIER: WE WILL NEED 66 JUST WITH THE PEREMPTORIES  
18 AND THE ALTERNATES, 52 AND 4 FOR EACH SIDE, JUDGE:

19 THE COURT: FOR EACH WHAT?

20 MR. CHIER: HE HAS FOR TO FOUR PEREMPTORIES. HE HAS FOUR AND  
21 I HAVE FOUR PEREMPTORIES -- THE ALTERNATES AND THAT WILL BE  
22 EIGHT. THAT WILL BE 60.

23 MR. WAPNER: PLUS THE ORIGINAL, YOU HAVE TO COUNT THE  
24 ORIGINAL 12. I MEAN WE START WITH 12 AND WE HAVE --

25 MR. CHIER: I WAS JUST TALKING ABOUT BODIES. WE HAVE  
26 RIGHT NOW LESS THAN 60 BODIES, WHICH IS LESS THAN THE TOTAL  
27 NUMBER OF JURORS THAT WE WOULD HAVE REPRESENTED IF EVERYBODY  
28 USED EVERY PEREMPTORY THAT THEY HAD.



1 MR. WAPNER: I UNDERSTAND THAT.

2 MR. COURT: ALL RIGHT. I DON'T KNOW AND NOBODY CAN  
3 PREDICT AT THIS TIME HOW MANY PEREMPTORY CHALLENGES ARE GOING  
4 TO BE EXERCISED. SO, WE'LL HAVE TO WAIT UNTIL WE HAVE AT LEAST  
5 60. THAT IS 52 PLUS 4 PLUS 4.

6 MR. WAPNER: YOUR HONOR, I WAS TALKING WITH MR. CHIER  
7 AND WE THOUGHT MAYBE IT WOULD BE BEST FOR THE COURT TO SEAT  
8 SIX ALTERNATES RATHER THAN FOUR.

9 WE DON'T HAVE TO MAKE A DECISION ON IT RIGHT NOW.  
10 BUT MAYBE WE CAN ALL GIVE SOME THOUGHT TO IT.

11 MR. CHIER: YES, THERE IS A CASE DOWNTOWN WHERE THEY  
12 HAVE FOUR ALTERNATES AND THEY USED ALL OF THE ALTERNATES AND  
13 THE LAST ALTERNATE WHO WAS ON THE JURY, FOUND OUT THAT HE WAS  
14 NOT BEING PAID BY HIS EMPLOYER. IT WAS AN 18-MONTH CASE.

15 THIS IS NOT AN 18-MONTH CASE, JUDGE BUT WHO WOULD  
16 EVER HAVE ANTICIPATED THAT FOUR ALTERNATES WOULD NOT HAVE BEEN  
17 ENOUGH.

18 THE COURT: WELL, I THINK THAT FOR THREE MONTHS, FOUR  
19 ALTERNATES WILL BE ENOUGH.

20 MR. CHIER: YOUR HONOR, I JUST WANT TO --

21 THE COURT: LET'S SEE HOW MANY PEREMPTORIES WILL BE  
22 EXERCISED AND WE'LL SEE HOW MANY WE HAVE LEFT. WE WILL SEE  
23 IF WE HAVE SUFFICIENT LEFT OVER FOR SIX ALTERNATES, YOU CAN  
24 HAVE SIX.

25 MR. CHIER: THANK YOU. OKAY.

26 (IN CAMERA PROCEEDINGS REPORTED BUT  
27 NOT TRANSCRIBED AT THE ORDER OF THE  
28 COURT. NOTES SEALED.)

20B

1 (THE PRIOR GAG ORDER HAVING BEEN  
2 RECINDED, THE FOLLOWING PROCEEDINGS  
3 ARE NOW INCLUDED IN THE RECORD:)

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5 (THE FOLLOWING PROCEEDINGS WERE HELD  
6 IN CHAMBERS WITH MR. WAPNER, MR. BARENS,  
7 MR. CHIER AND THE DEFENDANT PRESENT:)

8 MR. CHIER: I JUST WANTED TO SAY SOMETHING. WHEN I CAME  
9 INTO COURT THIS AFTERNOON, I SPOKE TO MR. BARENS BRIEFLY.  
10 HE TOLD ME THAT THERE WAS SOME DEVELOPMENTS IN THE CASE AND  
11 I SHOULD SPEAK TO MR. WAPNER BECAUSE THERE HAD BEEN ANOTHER  
12 GAG ORDER.

13 MR. HUNT SUBSEQUENTLY TOLD ME THAT MR. WAPNER WAS  
14 IN THE PROCESS OF FLESHING OUT MR. HUNT'S DESCRIPTION OF  
15 WHAT HAD TAKEN PLACE.

16 AND I HAVE CERTAINLY NO OBJECTION TO SUBMITTING  
17 TO A GAG ORDER. I WANT TO SAY HOWEVER, THAT LAST NIGHT -- MR.  
18 BARENS, I UNDERSTAND, MENTIONED THIS COMMUNICATION THAT WE  
19 RECEIVED LAST NIGHT.

20 THE COURT REPORTER: IS THIS A SEALED PROCEEDINGS?

21 MR. WAPNER: I THINK THAT IT PROBABLY SHOULD BE SEALED.

22 THE COURT: YES.

23 MR. CHIER: HAVING OBVIOUSLY NEVER GOTTEN -- I MEAN,  
24 NEVER GOTTEN INTO THIS TYPE OF A SITUATION OR HAVING NEVER  
25 RECEIVED THIS KIND OF COMMUNICATION, I DIDN'T KNOW EXACTLY WHAT  
26 TO DO. I DIDN'T KNOW WHAT TO DO. I CALLED MR. BRUNON, MR.  
27 BRAD BRUNON WHO I CONFER WITH IN THESE MATTERS.

28 IT WAS HIS ADVICE AFTER DISCUSSING IT WITH ME, THAT

1 WE SHOULD DISCLOSE IT. AND I THOUGHT WE SHOULD DISCLOSE IT  
2 IMMEDIATELY SO THAT WE WOULD NOT BE IN A POSITION OF OBSTRUCTING  
3 JUSTICE.

4 THE COURT: DISCLOSE IT?

5 MR. CHIER: TO THE COURT.

6 THE COURT: IT HAS ALREADY BEEN DISCLOSED.

7 MR. CHIER: I WANTED YOU TO KNOW THAT PRIOR TO HAVING  
8 ANY KNOWLEDGE OF THIS, I DID CONFER WITH ANOTHER ATTORNEY WHICH  
9 I DO IN CASES WHERE I DON'T HAVE THE ANSWERS.

10 THIS IS WHAT WAS DECIDED. SO, TO THAT LIMITED  
11 EXTENT, THERE WAS DISCLOSURE BEFORE THE GAG ORDER.

12 MR. WAPNER: I DON'T THINK IT IS A PROBLEM. OBVIOUSLY,  
13 THERE WAS NO GAG ORDER IN EFFECT.

14 MR. CHIER: BUT I WANTED TO TELL YOU THAT IT HAPPENED.

15 THE COURT: ALL RIGHT.

16 (RECESS.)

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1 (THE FOLLOWING PROCEEDINGS WERE HELD IN  
2 OPEN COURT:)

3 (PROSPECTIVE JUROR SILVERSTEIN ENTERS  
4 THE COURTROOM.)

5 THE COURT: GOOD AFTERNOON. IS THAT MISS SILVERSTEIN?  
6 MS. SILVERSTEIN: YES.

7 THE COURT: HAVE YOU READ OR HEARD ANYTHING AT ALL ABOUT  
8 THIS CASE, EXCEPT FOR THE FACT THAT IT IS PENDING HERE NOW?

9 MS. SILVERSTEIN: YES.

10 THE COURT: WHAT HAVE YOU HEARD OR READ?

11 MS. SILVERSTEIN: I READ.

12 THE COURT: WHAT DID YOU READ? WHICH PUBLICATION?

13 MS. SILVERSTEIN: IN THE TIMES.

14 THE COURT: A FEW WEEKS AGO?

15 MS. SILVERSTEIN: A FEW WEEKS AGO. THERE WAS A STORY  
16 ABOUT A CLUB.

17 THE COURT: WHAT DO YOU REMEMBER?

18 MS. SILVERSTEIN: THERE WAS A CLUB CALLED THE BBC.

19 THE COURT: UH-HUH.

20 MS. SILVERSTEIN: AND SOMETHING ABOUT FIVE MEN WHO WERE  
21 MEMBERS OF THE CLUB. THIS IS WHAT I REMEMBER ABOUT IT.  
22 AND THIS WAS IN 1984 OR SOMETHING.

23 THEN A MEMBER OF THE CLUB DISAPPEARED AND SOMETHING  
24 ABOUT A --

25 THE COURT: A MEMBER DISAPPEARED?

26 MS. SILVERSTEIN: A MEMBER OF THE CLUB DISAPPEARED AND  
27 THERE WAS AN INVESTMENT THAT WAS MADE.

28 MR. HUNT SUPPOSEDLY WANTED SOME MONEY BACK ON THE

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1 INVESTMENT THAT WAS MADE. THE MEMBER THAT DISAPPEARED -- THE  
2 MEMBER OF THE CLUB THAT DISAPPEARED, HIS BODY HAS NEVER BEEN  
3 FOUND. THAT IS WHAT I AM REMEMBERING, SOMETHING TO THIS  
4 EFFECT.  
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1 THE COURT: DO YOU THINK IT IS POSSIBLE FOR YOU TO PUT  
2 THAT ALL OUT OF YOUR MIND AND JUST BE GUIDED BY THE EVIDENCE  
3 WHICH WILL BE DISCLOSED IN THIS CASE?

4 OF COURSE, YOUR RECOLLECTION OF WHAT HAPPENED  
5 IS FAULTY.

6 MS. SILVERSTEIN: IT IS SKETCHY, YEAH, I KNOW, I MUST  
7 ADMIT.

8 THE COURT: IT IS FAULTY.

9 MS. SILVERSTEIN: PROBABLY, YEAH.

10 LIKE I SAID --

11 THE COURT: YOU DO THAT, YOU WANT TO FORGET IT  
12 COMPLETELY, IS THAT IT?

13 MS. SILVERSTEIN: YOU WANT ME TO FORGET IT, IS THAT  
14 WHAT YOU SAID?

15 THE COURT: YOU WANT TO FORGET ABOUT IT AND JUST BE  
16 GUIDED BY THE EVIDENCE IN THIS CASE.

17 MS. SILVERSTEIN: YES.

18 THE COURT: BECAUSE YOU KNOW MANY TIMES YOU READ THINGS  
19 IN THE NEWSPAPER, THEY MAY NOT BE RIGHT. THEY MAY BE AFFECTED  
20 BY THE VIEWPOINT OF SOMEBODY WHO IS WRITING IT AND IT IS FOR  
21 THAT REASON, IF YOU ARE A JUROR ON THE CASE, YOU ARE TO LISTEN  
22 TO THE EVIDENCE AND ONLY BE GUIDED BY THE EVIDENCE AND NOTHING  
23 YOU MIGHT HAVE READ OR HEARD OR SEEN ABOUT IT, YOU WILL NOT  
24 BE GUIDED BY THAT.

25 MS. SILVERSTEIN: YES, YOUR HONOR.

26 THE COURT: I AM ASKING YOU TO FORGET ABOUT IT COMPLETELY  
27 BECAUSE YOUR MEMORY OF IT IS NOT RIGHT, OKAY?

28 MS. SILVERSTEIN: OKAY.

1 THE COURT: DID YOU DISCUSS IT IN ANY WAY WITH ANY OF  
2 THE OTHER JURORS, PROSPECTIVE JURORS IN THIS CASE?

3 MS. SILVERSTEIN: WITH ONE GIRL, YES.

4 THE COURT: WHAT DID YOU SAY TO HER? AND WHO IS SHE?

5 MS. SILVERSTEIN: SOMETHING ABOUT THE BBC BECAUSE I  
6 DO NOT REMEMBER IT IN GREAT DEPTH OR DETAIL SO THAT IS ALL  
7 THAT STUCK IN MY MIND.

8 THE COURT: YOU DON'T REMEMBER THE NAME OF THE JUROR  
9 WHOM YOU TALKED TO?

10 MS. SILVERSTEIN: NO, NO.

11 THE COURT: ALL RIGHT. AGAIN, YOU ARE WILLING TO  
12 FORGET EVERYTHING YOU HAVE READ AND JUST BE GUIDED, AS I SAID,  
13 BY WHAT YOU HEARD HERE IN THIS CASE UNDER OATH?

14 MS. SILVERSTEIN: ESPECIALLY SINCE IT IS INACCURATE,  
15 YOU SAY.

16 THE COURT: YES, WHAT YOU TOLD ME SO FAR WAS INACCURATE,  
17 PART OF IT, AT ANY RATE.

18 ALL RIGHT, LET ME AGAIN BRIEFLY SUMMARIZE THE  
19 NATURE OF THE CASE WE ARE CONSIDERING.

20 THE DEFENDANT IN THIS CASE IS CHARGED WITH THE  
21 COMMISSION OF THE CRIME OF MURDER, FIRST DEGREE MURDER, AND  
22 THAT IT WAS COMMITTED DURING THE COURSE OF A ROBBERY.

23 IN THE COURSE OF A ROBBERY HAS SOME GREAT  
24 SIGNIFICANCE BECAUSE THE LEGISLATURE HAS PICKED OUT CERTAIN  
25 TYPES OF MURDERS UNDER CERTAIN CIRCUMSTANCES WHERE THE DEATH  
26 PENALTY CAN BE REQUESTED OR CONSIDERED IN THAT PARTICULAR  
27 TYPE OF CASE; DO YOU UNDERSTAND?

28 NOW, THE VARIOUS TYPES OF CASES, I WILL GIVE YOU

1 SOME EXAMPLES OF THOSE: A FIRST DEGREE MURDER COMMITTED IN  
2 THE COURSE OF A ROBBERY, WHICH WAS THIS CASE, OR A FIRST DEGREE  
3 MURDER COMMITTED IN THE COURSE OF A BURGLARY OR A RAPE OR  
4 WHERE A CHILD IS MOLESTED AND DIES OR IS KILLED OR IN THE  
5 CASE OF MULTIPLE MURDERS OR IN THE CASE OF MURDER BY TORTURE;  
6 THERE ARE 19 SUCH SPECIAL CIRCUMSTANCES, WE CALL THEM, WHERE  
7 THE LEGISLATURE SAYS THAT THAT PARTICULAR TYPE OF MURDER  
8 QUALIFIES FOR THE DEATH PENALTY.

9 AND SINCE THIS IS ONE OF THE MURDERS THAT ALLEGEDLY  
10 QUALIFIES FOR THE DEATH PENALTY, ASSUMING IT IS PROVED, WE  
11 ARE INQUIRING NOW -- WE ARE GOING TO INQUIRE AS TO YOUR  
12 ATTITUDE TOWARDS THE DEATH PENALTY; DO YOU UNDERSTAND?

13 MS. SILVERSTEIN: UH-HUH.

14 THE COURT: WHEN I TALK ABOUT THE DEATH PENALTY, THEY  
15 WILL CONSIDER ONE OF TWO THINGS: WHETHER THE PENALTY SHOULD  
16 BE LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE OR  
17 ACTUAL DEATH; DO YOU UNDERSTAND THAT?

18 (PROSPECTIVE JUROR SILVERSTEIN NODS HER  
19 HEAD UP AND DOWN.)

20 THE COURT: SO THE FIRST THING THAT THE JURORS WILL  
21 BE CALLED UPON TO DECIDE FIRST IS WHAT WE CALL THE GUILT PHASE:  
22 IS THE DEFENDANT GUILTY OR NOT GUILTY OF MURDER IN THE FIRST  
23 DEGREE.

24 IF HE IS GUILTY OF MURDER IN THE FIRST DEGREE,  
25 THEN THE JURY HAS TO DECIDE A COLLATERAL QUESTION: WAS THAT  
26 MURDER COMMITTED IN THE COURSE OF A ROBBERY?

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21A-1

1           NOW WE FINISH THE FIRST PHASE OF THE TRIAL. DURING  
2 THE FIRST PHASE OF THE TRIAL THE QUESTION OF PENALTY OR  
3 PUNISHMENT IS NOT TO BE CONSIDERED OR EVEN THOUGHT ABOUT; IS  
4 THAT CLEAR?

5           IT IS ONLY ON THE SECOND PHASE, WHICH WE CALL THE  
6 PENALTY PHASE, THAT THE JURORS, THE SAME JURY THEN LISTENS  
7 TO THE EVIDENCE, MORE EVIDENCE ON BOTH SIDES. THE DEFENDANT'S  
8 EVIDENCE WILL BE ALL OF THE THINGS ABOUT HIM WHICH ARE FAVORABLE.  
9 THE DISTRICT ATTORNEY WILL SHOW ALL OF THE EVIDENCE ABOUT HIM  
10 WHICH IS UNFAVORABLE, THAT HE IS A BAD MAN, AND SO ON. THE  
11 DEFENDANT WILL ATTEMPT TO SHOW HE LED A CLEAN LIFE, IT IS A  
12 GOOD LIFE HE HAS HAD, ANYTHING ABOUT HIS HISTORY AND HIS BACK-  
13 GROUND AND EVERYTHING THAT WILL BE FAVORABLE TO HIM WILL BE  
14 PRESENTED BEFORE THE JURY AND EVERYTHING UNFAVORABLE WILL BE  
15 PRESENTED BY THE PROSECUTION.

16           SO WE CALL WHAT THE DEFENDANT PRESENTS ON HIS OWN  
17 BEHALF AS MITIGATING CIRCUMSTANCES. WHAT THE PROSECUTION  
18 PRESENTS AGAINST HIM IS WHAT WE CALL AGGRAVATING CIRCUMSTANCES.

19           SO THAT THE JURY ON THE SECOND PHASE IN CONSIDER-  
20 ATION OF PENALTY, AS I TOLD YOU, CONSIDERS NOT ONLY ALL OF  
21 THE FACTS THAT WE HEARD ON THE GUILT PHASE, ALL OF THE THINGS  
22 YOU HEARD ABOUT, THEY WILL ALSO CONSIDER THESE OTHER THINGS  
23 THAT I SPOKE ABOUT: HIS CHARACTER, HIS BACKGROUND, HIS  
24 EDUCATION, HIS MEDICAL AND HIS PHYSICAL AND MENTAL CONDITION  
25 AND SO ON AND SO FORTH.

26           EVERYTHING THAT IS FAVORABLE TO HIM, HE WILL PRESENT  
27 IT IN HIS FAVOR AND THE PROSECUTION THE OTHER, AND THE JURY  
28 WILL THEN DECIDE ONE OF THESE TWO THINGS: LIFE IMPRISONMENT

21A-2

1 WITHOUT THE POSSIBILITY OF PAROLE OR DEATH. THAT IS KNOWN  
2 AS THE DEATH PENALTY ASPECT OF IT. DO YOU UNDERSTAND, OKAY?

3 MS. SILVERSTEIN: YES.

4 THE COURT: ALL RIGHT, I AM GOING TO ASK YOU A SERIES  
5 OF QUESTIONS FOR THE PURPOSE OF EXPLORING YOUR ATTITUDE  
6 TOWARD THE DEATH PENALTY, AS WILL COUNSEL.

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

10 MS. SILVERSTEIN: NO.

11 THE COURT: ALSO, STILL ON THAT SAME GUILT PHASE OF IT,  
12 DO YOU HAVE ANY OPINION REGARDING THE DEATH PENALTY THAT WOULD  
13 PREVENT YOU FROM MAKING AN IMPARTIAL DECISION CONCERNING THE  
14 TRUTH OR FALSITY OF THE SPECIAL CIRCUMSTANCES?

15 I TOLD YOU IF THEY FIND HIM GUILTY OF MURDER IN  
16 THE FRIST DEGREE, THEN THEY DECIDE WHETHER THE SPECIAL  
17 CIRCUMSTANCE IS PRESENT, WAS IT COMMITTED IN THE COURSE OF  
18 A ROBBERY, THE JURY MAKES A FINDING TRUE OR FALSE. DO YOU  
19 UNDERSTAND?

20 NOW MY QUESTION IS: DO YOU HAVE ANY OPINION  
21 REGARDING THE DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING  
22 AN IMPARTIAL DECISION CONCERNING THE TRUTH OR FALSITY OF THE  
23 SPECIAL CIRCUMSTANCE?

24 MS. SILVERSTEIN: I HAVE NO OPINION ON IT.

25 THE COURT: YOU MEAN IT WOULDN'T AFFECT YOU?

26 MS. SILVERSTEIN: I MEAN IT WOULDN'T AFFECT ME.

27 THE COURT: THAT IS WHATEVER YOUR OPINION IS ON THE  
28 DEATH PENALTY?

1                   NOW, THESE TWO QUESTIONS PERTAIN TO THE PENALTY  
2 PHASE OF THE TRIAL   AFTER YOU HAVE DECIDED THAT THE DEFENDANT  
3 IS GUILTY OF MURDER IN THE FIRST DEGREE AND IT WAS COMMITTED  
4 IN THE COURSE OF A ROBBERY. NOW THE FIRST QUESTION ON THAT  
5 SUBJECT: DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH  
6 PENALTY THAT YOU WOULD AUTOMATICALLY VOTE TO IMPOSE THE DEATH  
7 PENALTY, REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED AT  
8 THE PENALTY PHASE OF THE TRIAL?

9                   MS. SILVERSTEIN: NO.

10                  THE COURT: ALL RIGHT, THE NEXT QUESTION IS THE SAME  
11 EXCEPT IT APPLIES TO LIFE IMPRISONMENT: DO YOU HAVE SUCH AN  
12 OPINION CONCERNING THE DEATH PENALTY THAT YOU WOULD  
13 AUTOMATICALLY VOTE FOR LIFE IMPRISONMENT WITHOUT THE POSSIBILITY  
14 OF PAROLE REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED  
15 AT THE PENALTY PHASE OF THE TRIAL?

16                  MS. SILVERSTEIN: NO.

17                  THE COURT: ALL RIGHT. AND THE LAST QUESTION IS: YOU  
18 UNDERSTAND THAT THE ISSUE OF THE DEATH PENALTY MAY OR MAY NOT  
19 BE CONSIDERED IN THIS CASE AND THAT THESE QUESTIONS HAVE BEEN  
20 ASKED ONLY IN THE EVENT YOU REACH THAT PHASE OF THE TRIAL?

21                  MS. SILVERSTEIN: YES.

22                  THE COURT: ALL RIGHT, GO AHEAD.

23                  MR. CHIER: THANK YOU, YOUR HONOR.

24                         MISS SILVERSTEIN, MY NAME IS RICHARD CHIER. I  
25 AM THE ATTORNEY FOR JOE HUNT HERE AND THIS PROCEEDING IS IN  
26 AID OF A SEARCH FOR 12 NEUTRAL JURORS.

27                         THE JUDGE HAS ASKED YOU SOME QUESTIONS TO DETERMINE  
28 WHETHER THE WORDS "DEATH PENALTY" IS SOME KIND OF BUZZ WORD

1 WHERE IT EITHER TRIGGERS STRONG FEELINGS PRO DEATH OR STRONG  
2 FEELINGS ANTI-DEATH PENALTY.

3 I HAVE SOME ADDITIONAL QUESTIONS THAT ARE ALONG  
4 THE SAME LINES BUT ARE SLIGHTLY DIFFERENT IN DEGREE, WHEREAS  
5 THERE MAY NOT BE AUTOMATIC RESPONSES TO THIS, THERE MAY BE  
6 SOME STRONG BIASES.

7 THE QUESTIONS I AM GOING TO ASK YOU ARE NOT TO  
8 TRICK YOU. THERE IS NO RIGHT OR WRONG ANSWER AND THERE IS  
9 NO GOOD OR BAD ANSWER. IT IS NOT TO JUDGE YOU AS A PERSON.  
10 IT IS ONLY TO DETERMINE WHETHER IN THE LIMITED CONTEXT OF THIS  
11 CASE, YOU ARE A PERSON WHO IS QUALIFIED TO BE A JUROR OR NOT  
12 AND THE ONLY THING THAT WOULD DISQUALIFY YOU ARE STRONG BIASES  
13 FOR OR AGAINST THIS PARTICULAR SUBJECT MATTER.

14 AND SO ALLOW ME THEN TO ASK YOU THESE QUESTIONS  
15 BEGINNING WITH SOME QUESTIONS ABOUT THE PUBLICITY THAT YOU  
16 HAVE BEEN EXPOSED TO IN THIS CASE.

17 ARE YOU A SUBSCRIBER TO THE LOS ANGELES TIMES?

18 MS. SILVERSTEIN: NO.

19 MR. CHIER: DO YOU REGULARLY GET THE SUNDAY PAPER?

20 MS. SILVERSTEIN: THE SUNDAY PAPER AS A RULE, YES.

21 MR. CHIER: DO YOU REMEMBER THAT ARTICLE, WAS THAT  
22 IN A SUNDAY PAPER?

23 MS. SILVERSTEIN: YES, IT WOULD BE THE SUNDAY PAPER I  
24 GET, YES.

25 MR. CHIER: DID YOU HAPPEN TO BUY THE ARTICLE -- I MEAN  
26 THE ISSUE RANDOMLY OR DID SOMEBODY MENTION TO YOU THIS  
27 PARTICULAR ARTICLE IN THE PAPER?

28 MS. SILVERSTEIN: I READ THE METRO SECTION, THE VIEW

1 SECTION AND THERE ARE CERTAIN SECTIONS I READ SO THAT IS WHAT  
2 I READ, SO IT HAD TO BE IN ONE OF THOSE SECTIONS.

3 MR. CHIER: CRIMINAL LAWYERS, PROSECUTORS AND DEFENSE  
4 ATTORNEYS ALWAYS TURN TO THE METRO SECTION TO SEE WHAT OUR  
5 FRIENDS ARE DOING BUT --

6 MS. SILVERSTEIN: I READ THE OBITUARIES, TOO, AND THE  
7 METRO SECTION, TO BE HONEST WITH YOU.

8 MR. CHIER: LATELY, SOME OF MY FRIENDS APPEAR THERE,  
9 TOO.

10 SO IT WAS JUST BASICALLY FORTUITOUS THAT YOU READ  
11 THE PARTICULAR ISSUE WITH THAT PARTICULAR ARTICLE?

12 MS. SILVERSTEIN: IT WOULD HAVE BEEN THE FRONT PAGE OF  
13 THE METRO BECAUSE I DON'T READ VERY MUCH OF IT.

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1 MR. CHIER: YOU DON'T ALWAYS READ THE SUNDAY EDITION,  
2 RIGHT?

3 MS. SILVERSTEIN: NO. DO I ALWAYS READ IT?

4 MR. CHIER: DO YOU ALWAYS READ IT?

5 THE COURT: LET'S GET ON TO SOMETHING ELSE, WILL YOU  
6 PLEASE?

7 MR. CHIER: ALL RIGHT. DO YOU REMEMBER ANY OTHER  
8 DETAILS OR HIGHLIGHTS FROM THE ENTIRE ARTICLE?

9 MS. SILVERSTEIN: YES. IT WAS A LENGTHY ARTICLE. I  
10 READ THE ENTIRE ARTICLE.

11 MR. CHIER: WERE THERE SOME OTHER THINGS MENTIONED IN  
12 THE ARTICLE THAT YOU HAVE NOT YOU KNOW, MENTIONED OR TOUCHED  
13 UPON TODAY? DO YOU REMEMBER THINGS OTHER THAN THE THINGS  
14 THAT YOU MENTIONED TODAY?

15 MS. SILVERSTEIN: YES I DO REMEMBER. BUT I THOUGHT  
16 THAT -- I DIDN'T THINK MR. HUNT WAS INVOLVED IN IT. I DON'T  
17 KNOW.

18 MR. CHIER: WELL, I WILL TELL YOU WHAT --

19 MS. SILVERSTEIN: I REMEMBER THINGS ABOUT THE ARTICLE,  
20 THOUGH.

21 MR. CHIER: IF YOU WOULD BE SO KIND AS TO JUST DISCLOSE  
22 EVERYTHING THAT YOU REMEMBER, REGARDLESS OF WHETHER IT IS  
23 CORRECT OR INCORRECT OR --

24 MS. SILVERSTEIN: BUT THE JUDGE TOLD ME TO FORGET ABOUT  
25 IT. YOU KNOW, IT WAS INACCURATE AND I SHOULD JUST DISMISS  
26 IT.

27 THE COURT: HE WANTS TO KNOW WHAT ELSE YOU REMEMBER  
28 ABOUT IT, WHICH MAY --

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1 MS. SILVERSTEIN: I READ THAT THERE WAS AN IRANIAN THAT  
2 WAS A MEMBER OF THIS CLUB, ONE OF THE FIVE IN THE CLUB.

3 MR. CHIER: UH-HUH?

4 MS. SILVERSTEIN: THERE WAS AN IRANIAN BOY WHO THEY  
5 PLANNED TO KIDNAP -- WHEN I SAY "THEY" I DON'T REMEMBER WHO,  
6 WHETHER ALL FIVE OF THEM OR WHETHER ONE OF OR WHETHER JUST  
7 THE SON KIDNAPPED A DOCTOR, HIS FATHER.

8 I REMEMBER THAT THERE WAS A KIDNAPPING AND IN  
9 THE PROCESS, THE FATHER DIED. HE WAS THROWN OVER SOMEWHERE  
10 IN THE LOS ANGELES NATIONAL FOREST.

11 I AM TELLING YOU WHAT I REMEMBER OUT OF THIS ENTIRE  
12 ARTICLE NOW.

13 MR. CHIER: OKAY.

14 MS. SILVERSTEIN: THE LOS ANGELES NATIONAL FOREST. THAT  
15 IS ALL I REMEMBER.

16 MR. CHIER: OKAY. OBVIOUSLY, PEOPLE WHO READ, COME  
17 AWAY FROM THE THINGS THEY READ WITH CERTAIN IMPRESSIONS.

18 WHAT WAS YOUR OVERALL IMPRESSION ABOUT THE MATTER  
19 WHICH YOU READ?

20 MS. SILVERSTEIN: IT WAS COMPLICATED. THAT IS ALL I  
21 KEPT THINKING OF. IT WAS A COMPLICATED THING. THAT IS WHAT  
22 I READ.

23 MR. CHIER: SO THE OVERRIDING IMPRESSION WAS THAT OF  
24 COMPLEXITY?

25 MS. SILVERSTEIN: YES.

26 MR. CHIER: ALL RIGHT. DID YOU FORM ANY PARTICULAR  
27 OPINION ABOUT THAT, ABOUT THE PERSON IDENTIFIED AS JOE HUNT?

28 MS. SILVERSTEIN: NO.

1 MR. CHIER: DO ANY PARTICULAR WORDS COME TO MIND,  
2 ADJECTIVES THAT YOU REMEMBER WOULD DESCRIBE HUNT? YOU KNOW,  
3 WAS IT SMART, DUMB, RICH, POOR, EDUCATED, ILLITERATE, OR  
4 ANYTHING LIKE THAT?

5 MS. SILVERSTEIN: NO, JUST A MEMBER OF THE BBC. IT  
6 WAS EYE-CATCHING, THIS BBC THING.

7 MR. CHIER: ALL RIGHT. NOW, THE THING IN THESE  
8 SITUATIONS IS TO HAVE -- FOR PEOPLE HAVING READ AN ARTICLE  
9 WHICH YOU UNDERSTAND IS NOT EVIDENCE --

10 MS. SILVERSTEIN: AND ALSO INACCURATE, TOO.

11 THE COURT: YES IT WAS.

12 MR. CHIER: YOU UNDERSTAND IT IS NOT EVIDENCE?

13 MS. SILVERSTEIN: YES.

14 MR. CHIER: IT IS NOT TESTED BY ANY LAWS OF EVIDENCE. IT  
15 IS NOT TESTED BY ANYTHING. IT IS NOT TESTED IN ANY WAY.

16 SO THAT WHAT GETS INTO THE PAPER IS OFTEN JUST  
17 RUMOR AND GOSSIP AND EXAGGERATION, RIGHT? DO YOU UNDERSTAND  
18 THAT, I AM SURE YOU DO?

19 MS. SILVERSTEIN: YES.

20 MR. CHIER: SO THAT IF YOU WERE ULTIMATELY SELECTED  
21 AS A JUROR IN THIS CASE AND HAVING READ THE STUFF IN THE PAPER  
22 WHICH IS PROBABLY NOT EVEN ADMISSIBLE, NECESSARILY, COULD  
23 YOU PUT ASIDE AS THE JUDGE HAS ASKED YOU TO DO, YOUR  
24 RECOLLECTION OF THE CASE FROM THE PAPER AND JUST TRY THE CASE  
25 ON THE EVIDENCE?

26 MS. SILVERSTEIN: I THINK I COULD DO IT.

27 MR. CHIER: ALL RIGHT. THERE IS NOTHING THAT SO LIVES  
28 SO VIVIDLY IN YOUR MEMORY THAT WOULD MAKE IT DIFFICULT IN



1 YOUR JUDGMENT, I TAKE IT?

2 MS. SILVERSTEIN: ON THIS ARTICLE?

3 MR. CHIER: YES.

4 MS. SILVERSTEIN: NO.

5 MR. CHIER: OKAY. ALL RIGHT. LET ME THEN MOVE ON TO  
6 THE AREA OF THE DEATH PENALTY AND ASK YOU HOW YOU WOULD ANSWER  
7 THE FOLLOWING QUESTION: I AM A PERSON WHO IS A, STRONGLY  
8 IN FAVOR OF THE DEATH PENALTY; B, SOMEWHAT IN FAVOR OF THE  
9 DEATH PENALTY; C, OPPOSED TO THE DEATH PENALTY; D, HAVE NOT  
10 REALLY THOUGHT ABOUT IT; E, OTHER.

11 MS. SILVERSTEIN: WELL, THERE ARE TWO ANSWERS. I HAVE  
12 NOT REALLY THOUGHT ABOUT IT AND I AM SOMEWHAT IN FAVOR OF  
13 THE DEATH PENALTY, I GUESS.

14 MR. CHIER: SO IT IS --

15 MS. SILVERSTEIN: NOT SOMETHING I THINK ABOUT.

16 MR. CHIER: SO WE KNOW THAT YOU ARE NOT OPPOSED TO THE  
17 DEATH PENALTY, RIGHT?

18 MS. SILVERSTEIN: NO.

19 MR. CHIER: OR ARE YOU ANY KIND OF A CRUSADER-TYPE PERSON?

20 MS. SILVERSTEIN: NO.

21 MR. CHIER: NOW, YOU FALL IN THAT MIDDLE AREA OF PEOPLE  
22 WHO THINK -- WOULD YOU SAY THAT IS CORRECT? THAT IS, THE  
23 MIDDLE AREA OF PEOPLE WHO THINK THAT THE DEATH PENALTY IS  
24 A NECESSARY PUNISHMENT TO HAVE IN CERTAIN CIRCUMSTANCES?

25 MS. SILVERSTEIN: YES.

26 MR. CHIER: OKAY. WELL, I MEAN GENERALLY WITHOUT  
27 OVER-GENERALIZING, THAT SOMEWHAT SUMS IT UP FOR YOU?

28 MS. SILVERSTEIN: YES.

1 MR. CHIER: YES? OKAY. DO YOU THINK THAT -- DO YOU  
2 UNDERSTAND THAT THERE IS NO CRIME IN CALIFORNIA FOR WHICH  
3 THERE IS A MANDATORY DEATH PENALTY?

4 MS. SILVERSTEIN: I DIDN'T KNOW THAT.

5 MR. CHIER: OKAY. IF THE COURT TELLS YOU THAT OR I  
6 TELL YOU THAT, WITH THE PERMISSION OF THE COURT, THAT THERE  
7 IS NO MANDATORY DEATH PENALTY IN CALIFORNIA, WOULD YOU ACCEPT  
8 THAT?

9 MS. SILVERSTEIN: YES.

10 MR. CHIER: ALL RIGHT. NOW, MS. SILVERSTEIN, DO YOU  
11 UNDERSTAND THAT THE DEATH PENALTY -- THAT ALL CRIMES IN  
12 CALIFORNIA PUNISHABLE BY THE DEATH PENALTY ARE ALSO PUNISHABLE  
13 BY LIFE IN PRISON WITHOUT POSSIBILITY OF PAROLE?

14 MS. SILVERSTEIN: ARE ALSO PUNISHABLE, YOU SAY?

15 MR. CHIER: YES.

16 THE COURT: WELL, THE ALTERNATIVE IS ONE OF TWO. IT  
17 ISN'T BOTH, OBVIOUSLY.

18 MS. SILVERSTEIN: RIGHT. IF HE IS NOT EXECUTED, SPENDS  
19 THE REST OF HIS LIFE IN JAIL.

20 MR. CHIER: RIGHT. IT IS ONE OR THE OTHER.

21 MR. SILVERSTEIN: YES.

22 MR. CHIER: OKAY. THE TERM OR EXPRESSION "LIFE WITHOUT  
23 POSSIBILITY OF PAROLE" IS TROUBLESOME TO SOME BECAUSE THERE  
24 ARE THOSE WHO THINK THAT WITHOUT THE POSSIBILITY OF PAROLE  
25 REALLY DOESN'T MEAN THAT IT IS -- SORRY, THEY THINK THERE  
26 IS ALWAYS A POSSIBILITY.

27 DO YOU HAVE ANY BELIEF ONE WAY OR THE OTHER?  
28 DO YOU BELIEVE THAT LIFE WITHOUT POSSIBILITY OF PAROLE MEANS

1 JUST THAT?

2 MS. SILVERSTEIN: I DON'T BELIEVE THERE IS SUCH A THING.  
3 I BELIEVE THAT LAWS CAN BE CHANGED AND EVENTUALLY, IF YOU  
4 GET A SENTENCE --

5 THE COURT: WELL, AT THE PRESENT TIME THE LAW IS THAT  
6 IF A MAN IS SENTENCED TO LIFE WITHOUT POSSIBILITY OF PAROLE,  
7 THERE IS NO POSSIBILITY OF PAROLE. I AM TELLING YOU NOW THAT  
8 THAT IS WHAT IT IS. THERE IS SUCH A THING.

9 MS. SILVERSTEIN: IS THERE A QUESTION HERE?

10 MR. CHIER: NO.

11 THE COURT: IT IS GERMINATING.

12 MS. SILVERSTEIN: OKAY. SORRY.

13 MR. CHIER: DO YOU THINK THAT THE DEATH PENALTY -- STRIKE  
14 THAT.

15 DO YOU THINK YOU COULD BE THE KIND OF NEUTRAL  
16 AND IMPARTIAL JUROR IN THIS CASE THAT WE NEED, MS. SILVERSTEIN?

17 MS. SILVERSTEIN: NO.

18 MR. CHIER: NO?

19 MS. SILVERSTEIN: NO.

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1 THE COURT: WHY NOT?

2 MS. SILVERSTEIN: I HAD A PROFESSIONAL DEALING WITH MR.  
3 CHIER ABOUT TEN YEARS AGO.

4 THE COURT: YOU FORMED SUCH AN IMPRESSION OF HIM THAT  
5 YOU DON'T FEEL YOU WANT TO BE A JUROR ON THIS CASE?

6 MS. SILVERSTEIN: I WANT TO DO -- YOU KNOW, I HAVEN'T  
7 HAD ANY OPINION, YOU KNOW, IT IS NOT GOOD OR BAD. IT IS NOT  
8 FOR OR AGAINST.

9 IT IS JUST MR. HUNT, HE IS THE MAN ON TRIAL, NOT  
10 MR. CHIER. BUT HE --

11 THE COURT: MR. HUNT IS ALSO REPRESENTED BY MR. BARENS,  
12 WHO WILL PROBABLY HAVE THE MAJOR PART IN THIS TRIAL.

13 MS. SILVERSTEIN: THAT IS WHY, YOU KNOW, LIKE I SAID  
14 THAT IS WHY I DON'T FEEL I WOULD BE PREJUDICED BY YOU.

15 THE COURT: YOU KNOW MISS SILVERSTEIN?

16 MR. CHIER: I AM TRYING TO RECALL HER.

17 MS. SILVERSTEIN: MRS. SANDERS AND MYSELF --

18 MR. CHIER: SISTERS?

19 MS. SILVERSTEIN: RIGHT, RIGHT.

20 MR. CHIER: OH, YES.

21 YOU HAVE LOST A LOT OF WEIGHT.

22 MS. SILVERSTEIN: EVERYBODY SAYS THAT BUT I THINK I JUST,  
23 YOU KNOW, BLOSSOMED, GREW UP.

24 MR. WAPNER: MAY I HAVE A MOMENT, YOUR HONOR?

25 THE COURT: DO YOU THINK BY REASON OF YOUR ASSOCIATION  
26 OR PAST ASSOCIATION WITH MR. CHIER THAT YOU CANNOT BE A FAIR  
27 AND IMPARTIAL JUROR IN THIS CASE?

28 MS. SILVERSTEIN: I THINK I CAN BE A FAIR PERSON. I

1 AM MADE LIKE THAT, YOU KNOW.

2 THE COURT: WHEN THE QUESTION WAS ASKED OF YOU, YOU  
3 SAID NO BECAUSE OF WHAT YOU KNOW OF MR. CHIER.

4 MS. SILVERSTEIN: I THINK I WANTED MR. CHIER TO KNOW  
5 HE KNOWS ME.

6 I DIDN'T WANT IT TO COME OUT WHEN YOU WERE A  
7 HUNDRED DAYS INTO THE TRIAL.

8 THE COURT: WELL, NOW IT HAS COME OUT THAT YOU KNOW HIM  
9 AND HE DOES KNOW YOU --

10 MS. SILVERSTEIN: AND THAT IS IT.

11 THE COURT: -- WOULD THAT AFFECT YOU IN BEING AN  
12 IMPARTIAL JUROR IN THIS CASE?

13 MS. SILVERSTEIN: NO, I DON'T THINK SO.

14 THE COURT: WELL, ANYTHING YOU KNOW ABOUT HIM, WHETHER  
15 GOOD OR BAD, THAT WOULDN'T INTERFERE WITH YOUR BEING A FAIR  
16 AND IMPARTIAL JUROR, WOULD IT?

17 MS. SILVERSTEIN: NO, NOT AT THIS TIME, NO SIR.

18 MR. WAPNER: MAY I HAVE A MOMENT WITH COUNSEL?

19 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

20 MR. WAPNER: OKAY.

21 MR. CHIER: I AM GOING TO PASS FOR CAUSE, YOUR HONOR.

22 THE COURT: ALL RIGHT, MR. WAPNER.

23 MR. WAPNER: GOOD AFTERNOON, MRS. SILVERSTEIN. I AM  
24 FRED WAPNER, THE DEPUTY DISTRICT ATTORNEY WHO IS PROSECUTING  
25 THIS CASE.

26 CAN YOU GIVE ME A LITTLE BACKGROUND, IF POSSIBLE,  
27 ABOUT YOUR ASSOCIATION WITH MR. CHIER SO I AM NOT COMPLETELY  
28 IN THE DARK ABOUT WHAT WE ARE TALKING ABOUT?

1 MR. CHIER: I THINK THAT IT IS PROBABLY PROPER IN ANOTHER  
2 TYPE OF VOIR DIRE RATHER THAN HERE, YOUR HONOR.

3 THE COURT: YOU CAN ASK HER THAT ON ANOTHER OCCASION,  
4 CAN'T YOU? THAT HAS NOTHING TO DO WITH HER ATTITUDE TOWARD  
5 THE DEATH PENALTY.

6 MR. WAPNER: THAT IS TRUE, WE COULD, AND MR. CHIER MIGHT  
7 TECHNICALLY BE RIGHT ABOUT THAT, IT MIGHT BE MORE PROPER TO  
8 BE BROUGHT UP ON GENERAL VOIR DIRE BUT ON THE OTHER HAND, SHE  
9 HAS MENTIONED IT NOW.

10 THE COURT: SHE MENTIONED IT ONLY BECAUSE SHE WANTED  
11 US TO KNOW THAT SHE HAD SOME PRIOR ASSOCIATION WITH HIM.

12 MR. WAPNER: WELL, I UNDERSTAND THAT BUT WHAT I AM  
13 SUGGESTING IS, SINCE WE ARE NOW IN A SETTING WHERE THERE ARE  
14 TWO OTHER PEOPLE IN THE COURTROOM INSTEAD OF 60 POSSIBLE  
15 JURORS, THAT THIS MIGHT BE A BETTER POTENTIAL SETTING FOR  
16 DISCUSSING THIS MATTER THAN WITH ALL OF THE OTHER JURORS  
17 HERE.

18 THE COURT: ALL RIGHT, I WILL PERMIT THAT.

19 ALL RIGHT, THAT WILL PROBABLY BE BETTER. GO AHEAD.

20 MR. WAPNER: CAN YOU GIVE ME A LITTLE BACKGROUND ABOUT  
21 THE NATURE OF THAT ASSOCIATION SO I MIGHT BETTER UNDERSTAND  
22 HOW IT MIGHT AFFECT YOU IN THIS CASE?

23 MS. SILVERSTEIN: WELL, MR. CHIER DEFENDED MY SISTER  
24 AND I IN A PROFESSIONAL MATTER ABOUT TEN YEARS AGO.

25 THE COURT: WHAT KIND OF MATTER?

26 MS. SILVERSTEIN: FALSE ARREST.

27 THE COURT: HE DEFENDED YOU AND YOUR SISTER, YOU WERE  
28 CHARGED WITH FALSE ARREST?

1 MS. SILVERSTEIN: WE CHARGED SOMEONE WITH FALSE ARREST AND  
2 HE REPRESENTED US, HIS OFFICE REPRESENTED US.

3 MR. CHIER: ACTUALLY, THAT IS NOT CORRECT. I THINK IT  
4 WAS IRVING GREEN'S OFFICE THAT REPRESENTED THEM.

5 MS. SILVERSTEIN: OH, YES, OR MR. GREEN'S OFFICE,  
6 WHATEVER IT WAS, YOU KNOW.

7 THE COURT: IT WASN'T PERSONAL INJURY, WAS IT?

8 MR. CHIER: YES, YOUR HONOR.

9 THE COURT: ALL RIGHT.

10 MR. WAPNER: WAS MR. CHIER ACTUALLY REPRESENTING YOU  
11 IN THE COURTROOM?

12 MS. SILVERSTEIN: HE IS RIGHT. I DON'T REMEMBER IT,  
13 YOU KNOW, THAT MUCH.

14 IN FACT, I LEFT. I REMEMBER -- THIS IS LIKE --  
15 I WAS TOO BUSY LEAVING AND GOING TO CHICAGO AT THAT TIME, IT  
16 WAS LIKE ABOUT TEN YEARS AGO.

17 MR. WAPNER: IF THE JUDGE ASKED YOU, I MUST HAVE MISSED  
18 IT: DID HE ASK YOU WHAT PART OF TOWN IN WHICH YOU LIVE?

19 MS. SILVERSTEIN: NO, HE DID NOT ASK ME.

20 THE COURT: I MEANT TO ASK YOU.

21 MS. SILVERSTEIN: I LIVE IN ENCINO.

22 MR. WAPNER: THANK YOU.

23 YOU MADE THE STATEMENT REGARDING PART OF THE L.A.  
24 TIMES ARTICLE, THAT YOU DIDN'T THINK MR. HUNT WAS INVOLVED  
25 IN IT; CAN YOU EXPLAIN THAT TO ME?

26 MS. SILVERSTEIN: IN OTHER WORDS, IT WAS, AS I SAID,  
27 IT WAS A COMPLICATED CASE IN THE NEWSPAPER, OR THE ARTICLE  
28 WAS COMPLICATED, I THOUGHT, AND IT FIRST STARTED OFF WITH THE

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1 BBC AND THEN ALL OF A SUDDEN BROUGHT IN AN IRANIAN DOCTOR.

2 IT WAS A LONG ARTICLE. LIKE I SAY, IT GOT A LITTLE  
3 COMPLICATED SO I DIDN'T -- I DON'T KNOW WHAT THEY WERE WRITING  
4 ABOUT, WHETHER THEY WERE WRITING ABOUT A CLUB OF MR. HUNT'S,  
5 AN IRANIAN DOCTOR THAT DIED IN A TRUNK, THAT IS HOW IT AFFECTED  
6 ME.

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1 MR. WAPNER: DO YOU REMEMBER ANY MENTION OF A PERSON  
2 IN THAT ARTICLE NAMED RON LEVIN?

3 MS. SILVERSTEIN: I THINK HE WAS THE MAN THAT DISAPPEARED,  
4 THAT WAS THE NAME.

5 MR. WAPNER: DO YOU RECALL FORMING ANY OPINION OF HIM  
6 AS A RESULT OF READING THE ARTICLE?

7 MS. SILVERSTEIN: NO.

8 MR. WAPNER: NOT GOOD OR BAD?

9 MS. SILVERSTEIN: RIGHT.

10 I MEAN IT WAS JUST ONE OF THOSE THINGS, I READ  
11 SOMETHING AND THAT IS IT.

12 NO, I DIDN'T FORM ANY OPINIONS ABOUT HIM.

13 MR. WAPNER: ALL RIGHT. HAD YOU GIVEN ANY THOUGHT TO  
14 THE ISSUE OF THE DEATH PENALTY BEFORE YOU WERE ASKED TO SIT  
15 AS A JUROR IN THIS CASE?

16 MS. SILVERSTEIN: NO.

17 MR. WAPNER: DO YOU HAVE ANY STRONGLY HELD RELIGIOUS,  
18 MORAL OR PHILOSOPHICAL OPINIONS REGARDING THE DEATH PENALTY?

19 MS. SILVERSTEIN: NO.

20 MR. WAPNER: IF YOU WERE ON THE JURY AND YOU HEARD ALL  
21 OF THE EVIDENCE AND YOU DECIDED THAT THE APPROPRIATE PUNISHMENT  
22 IN THIS CASE WAS DEATH, COULD YOU RENDER SUCH A VERDICT?

23 MS. SILVERSTEIN: IF THE EVIDENCE SHOWED THAT THE  
24 DEFENDANT IS GUILTY --

25 THE COURT: NO. ASSUMING THAT HE HAS ALREADY BEEN PROVEN  
26 GUILTY OF MURDER IN THE FIRST DEGREE AND IT WAS COMMITTED  
27 IN THE COURSE OF A ROBBERY, THEN YOU HEAR THE SECOND PHASE.  
28 AFTER YOU HEAR ALL OF THAT EVIDENCE AND YOU CONSIDER THAT,

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1 COULD YOU COME IN WITH A VERDICT OF DEATH IN THE GAS CHAMBER?

2 MS. SILVERSTEIN: YES, YES.

3 MR. WAPNER: DO YOU FEEL COMFORTABLE -- WHETHER IT IS  
4 EASY, THAT IS NOT THE QUESTION.

5 MS. SILVERSTEIN: YES.

6 MR. WAPNER: BUT ARE YOU THE KIND OF PERSON WHO COULD  
7 MAKE A DECISION OF THAT MAGNITUDE?

8 MS. SILVERSTEIN: I COULD MAKE A DECISION LIKE THAT  
9 BUT IT WOULD BE AFTER A GREAT DEAL OF ANALYZING ANY EVIDENCE  
10 OR WHATEVER IT IS.

11 YOU KNOW, HE IS PRONOUNCED GUILTY AND NOW I HAVE --  
12 IF AFTER SOUL-SEARCHING, I COULD BRING IN THAT VERDICT THOUGH.

13 MR. WAPNER: ON THE OTHER HAND, COULD YOU BRING IN A  
14 VERDICT OF LIFE IN PRISON WITHOUT THE POSSIBILITY OF PAROLE  
15 IF YOU FELT THAT WAS THE APPROPRIATE VERDICT?

16 MS. SILVERSTEIN: I THOUGHT THAT WAS, YES.

17 THE COURT: IT IS ONE OR THE OTHER.

18 MS. SILVERSTEIN: IT IS ONE OR THE OTHER, YEAH, RIGHT.  
19 I KEEP GETTING THEM -- RIGHT, IT IS ONE OR THE OTHER.

20 MR. WAPNER: DID YOU UNDERSTAND THAT IF YOU WERE ON  
21 THE JURY DURING THE GUILT PHASE, YOU CAN'T THINK ABOUT WHAT  
22 THE PUNISHMENT COULD BE WHEN YOU ARE DECIDING WHETHER HE IS  
23 GUILTY OR NOT GUILTY?

24 MS. SILVERSTEIN: YES.

25 MR. WAPNER: DO YOU UNDERSTAND THAT DURING THE GUILT  
26 PHASE OF THE TRIAL, THE PROSECUTION IS REQUIRED TO PROVE THE  
27 CASE TO YOU BEYOND A REASONABLE DOUBT?

28 MS. SILVERSTEIN: YES.

1 MR. WAPNER: BECAUSE THERE IS A POSSIBILITY THAT THE  
2 DEATH PENALTY COULD BE INVOLVED SOMEWHERE DOWN THE LINE, WOULD  
3 YOU HOLD THE PROSECUTION TO A STANDARD HIGHER THAN THAT OF  
4 PROOF BEYOND A REASONABLE DOUBT?

5 MS. SILVERSTEIN: YES.

6 MR. WAPNER: WHY?

7 MS. SILVERSTEIN: I JUST WANT TO MAKE SURE THAT THAT,  
8 YOU KNOW, ANYBODY IS GUILTY.

9 I AM NOT TALKING ABOUT THE DEATH PENALTY.

10 THE COURT: NO, NO. WE ARE TALKING ABOUT THE FIRST  
11 PHASE OF THE TRIAL, THE GUILT PHASE. YOU WILL BE INSTRUCTED  
12 THAT THE GUILT OF THE DEFENDANT MUST BE PROVED BEYOND A  
13 REASONABLE DOUBT AND THAT IS TRUE IN EVERY SINGLE KIND OF  
14 A CRIMINAL CASE, EVEN SPITTING ON THE FLOOR, IF SOMEBODY IS  
15 ACCUSED OF MESSING IT UP. EVERY CRIMINAL CASE HAS THE SAME  
16 STANDARD, IT HAS TO BE PROVEN BEYOND A REASONABLE DOUBT; YOU  
17 WILL FOLLOW THAT?

18 MS. SILVERSTEIN: YES.

19 THE COURT: IT IS NOT BEYOND ALL DOUBT, MIND YOU.

20 MS. SILVERSTEIN: REASONABLE.

21 THE COURT: A REASONABLE DOUBT; YOU WILL FOLLOW THAT,  
22 WILL YOU?

23 MS. SILVERSTEIN: YES.

24 THE COURT: ALL RIGHT.

25 MR. WAPNER: MISS SILVERSTEIN, ARE YOU OF SUCH A MIND  
26 THAT EVEN THOUGH THE JUDGE TOLD YOU THAT YOU HAVE TO USE THE  
27 SAME STANDARD IN EACH CASE, THAT YOU WOULD USE IN YOUR OWN  
28 MIND A HIGHER STANDARD BECAUSE YOU KNEW THAT THE DEATH PENALTY

1 MIGHT BE LOOMING SOMEWHERE DOWN THE LINE?

2 MS. SILVERSTEIN: NO, I DON'T THINK SO.

3 NOW THE PROSECUTOR HAS TO GIVE CERTAIN EVIDENCE  
4 OR SHOW CERTAIN EVIDENCE AND I WOULD, YOU KNOW, MAKE MY  
5 DECISION BASED ON THAT EVIDENCE.

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1 MR. WAPNER: COULD YOU PUT OUT OF YOUR MIND THE IDEA  
2 OF WHAT PUNISHMENT HE MIGHT GET WHEN YOU WERE MAKING YOUR  
3 DECISION ON THE GUILT OR INNOCENCE?

4 MS. SILVERSTEIN: YES.

5 MR. WAPNER: IN OTHER WORDS, I AM NOT ASKING YOU TO  
6 JUDGE THE EVIDENCE IN THIS CASE. BUT, LET'S SAY IT CAME DOWN  
7 TO, FOR YOU, A DECISION ABOUT WHETHER IT WAS FIRST DEGREE  
8 MURDER OR WHETHER IT WAS SECOND DEGREE MURDER. COULD YOU  
9 DECIDE THAT ON THE FACTS OR WOULD YOU BE THINKING WELL, MAYBE  
10 I SHOULD DECIDE IT IS SECOND DEGREE MURDER AND THAT WAY I WON'T  
11 HAVE TO MAKE ANY DECISION ABOUT THE DEATH PENALTY?

12 MS. SILVERSTEIN: NO. I JUST HAVE TO UNDERSTAND WHAT  
13 THE DIFFERENCE IS BETWEEN FIRST AND SECOND DEGREE. YOU WOULD  
14 HAVE TO EXPLAIN IT TO ME.

15 MR. WAPNER: WELL, THE JUDGE WILL DO THAT AT THE END  
16 OF THE CASE.

17 THE COURT: WHAT HE MEANS IS, IF YOU HAVE DECIDED WHETHER  
18 IT WAS FIRST OR SECOND DEGREE MURDER, IF IT IS SECOND DEGREE  
19 MURDER, THEN THE QUESTION OF THE PENALTY DOESN'T BECOME  
20 INVOLVED ANYMORE, THE IDEA OF THE DEATH PENALTY.

21 BECAUSE THAT IS A FACT, WOULD YOU BE INCLINED TO  
22 VOTE FOR SECOND DEGREE MURDER BECAUSE YOU WOULD AVOID THE  
23 QUESTION OF THE DEATH PENALTY?

24 MS. SILVERSTEIN: NO.

25 THE COURT: ALL RIGHT. I THINK THAT IS ABOUT ENOUGH.

26 MR. WAPNER: NOW, DO YOU THINK THAT IN THIS CASE WHEN  
27 YOU ARE DECIDING THE ISSUE OF GUILTY OR INNOCENCE, THAT YOU  
28 SHOULD TAKE THAT DECISION MORE SERIOUSLY BECAUSE YOU KNOW THERE

1 MIGHT BE A DEATH PENALTY SOMEWHERE DOWN THE LINE?

2 MS. SILVERSTEIN: MORE SERIOUSLY THAN WHAT?

3 MR. WAPNER: THAN SOME OTHER CASE WHICH MIGHT NOT  
4 INVOLVE THE DEATH PENALTY?

5 MS. SILVERSTEIN: NO.

6 MR. WAPNER: PASS FOR CAUSE.

7 THE COURT: ALL RIGHT. MISS SILVERSTEIN, YOU HAVE BEEN  
8 QUALIFIED AS A POSSIBLE JUROR IN THIS CASE. BUT WHAT I WILL  
9 ASK YOU TO DO IS REPORT TO THE JURY ASSEMBLY ROOM THIS WEEK  
10 ON DECEMBER THE 4TH AT 10:30 A.M. COME TO THE JURY ASSEMBLY  
11 ROOM. YOU WILL BE TOGETHER WITH ALL THE OTHER JURORS.

12 WE WILL GET YOU HERE. WE WILL SEE IF WE CAN'T  
13 POSSIBLY START THE TRIAL. THAT IS DECEMBER 4TH AT 10:30.  
14 IN THE MEANTIME, DO NOT TALK WITH ANYONE ABOUT THE CASE OR  
15 READ ANYTHING ABOUT IT IF YOU CAN HELP IT. THANK YOU.

16 MS. SILVERSTEIN: THANK YOU.

17 (PROSPECTIVE JUROR SILVERSTEIN EXITS THE  
18 COURTROOM.)

19 (PROSPECTIVE JUROR MANFREDI ENTERS THE  
20 COURTROOM.)

21 THE COURT: GOOD AFTERNOON, MR. MANFREDI. WHERE DO YOU  
22 LIVE?

23 MR. MANFREDI: I LIVE OVER BY THE INTERNATIONAL AIRPORT  
24 IN THE WESTCHESTER AREA.

25 THE COURT: ALL RIGHT. HAVE YOU READ ANYTHING AT ALL  
26 ABOUT THIS CASE?

27 MR. MANFREDI: I DIDN'T READ ANYTHING ABOUT IT.

28 THE COURT: ANY NEWSPAPERS OR PUBLICATIONS?

1 MR. MANFREDI: NO.

2 THE COURT: DID YOU DISCUSS IT WITH THE JURORS IN ANY  
3 WAY?

4 MR. MANFREDI: NO.

5 THE COURT: ALL RIGHT. YOU KNOW NOTHING ABOUT THE CASE  
6 EXCEPT WHAT I TOLD ALL OF THE JURORS, IS THAT RIGHT?

7 MR. MANFREDI: RIGHT.

8 THE COURT: WHAT I WILL DO, IS BRIEFLY SUMMARIZE SOME  
9 ASPECTS OF THE CASE AND THEN I WILL ASK YOU SOME QUESTIONS  
10 WHICH RELATE TO YOUR STATE OF MIND AND YOUR OPINION WITH  
11 RESPECT TO THE DEATH PENALTY. DO YOU UNDERSTAND THAT?

12 MR. MANFREDI: UH-HUH.

13 THE COURT: ALL RIGHT. YOU KNOW THAT THE DEFENDANT IN  
14 THIS CASE IS CHARGED WITH THE COMMISSION OF A MURDER IN THE  
15 FIRST DEGREE AND THAT THAT MURDER WAS COMMITTED DURING THE  
16 COURSE OF A ROBBERY.

17 NOW, IN THE COURSE OF A ROBBERY HAS CERTAIN  
18 SIGNIFICANCE BECAUSE THAT QUALIFIES THIS CASE FOR A POSSIBLE  
19 DEATH PENALTY.

20 THE DEATH PENALTY CONSISTS OF TWO THINGS. IT IS  
21 ONE OF TWO THINGS. EITHER THE JURY DECIDES THAT IT SHOULD  
22 BE LIFE WITHOUT POSSIBILITY OF PAROLE OR DEATH IN THE GAS  
23 CHAMBER. DO YOU UNDERSTAND THAT?

24 MR. MANFREDI: UH-HUH.

25 THE COURT: IT IS ONE OF THOSE TWO POSSIBILITIES. ONE  
26 OF THEM IS KNOWN AS THE DEATH PENALTY. NOW, THE LEGISLATURE  
27 HAS SAID THAT NOT EVERY MURDER, IS THE DEATH PENALTY INVOLVED.  
28 IN OTHER WORDS, SOMEBODY MIGHT PLAN TO DELIBERATELY MURDER,

1 TO KILL SOMEBODY FOR WHATEVER REASON THAT THEY MIGHT HAVE.

2 DO YOU GET THE IDEA? JUST THAT ALONE DOESN'T  
3 QUALIFY THE CASE FOR THE DEATH PENALTY. THERE HAS TO BE SOME  
4 CIRCUMSTANCES, SPECIAL CIRCUMSTANCES CONNECTED WITH IT LIKE  
5 IN THIS CASE.

6 THE SPECIAL CIRCUMSTANCE IS THAT IT WAS COMMITTED  
7 IN THE COURSE OF A ROBBERY. ANOTHER SPECIAL CIRCUMSTANCE WOULD  
8 BE IF IT WAS COMMITTED IN THE COURSE OF A BURGLARY OR DURING  
9 THE KIDNAPPING OR A RAPE OR A CHILD MOLESTATION WHERE THE  
10 CHILD THEN DIES. THAT QUALIFIES FOR THE DEATH PENALTY OR  
11 MULTIPLE MURDERS OR TORTURE. DO YOU UNDERSTAND?

12 NOW, THE LEGISLATURE HAS SAID IN THOSE PARTICULAR  
13 CASES -- THERE ARE 19 OF THEM -- THE DEATH PENALTY MAY BE  
14 CONSIDERED BY THE JURY IF REQUESTED BY THE DISTRICT ATTORNEY.

15 IN THIS PARTIUCLAR CASE, THE SPECIAL CIRCUMSTANCE  
16 IS THE COMMISSION OF A ROBBERY, A MURDER DURING THE COMMISSION  
17 OF A ROBBERY.

18 MR. MANFREDI: OKAY. UH-HUH.

19 THE COURT: ALL RIGHT. NOW, THE FIRST THING THAT THE  
20 JURY HAS TO CONSIDER THAT IS ENTITLED IN THIS CASE -- THE  
21 FIRST THING IS WHAT WE CALL THE GUILT PHASE, IS HE GUILTY OR  
22 NOT GUILTY OF MURDER IN THE FIRST DEGREE.

23 NOW, IF HE IS GUILTY OF MURDER IN THE FIRST DEGREE,  
24 IT DOESN'T STOP THERE. THE JURY THEN HAS TO DECIDE THE  
25 QUESTION OF WHETHER IT IS TRUE OR FALSE THAT IT WAS COMMITTED  
26 DURING THE COURSE OF A ROBBERY.

27 NOW, IN THE EVENT THAT THE JURY FINDS HIM GUILTY  
28 OF MURDER IN THE FIRST DEGREE AND MAKES A FINDING OF SPECIAL



1 CIRCUMSTANCES, THAT IT WAS COMMITTED DURING THE COURSE OF A  
2 ROBBERY, THEN THE JURY GOES BACK IN THE JURY BOX AND THERE  
3 IS ADDITIONAL EVIDENCE WHICH WILL BE INTRODUCED BOTH BY THE  
4 DEFENSE AND BY THE PROSECUTION.

5 THE DEFENSE WILL INTRODUCE EVIDENCE TENDING TO  
6 SHOW FAVORABLE ASPECTS ABOUT THE DEFENDANT, THINGS THAT ARE  
7 NICE ABOUT HIM, GOOD ABOUT HIM AND HIS PAST.

8 THE DISTRICT ATTORNEY WILL SHOW THE OPPOSITE, THE  
9 THINGS THAT HE HAD DONE IN THE PAST THAT WERE BAD, UNFAVORABLE  
10 AND HE IS NOT SUCH A GOOD PERSON.

11 SO, ALL OF THOSE THINGS WILL BE INTRODUCED.  
12 EVIDENCE WILL BE INTRODUCED AT THE PENALTY PHASE OF THE CASE.

13 THE JURY OF COURSE, WILL CONSIDER ALL OF THE FACTS  
14 THAT THEY HEARD ON THE GUILT PHASE, EVERYTHING ABOUT THE MURDER.  
15 THEY WILL CONSIDER THAT.

16 BUT THEY WILL ALSO CONSIDER THINGS LIKE THE AGE  
17 OF THE DEFENDANT AND HIS ABSENCE OF ANY CRIMINAL RECORD, HIS  
18 HISTORY, HIS BACKGROUND, HIS CHARACTER, HIS MENTAL AND  
19 PHYSICAL CONDITION AND THINGS THAT HAVE A BEARING OR ARE  
20 FACTORS. THE JURY WOULD HAVE A RIGHT TO CONSIDER THAT. DO  
21 YOU UNDERSTAND THAT?

22 MR. MANFREDI: YES.

23 THE COURT: NOW, HAVING ALL OF THAT IN MIND, WHAT YOU  
24 MUST CONSIDER IN THE GUILT PHASE, YOU DON'T CONSIDER ANYTHING  
25 ABOUT PENALTY. THAT IS NOT TO BE CONSIDERED. IT WAS DID HE  
26 OR DID HE NOT COMMIT THE MURDER AND WAS IT UNDER SPECIAL  
27 CIRCUMSTANCES OF ROBBERY. RIGHT?

28 THE SECOND PHASE IS WHERE YOU HEAR ALL OF THE NICE

1 AND BAD THINGS ABOUT HIM.

2 THEN THE JURORS MAKES UP THEIR MINDS IF IT SHOULD  
3 BE LIFE WITHOUT THE POSSIBILITY OF PAROLE OR SHOULD IT BE DEATH.  
4 DO YOU UNDERSTAND WHAT YOUR RESPONSIBILITIES ARE?

5 MR. MANFREDI: YES.

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1 THE COURT: ARE YOU WILLING TO ACCEPT THAT RESPONSIBILITY?

2 MR. MANFREDI: WELL, IT DEPENDS UPON THE FACTS THAT  
3 WERE SHOWN.

4 THE COURT: OF COURSE, YES. DO YOU ACCEPT THE  
5 RESPONSIBILITY OF BEING A JUROR IN THIS CASE TO DECIDE ALL  
6 OF THESE THINGS?

7 MR. MANFREDI: YES. THAT IS WHAT I AM HERE FOR.

8 THE COURT: THAT'S RIGHT. OKAY. NOW, WHAT I WANT TO  
9 DO IS, EXPLORE YOUR MIND AND YOUR ATTITUDE TOWARD THE DEATH  
10 PENALTY. MY FIRST TWO QUESTIONS RELATE TO THE GUILT PHASE  
11 OF THE TRIAL.

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

15 MR. MANFREDI: NO, NOT AT THIS TIME.

16 THE COURT: WELL, AT THIS TIME WE ARE TRYING TO EXPLORE  
17 YOUR ATTITUDE ABOUT THE DEATH PENALTY. IT WOULDN'T INFLUENCE  
18 YOU ONE WAY OR THE OTHER?

19 MR. MANFREDI: NO.

20 THE COURT: OKAY. THE NEXT ONE IS STILL ON THE GUILT  
21 PHASE. AS I TOLD YOU, IF YOU FIND THE DEFENDANT GUILTY OF  
22 MURDER IN THE FIRST DEGREE, THE JURY HAS TO DECIDE THE SPECIAL  
23 CIRCUMSTANCES, WAS IT COMMITTED DURING THE COURSE OF A FELONY,  
24 TRUE OR FALSE. RIGHT?

25 DO YOU HAVE AN OPINION REGARDING THE DEATH PENALTY  
26 THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION  
27 REGARDING THE TRUTH OR FALSITY OF THE SPECIAL CIRCUMSTANCES?

28 MR. MANFREDI: NO.

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1 THE COURT: ALL RIGHT. NOW, THE NEXT TWO QUESTIONS  
2 PRESUPPOSE THAT THE JURORS HAVE FOUND THE DEFENDANT GUILTY  
3 OF MURDER IN THE FIRST DEGREE WITH SPECIAL CIRCUMSTANCES,  
4 COMMITTED DURING THE COURSE OF A ROBBERY. THIS NOW HAS TO  
5 DO WITH THE PENALTY PHASE. I TOLD YOU ABOUT THAT?

6 MR. MANFREDI: YES.

7 THE COURT: DO YOU HAVE SUCH AN OPINION CONCERNING THE  
8 DEATH PENALTY THAT YOU WOULD AUTOMATICALLY VOTE TO IMPOSE  
9 THE DEATH PENALTY, REGARDLESS OF ANY CIRCUMSTANCES THAT MAY  
10 BE PRESENTED AT THE PENALTY PHASE OF THE TRIAL?

11 MR. MANFREDI: NO.

12 THE COURT: AND THE OTHER ONE IS THE SAME, EXCEPT THAT  
13 IT HAS TO DO WITH LIFE WITHOUT POSSIBILITY OF PAROLE. DO  
14 YOU HAVE SUCH AN OPINION CONCERNING THE DEATH PENALTY THAT  
15 YOU WOULD AUTOMATICALLY VOTE FOR LIFE WITHOUT POSSIBILITY  
16 OF PAROLE, REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED  
17 AT THE PENALTY PHASE OF THE TRIAL?

18 MR. MANFREDI: NO.

19 THE COURT: ALL RIGHT. THE LAST QUESTION IS, DO YOU  
20 UNDERSTAND THAT THE ISSUE OF THE DEATH PENALTY MAY OR MAY  
21 NOT TAKE PLACE IN THIS CASE AND THAT THESE QUESTIONS HAVE  
22 BEEN ASKED ONLY IN THE EVENT THAT YOU REACH THAT PHASE OF  
23 THE CASE? RIGHT?

24 MR. MANFREDI: THAT'S RIGHT.

25 THE COURT: ALL RIGHT. GO AHEAD.

26 MR. CHIER: THANK YOU, YOUR HONOR. GOOD AFTERNOON,  
27 MR. MANFREDI.

28 MR. MANFREDI: GOOD AFTERNOON.

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1 MR. CHIER: MY NAME IS RICHARD CHIER. I REPRESENT JOE  
2 HUNT HERE, THE DEFENDANT.

3 MR. MANFREDI: HOW DO YOU DO.

4 MR. CHIER: AND WE HAVE NEVER MET BEFORE?

5 MR. MANFREDI: NO.

6 MR. CHIER: IT IS PECULIAR, NOT TO SAY AWKWARD, TO BE  
7 TALKING ABOUT THE DEATH PENALTY FOR A FIRST CONVERSATION.  
8 I WOULD LIKE TO POINT OUT TO YOU SIR AND REMIND YOU THAT BECAUSE  
9 WE ARE HAVING THIS DISCUSSION NOW ABOUT THE DEATH PENALTY,  
10 DOESN'T MEAN THAT MY CLIENT IS GUILTY OR ANYTHING. DO YOU  
11 UNDERSTAND THAT?

12 MR. MANFREDI: THAT'S RIGHT.

13 MR. CHIER: THIS IS JUST A NECESSARY PART OF THE PROCESS  
14 IN SELECTING JURORS?

15 MR. MANFREDI: YES.

16 MR. CHIER: DO YOU THINK THAT YOU WOULD BE -- YOUR  
17 ATTITUDE TOWARD THE DEATH PENALTY IS EVEN ENOUGH SO THAT YOU  
18 WOULD BE A SUITABLE PERSON TO BE A JUROR IN THIS CASE?

19 MR. MANFREDI: I BELIEVE SO. I BELIEVE THAT I COULD.

20 MR. CHIER: PASS FOR CAUSE.

21 THE COURT: ALL RIGHT.

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1 MR. WAPNER: GOOD AFTERNOON, MR. MANFREDI, I AM FRED  
2 WAPNER, THE DEPUTY DISTRICT ATTORNEY PROSECUTING THIS CASE.

3 MR. MANFREDI: HOW DO YOU DO?

4 MR. WAPNER: HAVE YOU GIVEN ANY THOUGHT TO THE QUESTION  
5 OF THE DEATH PENALTY BEFORE YOU WERE ASKED TO SERVE ON THIS  
6 JURY?

7 MR. MANFREDI: NO.

8 MR. WAPNER: DO YOU EVER REMEMBER THE ISSUE OF THE DEATH  
9 PENALTY BEING ON THE BALLOT?

10 MR. MANFREDI: YES.

11 I AM A REGISTERED VOTER. IT WAS ON THE BALLOT.

12 MR. WAPNER: DO YOU REMEMBER HOW YOU VOTED?

13 MR. MANFREDI: NOT REALLY, NO, I DON'T REMEMBER.

14 MR. WAPNER: DO YOU REMEMBER ANY DISCUSSION DURING THE  
15 LAST ELECTION ABOUT THE DEATH PENALTY AS IT PERTAINED TO ANY  
16 OF THE CANDIDATES THAT MIGHT HAVE BEEN RUNNING?

17 MR. MANFREDI: NO.

18 MR. WAPNER: DO YOU HAVE ANY STRONG FEELINGS PRO OR  
19 CON ABOUT THE DEATH PENALTY?

20 MR. MANFREDI: NO.

21 I SAW A TV PROGRAM THIS WEEK ON THE DEATH PENALTY  
22 AND IT SEEMED TO ME THAT THERE WERE ARGUMENTS ON BOTH SIDES  
23 AND NOTHING WAS RESOLVED.

24 MR. WAPNER: DID THEY HAVE A DEPUTY DISTRICT ATTORNEY  
25 NARRATING PART OF THAT PROGRAM?

26 THE COURT: WAS THAT ON CHANNEL 9?

27 MR. MANFREDI: YES.

28 NO, IT WAS -- THEY WERE SHOWING DIFFERENT CASES

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1 THAT HAD COME UP AND HOW THEY WERE RESOLVED BUT THEY DIDN'T.

2 AND THEN THERE WERE LAWYERS TALKING FOR IT AND  
3 AGAINST IT, YOU KNOW, PEOPLE AGAINST IT AND NOTHING WAS REALLY  
4 RESOLVED, NO.

5 MR. WAPNER: HOW DID IT AFFECT YOU?

6 MR. MANFREDI: IT LEFT ME KIND OF A DOUBT AS TO THE  
7 TRUE OUTCOME, DEPENDING ON WHAT THE CIRCUMSTANCES WERE, YOU  
8 KNOW.

9 MR. WAPNER: WHAT DO YOU MEAN WHEN YOU SAY A DOUBT AS  
10 TO THE TRUE OUTCOME? I DIDN'T FOLLOW THAT.

11 MR. MANFREDI: THAT THE COURT DID ITS JOB AND THE CASE  
12 WAS RESOLVED, YOU KNOW.

13 THE COURT: YOU MEAN IT WAS INCONCLUSIVE, IS THAT THE  
14 IDEA?

15 MR. MANFREDI: SORT OF, SORT OF.

16 LIKE I SAY, THERE ARE ARGUMENTS ON BOTH SIDES  
17 AND I DON'T KNOW, IT DEPENDS ON PARTICULAR CASES.

18 MR. WAPNER: DO YOU UNDERSTAND IF YOU ARE A JUROR ON  
19 THIS CASE THAT THE DECISION ABOUT THE PUNISHMENT IS GOING  
20 TO BE UP TO YOU AND NOBODY ELSE?

21 MR. MANFREDI: YES, I HAVE TO DECIDE ONE WAY OR THE  
22 OTHER.

23 MR. WAPNER: AND IF THE EVIDENCE ON THE GUILT AND THE  
24 PENALTY PHASES COMBINED IMPRESSES YOU THAT THE PROPER PUNISHMENT  
25 SHOULD BE LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE,  
26 ARE YOU CAPABLE OF RENDERING THAT VERDICT?

27 MR. MANFREDI: REPEAT THAT AGAIN.

28 MR. WAPNER: IF YOU ARE CHOSEN AS A JUROR IN THIS CASE

1 AND YOU LISTEN TO ALL OF THE EVIDENCE ON THE GUILT PHASE AND  
2 ON THE PENALTY PHASE AND YOU THINK IN YOUR OWN MIND THAT THE  
3 PROPER PUNISHMENT IS LIFE IMPRISONMENT WITHOUT THE POSSIBILITY  
4 OF PAROLE, CAN YOU VOTE FOR THAT VERDICT?

5 MR. MANFREDI: I BELIEVE SO.

6 MR. WAPNER: ON THE OTHER SIDE OF THAT COIN, IF YOU  
7 LISTEN TO ALL OF THE EVIDENCE ON THE GUILT AND THE PENALTY  
8 PHASE AND YOU DECIDE THAT THE PROPER PUNISHMENT IS DEATH,  
9 CAN YOU VOTE FOR THAT VERDICT?

10 MR. MANFREDI: I AM NOT SURE AT THIS TIME. I JUST,  
11 YOU KNOW --

12 MR. WAPNER: WHAT IS YOUR HESITATION?

13 MR. MANFREDI: WELL, IT SEEMS TO ME THAT I --

14 YOU KNOW ABOUT THE FACTS AND THE CASE ITSELF AND  
15 I DON'T KNOW HOW I WOULD FEEL ABOUT HOW THE OUTCOME SHOULD  
16 BE.

17 THE COURT: YES.

18 YOU WERE HERE WHEN YOU ANSWERED THE FIRST  
19 INQUIRY THAT YOU COULD BRING IN A VERDICT OF LIFE IMPRISONMENT  
20 WITHOUT THE POSSIBILITY OF PAROLE.

21 MR. MANFREDI: YES, YES.

22 THE COURT: YOU ARE NOT EQUALLY CERTAIN WHETHER YOU  
23 CAN BRING IN A VERDICT OF DEATH OR --

24 MR. MANFREDI: YES, THAT'S RIGHT.

25 THE COURT: -- OR ARE YOU EQUALLY CERTAIN THAT YOU COULD  
26 BRING IN A VERDICT OF DEATH IF THE FACTS JUSTIFY IT?

27 MR. MANFREDI: THAT'S RIGHT, YES.

28 MR. WAPNER: MR. MANFREDI, I AM NOT ASKING YOU ABOUT



1 THE EVIDENCE IN THE CASE BECAUSE WE CAN'T TELL YOU ABOUT THE  
2 EVIDENCE AT THIS POINT --

3 MR. MANFREDI: THAT'S RIGHT.

4 MR. WAPNER: -- AND WE WOULDN'T WANT TO.

5 MR. MANFREDI: YES.

6 MR. WAPNER: THE POINT IS THAT WHAT I AM TRYING TO GET  
7 AT IS WHETHER OR NOT YOUR INDIVIDUAL CONSTITUTION, YOUR MORAL  
8 VALUES, YOUR INTESTINAL FORTITUDE IS SUCH THAT IF YOU THOUGHT  
9 THAT THE PROPER VERDICT WAS DEATH THAT YOU COULD VOTE FOR  
10 THAT VERDICT?

11 MR. MANFREDI: I BELIEVE I COULD.

12 MR. WAPNER: COULD YOU COME INTO THE COURTROOM, SIT  
13 IN A CHAIR IN THE JURY BOX AND LOOK AT THE DEFENDANT AND SAY  
14 "MY VERDICT IS THAT YOU SHOULD DIE"?

15 (PROSPECTIVE JUROR MANFREDI NODDED HIS  
16 HEAD UP AND DOWN.)

17 MR. CHIER: WELL, HE DOESN'T HAVE TO LOOK AT HIM, JUDGE.

18 THE COURT: WELL, HE NODDED HIS HEAD.

19 MR. MANFREDI: NO.

20 THE COURT: HE SAID YES.

21 MR. MANFREDI: YES.

22 MR. WAPNER: THINKING ABOUT IT NOW, WITHOUT KNOWING  
23 WHAT THE EVIDENCE IS, DOES EITHER SIDE START OFF AHEAD OF  
24 THE OTHER ONE?

25 MR. MANFREDI: NOT AT THIS TIME, NO.

26 MR. WAPNER: WOULD IT BE EASIER FOR YOU JUST AS AN  
27 INTELLECTUAL OR EMOTIONAL THING TO VOTE FOR LIFE RATHER THAN  
28 DEATH, WITHOUT KNOWING THE EVIDENCE, IF YOU JUST HAD TO PICK

1 BETWEEN THE TWO NOW?

2 MR. MANFREDI: RIGHT NOW?

3 MR. WAPNER: RIGHT. IN OTHER WORDS, WOULD IT BE EASIER  
4 FOR YOU TO MAKE ONE DECISION THAN THE OTHER?

5 MR. MANFREDI: NO, I DON'T THINK SO, NOT AT THIS TIME.

6 MR. WAPNER: DO YOU UNDERSTAND THAT WHEN YOU ARE  
7 DECIDING THE QUESTION OF GUILT OR INNOCENCE, YOU CAN'T THINK  
8 ABOUT THE QUESTION OF PENALTY?

9 MR. MANFREDI: YES.

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1 MR. WAPNER: SO IF YOU ARE CALLED UPON TO MAKE A  
2 DECISION WHETHER HE IS GUILTY OR NOT, YOU CAN'T HAVE IN THE  
3 BACK OF YOUR MIND, "WELL, IF I FIND HIM GUILTY, I MIGHT HAVE  
4 TO VOTE FOR THE DEATH PENALTY AND I DON'T WANT TO VOTE FOR  
5 THE DEATH PENALTY SO I WILL VOTE NOT GUILTY". YOU WON'T DO  
6 THAT, WILL YOU?

7 MR. MANFREDI: NO.

8 MR. WAPNER: ALL RIGHT, I HAVE NOTHING FURTHER.

9 THE COURT: MR. MANFREDI, YOU QUALIFY AS A JUROR IF YOU  
10 ARE ULTIMATELY SELECTED. WHAT I WILL ASK YOU TO DO IS TO COME  
11 BACK TO THE JURY ASSEMBLY ROOM ON THURSDAY OF THIS WEEK AT  
12 10:30. THURSDAY OF THIS WEEK, THAT IS DECEMBER 4TH, ALL RIGHT?

13 MR. MANFREDI: THURSDAY, DECEMBER 4TH AT 10:30?

14 THE COURT: YES, YOU COME BACK THEN AND WE WILL GET YOU  
15 ALL BACK IN HERE.

16 MR. MANFREDI: THANK YOU.

17 THE COURT: STILL DON'T TALK ABOUT THE CASE OR READ ANY-  
18 THING ABOUT IT, IF YOU CAN HELP IT.

19 MR. MANFREDI: ALL RIGHT.

20 (PROSPECTIVE JUROR MANFREDI EXITS THE  
21 COURTROOM.)

22 (PROSPECTIVE JUROR MANTECON ENTERS THE  
23 COURTROOM.)

24 THE CLERK: HAVE A SEAT THERE, SIR.

25 MR. MANTECON: ALL RIGHT. HELLO.

26 THE COURT: THAT IS MR. MANTECON, IS IT?

27 MR. MANTECON: YES, MANTECON.

28 THE COURT: MR. MANTECON, WHERE DO YOU LIVE?

1 MR. MANTECON: TORRANCE.

2 THE COURT: HAVE YOU READ ANYTHING AT ALL ABOUT THIS  
3 CASE IN THE MAGAZINES OR ANY NEWSPAPERS?

4 MR. MANTECON: NO, NOT A WORD AT ALL.

5 THE COURT: NOTHING AT ALL ABOUT IT EXCEPT WHAT I TOLD  
6 YOU?

7 MR. MANTECON: PREVIOUSLY ALREADY, YES.

8 THE COURT: THAT'S RIGHT.

9 WELL, YOU KEEP UP THAT STATE OF MIND, DON'T READ  
10 ANYTHING ABOUT IT IN THE FUTURE OR DISCUSS IT WITH ANYBODY,  
11 ALLRIGHT?

12 MR. MANTECON: YES, OF COURSE.

13 THE COURT: DON'T LOOK AT THE TELEVISION OR LISTEN TO  
14 THE RADIO, ALL RIGHT?

15 I AM GOING TO BRIEFLY SUMMARIZE, AGAIN REFRESH  
16 YOUR RECOLLECTION AS TO WHAT THIS CASE IS ALL ABOUT BECAUSE  
17 I NEED THAT AS A PRELIMINARY TO ASK YOU CERTAIN QUESTIONS  
18 ABOUT YOUR ATTITUDE TOWARD THE DEATH PENALTY.

19 YOU KNOW THAT THE DEFENDANT IS CHARGED WITH THE  
20 COMMISSION OF THE CRIME OF MURDER, MURDER IN THE FIRST DEGREE  
21 AND THAT IT WAS COMMITTED DURING THE COURSE OF A ROBBERY.

22 MR. MANTECON: YES, SIR.

23 THE COURT: YOU REALL THAT? ALL RIGHT.

24 NOW, COMMITTED DURING THE COURSE OF A ROBBERY HAS  
25 A CERTAIN SIGNIFICANCE. THE LEGISLATURE SAID THAT IF A MURDER  
26 IS COMMITTED, IF A FIRST DEGREE MURDER IS COMMITTED DURING  
27 THE COURSE OF A ROBBERY, THAT IS A SPECIAL CIRCUMSTANCE, OR  
28 IF IT WAS COMMITTED DURING THE COURSE OF A BURGLARY OR A

1 KIDNAPPING OR A RAPE OR A TORTURE OR MULTIPLE MURDER AND THINGS  
2 OF THAT KIND, THOSE CASES QUALIFY FOR THE DEATH PENALTY.

3 NOT EVERY MURDER CASE QUALIFIES FOR THE DEATH  
4 PENALTY, YOU KNOW. SOMEBODY MAY DELIBERATELY KILL SOMEBODY  
5 BUT IT STILL IS NOT A DEATH PENALTY CASE. IT IS ONLY WHEN  
6 THE SPECIAL CIRCUMSTANCES APPLY, WHETHER IT WAS IN THE COURSE  
7 OF A ROBBERY OR A BURGLARY OR KIDNAPPING OR RAPE THAT IT  
8 QUALIFIES FOR THE DEATH PENALTY.

9 DO YOU UNDERSTAND WHEN THE DEATH PENALTY MAY  
10 BE IMPOSED?

11 MR. MANTECON: YES, I UNDERSTAND.

12 THE COURT: ALL RIGHT, OKAY. THIS IS ONE OF THOSE CASES.  
13 IT IS ALLEGED HERE THAT THE DEFENDANT COMMITTED A MURDER IN  
14 THE FIRST DEGREE DURING THE COURSE OF A ROBBERY. SO WHEN THE  
15 JURY IS SELECTED IN THIS CASE, THE FIRST THING YOU WILL HAVE  
16 TO DETERMINE IN WHAT WE CALL THE GUILT PHASE, WHAT THEY WILL  
17 HAVE TO DETERMINE IS IS THE DEFENDANT GUILTY OR NOT GUILTY  
18 OF MURDER IN THE FIRST DEGREE.

19 IF THEY SAY HE ISN'T GUILTY, HE IS NOT GUILTY OF  
20 MURDER, THAT IS THE END OF THE CASE. OR IF HE IS GUILTY OF  
21 MURDER IN THE SECOND DEGREE, THAT IS THE END OF THE CASE.

22 BUT IF HE IS GUILTY OF MURDER IN THE FIRST DEGREE,  
23 IF THEY SO RULE, THEN THEY HAVE TO CONSIDER A COLLATERAL  
24 QUESTION: WAS THAT MURDER COMMITTED DURING THE COURSE OF A  
25 ROBBERY?

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26A-1

1 THE COURT: IF THEY SAY YES, THAT QUALIFIES THE CASE  
2 FOR THE PENALTY PHASE OF IT. DO YOU UNDERSTAND THAT?

3 MR. MANTECON: YES.

4 THE COURT: OKAY. NOW, WHAT HAPPENS IS THAT SAME JURY  
5 WILL SIT. ADDITIONAL EVIDENCE WILL BE INTRODUCED BOTH BY  
6 THE DEFENSE AND BY THE PROSECUTION. WE CALL THAT EVIDENCE  
7 ON BEHALF OF THE DEFENDANT THE MITIGATING CIRCUMSTANCES. ON  
8 BEHALF OF THE PROSECUTION, IT IS THE AGGRAVATING CIRCUMSTANCES.

9 IN THE AGGRAVATING CIRCUMSTANCES, THE PROSECUTION  
10 WILL SHOW THAT HE IS ESSENTIALLY A BAD MAN. THE DEFENSE WILL  
11 SHOW THAT HE IS A GOOD PERSON, ESSENTIALLY AND TELL YOU WHY.  
12 THEY WILL TELL YOU ALL OF THE FACTS ABOUT IT WHICH WOULD  
13 INDICATE THAT HE IS A GOOD PERSON.

14 SO, YOU WILL BE THE FINAL JUDGE IF HE IS GOOD  
15 OR BAD IN DETERMINING WHAT THE PENALTY IS GOING TO BE IN THE  
16 CASE, LIFE WITHOUT POSSIBILITY OF PAROLE OR DEATH IN THE GAS  
17 CHAMBER. DO YOU UNDERSTAND THAT?

18 MR. MANTECON: YES.

19 THE COURT: SO, YOU WILL HAVE A RIGHT TO CONSIDER THE  
20 AGE OF THE DEFENDANT, HIS HISTORY, HIS CHARACTER, HIS  
21 BACKGROUND, HIS MENTAL AND PHYSICAL CONDITION AND ALSO YOU  
22 HAVE THE RIGHT TO CONSIDER THE FACTS THAT HAVE BEEN BROUGHT  
23 OUT ON THE GUILT PHASE OF THE TRIAL.

24 ALL OF THAT WILL BE CONSIDERED BY THE JURY AND  
25 THEY MUST CONSIDER ALL OF THESE FACTS BEFORE THEY CAN MAKE  
26 UP THEIR MINDS AS TO WHETHER IT SHOULD BE ONE OR THE OTHER  
27 OF THE PENALTIES. DO YOU UNDERSTAND?

28 MR. MANTECON: YES.

26A-2

1 THE COURT: ARE YOU WILLING TO SERVE IN THAT CAPACITY  
2 OF JUROR IF YOU ARE SELECTED AND YOU QUALIFY?

3 MR. MANTECON: YES. I WOULD BE WILLING.

4 THE COURT: ALL RIGHT. NOW, WHAT I WANT TO DO IS,  
5 EXPLORE YOUR STATE OF MIND WITH RESPECT TO THE DEATH PENALTY.  
6 OKAY?

7 NOW, YOU RECALL THAT I TOLD YOU THAT IN THE GUILT  
8 PHASE OF THE TRIAL, THE QUESTION OF PENALTY IS NOT INVOLVED  
9 IN ANY WAY. YOU ARE NOT TO CONSIDER IT.

10 HOWEVER, IF YOU HAVE AN OPINION AS TO THE DEATH  
11 PENALTY WHICH WOULD CAUSE YOU NOT TO BE IMPARTIAL IN  
12 DETERMINING THE GUILT OR INNOCENCE OF THE DEFENDANT --

13 MR. MANTECON: NO. I DON'T.

14 THE COURT: ALL RIGHT. NOW, THE SECOND QUESTION IS  
15 ALSO RELATING TO THE GUILT PHASE. REMEMBER, I TOLD YOU THAT  
16 IF YOU FOUND HIM GUILTY OF MURDER IN THE FIRST DEGREE, THEN  
17 YOU ARE TO CONSIDER THE SPECIAL CIRCUMSTANCES, TRUE OR FALSE,  
18 WAS IT COMMITTED DURING THE COURSE OF A ROBBERY. RIGHT?

19 NOW, DO YOU HAVE ANY OPINION REGARDING THE DEATH  
20 PENALTY THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL  
21 DECISION CONCERNING THE TRUTH OR FALSITY OF THE SPECIAL  
22 CIRCUMSTANCES?

23 MR. MANTECON: NO, NOT AT ALL.

24 THE COURT: GOOD. NOW, THE NEXT TWO QUESTIONS HAVE  
25 TO DO WITH THE PENALTY. YOU HAVE ALREADY DECIDED THAT THE  
26 DEFENDANT IS GUILTY OF MURDER IN THE FIRST DEGREE WITH SPECIAL  
27 CIRCUMSTANCES, THAT IT WAS COMMITTED IN THE COURSE OF A  
28 ROBBERY.

1                   NOW, THE QUESTION IS, DO YOU HAVE SUCH AN OPINION  
2 CONCERNING THE DEATH PENALTY THAT YOU WOULD AUTOMATICALLY  
3 VOTE TO IMPOSE THE DEATH PENALTY, REGARDLESS OF ANY EVIDENCE  
4 THAT MAY BE PRESENTED IN THE PENALTY PHASE OF THE TRIAL?

5           MR. MANTECON: NO I DO NOT.

6           THE COURT: GOOD. THE NEXT QUESTION IS THE SAME,  
7 PRACTICALLY, EXCEPT IT RELATES TO LIFE WITHOUT POSSIBILITY  
8 OF PAROLE.

9                   DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH  
10 PENALTY THAT YOU WOULD AUTOMATICALLY VOTE FOR LIFE WITHOUT  
11 THE POSSIBILITY OF PAROLE, REGARDLESS OF THE EVIDENCE THAT  
12 MAY BE PRESENTED IN THE PENALTY PHASE OF THE TRIAL?

13          MR. MANTECON: NO. I DO NOT HOLD AN OPINION LIKE THAT.

14          THE COURT: NOW. THE LAST QUESTION IS, YOU UNDERSTAND  
15 THAT THE ISSUE OF THE DEATH PENALTY MAY OR MAY NOT OCCUR IN  
16 THIS CASE AND THAT THESE QUESTIONS HAVE BEEN ASKED ONLY IN  
17 THE EVENT THAT YOU REACH THAT PHASE OF THE TRIAL?

18          MR. MANTECON: YES I DO.

19          THE COURT: ALL RIGHT. GO AHEAD.

20          MR. CHIER: THANK YOU, YOUR HONOR. IS IT MANTECON?

21          MR. MONTECON: MONTECON.

22          MR. CHIER: MY NAME IS RICHARD CHIER, MR. MONTECON.  
23 I REPRESENT MR. HUNT. AS YOU KNOW, HE IS CHARGED WITH FIRST  
24 DEGREE MURDER. THE PEOPLE ARE ASKING FOR THE DEATH PENALTY.  
25                   THIS IS KIND OF A LIMITED HEARING. IT IS A HEARING  
26 TO QUESTION YOU INDIVIDUALLY ON YOUR ATTITUDES TOWARD THE  
27 DEATH PENALTY.



1 THE JUDGE HAS ASKED YOU A SERIES OF QUESTIONS TO  
2 SEE IF YOU HAVE ANY MAJOR KIND OF KNEE-JERK RESPONSES. I WANT TO ASK  
3 YOU SOME ADDITIONAL QUESTIONS ALONG THE SAME LINES BUT TO PROBE  
4 A LITTLE MORE. OKAY?

5 MR. MONTECON: CERTAINLY.

6 MR. CHIER: ALL RIGHT. I WANT YOU TO JUST FIRST TO UNDER-  
7 STAND THAT WE ARE NOT JUDGING YOU, HERE. ALL RIGHT? THERE  
8 ARE NO RIGHT ANSWERS OR WRONG ANSWERS TO THESE QUESTIONS.

9 THERE IS NO RIGHT OR WRONG ANSWERS. THERE IS YOUR  
10 ATTITUDE AND YOU ARE ENTITLED TO YOUR ATTITUDE.

11 AND IT MAY BE THAT THIS IS A GOOD CASE FOR YOU  
12 TO BE A JUROR ON. IT MAY NOT BE. AND THE SYSTEM WILL ONLY  
13 WORK IF THE RESPONSES TO THE QUESTIONS ASKED BY MR. WAPNER  
14 AND MYSELF -- IF YOU GIVE ABSOLUTELY CANDID ANSWERS BECAUSE  
15 WE CAN'T KNOW WHAT IS IN YOUR MIND.

16 IF YOU HAVE SOME HIDDEN AGENDA THAT YOU TAKE INTO  
17 THE JURY ROOM, IT IS NOT FAIR TO THE PEOPLE OR NOT FAIR TO  
18 THE DEFENDANT. DO YOU UNDERSTAND THAT?

19 MR. MONTECON: YES, I DO.

20 MR. CHIER: OKAY. NOW, LET ME ASK YOU TO ANSWER THIS  
21 QUESTION WHICH IS AS GOOD A WAY AS ANY TO START OFF ON KIND  
22 OF A SENSITIVE SUBJECT MATTER.

23 HOW WOULD YOU ANSWER THIS: I AM A PERSON WHO IS  
24 A, STRONGLY IN FAVOR OF THE DEATH PENALTY; B, SOMEWHAT IN  
25 FAVOR OF THE DEATH PENALTY; C, OPPOSED TO THE DEATH PENALTY;  
26 D, HAVE NOT REALLY THOUGHT ABOUT IT MUCH TODAY; E, OTHER.

27 MR. MANTECON: B.

28 MR. CHIER: SOMEWHAT IN FAVOR?

1 MR. MANTECON: SOMEWHAT IN FAVOR, YES, UNDER CERTAIN  
2 CONDITIONS. I COULD.

3 MR. CHIER: SO, COULD YOU TELL ME IN YOUR OWN WORDS,  
4 WHY YOU ARE IN FAVOR OF THE DEATH PENALTY SOMEWHAT AND HOW  
5 YOU THINK WE NEED IT OR WHY YOU THINK WE NEED IT?

6 MR. MONTECON: WELL, I JUST FEEL THAT UNDER CERTAIN  
7 CONDITIONS FOR CERTAIN CRIMES, THE ULTIMATE CRIME CALLS FOR  
8 THE ULTIMATE PUNISHMENT. THAT IS MY BELIEF SAY IN CERTAIN  
9 CASES IN CERTAIN EVENTS AND I COULD IMPOSE IT.

10 I MEAN, I CAN'T REALLY SAY WHEN --

11 MR. CHIER: ALL RIGHT. I MEAN, DO YOU THINK THAT WE  
12 SHOULD HAVE A DEATH PENALTY FOR CRIMES OTHER THAN MURDER, FOR  
13 EXAMPLE?

14 MR. WAPNER: OBJECTION, RELEVANCE.

15 THE COURT: SUSTAINED.

16 MR. CHIER: DO YOU UNDERSTAND, SIR, THAT IN CALIFORNIA,  
17 THERE IS NO MANDATORY DEATH PENALTY? DO YOU KNOW WHAT I MEAN  
18 BY THAT?

19 MR. MONTECON: YES. I UNDERSTAND THAT.

20 MR. CHIER: DO YOU UNDERSTAND THAT WE DON'T HAVE ANY  
21 CRIME IN CALIFORNIA FOR WHICH THE DEATH PENALTY IS MANDATORY?

22 MR. MONTECON: CERTAINLY.

23 MR. CHIER: ANY CRIME FOR WHICH THE PEOPLE CAN ASK FOR  
24 THE DEATH PENALTY IS ALTERNATIVELY PUNISHABLE BY LIFE WITHOUT  
25 POSSIBILITY OF PAROLE?

26 MR. MONTECON: I UNDERSTAND THAT.

27 MR. CHIER: OKAY. SO ULTIMATELY, AFTER THE GUILT ISSUE  
28 IS DECIDED, IF IT IS DECIDED AGAINST THE DEFENDANT, THEN THE

25B-3

1 PENALTY USUALLY COMES UP AND YOU DECIDE WHETHER YOU SHOULD  
2 GIVE HIM LIFE WITHOUT THE POSSIBILITY OF PAROLE OR HE DIES  
3 ESSENTIALLY.

4 DO YOU BELIVE THAT WITHOUT MORE, THAT PEOPLE WHO  
5 INTENTIONALLY MURDER OTHER PEOPLE IN THE COURSE OF A ROBBERY --  
6 I WOULD SAY WITHOUT MORE -- OUGHT TO BE PUT TO DEATH?

7 MR. MONTECON: I WOULD HAVE TO LOOK AT EACH CASE  
8 INDIVIDUALLY. IT REALLY FALLS DOWN TO THAT, FOR ME.

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1 THE COURT: IN OTHER WORDS, YOU WILL WAIT FOR THE PENALTY  
2 PHASE AND HEAR EVERYTHING ABOUT THE DEFENDANT, PRO AND CON,  
3 ISN'T THAT IT, BEFORE YOU MAKE UP YOUR MIND?

4 MR. MONTECON: THAT IS WHAT I FEEL I WOULD HAVE TO DO.  
5 THAT WAY.

6 THE COURT: IT WOULD BE ONE OF THE TWO, LIFE WITHOUT  
7 POSSIBILITY OF PAROLE OR DEATH?

8 MR. MONTECON: I WOULD HAVE TO HEAR EVERYTHING ON AN  
9 INDIVIDUAL, CASE-BY-CASE BASIS BEFORE I COULD MAKE THAT  
10 DECISION. I COULDN'T GIVE A FLAT YES OR NO TO YOU.

11 MR. CHIER: WELL, THIS IS JUST A WHITTILING DOWN PROCESS,  
12 MR. MONTECON. FIRST, I WANT TO KNOW IF YOU ARE A PERSON WHO  
13 THINKS THAT YOU KNOW, PEOPLE WHO COMMIT MURDER SHOULD ALWAYS  
14 BE EXECUTED?

15 MR. MONTECON: NO.

16 MR. CHIER: OKAY. SO THEN, IT IS THE NEXT LEVEL OF  
17 INQUIRY, OBVIOUSLY. IF YOU HAVE ANY FEELINGS OR EMOTIONS  
18 ABOUT THE TYPES OF CASES WHERE A PERSON OUGHT TO BE EXECUTED  
19 AND THE TYPES OF MURDER CASES WHERE THEY OUGHT TO BE PUT IN  
20 PRISON FOR LIFE WITHOUT POSSIBILITY OF PAROLE -- DO YOU  
21 UNDERSTAND THAT WE ARE JUST MOVING DOWN?

22 MR. MONTECON: DO YOU WANT ME TO ANSWER THAT? DO YOU  
23 MEAN WHAT TYPES OF CASES?

24 MR. CHIER: YES. DO YOU HAVE ANY --

25 MR. MONTECON: WELL, A CAPITAL CASE, A MURDER CASE, A  
26 PREMEDITATED TYPE OF CASE.

27 BUT THAT WOULD NOT AUTOMATICALLY MEAN THE DEATH  
28 PENALTY TO ME. AGAIN, I WOULD HAVE TO LOOK AT IT AS AN

1 INDIVIDUAL TYPE OF THING.

2 THE COURT: YOU UNDERSTAND THAT I TOLD YOU THAT MANY  
3 PREMEDITATED MURDERS DO NOT CALL FOR IT OR ANY CONSIDERATION  
4 OF --

5 MR. MONTECON: WELL, I AM USING THE WRONG WORD, I THINK.

6 THE COURT: IT IS ONLY WHERE THERE ARE SPECIAL  
7 CIRCUMSTANCES?

8 MR. MONTECON: YES, SPECIAL CIRCUMSTANCES. THEN, THAT  
9 IS WHAT I AM LOOKING AT, NOT PREMEDITATED.

10 THE COURT: IN THE COURSE OF A ROBBERY OR A BURGLARY  
11 OR A RAPE --

12 MR. MONTECON: POSSIBLY SOMETHING LIKE A TREASON OR  
13 SOMETHING WHERE IT CAUSED --

14 THE COURT: YES --

15 MR. MONTECON: WHERE IT BROUGHT HARM TO MANY HUNDREDS  
16 OF PEOPLE OR THAT TYPE OF THING FROM SOMEONE'S DIRECT ACTS.

17 MR. CHIER: OKAY. IF YOU WERE A JUROR IN THIS CASE AND  
18 YOU FOUND THAT THE DEFENDANT COMMITTED AN INTENTIONAL MURDER  
19 IN THE COURSE OF A ROBBERY, WOULD YOU GO INTO THE PENALTY  
20 PHASE TO DETERMINE WHAT TO DO WITH HIM IN A KIND OF A NEUTRAL  
21 PLACE SO THAT YOU WERE OPEN TO SUGGESTION, SO TO SPEAK?

22 MR. MONTECON: I BELIEVE I COULD HOLD OPEN MY MIND, YES.

23 MR. CHIER: NOW, THE JUDGE WILL TELL YOU AND HE ALREADY  
24 HAS TOLD YOU THAT YOU SHOULD CONSIDER AND WEIGH A LOT OF  
25 DIFFERENT THINGS IN THE PENALTY PHASE, DIFFERENT THINGS FROM  
26 THE THINGS THAT YOU MAY HAVE HEARD IN THE GUILT PHASE.

27 THERE WILL BE MORE OF A CONCENTRATION IN THE  
28 PENALTY PHASE. THERE IS MORE OF A CONCENTRATION OF EVIDENCE

1 ABOUT THE PERSON AS OPPOSED TO THE CIRCUMSTANCES OF THE  
2 OFFENSE.

3 DO YOU THINK THERE ARE THINGS ABOUT THE PERSON  
4 EITHER INDIVIDUALLY OR IN THE AGGREGATE, THAT ARE WORTHY OF  
5 CONSIDERATION IN DETERMINING WHETHER TO SAVE HIS LIFE?

6 MR. MONTECON: YES. THAT WOULD PROBABLY PLAY A GREAT  
7 PART OR A BIG PART IN IT.

8 MR. CHIER: OKAY. SO, BY THINGS WORTHY OF CONSIDERATION,  
9 YOU MEAN THINGS SUCH AS HIS AGE AT THE TIME THAT HE DID IT  
10 AND WAS HE EXPERIENCED OR INEXPERIENCED IN LIFE?

11 MR. MONTECON: YES. HIS PAST RECORD, IF THAT WOULD BE  
12 BROUGHT UP AND THINGS LIKE THAT.

13 MR. CHIER: EVERYTHING COULD BE BROUGHT UP. IT WOULD  
14 SORT OF BE KATIE-BAR-THE-DOOR --

15 MR. MONTECON: YES. IT WOULD ALL PLAY A PART.

16 MR. CHIER: MR. MONTECON, IF IT EVER GOES AS FAR AS THE  
17 PENALTY PHASE, EVERYTHING COMES OUT. IT IS LIKE, YOU REALLY  
18 GET TO SEE EVERYTHING. ARE YOU THE KIND OF A PERSON WHO WOULD  
19 KEEP AN OPEN MIND DURING THE PROCEDURE AND NOT MAKE A DECISION  
20 UNTIL YOU HAVE A CHANCE TO TALK IT OVER WITH THE OTHER JURORS?

21 MR. MONTECON: YES. I FEEL I COULD.  
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1 MR. CHIER: OKAY. DO YOU THINK THINGS SUCH AS THE  
2 DEFENDANT'S BACKGROUND, WHETHER HE HAD A GOOD CHILDHOOD OR  
3 A BAD CHILDHOOD, MIGHT AFFECT HIS LATER BEHAVIOR AND IS WORTHY  
4 OF CONSIDERATION? DO YOU THINK THAT IS THE TYPE OF THING  
5 THAT OUGHT TO BE A FACTOR?

6 THE COURT: SUPPOSE I WOULD INSTRUCT YOU THAT IT IS?  
7 WOULD YOU FOLLOW THAT?

8 MR. MANTECON: YES. I CERTAINLY WOULD.

9 MR. CHIER: ALL RIGHT. NOW, WHEN THE JUDGE INSTRUCTS  
10 YOU TO LISTEN TO SOMETHING OR TO CONSIDER IT, HE CAN TELL  
11 YOU TO CONSIDER IT IN A SENSE, TO LOOK IT OVER, BUT HE CAN'T  
12 FORCE IT TO MEAN MUCH TO YOU. DO YOU KNOW WHAT I MEAN?

13 MR. MANTECON: YES. I FOLLOW YOU.

14 MR. CHIER: BUT DO YOU FEEL THAT THE CIRCUMSTANCES OF  
15 THE OFFENSE WOULD IN ALL CASES, OUTWEIGH ALL OF THE OTHER  
16 FACTORS EITHER INDIVIDUALLY OR IN THE AGGREGATE?

17 THE COURT: ARE YOU TELLING HIM TO PREJUDGE THE  
18 TESTIMONY? I WILL OBJECT TO THAT PARTICULAR QUESTION.

19 MR. CHIER: ALL RIGHT, YOUR HONOR. WELL, KNOWING WHAT  
20 WE ARE HERE FOR IS TO FIND PEOPLE WHO ARE ESSENTIALLY NEUTRAL  
21 AND IMPARTIAL, DO YOU FEEL THAT YOU KNOW, INSIDE OF YOURSELF,  
22 IN YOUR HEART OF HEARTS, THAT YOU ARE A PERSON WHO IS SUITABLE  
23 IN THAT RESPECT TO BE A JUROR IN THIS CASE?

24 MR. MANTECON: I PERSONALLY BELIEVE THAT I COULD, YES.  
25 I COULD HOLD AN OPEN MIND AND WEIGH ALL OF THE EVIDENCE.

26 MR. CHIER: PASS FOR CAUSE.

27 THE COURT: ANY QUESTIONS?

28 MR. WAPNER: JUST BRIEFLY.

260-2  
1 MR. WAPNER: MR. MANTECON, I AM FRED WAPNER, THE DEPUTY  
2 DISTRICT ATTORNEY PROSECUTING THIS CASE.

3 MR. MANTECON: YES.

4 MR. WAPNER: IN KEEPING THOSE PHASES OF THE CASE  
5 SEPARATE, THE GUILT PHASE AND THE PENALTY PHASE, DO YOU UNDER-  
6 STAND THAT WHEN YOU ARE MAKING A DECISION ABOUT GUILT OR  
7 INNOCENCE, YOU CAN'T THINK ABOUT THE PENALTY?

8 MR. MANTECON: YES. I UNDERSTAND THAT.

9 MR. WAPNER: COULD YOU KEEP ANY IDEAS YOU HAD ABOUT  
10 WHAT PENALTY MIGHT HAPPEN TO THE DEFENDANT OUT OF IT?

11 MR. MANTECON: COULD YOU REPEAT THAT, PLEASE, SIR?

12 MR. WAPNER: SIR. WHAT I AM GETTING AT IS, WHEN YOU  
13 ARE TRYING TO MAKE A DECISION IF THE DEFENDANT -- IF THERE  
14 WAS A CRIME COMMITTED AND THE DEFENDANT DID DO IT, YOU ARE  
15 NOT SUPPOSED TO THINK ABOUT WHAT MIGHT HAPPEN TO HIM IF YOU  
16 FIND HIM GUILTY OR NOT GUILTY. DO YOU UNDERSTAND THAT?

17 MR. MANTECON: YES, SIR.

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1 MR. WAPNER: SO YOU CAN'T SAY "I DIDN'T LIKE THE WAY  
2 HE LOOKED AND I THINK HE OUGHT TO GO TO JAIL, SO EVEN THOUGH  
3 THEY DIDN'T PROVE IT I AM GOING TO VOTE GUILTY"; DO YOU UNDER-  
4 STAND THAT?

5 MR. MANTECON: OH, YES, I UNDERSTAND.

6 MR. WAPNER: YOU KNOW, ON THE OTHER HAND, YOU CAN'T  
7 SAY "I WANT HIM TO GET THE DEATH PENALTY AND, THEREFORE, I  
8 AM GOING TO VOTE GUILTY REGARDLESS OF THE EVIDENCE," THAT  
9 KIND OF THING, YOU UNDERSTAND THAT?

10 MR. MANTECON: YES, I UNDERSTAND THAT.

11 I WOULD NEVER DO THAT.

12 MR. WAPNER: SO YOU HAVE TO DECIDE THE GUILT OR INNOCENCE  
13 BASED ON THE FACTS AND THAT PART OF THE CASE, YOU UNDERSTAND  
14 THAT?

15 MR. MANTECON: YES, I UNDERSTAND.

16 MR. WAPNER: THANK YOU. I WILL PASS FOR CAUSE, YOUR  
17 HONOR.

18 THE COURT: ALL RIGHT, IT HAS BEEN ESTABLISHED THAT  
19 YOU QUALIFY AS A TRIAL JUROR IN THIS CASE.

20 MR. MANTECON: YES, YOUR HONOR.

21 THE COURT: THAT MEANS YOU HAVE TO COME BACK WITH ALL  
22 OF THE OTHER JURORS WHO HAVE ALSO BEEN SIMILARLY QUALIFIED  
23 AND WE WILL START THE TRIAL. IT IS EXPECTED WE WILL BE FINISHED  
24 MAYBE TOMORROW. BUT AT ANY RATE, I WILL ASK YOU TO COME BACK  
25 ON THURSDAY TO THE JURY ASSEMBLY ROOM AT 10:30. THAT IS 10:30  
26 IN THE JURY ASSEMBLY ROOM.

27 MR. MANTECON: THAT IS THURSDAY, DECEMBER 3RD?

28 THE COURT: DECEMBER 4TH.

27-2  
1 MR. MANTECON: THE 4TH.

2 THE COURT: WILL YOU DO THAT?

3 MR. MANTECON: YES, SIR.

4 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. SEE YOU  
5 THEN.

6 MR. MANTECON: OKAY. THANK YOU.

7 THE COURT: ALL RIGHT.

8 (PROSPECTIVE JUROR MANTECON EXITED  
9 THE COURTROOM.)

10 (PROSPECTIVE JUROR MARTHA MANZANO  
11 ENTERED THE COURTROOM.)

12 THE COURT: IS THAT MISS MANZANO OR MRS.?

13 MS. MANZANO: MISS.

14 THE COURT: MISS MANZANO, WHERE DO YOU LIVE?

15 MS. MANZANO: I LIVE AT 2571 WELLESLEY IN WEST LOS ANGELES.

16 THE COURT: ALL RIGHT. HAVE YOU READ ANYTHING AT ALL  
17 ABOUT THIS CASE?

18 MS. MANZANO: YES, I DID A FEW MONTHS BACK. I THINK  
19 IT WAS IN PEOPLE MAGAZINE.

20 THE COURT: YES. WHAT DO YOU REMEMBER READING ABOUT  
21 IT?

22 MS. MANZANO: I JUST REMEMBER READING ABOUT THE  
23 CIRCUMSTANCES AS FAR AS THE ACCUSATIONS AGAINST THE ACCUSED.

24 THE COURT: WHAT DO YOU REMEMBER ABOUT THAT?

25 MS. MANZANO: READING ABOUT THE -- HIM BEING ACCUSED  
26 OF, I GUESS I DON'T KNOW IF IT WAS STEALING MONEY FROM HIS  
27 FRIENDS' PARENTS AND ALSO ACCUSED OF THE MURDER, THE BODY  
28 NOT BEING ABLE TO -- OR THE PERSON'S BODY NOT BEING ABLE TO

1 BE DISCOVERED OR HAS NOT BEEN DISCOVERED.

2 THE DEFENSE ATTORNEY CLAIMING THAT THE PERSON  
3 FLED AND WAS NOT MURDERED.

4 THE COURT: YOU UNDERSTAND, OF COURSE, THAT IF YOU ARE  
5 SELECTED AS A TRIAL JUROR IN THIS CASE, YOU HAVE GOT TO WIPE  
6 OUT FROM YOUR MIND, IF YOU CAN DO THAT, EVERYTHING THAT YOU  
7 HAVE READ IN THIS PARTICULAR ARTICLE.

8 MS. MANZANO: YES.

9 THE COURT: A LOT OF THE STUFF THAT YOU TOLD ME THAT  
10 YOU REMEMBER READING IS INACCURATE, YOU SEE, SO FOR THAT  
11 REASON YOU CAN'T CARRY IT WITH YOU. AS A JUROR, YOU FORGET  
12 ABOUT IT BECAUSE THAT IS THE IMPRESSION OF THE WRITER AS TO  
13 WHAT THE FACTS ARE IN THE CASE. ACTUALLY, SOME OF THAT STUFF  
14 IS UNTRUE. DO YOU UNDERSTAND THAT?

15 MS. MANZANO: UH-HUH.

16 THE COURT: AND THAT WOULDN'T BE EVIDENCE IN THIS  
17 PARTICULAR CASE.

18 SO YOU ARE WILLING TO FORGET EVERYTHING ABOUT  
19 IT IF YOU ARE SELECTED AS A JUROR IN THIS CASE; ISN'T THAT  
20 TRUE?

21 MS. MANZANO: YES.

22 THE COURT: AND YOU WILL START OUT ANEW. YOU WILL ONLY  
23 BE GUIDED BY WHAT YOU HEAR IN THE JURY BOX.

24 MS. MANZANO: OKAY, RIGHT.

25 THE COURT: ALL RIGHT, OTHER THAN THAT, HAVE YOU TALKED  
26 TO ANYBODY ELSE ABOUT THIS CASE, ANY OF THE PROSPECTIVE JURORS  
27 OR ANYBODY?

28 MS. MANZANO: NO, I HAVEN'T.

1 THE COURT: WHAT I AM GOING TO DO IS BRIEFLY TELL YOU  
2 WHAT THE CASE IS ABOUT AS A NECESSARY BACKGROUND FOR THE  
3 QUESTIONS I AM GOING TO ASK YOU ABOUT YOUR ATTITUDE TOWARD  
4 THE DEATH PENALTY.

5 FIRST, YOU KNOW THAT THE CHARGE AGAINST THE  
6 DEFENDANT IS THAT HE COMMITTED A MURDER AND IT WAS COMMITTED  
7 DURING THE COURSE OF A ROBBERY.

8 IN THE COURSE OF A ROBBERY IS SIGNIFICANT BECAUSE  
9 EVERY MURDER ISN'T PUNISHABLE BY DEATH OR BY LIFE  
10 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE, EVEN IF IT  
11 WAS DELIBERATE AND PLANNED. IT IS ONLY WHERE THAT MURDER  
12 WAS COMMITTED DURING THE COURSE OF SOME SPECIAL CIRCUMSTANCES,  
13 IN THE COURSE OF A ROBBERY LIKE IN THIS CASE OR IN THE COURSE  
14 OF A BURGLARY OR IN THE COURSE OF A KIDNAPPING, IN THE COURSE  
15 OF A RAPE, IN THE COURSE OF A TORTURE OR WHERE A CHILD IS  
16 MOLESTED AND DIES, IF KILLED AS A RESULT OF IT OR MULTIPLE  
17 MURDERS, THE LEGISLATURE HAS SAID ONLY IN THOSE PARTICULAR  
18 CASES IS WHERE THE SPECIAL CIRCUMSTANCES IS PRESENT, THAT  
19 IT QUALIFIES FOR THE DEATH PENALTY. THIS IS ONE OF THOSE  
20 CASES WHERE IT IS ALLEGED IT WAS COMMITTED DURING THE COURSE  
21 OF A ROBBERY; YOU UNDERSTAND THAT?

22 MS. MANZANO: YES.

23 THE COURT: SO THE JURY SELECTED IN THIS CASE WILL FIRST  
24 DECIDE THE GUILT OR INNOCENCE OF THE DEFENDANT AND THAT IS  
25 KNOWN AS THE GUILT PHASE OF THE CASE; DID THE DEFENDANT COMMIT  
26 THE CRIME OF MURDER IN THE FIRST DEGREE OR NOT?

27 IF NOT, THAT IS THE END OF THE CASE. IF HE DID  
28 COMMIT THE MURDER IN THE FIRST DEGREE, THEN THEY HAVE ANOTHER

1 QUESTION TO DECIDE: WAS IT COMMITTED DURING THE COURSE OF  
2 A ROBBERY? AND THAT WOULD QUALIFY IT FOR THE DEATH PENALTY;  
3 DO YOU UNDERSTAND THAT?

4 MS. MANZANO: YES.

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1 THE COURT: WAS IT COMMITTED DURING THE COURSE OF A  
2 ROBBERY?

3 AND IF THE ANSWER IS YES, THEN WE BEGIN A SECOND  
4 PHASE OF THE TRIAL WHERE THE SAME JURY LISTENS TO TESTIMONY  
5 FROM BOTH THE DEFENDANT AND THE PROSECUTION. THAT TESTIMONY  
6 WILL TELL MORE ABOUT THE DEFENDANT, NICE THINGS ABOUT HIM AND  
7 THE BAD THINGS ABOUT HIM, THINGS THE PROSECUTION WILL SHOW,  
8 THE AGGRAVATING CIRCUMSTANCES WHICH AGGRAVATE THE OFFENSE  
9 AND THE DEFENDANT WILL SHOW THINGS IN MITIGATION WHICH ARE  
10 FAVORABLE TO HIM AND WHICH THE JURY MUST CONSIDER ALL OF THE  
11 FACTORS BEFORE THEY REACH A DECISION AS TO WHETHER IT SHOULD  
12 BE LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE OR  
13 DEATH IN THE GAS CHAMBER; DO YOU UNDERSTAND THAT?

14 MS. MANZANO: YES.

15 THE COURT: THE QUESTION I AM GOING TO ASK YOU IS ABOUT  
16 YOUR ATTITUDE TOWARDS THE DEATH PENALTY. THE FIRST PART HAS  
17 TO DO WITH THE GUILT PHASE: DO YOU HAVE ANY OPINION REGARDING  
18 THE DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL  
19 DECISION AS TO THE GUILT OR INNOCENCE OF THE DEFENDANT?

20 MS. MANZANO: WELL, I -- I AM IN FAVOR OF THE DEATH  
21 PENALTY VERY MUCH -- BUT TO ME, I FIND -- I WOULD HAVE TO FIND  
22 THIS PERSON GUILTY BEFORE I MADE THAT KIND OF A DECISION.

23 THE COURT: EXACTLY. THAT IS EXACTLY WHAT I AM TELLING  
24 YOU.

25 YOU HAVE AN OPINION ABOUT THE DEATH PENALTY THAT  
26 YOU FAVOR IT, BUT WOULD IT AUTOMATICALLY -- WILL YOU  
27 AUTOMATICALLY, WITHOUT CONSIDERING THE EVIDENCE, SAY THE  
28 DEFENDANT IS GUILTY OF MURDER IN THE FIRST DEGREE?

1 MS. MANZANO: NO, NO, I WOULDN'T.

2 THE COURT: YOU WILL LISTEN TO ALL OF THE EVIDENCE?

3 MS. MANZANO: I WILL LISTEN TO THE WHOLE TESTIMONY.

4 THE COURT: OKAY, GOOD.

5 NOW THE SECOND QUESTION IS STILL ON THE GUILT  
6 PHASE. YOU REMEMBER I TOLD YOU ABOUT THE SPECIAL CIRCUMSTANCES,  
7 IF IT WAS COMMITTED DURING THE COURSE OF A ROBBERY WHICH IS  
8 ALSO ON THE FIRST PHASE.

9 MS. MANZANO: YES.

10 THE COURT: DO YOU HAVE ANY OPINION REGARDING THE DEATH  
11 PENALTY THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL  
12 DECISION CONCERNING THE TRUTH OR FALSITY OF THE SPECIAL  
13 CIRCUMSTANCES?

14 BECAUSE YOU BELIEVE IN THE DEATH PENALTY,  
15 AUTOMATICALLY ARE YOU GOING TO SAY THAT HE COMMITTED THIS  
16 MURDER --

17 MS. MANZANO: NO.

18 THE COURT: -- DURING THE COURSE OF A ROBBERY?

19 MS. MANZANO: NO.

20 I WOULD HAVE TO LISTEN TO --

21 THE COURT: YOU WILL BE GUIDED BY THE EVIDENCE, WON'T  
22 YOU?

23 MS. MANZANO: RIGHT.

24 THE COURT: NOW THE NEXT TWO QUESTIONS HAVE TO DO WITH  
25 THE PENALTY PHASE OF THE CASE.

26 YOU HAVE DECIDED NOW THAT HE IS GUILTY OF MURDER  
27 IN THE FIRST DEGREE AND IT WAS DURING THE COMMISSION OF A  
28 ROBBERY AND NOW YOU COME TO THE QUESTION OF PENALTY: DO YOU

1 HAVE SUCH AN OPINION CONCERNING THE DEATH PENALTY THAT YOU  
2 WULD AUTOMATICALLY VOTE TO IMPOSE IT REGARDLESS OF ANY EVIDENCE  
3 THAT MAY BE PRESENTED AT THE PENALTY PHASE OF THE TRIAL,  
4 AUTOMATICALLY, OR WOULD YOU CONSIDER ANY OTHER EVIDENCE?

5 MS. MANZANO: NO, I WOULD HAVE TO, LIKE YOU SAY, LISTEN  
6 TO ALL OF THE EVIDENCE.

7 THE COURT: YOU WOULD LISTEN TO ALL OF THE EVIDENCE ON  
8 THE PENALTY PHASE LIKE I TOLD YOU, GOOD AND BAD.

9 AND THE NEXT ONE IS ABOUT THE SAME ONLY IT HAS  
10 TO DO WITH LIFE IMPRISONMENT; DO YOU HAVE SUCH AN OPINION  
11 CONCERNING THE DEATH PENALTY THAT YOU WOULD AUTOMATICALLY  
12 VOTE FOR LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE  
13 REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY  
14 PHASE OF THE TRIAL?

15 MS. MANZANO: NO.

16 AGAIN, I WOULD HAVE TO LISTEN TO THE COMPLETE  
17 EVIDENCE.

18 THE COURT: GOOD.

19 AND YOU UNDERSTAND THAT THE ISSUE OF THE DEATH  
20 PENALTY MAY OR MAY NOT OCCUR ON THIS CASE AND THAT THESE  
21 QUESTIONS HAVE BEEN ASKED ONLY IN THE EVENT THAT YOU REACH  
22 THAT PHASE OF THE TRIAL?

23 MS. MANZANO: YES.

24 THE COURT: I THINK WE ARE GOING TO STOP HERE. IT IS  
25 A LITTLE PAST OUR TIME FOR ADJOURNMENT. I WILL ASK YOU TO  
26 COME BACK TOMORROW.

27 WILL IT BE AGREEABLE FOR YOU AT 10:00 O'CLOCK  
28 TOMORROW MORNING?



1 MR. CHIER: MAY I HAVE JUST A MOMENT, YOUR HONOR, PLEASE?

2 MR WAPNER: THAT IS FINE WITH ME.

3 THE COURT: WE WILL TRY TO FINISH EVERYTHING TOMORROW.

4 WILL IT BE EASIER FOR YOU IF I DIRECT YOU TO COME  
5 HERE TOMORROW MORNING AT 10:00?

6 MR. CHIER: IT WILL BE UNNECESSARY.

7 THE COURT: ALL RIGHT. WILL YOU COME BACK HERE TOMORROW  
8 MORNING AT 10:00 O'CLOCK, MRS. MANZANO? YOU WAIT OUTSIDE  
9 AND WE WILL CALL YOU RIGHT IN. ALL RIGHT, 10:00 O'CLOCK  
10 TOMORROW MORNING.

11 MS. MANZANO: YES, THAT WILL BE FINE.

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1 MR. CHIER: COULD I REQUEST PERMISSION FROM YOUR HONOR  
2 TO RECESS AT 4 O'CLOCK ON THURSDAY AFTERNOON? IS THAT POSSIBLE?

3 THE COURT: THURSDAY AFTERNOON? YES. WE'LL PROBABLY  
4 DO THAT. WELL, YOUR COLLEAGUE WILL BE HERE TO CARRY ON, WON'T  
5 HE?

6 MR. CHIER: NO. I AM NOT SURE, YOUR HONOR. USUALLY  
7 WE HAVE BEEN TAKING MORNINGS AND AFTERNOONS.

8 THE COURT: BUT, THIS IS A PHASE OF THE TRIAL WHERE  
9 YOU WILL BOTH HAVE TO BE PRESENT. OTHERWISE, YOU CAN'T  
10 COMPETENTLY REPRESENT THE DEFENDANT. YOU WILL BOTH HAVE TO  
11 BE HERE TO KNOW WHAT IS GOING ON. DO YOU UNDERSTAND? I MEAN --

12 MR. CHIER: YES.

13 THE COURT: ALL RIGHT. GOOD NIGHT.

14 (AT 4:37 P.M. AN ADJOURNMENT WAS TAKEN  
15 UNTIL WEDNESDAY, DECEMBER 3, 1986, AT  
16 10 A.M.)

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