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COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT

FEB 24 1988

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

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 16 OF 101  
(PAGES 2000-A TO 2219, INCLUSIVE)

COPY

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

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA, )  
 )  
 PLAINTIFF, )  
 )  
 VS. ) NO. A-090435  
 )  
 JOSEPH HUNT, )  
 )  
 DEFENDANT. )

REPORTERS' DAILY TRANSCRIPT

WEDNESDAY, DECEMBER 3, 1986

VOLUME 16

(PAGES 2000-A TO 2199-A AND 2200 TO 2219)

APPEARANCES:

FOR THE PEOPLE:

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

FOR THE DEFENDANT:

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

AND

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

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

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WEDNESDAY, DECEMBER 3, 1986      VOLUME 16      PAGES 2000 TO 2219

A.M.      2000

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PROCEEDINGS

VOIR DIRE OF PROSPECTIVE JURORS (CONTINUED)      2000

1

1 SANTA MONICA, CALIFORNIA; WEDNESDAY, DECEMBER 3, 1986; 10:05 A.M.

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

3 (APPEARANCES AS NOTED ON TITLE PAGE

4 EXCEPT MR. CHIER IS NOT PRESENT.)

5

6 (THE FOLLOWING PROCEEDINGS WERE HELD

7 OUT OF THE PRESENCE AND HEARING OF THE

8 DEFENDANT:)

9 THE COURT: IS THE DEFENDANT HERE?

10 MR. BARENS: YOUR HONOR, I AM GOING TO GO UPSTAIRS. I  
11 USUALLY MEET HIM IN THE CAFETERIA. I DON'T KNOW IF MR. HUNT  
12 UNDERSTOOD THIS WAS AT 10:00 O'CLOCK THIS MORNING. IF I COULD  
13 BE EXCUSED FOR JUST A MOMENT TO DO THAT, SIR.

14 THE COURT: WE CAN CALL UP THERE TO THE CAFETERIA.

15 MR. BARENS: IF YOU WOULD.

16 (UNREPORTED COLLOQUY BETWEEN THE COURT

17 AND COUNSEL.)

18 THE CLERK: HE IS NOT IN THE CAFETERIA.

19 MR. BARENS: YOUR HONOR, THIS HAS ABSOLUTELY NEVER  
20 HAPPENED. HE HAS NEVER BEEN LATE. HE IS THE MOST RELIABLE  
21 GUY I HAVE EVER WORKED FOR. HE IS NEVER LATE.

22 THE COURT: HE WAS HERE YESTERDAY. HE KNEW WE WERE GOING  
23 TO BE HERE AT 10:00 O'CLOCK.

24 MR. BARENS: I WAS NOT AWARE OF THE CHANGE IN TIME  
25 MYSELF UNTIL I MET WITH MR. CHIER THIS MORNING.

26 I MET WITH MR. HUNT LAST NIGHT. IT OCCURS TO ME  
27 IT IS SOMETHING HE NORMALLY WOULD MENTION TO ME AND HE DID  
28 NOT MENTION THAT TO ME LAST NIGHT AND I WAS NOT AWARE OF IT

1 UNTIL ABOUT 7:00 O'CLOCK THIS MORNING.

2 IF I COULD JUST CALL THE HOUSE THERE, YOUR HONOR.

3 THE COURT: SURE.

4 MR. BARENS: THANK YOU.

5 (PAUSE IN PROCEEDINGS.)

6 MR. BARENS: HE IS EVIDENTLY ON THE WAY. I SPOKE WITH  
7 THE PEOPLE HE LIVES WITH.

8 THE COURT: I WAS TALKING ABOUT THE MATTER OF EMPLOYMENT  
9 OF COUNSEL. I HAVE GOT TO FIRST TO DETERMINE, MAKE A FINDING  
10 ABOUT THE FACT THAT HE IS INDIGENT BEFORE I PERMIT ANY PAYMENTS  
11 TO BE MADE TO MR. CHIER.

12 MR. BARENS: YES, SIR.

13 THE COURT: AND HOW ARE WE GOING TO GO ABOUT DOING THAT?

14 MR. BARENS: YOUR HONOR, DOESN'T THE COUNTY PROVIDE A  
15 FORM THAT HE IS SUPPOSED TO FILL OUT?

16 THE COURT: NO, THEY DON'T, NOT THAT I KNOW OF.

17 MR. BARENS: I THOUGHT THERE WAS AN INDIGENCY FORM OR --

18 THE COURT: IS HE INDIGENT, YOU TELL ME.

19 MR. BARENS: I REPRESENT TO THE COURT THAT HE IS  
20 INDIGENT.

21 THE COURT: ALL RIGHT, THAT IS ENOUGH.

22 IS HE GETTING ANY MONEY FROM ANY BOOKS OR ANYTHING  
23 ELSE?

24 MR. BARENS: YOUR HONOR, WE HAVE FORBIDDEN MR. HUNT TO  
25 ENGAGE IN ANY ACTIVITY --

26 THE COURT: YOU TELL ME HE IS INDIGENT AND I WILL TAKE  
27 YOUR WORD FOR IT.

28 MR. BARENS: ABSOLUTELY.

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THE COURT: ONLY YOUR WORD.

MR. BARENS: YES, I APPRECIATE IT, YOUR HONOR.

(PROCEEDINGS REPORTED BUT  
NOT TRANSCRIBED AT THE ORDER OF THE  
COURT. NOTES SEALED.)

(RECESS.)

2

1 (THE FOLLOWING PROCEEDINGS WERE HELD  
2 IN OPEN COURT IN THE PRESENCE OF THE  
3 DEFENDANT:)

4 (PROSPECTIVE JUROR MARTHA MANZANO ENTERED  
5 THE COURTROOM.)

6 MR. BARENS: GOOD MORNING. I AM ARTHUR BARENS.  
7 I REPRESENT JOE HUNT, THE DEFENDANT. IT IS MY DUTY AT THIS  
8 TIME TO ASK YOU QUESTIONS CONCERNING YOUR POINT OF VIEW  
9 CONCERNING THE DEATH PENALTY.

10 PARENTHETICALLY, LET ME INDICATE TO YOU THAT THERE  
11 ARE NO RIGHT OR WRONG ANSWERS TO MY QUESTIONS. THERE ARE  
12 NO GOOD OR BAD ANSWERS. I AM JUST INTERESTED IN WHAT YOUR  
13 OPINIONS ARE CONCERNING THE DEATH PENALTY.

14 MS. MANZANO: OKAY.

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

17 MS. MANZANO: WELL, I AM VERY MUCH IN FAVOR OF THE DEATH  
18 PENALTY.

19 MR. BARENS: AND WHY DO YOU FEEL THAT WAY, MS. MANZANO?

20 MS. MANZANO: I FEEL THAT WAY BECAUSE I JUST FEEL THAT  
21 IF A PERSON TAKES SOMEBODY'S LIFE, THAT THEY SHOULD PAY FOR  
22 IT, I GUESS. THAT IS THE ONLY ANSWER THAT I COULD SAY.

23 THERE ARE A LOT OF CASES I HAVE READ ABOUT THAT  
24 REALLY DISGUST ME AS FAR AS PEOPLE THAT TAKE SOMEBODY'S LIFE  
25 AND THEN MAYBE IN SIX OR SEVEN YEARS LATER, THEY ARE OUT AGAIN  
26 AND DO THE SAME THING OVER AGAIN. I FEEL IT IS NOT RIGHT.

27 MR. BARENS: I UNDERSTAND THAT. MRS. MANZANO, IN THIS  
28 CASE THERE ARE TWO POSSIBLE CHOICES THAT YOU WOULD HAVE IF

2  
1 WE GET TO A PENALTY PHASE.

2 AS THE JUDGE POINTED OUT TO YOU, YOU WOULD ONLY  
3 GET TO THE PENALTY PHASE IF IN THE GUILT PHASE, YOU AND THE  
4 OTHER JURORS CONCLUDED BEYOND A REASONABLE DOUBT THAT MY CLIENT  
5 HAD IN FACT COMMITTED A FIRST DEGREE MURDER AND THAT BEING  
6 AN INTENTIONAL MURDER AND THE SPECIAL CIRCUMSTANCES WERE FOUND  
7 TRUE, THAT IT WAS COMMITTED DURING A ROBBERY. IN THAT INSTANCE,  
8 YOU WOULD BE GIVEN A DECISION TO MAKE WHERE YOU WOULD HAVE  
9 A CHOICE BETWEEN LIFE WITHOUT POSSIBILITY OF PAROLE OR THE  
10 DEATH PENALTY.

11 ARE YOU TELLING ME THAT IT IS YOUR HONEST BELIEF  
12 THAT WHEN YOU WERE GIVEN THAT CHOICE, YOU WOULD BE DISPOSED  
13 TO SELECT THE DEATH PENALTY?

14 MS. MANZANO: WELL, HONESTLY, I HAVE BEEN THINKING ABOUT  
15 THIS ALL NIGHT BECAUSE I WAS TALKED TO EARLIER.

16 I FEEL THAT I WOULD HAVE TO LISTEN TO ALL OF THE  
17 EVIDENCE AGAINST THE DEFENDANT BEFORE I WOULD MAKE UP MY MIND.

18 MR. BARENS: NOW, THERE WOULD BE A VARIETY OF TYPES  
19 OF EVIDENCE. AND THE JURORS WHO WOULD HEAR EVIDENCE ABOUT  
20 THE CIRCUMSTANCES OF THE CRIME, HOW IT OCCURRED, POSSIBLY  
21 WHY IT OCCURRED AND MOTIVE-TYPE EVIDENCE AND THAT WOULD BE  
22 THE GUILT EVIDENCE.

23 WHAT I AM CONCERNED ABOUT, DURING THE PENALTY  
24 PHASE, YOU WOULD BE GIVEN EVIDENCE BY THE LAWYERS WHICH HIS  
25 HONOR REFERRED TO CALLED MITIGATING AND AGGRAVATING EVIDENCE.  
26 THE DEFENSE MIGHT WANT TO TALK TO YOU ABOUT THE AGE OF THE  
27 DEFENDANT AT THE TIME THE CRIME WAS ALLEGEDLY COMMITTED AND  
28 ABOUT WHETHER OR NOT HE HAD A PRIOR HISTORY OF CRIMINAL ACTS



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OR VIOLENT CRIMES.

WOULD YOU BE WILLING TO CONSIDER THOSE FACTORS  
IN MAKING A DECISION AS TO WHETHER THE DEFENDANT LIVED OR  
DIED?

MS. MANZANO: I BELIEVE SO.

3 FO

1 MR. BARENS: WOULD YOUR BELIEF THAT IF -- AND LET ME  
2 SEE IF I AM STATING YOUR BELIEF CORRECTLY -- YOU BELIEVE THAT  
3 IF A PERSON TAKES A LIFE INTENTIONALLY THAT THE ONLY APPROVED  
4 PENALTY FOR THAT IS THE DEATH PENALTY?

5 THE COURT: I THINK THAT WE HAVE GONE THROUGH THAT  
6 ALREADY. SHE HAS INDICATED TO YOU THAT ON THE PENALTY PHASE  
7 SHE WILL CONSIDER ALL OF THE EVIDENCE UNTIL SHE MAKES UP HER  
8 MIND AS TO WHETHER OR NOT SHE WOULD VOTE FOR THE DEATH PENALTY;  
9 ISN'T THAT WHAT YOU SAID?

10 MS. MANZANO: YES.

11 MR. BARENS: WOULD YOUR BELIEF IN THE DEATH PENALTY  
12 SUBSTANTIALLY IMPAIR YOUR ABILITY TO VOTE FOR LIFE IMPRISON-  
13 MENT WITHOUT THE POSSIBILITY OF PAROLE AFTER YOU HAD CONSIDERED  
14 ALL OF THE EVIDENCE?

15 MS. MANZANO: I WOULD CONSIDER THE LIFE IMPRISONMENT  
16 WITHOUT PAROLE; SOMETIMES I FEEL THAT MIGHT EVEN BE A WORSE  
17 PENALTY THAN DEATH.

18 MR. BARENS: I UNDERSTAND.

19 DO YOU UNDERSTAND THAT WHEN HIS HONOR MAKES MENTION  
20 OF LIFE WITHOUT THE POSSIBILITY OF PAROLE THAT IN FACT IT MEANS  
21 THAT IN CALIFORNIA UNDER THE LEGAL SYSTEM TODAY AND IT DOES  
22 NOT MEAN THAT IN SIX OR SEVEN YEARS THE DEFENDANT GETS OUT.  
23 IT LITERALLY MEANS HE NEVER BECOMES ELIGIBLE TO GET OUT.

24 MS. MANZANO: RIGHT.

25 MR. BARENS: WOULD YOU HAVE ANY CONTINUING SUSPICION  
26 OR BELIEF THAT EVEN WHEN WE TELL YOU THAT, THAT IT MIGHT NOT  
27 REALLY HAPPEN, THAT LATER ON THE DEFENDANT WOULD GET PAROLE  
28 ONE WAY OR ANOTHER BECAUSE LAWYERS DO THINGS?

1 MS. MANZANO: NO. I BLEIEVE THAT THE DEFENDANT WOULD  
2 STAY IN FOR LIFE.

3 MR. BARENS: NOW, LIKE THE PEOPLE ARE, THE DEFENSE IS  
4 ENTITLED TO A NEUTRAL JUROR, A JUROR WHO IS NEUTRAL ON BOTH  
5 THE GUILT PHASE AND THE PENALTY PHASE, THE SAME TYPE OF JUROR,  
6 I BELIEVE YOU WOULD WANT IF YOU WERE ON TRIAL FOR YOUR LIFE.

7 MS. MANZANO: UH-HUH.

8 MR. BARENS: DO YOU HONESTLY BELIEVE THAT IN TERMS OF  
9 THE DEATH PENALTY, ON THE LIFE OR DEATH ISSUE IF WE GET THERE,  
10 THAT YOU WOULD BE NEUTRAL AND OPENMINDED?

11 MS. MANZANO: YES, I WOULD TRY TO TO THE BEST OF MY  
12 ABILITY, YES.

13 MR. BARENS: AND I APPRECIATE THAT, MRS. MANZANO.

14 YOU UNDERSTAND, OF COURSE, THAT ALTHOUGH HIS HONOR  
15 AND MYSELF AND MR. WAPNER ARE GOING TO BE DISCUSSING THIS WITH  
16 YOU, THAT YOU HAVE NO REASON TO BELIEVE MR. HUNT IS GUILTY  
17 OF ANYTHING OR HAS DONE ANYTHING AT ALL WRONG JUST BECAUSE  
18 WE HAVE ASKED YOU YOUR VIEWS ON THE DEATH PENALTY?

19 MS. MANZANO: RIGHT.

20 MR. BARENS: AND YOU DON'T HAVE ANY BELIEFS THAT MR.  
21 HUNT HAS DONE ANYTHING WRONG BECAUSE YOU HAVEN'T HEARD ANY  
22 EVIDENCE, HAVE YOU?

23 MS. MANZANO: LIKE I EXPLAINED TO HIM YESTERDAY, I DID  
24 READ AN ARTICLE IN, I BELIEVE, PEOPLE MAGAZINE A FEW MONTHS  
25 BACK BUT --

26 THE COURT: AND SHE SAID YESTERDAY SHE WILL PUT IT OUT  
27 OF HER MIND COMPLETELY AND WILL NOT BE GUIDED BY THAT IN THE  
28 SLIGHTEST. SHE WILL JUST LISTEN TO THE EVIDENCE.

1 MR. BARENS: YOUR HONOR, NOT HAVING HEARD THAT PERSONALLY,  
2 I WOULD ASK YOUR HONOR IF YOUR HONOR WAS SATISFIED WITH THE  
3 STATEMENTS MADE IN THAT REGARD?

4 THE COURT: YES, I AM.

5 MR. BARENS: I WILL SUBMIT IT ON THAT, YOUR HONOR.

6 THE COURT: PASS FOR CAUSE?

7 MR. BARENS: PASS FOR CAUSE, YOUR HONOR.

8 MR. WAPNER: GOOD MORNING.

9 IS IT MANZANO?

10 MS. MANZANO: IT IS MANZANO.

11 MR. WAPNER: MISS MANZANO, I AM THE DEPUTY DISTRICT  
12 ATTORNEY WHO IS PROSECUTING THIS CASE.

13 CONCERNING THE ARTICLE YOU READ, DID YOU FORM ANY  
14 OPINIONS WHEN YOU READ THE PART ABOUT THE BODY NOT BEING  
15 DISCOVERED?

16 MS. MANZANO: IN A WAY I DID. I JUST WONDER HOW THEY  
17 COULD PROVE THAT SOMEBODY HAD BEEN KILLED WITHOUT PROOF OF  
18 AN ACTUAL BODY BEING FOUND.

19 MR. WAPNER: DO YOU HAVE AN OPEN MIND AS YOU SIT THERE  
20 NOW ABOUT WHETHER OR NOT A CASE CAN BE PROVED, A MURDER CASE --

21 THE COURT: THAT IS NOT MATERIAL TO THIS PARTICULAR  
22 INQUIRY. YOU CAN DO THAT ON THE VOIR DIRE LATER.

23 MR. WAPNER: WELL, IT HAS TO DO WITH WHAT SHE READ IN  
24 THE ARTICLE, YOUR HONOR.

25 THE COURT: NO. YOU COULD DO THAT LATER.

26 MR. BARENS: THE DEFENSE OBJECTS TO THE QUESTION, YOUR  
27 HONOR.

28 THE COURT: WHAT?

1 MR. BARENS: THE DEFENSE OBJECTS TO THE QUESTION, YOUR  
2 HONOR.

3 THE COURT: I WILL SUSTAIN THE OBJECTION.

4 MR. WAPNER: YOU READ IN THE ARTICLE A STATEMENT  
5 ATTRIBUTED TO ONE OF THE DEFENSE ATTORNEYS ABOUT A CLAIM THAT  
6 THE PERSON HAD FLED AND WAS NOT MURDERED; DID THAT AFFECT YOU  
7 IN ANY WAY?

8 MS. MANZANO: NO, BECAUSE AGAIN, THEY HAVE NOT BEEN ABLE  
9 TO LOCATE THE PERSON SO IT CAN GO EITHER WAY AS FAR AS I --  
10 I DON'T KNOW EXACTLY WHAT MY FEELINGS ARE ABOUT THAT RIGHT  
11 NOW.

12 THE COURT: YOU WILL LISTEN TO ALL OF THE EVIDENCE, I  
13 TAKE IT --

14 MS. MANZANO: YES.

15 THE COURT: -- ON THE GUILT PHASE, WON'T YOU?

16 MS. MANZANO: YES.

17 THE COURT: AND THEN YOU WILL MAKE UP YOUR OWN MIND,  
18 WON'T YOU?

19 MS. MANZANO: YES.

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4- 1 MR. WAPNER: MS. MANZANO, DO YOU UNDERSTAND THAT WHEN  
2 YOU GET TO THE PENALTY PHASE, ONE OF THE THINGS YOU ARE ALLOWED  
3 TO CONSIDER IS THE CIRCUMSTANCES OF THE OFFENSE?

4 MS. MANZANO: YES.

5 MR. WAPNER: THANK YOU. I PASS FOR CAUSE.

6 THE COURT: ALL RIGHT. MISS MANZANO, YOU QUALIFY AS  
7 A JUROR IN THIS PARTICULAR CASE. WHAT I WILL ASK YOU TO DO,  
8 IS TO COME BACK TOMORROW -- DO YOU THINK THAT IS GOOD? WELL,  
9 AT ANY RATE, I WILL ASK YOU TO COME BACK TOMORROW TO THE JURY  
10 ASSEMBLY ROOM AT 10:30. WE HOPE TO BE ABLE TO FINISH WITH  
11 ALL OF THESE THAT WE HAVE TO QUESTION THE SAME WAY AS WE DO  
12 YOU. SO YOU COME BACK AT 10:30 TOMORROW MORNING IN THE JURY  
13 ASSEMBLY ROOM. THEN WE WILL PROCEED FROM THERE, OKAY?

14 MS. MANZANO: OKAY. FINE. THANK YOU.

15 (PROSPECTIVE JUROR MANZANO EXITED THE  
16 COURTROOM.)

17 MR. WAPNER: BEFORE THE NEXT JUROR COMES IN, WE SHOULD  
18 DISCUSS WHAT WE ARE GOING TO TELL THESE PEOPLE IN TERMS OF  
19 WHEN THEY SHOULD COME BACK.

20 THE COURT: WELL, I TOLD HER TO COME BACK ON THURSDAY.

21 MR. WAPNER: I UNDERSTAND THAT. I WAS JUST HAVING A  
22 BRIEF DISCUSSION WITH THE CLERK. IF IT IS OUR INTENTION TO  
23 START WITH 70 NEW PEOPLE THIS AFTERNOON, WE HAVE TO DO THE  
24 HOVEY ON ALL OF THOSE 70. IT SEEMS UNREALISTIC --

25 THE COURT: IT WON'T BE 70.

26 MR. WAPNER: WELL, IF WE HAVE TO DO HOVEY ON EVEN 40  
27 OR 35, IT IS NOT REALISTIC TO THINK THAT WE'LL GET TO ALL  
28 THOSE PEOPLE TOMORROW.

1 THE ONLY REASON I BRING THIS UP NOW IS THAT I  
2 THINK WE HAVE TWO OPTIONS. ONE IS TO JUST ALLOW ALL OF THE  
3 PEOPLE SCHEDULED TOMORROW TO COME BACK TOMORROW AND THEN TELL  
4 THEM THAT THEY ARE EXCUSED UNTIL A DATE CERTAIN.

5 THE COURT: I THINK THAT WOULD BE A BETTER WAY.

6 MR. WAPNER: OKAY.

7 THE COURT: AS LONG AS THEY COME -- WELL, WE WILL JUST  
8 TELL THEM THAT WE DON'T HAVE SUFFICIENT JURORS AND WE ARE  
9 GOING TO GET SOME MORE AND THAT IT WILL TAKE AT LEAST UNTIL  
10 MONDAY.

11 MR. BARENS: TUESDAY, I WOULD SUBMIT, BECAUSE WE ARE  
12 DARK ON FRIDAY.

13 MR. WAPNER: AT LEAST TUESDAY. BUT PERHAPS BY THE TIME  
14 WE DISCUSS IT WITH THE JURORS, WE'LL HAVE A BETTER IDEA.

15 THE COURT: IF WE CUT DOWN ON ALL OF THIS -- IF WE CAN  
16 POSSIBLY TELESCOPE ALL OF THESE QUESTIONS IN A VERY SHORT  
17 PERIOD OF TIME, I THINK WE WOULD BE ABLE TO GET THROUGH MUCH  
18 SOONER.

19 HOWEVER, I DON'T WANT TO CURTAIL ANY QUESTIONS  
20 THAT EITHER ONE OF YOU MIGHT WANT TO ASK TO FULLY SEARCH THE  
21 CONSCIENCES OF THE JURORS ABOUT THEIR FEELINGS ABOUT THE DEATH  
22 PENALTY.

23 ALL RIGHT. WE'LL TELL THEM ALL WHEN THEY COME  
24 HERE TOMORROW THAT -- WE'LL HAVE THEM IN AND THEN WE WILL  
25 DECIDE AS TO HOW LONG IT IS GOING TO TAKE. ALL RIGHT?

26 MR. WAPNER: THANK YOU.

27 (PROSPECTIVE JUROR DONNA MATERNA  
28 ENTERED THE COURTROOM.)

1 THE COURT: GOOD MORNING, MISS MATERNA.

2 MS. MATERNA: GOOD MORNING.

3 THE COURT: WHERE DO YOU LIVE, MISS MATERNA?

4 MS. MATERNA: SHERMAN OAKS.

5 THE COURT: HAVE YOU READ ANYTHING AT ALL ABOUT THIS  
6 CASE THAT WE ARE ABOUT TO TRY?

7 MS. MATERNA: NO.

8 THE COURT: YOU KNOW NOTHING ABOUT IT? YOU HAVE NOT  
9 DISCUSSED IT WITH ANY JURORS AND YOU KNOW NOTHING ABOUT IT?

10 MS. MATERNA: I KNOW A COUPLE OF THINGS ABOUT IT.

11 THE COURT: THAT IT IS A MURDER CASE?

12 MS. MATERNA: YES, JUST THE THINGS YOU MENTIONED.

13 THE COURT: THAT WAS TWO WEEKS AGO TO ALL OF THE  
14 PROSPECTIVE JURORS?

15 MS. MATERNA: YES.

16 THE COURT: ALL RIGHT. I AM GOING TO BRIEFLY SUMMARIZE  
17 THE NATURE OF THE CASE AND ASK YOU A NUMBER OF QUESTIONS,  
18 ALL OF WHICH WILL BE DESIGNED TO FIND OUT WHAT YOUR STATE  
19 OF MIND IS AND YOUR CONVICTIONS AND FEELINGS ABOUT THE DEATH  
20 PENALTY. ALL RIGHT?

21 MS. MATERNA: YES.

22 THE COURT: FIRST, I WILL REVIEW THE CHARGE AGAINST  
23 THE DEFENDANT. AS YOU KNOW, IT IS THAT HE COMMITTED A MURDER  
24 AND IT WAS A MURDER OF THE FIRST DEGREE AND IT WAS COMMITTED  
25 DURING THE COURSE OF A ROBBERY.

26 IN THE COURSE OF A ROBBERY HAS A SPECIAL  
27 SIGNIFICANCE IN THIS CASE, BECAUSE THE LEGISLATURE HAS SAID  
28 THAT THERE ARE CERTAIN TYPES OF MURDERS -- LET ME PREFACE



1 IT BY SAYING BECAUSE THIS WAS A MURDER IN THE FIRST DEGREE  
2 AND IT WAS DELIBERATE AND IT WAS PLANNED, IT DOESN'T CALL  
3 FOR THE DEATH PENALTY.

4 IT IS ONLY WHERE THERE ARE CERTAIN SPECIAL  
5 CIRCUMSTANCES IN CONNECTION WITH THE MURDER THAT QUALIFY THE  
6 CASE FOR THE DEATH PENALTY. DO YOU UNDERSTAND THAT?

7 MS. MATERNA: YES.

8 THE COURT: NOW, THE SPECIAL CIRCUMSTANCE IN THIS CASE  
9 WAS THAT IT WAS COMMITTED DURING THE COURSE OF A ROBBERY.

10 THE LEGISLATURE HAS SAID THAT A MURDER UNDER THOSE  
11 CIRCUMSTANCES IS THE SAME AS A MURDER COMMITTED IN THE COURSE  
12 OF A BURGLARY OR A RAPE OR A KIDNAPPING OR TORTURE OR A CHILD  
13 MOLESTATION WHERE THE CHILD IS KILLED OR MULTIPLE MURDERS.

14 THERE ARE 19 OF THOSE SPECIAL CIRCUMSTANCE CASES  
15 WHERE THE LEGISLATURE HAS SAID THAT THOSE CASES QUALIFY FOR  
16 THE DEATH PENALTY. THIS CASE IS ONE OF THEM. DO YOU  
17 UNDERSTAND?

18 MS. MATERNA: YES.

19 THE COURT: NOW, THE JURY THAT WILL BE SELECTED IN THIS  
20 CASE WILL FIRST HAVE TO DECIDE THE GUILT OR INNOCENCE OF THE  
21 DEFENDANT. IF THEY FIND HIM GUILTY OF MURDER IN THE FIRST  
22 DEGREE, THEN THEY HAVE TO ANSWER A QUESTION ON SPECIAL  
23 CIRCUMSTANCES, WHETHER IT WAS A MURDER COMMITTED DURING THE  
24 COURSE OF A ROBBERY. AND THEY WILL SAY TRUE OR FALSE. DO  
25 YOU UNDERSTAND THAT?

26 MS. MATERNA: YES.

27 THE COURT: IF THEY SAY -- IF THEY BRING IN A VERDICT  
28 OF MURDER IN THE FIRST DEGREE AND THEY SAY THAT IT WAS TRUE

1 THAT IT WAS COMMITTED DURING THE COURSE OF A ROBBERY, THEN  
2 THAT SAME JURY LISTENS TO ADDITIONAL TESTIMONY THAT WILL BE  
3 ADDUCED IN THE CASE.

4 THAT ADDITIONAL TESTIMONY WILL CONSIST OF  
5 TESTIMONY ABOUT THE DEFENDANT, THINGS FAVORABLE TO HIM OR  
6 IN MITIGATION OF THE CRIME HE COMMITTED.

7 THE PROSECUTION WILL FURNISH EVIDENCE -- TRY TO  
8 FURNISH EVIDENCE THAT HE IS A BAD PERSON AND THINGS UNFAVORABLE  
9 ABOUT HIM OR IN AGGRAVATION OF THE OFFENSE WHICH HAS BEEN  
10 COMMITTED.

11 AND THE JURY LISTENS TO ALL OF THAT. THEY THEN  
12 RETIRE TO THE JURY ROOM AND CONSIDER A NUMBER OF FACTORS,  
13 ALL OF THE CIRCUMSTANCES OF THE MURDER, ALL OF THE TESTIMONY  
14 THAT THEY HAVE HEARD ON THE PENALTY PHASE OF THE CASE WHICH  
15 I HAVE TOLD YOU WOULD INCLUDE THE GOOD AND THE BAD ABOUT THE  
16 DEFENDANT, HIS BACKGROUND, HIS HISTORY, EVERYTHING ABOUT HIM  
17 AND HIS MENTAL AND PHYSICAL CONDITION, HIS AGE AND WHETHER  
18 OR NOT HE HAD ANY PRIOR BACKGROUND OF CRIMINAL CONDUCT.  
19 DO YOU UNDERSTAND?

20 MS. MATERNA: YES.

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1 THE COURT: ALL OF THAT MUST BE CONSIDERED BY THE JURY  
2 BEFORE THEY MAKE UP THEIR MIND.

3 MS. MATERNA: YOU SAID PRIOR BACKGROUND OF CRIMINAL --

4 THE COURT: PRIOR, IF ANY, AND THE FACT HE HASN'T ANY,  
5 THEN THAT IS A FAVORABLE CONSIDERATION. IF HE HAS ANY, THEN  
6 THAT IS AN UNFAVORABLE CONSIDERATION. ALL OF THAT WILL BE  
7 BROUGHT OUT AND THEN YOU MAKE UP YOUR MIND WHETHER IT WILL  
8 BE LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE OR  
9 DEATH; DO YOU UNDERSTAND THAT?

10 (PROSPECTIVE JUROR MATERNA NODS HER HEAD  
11 UP AND DOWN.)

12 THE COURT REPORTER: WOULD YOU PLEASE ANSWER OUT LOUD?

13 MS. MATERNA: YES, I UNDERSTAND.

14 THE COURT: THE QUESTION I AM GOING TO ASK YOU, IS TO  
15 EXPLORE YOUR STATE OF MIND WITH RESPECT TO YOUR ATTITUDE  
16 TOWARDS THE DEATH PENALTY.

17 NOW THE FIRST TWO QUESTIONS I AM GOING TO ASK YOU  
18 ARE RELATED TO THE GUILT PHASE OF THE TRIAL, NOT THE PENALTY  
19 PHASE, BUT THE GUILT PHASE OF THE TRIAL. SO THE FIRST QUESTION  
20 IS: DO YOU HAVE AN OPINION AS TO -- REGARDING THE DEATH  
21 PENALTY THAT WOULD CAUSE YOU TO VOTE FOR FIRST DEGREE MURDER --

22 LET ME ASK YOU AGAIN: 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. MATERNA: NO.

27 THE COURT: VERY GOOD.

28 NOW THE SECOND ONE HAS TO DO WITH THAT SPECIAL

1 CIRCUMSTANCE I TOLD YOU, REMEMBER, WHETHER OR NOT IT WAS  
2 COMMITTED IN THE COURSE OF A ROBBERY AND THE SECOND QUESTION  
3 IS STILL ON THE GUILT PHASE ASPECT OF: DO YOU HAVE ANY  
4 OPINION REGARDING THE DEATH PENALTY THAT WOULD PREVENT YOU  
5 FROM MAKING AN IMPARTIAL DECISION CONCERNING THE TRUTH OR  
6 FALSITY OF THE SPECIAL CIRCUMSTANCE?

7 MS. MATERNA: NO.

8 THE COURT: NOW THE NEXT TWO QUESTIONS ARE ON THE  
9 SUPPOSITION THAT THE JURY HAS FOUND THE DEFENDANT GUILTY OF  
10 MURDER IN THE FIRST DEGREE AND THAT THERE WERE SPECIAL  
11 CIRCUMSTANCES PRESENT. NOW THIS HAS TO DO WITH THE PENALTY  
12 CASE PHASE, YOU SEE.

13 THE FIRST QUESTION ON THE PENALTY PHASE IS: DO  
14 YOU HAVE SUCH AN OPINION CONCERNING THE DEATH PENALTY THAT  
15 YOU WOULD AUTOMATICALLY VOTE TO IMPOSE THE DEATH PENALTY  
16 REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY  
17 PHASE OF THE TRIAL?

18 MS. MATERNA: REGARDLESS OF ANY?

19 THE COURT: REGARDLESS OF ANY TESTIMONY, YES, WOULD  
20 YOU AUTOMATICALLY VOTE FOR IT NO MATTER WHAT YOU HEARD ON THE  
21 PENALTY PHASE OF THE TRIAL OR WOULD YOU LISTEN TO ALL OF THAT?

22 MS. MATERNA: WELL, I WOULD LISTEN TO ALL OF THAT.

23 THE COURT: WOULD YOU CONSIDER ALL OF IT?

24 MS. MATERNA: YES, I WOULD CONSIDER ALL OF IT.

25 THE COURT: ALL RIGHT. SO YOU WON'T AUTOMATICALLY VOTE  
26 FOR THE DEATH PENALTY RIGHT AWAY, WILL YOU?

27 MS. MATERNA: NO, NOT RIGHT AWAY.

28 THE COURT: NO. YOU WILL CONSIDER EVERYTHING BEFORE

1 YOU VOTE IT?

2 MS. MATERNA: YES, THAT IS WHAT WE ARE SUPPOSED TO DO.

3 THE COURT: ALL RIGHT, ON THE SAME QUESTION BUT ANOTHER  
4 ASPECT: DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH  
5 PENALTY THAT YOU WOULD AUTOMATICALLY VOTE FOR LIFE IMPRISONMENT  
6 WITHOUT THE POSSIBILITY OF PAROLE, REGARDLESS OF ANY EVIDENCE  
7 THAT MAY BE PRESENTED AT THE PENALTY PHASE OF THE TRIAL?

8 MS. MATERNA: NO.

9 THE COURT: ALL RIGHT, NOW YOU UNDERSTAND THAT THE ISSUE  
10 OF THE DEATH PENALTY MAY OR MAY NOT OCCUR IN THIS CASE AND  
11 THAT THESE QUESTIONS HAVE BEEN ASKED ONLY IN THE EVENT THAT  
12 YOU REACH THE PENALTY PHASE OF THE TRIAL; DO YOU UNDERSTAND  
13 THAT?

14 MS. MATERNA: YES.

15 THE COURT: ALL RIGHT.

16 MR. BARENS: THANK YOU, YOUR HONOR.

17 GOOD MORNING, MS. MANZANO (SIC).

18 THE COURT: INCIDENTALY, DID I ASK YOU WHETHER YOU  
19 HAD READ OR HEARD ANYTING ABOUT THE CASE?

20 MS. MATERNA: YES, YOU DID.

21 MR. BARENS: GOOD MORNING, MS. MANZANO (SIC).

22 MS. MATERNA: IT IS MATERNA.

23 GOOD MORNING.

24 MR. BARENS: I AM ARTHUR BARENS AND I REPRESENT THE  
25 DEFENDANT, JOE HUNT, AND IT IS MY DUTY AT THIS TIME, AS HIS  
26 HONOR DID, TO ASK YOU SOME QUESTIONS ABOUT YOUR POINT OF VIEW  
27 ON THE DEATH PENALTY.

28 AND WE UNDERSTAND THERE ARE NO RIGHT OR WRONG

1 ANSWERS TO MY QUESTIONS AND NO GOOD OR BAD ANSWERS, JUST YOUR  
2 OPINION, WHICH NO ONE IS JUDGING.

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

5 MS. MATERNA: I THINK IT IS AN EFFECTIVE WAY OF TAKING  
6 CARE OF SOME OF THE PROBLEMS THAT WE HAVE.

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1 MR. BARENS: WHAT PROBLEMS DO YOU MEAN BY THAT?

2 MS. MATERNA: I THINK IF A PERSON DESERVES THAT, THEN  
3 THAT IS WHAT THEY SHOULD GET.

4 MR. BARENS: COULD YOU HELP ME FOCUS A BIT ON PEOPLE  
5 THAT DESERVE IT? BECAUSE WE ALL MAY HAVE DIFFERENT ATTITUDES  
6 AND OPINIONS ON THAT.

7 WHO DO YOU THINK DESERVES TO GET THE DEATH PENALTY?

8 MS. MATERNA: MANSON, PEOPLE WHO DO HORRENDOUS CRIMES,  
9 YOU KNOW, MURDERS -- AND I AM NOT SAYING ALL MURDERS, OBVIOUSLY,  
10 BUT WHERE OTHER PEOPLE HAVE BEEN TORTURED AND IF THE MURDERER  
11 IS SEEN TO BE THE KIND OF PERSON WHO IS NOT GOING TO IMPROVE  
12 OVER TIME.

13 MR. BARENS: THE LAST POINT YOU MADE IS THAT YOU WOULD  
14 CONSIDER PERHAPS WHETHER OR NOT YOU FELT THAT THE DEFENDANT  
15 COULD BE REHABILITATED OR THERE WOULD BE A BENEFIT FOR HIM  
16 BEING IN PRISON?

17 MS. MATERNA: YES, I WOULD CONSIDER THAT.

18 MR. BARENS: WOULD YOU CONSIDER THE AGE OF THE DEFENDANT  
19 AT THE TIME THE CRIME WAS COMMITTED?

20 MS. MATERNA: NO.

21 THE COURT: I TOLD YOU THAT IS ONE OF THE THINGS YOU  
22 WERE TO CONSIDER, THAT YOU CONSIDER HIS AGE.

23 MS. MATERNA: OH, ARE WE TO CONSIDER AGE?

24 THE COURT: YOU DON'T HAVE TO SAY BECAUSE HE IS A CERTAIN  
25 AGE, I WON'T IMPOSE THE PENALTY UPON HIM. BUT THAT IS ONE  
26 OF THE THINGS YOU HAVE TO TAKE INTO CONSIDERATION.

27 MS. MATERNA: OH, I DO?

28 LET ME GET THIS STRAIGHT, CAN I BACK UP FOR A

1 SECOND?

2 MR. BARENS: SURELY.

3 MS. MATERNA: SO IF THE DEFENDANT --

4 THE COURT: YOU SHALL CONSIDER, TAKE INTO CONSIDERATION  
5 AND BE GUIDED BY ALL OF THE FACTORS THAT I HAVE GIVEN YOU.

6 MS. MATERNA: OH, SO YOU ARE SUPPOSED TO TAKE AGE INTO  
7 CONSIDERATION?

8 THE COURT: EVERYTHING, YES, AND AGE IS ONE OF THE  
9 FACTORS THAT YOU CONSIDER.

10 MS. MATERNA: OKAY. WELL, OKAY, THAT MAKES SENSE TO  
11 ME BECAUSE IF A CHILD MURDERS SOMEBODY THEN --

12 MR. BARENS: WELL, WE ARE NOT GOING TO BE DEALING WITH  
13 ANY CHILDREN HERE, MRS. MANZANO (SIC).

14 WE ARE GOING TO BE DEALING WITH AN ADULT.

15 MS. MATERNA: MRS. MATERNA.

16 MR. BARENS: MATERNA. I BEG YOUR PARDON, MA'AM.

17 LET'S TALK ABOUT A SITUATION WHERE WE HAVE A  
18 DEFENDANT WHOM YOU BELIEVE BEYOND A REASONABLE DOUBT COMMITTED  
19 AN INTENTIONAL FIRST DEGREE MURDER DURING THE COURSE OF A  
20 ROBBERY, WHERE HE WAS DOING IT BECAUSE HE WANTED TO GET SOME-  
21 THING AWAY FROM SOMEBODY, GAIN OF SOME KIND; WOULD YOU  
22 BELIEVE, GIVEN NOTHING ELSE FOR THE MOMENT AND I AM GOING TO  
23 GIVE YOU SOMETHING ELSE IN A MOMENT, THAT THOSE DEFENDANTS  
24 SHOULD ALWAYS GET THE DEATH PENALTY?

25 MS. MATERNA: NOT ALWAYS.

26 MR. BARENS: COULD YOU TELL ME OF ANY TIME YOU THINK  
27 THEY SHOULDN'T GET THE DEATH PENALTY, THAT THEY SHOULD GET  
28 LIFE WITHOUT POSSIBILITY OF PAROLE?



1 MS. MATERNA: IF THEY WERE MENTALLY INCOMPETENT WHICH  
2 MAY HAVE CAUSED THEM TO DO THE CRIME OR CONTRIBUTED TO THEIR  
3 HAVING DONE THE CRIME.

4 MR. BARENS: NOW, IF WE DIDN'T HAVE THAT -- WHAT I AM  
5 LOOKING FOR IS YOUR POINT OF VIEW ON WHETHER OR NOT FACTORS  
6 THAT WOULD MORE LIKELY BE PRESENT IN THIS CASE WOULD BE SOME-  
7 THING YOU WOULD CONSIDER.

8 IF YOU HAD A FIRST DEGREE MURDERER DURING A  
9 ROBBERY, WOULD YOU CONSIDER HIS AGE AND WHETHER OR NOT HE HAD  
10 A PRIOR CRIMINAL BACKGROUND IN MAKING YOUR DECISION BETWEEN  
11 LIFE AND DEATH OR WOULD YOU IN THAT INSTANCE SAY "THAT GUY  
12 HAS GOT TO GET THE DEATH PENALTY IRRESPECTIVE OF ANY OF THOSE  
13 CONSIDERATIONS"?

14 MS. MATERNA: I WOULD CONSIDER THE AGE AND THE PRIOR  
15 BACKGROUND.

16 MR. BARENS: NOW, YOU REALIZE, OF COURSE, THAT IF WE  
17 EVER GET TO A PENALTY PHASE YOU HAVE TWO CHOICES. THERE ARE  
18 NO MANDATORY DEATH PENALTIES IN CALIFORNIA. THERE IS A JURY  
19 CHOICE, DEATH PENALTIES, AND JURY CHOICE, LIFE WITHOUT  
20 POSSIBILITY OF PAROLE.

21 DO YOU UNDERSTAND THAT LIFE WITHOUT POSSIBILITY  
22 OF PAROLE MEANS THAT?

23 MS. MATERNA: YES.

24 MR. BARENS: THAT IT IS NOT SOMETHING WHERE WE JUST  
25 TELL YOU THAT AND IN A COUPLE OF YEARS SOMEONE SOMEHOW MANAGES  
26 TO GET PAROLED. UNDER THE LAW AS IT STANDS TODAY, THAT IS  
27 IT --

28 MS. MATERNA: OKAY.

1 MR. BARENS: -- HE IS IN FOREVER.

2 WOULD YOU BELIEVE THAT IF THE JUDGE TELLS YOU THAT?

3 MS. MATERNA: IF THE JUDGE TELLS ME THAT, I WILL BELIEVE  
4 IT.

5 MR. BARENS: HE WILL TELL YOU THAT.

6 MS. MATERNA: OKAY.

7 MR. BARENS: NOW WE ARE LOOKING FOR NEUTRAL JURORS FOR  
8 BOTH SIDES, FOR THE PEOPLE AND THE DEFENSE ON BOTH THE GUILT  
9 PHASE AND THE PENALTY PHASE; CAN YOU ASSURE ME THAT IF WE  
10 EVER GOT TO THE PENALTY PHASE THAT YOU ARE TRULY NEUTRAL WHEN  
11 DEALING WITH A PERSON CONVICTED OF FIRST DEGREE MURDER DURING  
12 A ROBBERY, AS TO WHETHER THAT PERSON WOULD LIVE OR DIE?

13 MS. MATERNA: I CAN'T ASSURE YOU THAT I WOULD BE.

14 MR. BARENS: WHY IS THAT?

15 MS. MATERNA: BECAUSE TO ME, I WOULD HAVE TO CONSIDER  
16 ALSO THE FACT THAT WHAT GOOD IS LIFE IMPRISONMENT, YOU KNOW,  
17 WHAT IS THE GOOD OF IT?

18 MR. BARENS: WELL, IT MAY BE DEATH.

19 MS. MATERNA: YES AND --

20 MR. BARENS: AND THAT I GUESS IS A VALUE JUDGMENT WE  
21 MAKE.

22 BUT WHAT I AM CONCERNED WITH IS YOUR ABILITY TO  
23 REALLY MAKE A CHOICE AS OPPOSED TO HAVING A PREDISPOSED BELIEF  
24 SYSTEM THAT WOULD SUBSTANTIALLY IMPAIR YOUR ABILITY TO MAKE  
25 ANY CHOICE, WOULD YOU FEEL BECAUSE OF YOUR BELIEF SYSTEM THAT  
26 THERE REALLY WAS NO CHOICE WHEN YOU GOT TO THE PENALTY PHASE  
27 WITH THAT KIND OF A DEFENDANT, THAT REALLY THE ONLY CHOICE  
28 YOU HAD WAS THE DEATH PENALTY?

MS. MATERNA: WE ARE TALKING ABOUT A DEFENDANT WHO  
TOTALLY KNOWS WHAT HE IS DOING?

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1 MR. BARENS: YES, MA'AM.

2 MR. WAPNER: YOUR HONOR, I THINK THAT IS AN INAPPROPRIATE  
3 QUESTION IN THE SENSE THAT IT ASKS THE JUROR TO PREJUDGE THE  
4 CASE ON THE PARTICULAR SET OF FACTS WITHOUT GIVING HER ANYTHING  
5 ELSE. IT IS BASICALLY ASKING HER HOW SHE WOULD VOTE IN  
6 CERTAIN CIRCUMSTANCES.

7 MR. BARENS: I DISAGREE.

8 THE COURT: MISS MATERNA, I ASKED YOU A SERIES OF  
9 QUESTIONS AND THE ANSWERS THAT YOU GAVE ME, ARE THOSE IN YOUR  
10 JUDGMENT, TRUE ANSWERS THAT YOU GAVE ME?

11 MS. MATERNA: YES.

12 THE COURT: YOU TOLD ME THAT YOU WOULD NOT AUTOMATICALLY  
13 VOTE FOR THE DEATH PENALTY WITHOUT LISTENING TO ALL OF THE  
14 EVIDENCE ON THE PENALTY PHASE?

15 MS. MATERNA: NO, NOT AUTOMATICALLY.

16 THE COURT: YOU WOULD NOT AUTOMATICALLY?

17 MS. MATERNA: NO.

18 THE COURT: BUT YOU WOULD CONSIDER --

19 MS. MATERNA: I MIGHT BE MORE INCLINED BUT I WOULD NOT  
20 AUTOMATICALLY DO IT. DO YOU UNDERSTAND WHAT I AM SAYING?

21 THE COURT: BUT, SUPPOSE YOU LISTEN TO THE EVIDENCE  
22 ON THE PENALTY PHASE OF IT WHICH WILL PORTRAY THE DEFENDANT  
23 IN A FAVORABLE LIGHT. WOULD YOU, WITHOUT ANYTHING FURTHER,  
24 VOTE THE DEATH PENALTY OR WOULD YOU CONSIDER EVERYTHING ABOUT  
25 IT?

26 MS. MATERNA: I WOULD CONSIDER EVERYTHING. I MEAN,  
27 YOU KNOW, LET'S FACE IT. IT HAS TO BE PRETTY CONVINCING STUFF,  
28 ALL OF THE WAY AROUND, ONE WAY OR THE OTHER.

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1 THE COURT: BUT AT ANY RATE, WHEN YOU START DELIBERATING,  
2 YOU WON'T SAY TO YOURSELF, I AM GOING TO RETURN FOR THE DEATH  
3 PENALTY NO MATTER WHAT HAPPENS?

4 MS. MATERNA: NO. I WOULD NOT SAY THAT TO MYSELF.

5 THE COURT: YOU ARE NOT CLOSING YOUR MIND COMPLETELY?

6 MS. MATERNA: NO, NOT CLOSING MY MIND COMPLETELY.

7 THE COURT: WE WANT TO UNDERSTAND YOUR FEELING ABOUT  
8 THE DEATH PENALTY. DOES IT INFLUENCE YOU IN YOUR JUDGMENT  
9 AS A JUROR SO THAT YOU CANNOT CONSIDER EVERYTHING THAT YOU  
10 HEAR? YOU HAVE TO CONSIDER EVERYTHING THAT YOU HEAR BEFORE  
11 YOU MAKE UP YOUR MIND. ARE YOU WILLING TO DO THAT?

12 MS. MATERNA: YES.

13 THE COURT: YOU WILL HEAR EVERYTHING?

14 MS. MATERNA: HEAR EVERYTHING.

15 THE COURT: ALL RIGHT. YOU REALLY MEAN THAT, NOW?

16 MS. MATERNA: YES. I MEAN, I AM NOT GOING TO PREJUDGE  
17 ONE WAY OR THE OTHER BEFORE I HEAR ALL OF THE INFORMATION.

18 THE COURT: ALL RIGHT. THAT IS WHAT I WANTED TO KNOW.

19 MR. BARENS: YOUR HONOR, IS THE DEFENSE ENTITLED TO  
20 AN ANSWER TO OUR LAST QUESTION?

21 THE COURT: WELL, THERE HAS BEEN AN OBJECTION TO IT.  
22 I THINK I COVERED THAT IN ALL OF THE QUESTIONS THAT I HAVE  
23 ASKED THE PROSPECTIVE JUROR.

24 MR. BARENS: RESPECTFULLY, YOUR HONOR --

25 THE COURT: ASK IT AGAIN, IF YOU WANT TO.

26 MS. MATERNA: WOULD YOU REPEAT THE QUESTION?

27 MR. BARENS: COULD WE HAVE THE QUESTION READ BACK, YOUR  
28 HONOR?

1 THE COURT: SURE.

2 THE COURT REPORTER: I DON'T HAVE THAT QUESTION. THE  
3 PREVIOUS REPORTER HAD THAT QUESTION. DO YOU WANT ME TO GO  
4 AND GET HER?

5 THE COURT: YES.

6 MR. BARENS: I WOULD HAVE DIFFICULTY RESTATING IT. IT  
7 WAS CAREFULLY PHRASED. I BEG THE COURT'S INDULGENCE.

8 (THE RECORD WAS READ BY THE PREVIOUS  
9 REPORTER.)

10 MS. MATERNA: NO. I FEEL THERE WOULD BE A CHOICE.

11 MR. BARENS: AND YOUR BELIEF OR CONVICTION THAT THE  
12 DEATH PENALTY MIGHT BE APPROPRIATE FOR THESE TYPES OF PEOPLE  
13 WOULD NOT IMPAIR YOUR ABILITY TO EXERCISE THAT CHOICE?

14 MS. MATERNA: NO, IT WOULD NOT IMPAIR MY ABILITY.

15 MR. BARENS: BUT RATHER, YOU WOULD CONSIDER --

16 MS. MATERNA: BUT IT MIGHT SWAY ME MORE IN THAT DIRECTION.

17 MR. BARENS: THAT I UNDERSTAND. MY CONCERN IS WHAT  
18 HIS HONOR HAS ASKED YOU, THAT YOU WOULD CONSIDER ALL OF THE  
19 EVIDENCE BEFORE YOU EXERCISED THAT CHOICE WITH AN OPEN MIND.

20 MS. MATERNA: YES. I WOULD CONSIDER THEM ALL.

21 MR. BARENS: WITH AN OPEN MIND?

22 MS. MATERNA: YES, WITH AN OPEN MIND.

23 MR. BARENS: DO YOU SUBSCRIBE TO THE BELIEF COMMONLY  
24 REFERRED TO AS A LIFE FOR A LIFE OR AN EYE FOR AN EYE?

25 MS. MATERNA: IN SOME CASES, YEAH.

26 MR. BARENS: HOW ABOUT IN THE TYPE OF CASE HIS HONOR  
27 HAS REFERRED TO AS BEING THE FACTS THAT YOU MIGHT HAVE TO  
28 DEAL WITH IN THIS CASE, A ROBBERY, A MURDER?

1 MS. MATERNA: WELL, YOU KNOW, LIKE WE DISCUSSED EARLIER,  
2 I WOULD HAVE TO HEAR ALL OF THE INFORMATION FIRST BEFORE MAKING  
3 THAT DECISION.

4 MR. BARENS: NOW, YOU UNDERSTAND THAT ALTHOUGH WE ARE  
5 HERE DISCUSSING THE DEATH PENALTY, THERE IS NO INDICATION  
6 THAT MY CLIENT HAS DONE ANYTHING WRONG OR THAT HE IS MORE  
7 GUILTY OR LESS GUILTY THAN HE WOULD BE IF HE WAS NOT HERE  
8 AT ALL, UNTIL YOU HEAR ANY EVIDENCE?

9 MS. MATERNA: OKAY.

10 MR. BARENS: DO YOU UNDERSTAND THAT?

11 MS. MATERNA: YES.

12 MR. BARENS: DO YOU BELIEVE THAT?

13 MS. MATERNA: YES. I SUPPOSE THEY COULD HAVE BROUGHT  
14 THE WRONG PERSON IN. THERE COULD HAVE BEEN A MISTAKE IN  
15 NAILING SOMEBODY FOR THE CRIME.

16 MR. BARENS: DO YOU BELIEVE THAT HE HAS PROBABLY DONE  
17 SOMETHING WRONG OR HE WOULDN'T BE HERE TO BEGIN WITH?

18 MS. MATERNA: I THINK THAT THE CHANCES --

19 THE COURT: WELL, I DON'T THINK THAT IS APPROPRIATE  
20 AT THIS TIME, IN THIS PHASE OF THE VOIR DIRE.

21 MR. BARENS: I WILL RESPECT THAT, YOUR HONOR. THANK  
22 YOU. WE PASS FOR CAUSE.

23 THE COURT: THANK YOU. ANY FURTHER QUESTIONS?

24 MR. WAPNER: YES.

25 NOW, YOU MADE THE STATEMENT --

26 THE COURT: "I AM FRED WAPNER, THE DEPUTY DISTRICT  
27 ATTORNEY ..."

28 MR. WAPNER: THANK YOU, YOUR HONOR.

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MISS MATERNA, I AM FRED WAPNER, THE DEPUTY DISTRICT ATTORNEY PROSECUTING THIS CASE.

YOU MADE A STATEMENT THAT IT WOULD HAVE TO BE PRETTY CONVINCING STUFF. DO YOU UNDERSTAND THAT THE BURDEN OF PROOF IN THE GUILT PHASE OF THE TRIAL, IS THE SAME AS IT IS IN ANY OTHER CRIMINAL TRIAL?

MS. MATERNA: YES.

MR. WAPNER: IT IS PROOF BEYOND A REASONABLE DOUBT, DO YOU UNDERSTAND THAT?

MS. MATERNA: YES.

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1 MR. WAPNER: BECAUSE YOU KNOW THAT YOU MIGHT BE CALLED  
2 UPON TO DECIDE THE QUESTION OF THE PENALTY, WOULD YOU HOLD  
3 THE PROSECUTION TO A HIGHER STANDARD OF PROOF THAN BEYOND  
4 A REASONABLE DOUBT?

5 THE COURT: I SHOULD TELL HER WHAT THE LAW IS. THE  
6 LAW IS IN ANY KIND OF A CRIMINAL CASE, A MISDEMEANOR OR A  
7 MURDER, THE PROOF IS EXACTLY THE SAME FOR A PERSON TO BE  
8 CONVICTED OF ANY KIND OF CRIME, NO MATTER HOW TERRIBLE IT  
9 IS OR HOW LIGHT OR UNIMPORTANT IT IS.

10 HE HAS TO BE PROVED GUILTY BEYOND A REASONABLE  
11 DOUBT. THAT IS IN EVERY, SINGLE CASE. SO IN A MURDER CASE,  
12 IT IS THE SAME AS IN A MISDEMEANOR, TRAFFIC CASE. SO THE  
13 SAME STANDARD IS USED, BEYOND A REASONABLE DOUBT.

14 ARE YOU WILLING TO APPLY THAT STANDARD?

15 MS. MATERNA: YES.

16 THE COURT: ALL RIGHT.

17 MR. WAPNER: AND JUST BECAUSE YOU KNOW THAT THIS CASE  
18 MIGHT AT SOME POINT INVOLVE THE DEATH PENALTY, YOU WON'T HOLD  
19 THE PROSECUTION TO A HIGHER STANDARD THAN THAT?

20 MS. MATERNA: NO. I WOULD HOLD THEM TO THE STANDARD  
21 DESCRIBED IN THE LAW, LIKE THE JUDGE JUST MENTIONED.

22 MR. WAPNER: OKAY. YOU MADE A STATEMENT, SOMETHING  
23 TO THE EFFECT OF THAT YOU WOULD THINK ABOUT WHAT GOOD WOULD  
24 IT DO TO KEEP THE PERSON IN PRISON. WHAT DO YOU MEAN BY THAT?

25 MS. MATERNA: WELL, I WORK IN A HOSPITAL, OKAY? I SEE  
26 PEOPLE WHO ARE NOT REALLY LIVING, BUT THEY ARE LIVING. DO  
27 YOU KNOW WHAT I AM SAYING?

28 MR. WAPNER: YES I DO.

1 MS. MATERNA: AND SOMETIMES YOU APPROACH A QUESTION  
2 OF THE QUALITY OF LIFE AND COSTS INVOLVED IN KEEPING A PERSON  
3 ALIVE, YOU KNOW MAKING THEIR SURVIVAL OCCUR. THEY ARE NOT  
4 DOING IT ON THEIR OWN, MACHINES ARE DOING IT AND ET CETERA.

5 IT ALMOST SEEMS TO ME LIKE PRISON IS THE SAME  
6 KIND OF A THING. IN OTHER WORDS, YOU HAVE A PERSON WHO IS  
7 NOT USEFUL TO THEMSELVES OR TO SOCIETY AND THEY ARE NOT  
8 PRODUCTIVE AND THEY ARE NOT REALLY ENJOYING A HIGH QUALITY  
9 OF LIFE.

10 IT IS KIND OF LIKE, IS THAT REALLY AN EFFECTIVE  
11 WAY OF DEALING WITH THESE PEOPLE?

12 MR. WAPNER: DOES THAT MEAN THAT WHEN YOU GET -- LET  
13 ME START OVER AGAIN.

14 IF YOU GET TO THE POINT OF THE PENALTY PHASE IN  
15 THIS CASE, THERE ARE ONLY GOING TO BE TWO CHOICES. ONE IS  
16 GOING TO BE DEATH. THE OTHER IS GOING TO BE LIFE WITHOUT  
17 POSSIBILITY OF PAROLE, WHICH AS MR. BARENS EXPLAINED TO YOU,  
18 MEANS THAT THE PERSON WOULD BE IN PRISON FOR THE REST OF HIS  
19 LIFE AND WOULDN'T GET OUT. DO YOU UNDERSTAND THAT?

20 MS. MATERNA: YES.

21 MR. WAPNER; IF YOU KNEW THAT THESE WERE THE ONLY TWO  
22 CHOICES, HOW DOES THAT AFFECT YOUR PREVIOUS STATEMENT ABOUT  
23 BEING IN PRISON AND THE QUALITY OF LIFE?

24 MS. MATERNA: WELL, IT DOESN'T AFFECT MY PREVIOUS  
25 STATEMENT.

26 BUT TO ELABORATE ON THAT, LET ME JUST SAY THAT  
27 I WOULD DEFINITELY TAKE MY FEELINGS INTO CONSIDERATION ALONG  
28 WITH THE REST OF THE EVIDENCE. OKAY? THAT IS WHEN I WOULD

1 MAKE THE DECISION.

2 NOW, LIKE I SAID BEFORE, I MIGHT BE SWAYED ONE  
3 WAY MORE THAN THE OTHER. LET'S SAY THAT YOU HAVE X AMOUNT  
4 OF EVIDENCE, OKAY? THEN YOU HAVE LIKE, THE JURORS' PERSONAL  
5 FEELINGS, OKAY?

6 IF THE EVIDENCE POINTED OUT THAT THE PERSON WOULD  
7 BE BETTER OFF WITH LIFE WITHOUT POSSIBILITY OF PAROLE THAN  
8 WITH THE DEATH PENALTY, I WOULD TAKE THAT AS BEING 100 PERCENT  
9 OF THE EVIDENCE, OKAY?

10 I MEAN, IF MY PERSONAL FEELINGS FELT LIKE MORE  
11 OF 75 PERCENT TOWARD THE DEATH PENALTY AND 25 PERCENT TOWARD  
12 LIFE WITHOUT POSSIBILITY OF PAROLE, THAT GIVES HIM 125 PERCENT  
13 FOR LIFE WITHOUT POSSIBILITY OF PAROLE AND 75 PERCENT FOR  
14 THE DEATH PENALTY. DO YOU KNOW WHAT I AM SAYING? IT IS LIKE  
15 A WEIGHT.

16 MR. WAPNER: YOU LOST ME WITH THAT EXAMPLE. BUT WHAT  
17 I WANT TO KNOW IS, IS YOUR FEELING ABOUT PEOPLE BEING IN PRISON  
18 AND NOT BEING PRODUCTIVE, GOING TO PREVENT YOU FROM VOTING  
19 FOR A VERDICT OF LIFE WITHOUT POSSIBILITY OF PAROLE?

20 MS. MATERNA: NO. IT IS NOT GOING TO PREVENT ME FROM  
21 DOING THAT.

22 MR. WAPNER: WILL IT SUBSTANTIALLY IMPAIR YOU FROM  
23 RENDERING THAT VERDICT?

24 MS. MATERNA: NO, NOT IMPAIR ME.

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

26 THE COURT: ALL RIGHT, MISS MATERNA, YOU QUALIFY AS  
27 A PROSPECTIVE JUROR IN THIS CASE. SO WHAT I WILL ASK YOU  
28 TO DO, IS TO COME BACK TOMORROW MORNING AT 10:30 WITH ALL

1 OF THE JURORS WHO ARE SIMILARLY QUALIFIED. THEY HAVE TO BE  
2 BACK ALSO AT THAT TIME.

3 WE WILL HAVE YOU ALL BACK IN THE COURTROOM. THAT  
4 WILL BE ABOUT 10:30 TOMORROW MORNING. SO, WILL YOU DO THAT?  
5 COME BACK TOMORROW MORNING AT 10:30?

6 MS. MATERNA: SURE.

7 THE COURT: NOW YOU REMEMBER THAT?

8 MS. MATERNA: THERE IS ANOTHER PHASE TO THE JURY  
9 SELECTION?

10 THE COURT: WE START THE TRIAL.

11 MS. MATERNA: SO I AM ACTUALLY ON IT?

12 THE COURT: YOU ARE ONE OF A NUMBER WHO WILL BE  
13 CONSIDERED AS JURORS ON THE CASE.

14 MS. MATERNA: I SEE.

15 THE COURT: WE WILL HAVE MAYBE 60 OR 70 JURORS ULTIMATELY  
16 AND THEN WE WILL HAVE 12 THAT WILL HEAR THE CASE.

17 YOU MAY NOT BE ONE OF THE 12 OR YOU MAY BE ONE  
18 OF THE 12.

19 MS. MATERNA: OKAY. SO YOU HAVE NARROWED IT DOWN TO  
20 60 OR 70?

21 THE COURT: THAT'S RIGHT. OUT OF THOSE WE HAD BEFORE.

22 MS. MATERNA: YOU HAVE NARROWED IT DOWN? AND YOU HAVE  
23 TO STILL FURTHER NARROW IT DOWN?

24 THE COURT: YES. BECAUSE IF YOUR NAME IS PICKED OUT  
25 OF A BOX, YOU GO INTO THE JURY AND IT DOESN'T MEAN THAT YOU  
26 ARE ACCEPTED AS A JUROR. EACH SIDE HAS A RIGHT TO EXERCISE  
27 PEREMPTORY CHALLENGES.

28 THEY HAVE THE RIGHT TO SAY THAT THEY DON'T WANT

1 THAT PERSON FOR A JUROR, IN WHICH CASE YOU WOULD BE EXCUSED.  
2 THAT IS HOW THE SELECTION PROCESS GOES.

3 MS. MATERNA: OKAY. WE ARE STILL IN THE PROCESS OF  
4 NARROWING IT DOWN?

5 THE COURT: THAT'S RIGHT. YOU BE BACK TOMORROW MORNING.

6 MS. MATERNA: YOU SAY 10:30?

7 THE COURT: IN THE JURY ASSEMBLY ROOM.

8 (PROSPECTIVE JUROR MATERNA EXITED  
9 THE COURTROOM.)

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1 (PROSPECTIVE JUROR MATURAN ENTERS THE  
2 COURTROOM.)

3 THE COURT: YOUR NAME IS LEONARDO MATURAN?

4 MR. MATURAN: YES.

5 THE COURT: MR. MATURAN, TALK INTO THE MICROPHONE, PLEASE.  
6 WHERE DO YOU LIVE, MR. MATURAN?

7 MR. MATURAN: DOWN BY CENTINELA --

8 THE COURT REPORTER: REPEAT THAT, PLEASE.

9 MR. MATURAN: WASHINGTON AND CENTINELA.

10 THE COURT REPORTER: WASHINGTON AND CENTINELA?

11 MR. MATURAN: WASHINGTON AND CENTINELA.

12 THE COURT: ALL RIGHT, HAVE YOU READ ANYTHING AT ALL  
13 ABOUT THIS CASE?

14 MR. MATURAN: NO, SIR.

15 THE COURT: AND YOU DIDN'T TALK TO ANYBODY ABOUT IT?

16 MR. MATURAN: NO.

17 THE COURT: ALL RIGHT. YOU UNDERSTAND, OF COURSE, THAT  
18 THE CHARGE AGAINST THE DEFENDANT IS THAT HE COMMITTED A  
19 MURDER IN THE FIRST DEGREE AND THAT IT WAS DURING THE COURSE  
20 OF A ROBBERY; DO YOU UNDERSTAND THAT?

21 MR. MATURAN: YES.

22 THE COURT: NOW, IN THE COURSE OF A ROBBERY HAS SOME  
23 SPECIAL SIGNIFICANCE IN THIS CASE, YOU KNOW. IT IS NOT EVERY  
24 MURDER THAT IS COMMITTED, NOT EVERY MURDER IN THE FIRST DEGREE  
25 THAT QUALIFIES FOR THE DEATH PENALTY; DO YOU UNDERSTAND THAT?

26 MR. MATURAN: YES.

27 THE COURT: IT IS ONLY A MURDER WHICH IS COMMITTED UNDER  
28 CERTAIN SPECIAL CIRCUMSTANCES, FOR INSTANCE, IF A MAN COMMITS

1 A MURDER IN THE COURSE OF A ROBBERY, ALLEGEDLY AS IN THIS CASE,  
2 OR COMMITS A MURDER IN THE COURSE OF A BURGLARY OR A RAPE OR  
3 A KIDNAPPING OR A TORTURE OR SEVERAL MURDERS AT THE SAME TIME,  
4 IN THESE INSTANCES THAT QUALIFIES IT FOR THE DEATH PENALTY;  
5 DO YOU UNDERSTAND THAT?

6 MR. MATURAN: YES.

7 THE COURT: ALL RIGHT, NOW THE JURY WHICH IS SELECTED  
8 TO TRY THIS CASE WILL FIRST HAVE TO DETERMINE THE GUILT OR  
9 INNOCENCE OF THE DEFENDANT FIRST; DO YOU UNDERSTAND THAT?

10 (PROSPECTIVE JUROR MATURAN NODS HIS HEAD  
11 UP AND DOWN.)

12 THE COURT: THAT IS WHAT WE CALL THE GUILT PHASE; DO  
13 YOU UNDERSTAND THAT?

14 MR. MATURAN: YES.

15 THE COURT: ALL RIGHT. IF THE JURY DECIDES THAT THE  
16 DEFENDANT IS GUILTY OF MURDER AND IT IS MURDER IN THE FIRST  
17 DEGREE, THEN THEY HAVE TO DECIDE WHETHER OR NOT THAT MURDER  
18 WAS COMMITTED DURING THE COURSE OF A ROBBERY; DO YOU UNDER-  
19 STAND?

20 (PROSPECTIVE JUROR MATURAN NODS HIS HEAD  
21 UP AND DOWN.)

22 THE COURT: IF THEY SAY IT WAS COMMITTED IN THE COURSE  
23 OF A ROBBERY, THEN WE HAVE IN EFFECT A SECOND TRIAL WITH THE  
24 SAME JURY AND THE PURPOSE OF THE SECOND HEARING OR TRIAL IS  
25 TO HAVE EVIDENCE BEFORE THE JURY ABOUT GOOD THINGS ABOUT THE  
26 DEFENDANT, WHICH WOULD MITIGATE THE OFFENSE HE COMMITTED, OR  
27 BAD THINGS ABOUT THE DEFENDANT, WHICH ARE AGGRAVATING  
28 CIRCUMSTANCES WHICH THE PEOPLE PRODUCE.

1                   SO AFTER THE JURY HAS HEARD ALL OF THAT, TOGETHER  
2 WITH WHAT THEY HAVE ALREADY HEARD ON THE GUILT PHASE OF THE  
3 TRIAL, AND THEY HEAR ABOUT THE AGE OF THE DEFENDANT, WHETHER  
4 HE HAD ANY PREVIOUS CRIMINAL RECORD, HIS CHARACTER, HIS BACK-  
5 GROUND, HIS MENTAL AND PHYSICAL CONDITION, ALL OF THOSE MUST  
6 BE CONSIDERED BY THE JURY BEFORE THEY DETERMINE WHAT PENALTY  
7 SHOULD BE IMPOSED.

8                   NOW, THERE ARE ONE OF THOSE POSSIBLE PENALTIES:  
9 LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE, IN OTHER  
10 WORDS, IF HE GOES TO PRISON HE NEVER UNDER ANY CIRCUMSTANCES  
11 GETS OUT AGAIN, OR IT IS DEATH; DO YOU UNDERSTAND THAT?

12                  MR. MATURAN: YES.

13                  THE COURT: I AM GOING TO RELATE A SERIES OF QUESTIONS  
14 WHICH RELATE TO YOUR STATE OF MIND, YOUR FEELINGS ABOUT THE  
15 DEATH PENALTY; DO YOU UNDERSTAND THAT?

16                  MR. MATURAN: YES.

17                  THE COURT: ALL RIGHT, NOW THE FIRST QUESTION I AM GOING  
18 TO ASK YOU IS: DO YOU HAVE ANY OPINION REGARDING THE DEATH  
19 PENALTY THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION  
20 AS TO THE GUILT OR INNOCENCE OF THE DEFENDANT?

21                  MR. MATURAN: MY OWN OPINION IS DEATH PENALTY.

22                  THE COURT: YOU BELIEVE IN THE DEATH PENALTY?

23                  MR. MATURAN: YES, I BELIEVE THIS.

24                  THE COURT: ASSUMING YOU BELIEVE IN THE DEATH PENALTY,  
25 WOULD YOUR BELIEF IN THE DEATH PENALTY PREVENT YOU FROM MAKING  
26 AN IMPARTIAL DECISION ON THE GUILT PHASE OF THE TRIAL, AN  
27 IMPARTIAL DECISION AS TO WHETHER THE DEFENDANT IS GUILTY OR  
28 NOT GUILTY OR WILL YOU LISTEN TO ALL OF THE EVIDENCE FIRST



1 BEFORE YOU DECIDE HE IS GUILTY?

2 MR. MATURAN: I DON'T QUITE UNDERSTAND YOUR HONOR.

3 MR. BARENS: YOUR HONOR, MAY WE APPROACH THE BENCH?

4 THE COURT: YES.

5 MR. BARENS: THANK YOU.

6 THE COURT: YOU ARE INCLUDED.

7 MR. WAPNER: I KNOW. I AM JUST WAITING FOR THE REPORTER.

8 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE  
9 HELD AT THE BENCH:)

10 MR. BARENS: WITH ALL DEFERENCE TO THE JUROR, YOUR  
11 HONOR, I FEEL THERE IS AN IRRECONCILABLE LANGUAGE PROBLEM  
12 HERE.

13 MR. WAPNER: THAT IS MY IMPRESSION.

14 THE COURT: WELL, LET ME ASK HIM A FEW MORE QUESTIONS.  
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1 MR. WAPNER: THAT IS WHAT I THOUGHT, TOO.

2 THE COURT: I WILL GIVE YOU A NOD AND SEE WHETHER OR  
3 NOT YOU WANT TO MAKE THE SAME MOTION TO DISQUALIFY HIM.

4 MR. BARENS: THANK YOU, YOUR HONOR.

5 (THE FOLLOWING PROCEEDINGS WERE HELD  
6 IN OPEN COURT:)

7 THE COURT: MR. MATURAN, WHERE WERE YOU BORN?

8 MR. MATURAN: IN THE PHILIPPINES.

9 THE COURT: THE PHILIPPINES?

10 MR. MATURAN: YES.

11 THE COURT: WHAT EDUCATION DID YOU HAVE?

12 MR. MATURAN: EDUCATION?

13 THE COURT: DID YOU GO TO SCHOOL?

14 MR. MATURAN: YEAH, JUST SECOND YEAR.

15 THE COURT: THE SENIOR YEAR IN HIGH SCHOOL?

16 MR. MATURAN: SECOND YEAR.

17 THE COURT REPORTER: SECOND YEAR IN HIGH SCHOOL?

18 MR. MATURAN: YES, SECOND YEAR IN HIGH SCHOOL.

19 THE COURT: IS YOUR KNOWLEDGE OF ENGLISH PRETTY GOOD?

20 MR. MATURAN: NOT MUCH. ENOUGH TO UNDERSTAND.

21 THE COURT: YOU PROBABLY DON'T UNDERSTAND EVERYTHING  
22 I HAVE SAID TO YOU, DO YOU?

23 MR. MATURAN: THE LAST -- THE LAST WORD I DON'T UNDERSTAND.

24 THE COURT: YOU DON'T UNDERSTAND? I SAID: DO YOU HAVE  
25 ANY OPINION REGARDING THE DEATH PENALTY THAT WOULD PREVENT  
26 YOU FROM MAKING AN IMPARTIAL DECISION AS TO THE GUILT OR INNOCENCE  
27 OF THE DEFENDANT?

28 YOU DON'T UNDERSTAND THAT?

1 MR. Maturan: THAT IS THE ONE I DIDN'T UNDERSTAND, YES.

2 THE COURT: WHAT IS YOUR ANSWER TO THAT?

3 MR. Maturan: I DON'T HAVE AN ANSWER. I DON'T HAVE ANY  
4 IDEA.

5 THE COURT: WHAT?

6 MR. Maturan: I DON'T HAVE ANY IDEA OF ANSWERING THAT  
7 QUESTION.

8 THE COURT: YOU DON'T KNOW WHAT THE QUESTION MEANS?

9 MR. Maturan: NO.

10 THE COURT: YOU DON'T KNOW, DO YOU?

11 MR. Maturan: NO, SIR.

12 THE COURT: ALL RIGHT. THANK YOU VERY MUCH, MR. Maturan.  
13 YOU GO TO THE JURY ASSEMBLY CLERK AND TELL THE CLERK THERE  
14 THAT YOU WON'T BE A JUROR IN THIS CASE, ALL RIGHT?

15 MR. Maturan: THANK YOU.

16 THE COURT: OR YOU CAN HAVE THEM EXCUSE YOU ALTOGETHER.  
17 TELL THEM THAT I SAID THAT YOU SHOULD BE EXCUSED FROM JURY  
18 DUTY, ALL RIGHT?

19 MR. Maturan: ALL RIGHT.

20 THE COURT: ALL RIGHT, THANK YOU.

21 MR. Maturan: THANK YOU VERY MUCH.

22 (PROSPECTIVE JUROR Maturan EXITS THE  
23 COURTROOM.)

24 (PROSPECTIVE JUROR MC CABLE ENTERS THE  
25 COURTROOM.)

26 THE COURT: GOOD MORNING, MR. MC CABLE, IS IT?

27 MR. MC CABLE: YES, THAT'S RIGHT.

28 THE COURT: MR. MC CABLE, WHERE DO YOU LIVE?

1 MR. MC CABLE: I LIVE IN WEST LOS ANGELES IN THE PALMS  
2 NEIGHBORHOOD.

3 THE COURT: HAVE YOU READ ANYTHING AT ALL ABOUT THIS  
4 CASE, DO YOU KNOW ANYTHING AT ALL ABOUT IT EXCEPT WHAT I TOLD  
5 ALL OF THE JURORS WHEN THEY WERE HERE A COUPLE OF WEEKS AGO?

6 MR. MC CABLE: YES, I HAVE.

7 THE COURT: WHAT HAVE YOU HEARD OR SEEN?

8 MR. MC CABLE: IT WAS PRIOR TO MY INVOLVEMENT AS A  
9 POTENTIAL JUROR ON THIS CASE, I READ ARTICLES ABOUT IT.

10 THE COURT: WHERE?

11 MR. MC CABLE: I THINK IN LOS ANGELES MAGAZINE, THERE  
12 WAS AN ARTICLE AND POSSIBLE IN THE L.A. WEEKLY AND IN THE LOS  
13 ANGELES TIMES, TOO, THERE WAS A STORY I SAW ABOUT IT.

14 THE COURT: WELL, YOU KNOW SOMETIMES NEWSPAPER AND  
15 PERIODICAL ACCOUNTS OF CASES MAY OR MAY NOT BE ACCURATE;  
16 YOU UNDERSTAND THAT, DON'T YOU?

17 MR. MC CABLE: RIGHT, I CERTAINLY DO.

18 THE COURT: IF YOU ARE SELECTED AS A JUROR ON THIS CASE  
19 IT WILL BE EXPECTED THAT YOU WILL BE COMPLETELY IMPARTIAL AND  
20 ERASE IT FROM YOUR MIND, IF IT IS HUMANLY POSSIBLE FOR YOU  
21 TO DO THAT?

22 MR. MC CABLE: THAT'S RIGHT.

23 THE COURT: THAT IS ALL REFERENCES TO ANY MATERIAL THAT  
24 YOU MIGHT HAVE READ SOME PLACE, IS THAT RIGHT, AND HAVE AN  
25 OPEN MIND AND YOU WILL RECEIVE THE EVIDENCE AND YOU WILL  
26 LET THAT REGISTER ON YOUR MIND INSTEAD OF WHAT YOU READ?

27 MR. MC CABLE: RIGHT.

28 THE COURT: AND YOU WILL DO THAT, WON'T YOU?

1 MR. MC CABLE: YES.

2 THE COURT: TELL US, AS FAR AS YOU CAN RECALL, WHAT THE  
3 FACTS ARE THAT YOU HAVE HEARD OR READ, RATHER?

4 MR. MC CABLE: WELL, OKAY, FOR STARTERS, AS SOON AS THE  
5 DEFENDANT WALKED INTO THE ROOM, I RECOGNIZED HIM FROM THE  
6 PHOTOGRAPHS THAT ACCOMPANIED THE STORIES.

7 THE COURT: YES.

8 MR. MC CABLE: AND THE LITTLE BIT THAT I REMEMBER ABOUT  
9 THE DEFENDANT SAID HE ATTENDED HARVARD SCHOOL, A PRIVATE BOY'S  
10 SCHOOL, AND THEN OVER THE YEARS HE BECAME INVOLVED IN SOME  
11 FINANCIAL DEALINGS AND HE HAD THE OPPORTUNITY TO DO BUSINESS  
12 WITH A VARIETY OF PEOPLE AND MANY OF THEM THAT HE WORKED WITH  
13 WERE HIS FELLOW STUDENTS FROM HIS DAYS AT HARVARD.

14 LET'S SEE WHAT ELSE, AND HE WAS REALLY THE ONE  
15 THAT WAS RESPONSIBLE FOR MANY OF THESE THINGS.

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1 THE COURT: WHAT THINGS?

2 MR. MC CABLE: THE RAISING OF THE MONEY.

3 THE COURT: YES?

4 MR. MC CABLE: AND SO FORTH.

5 THE COURT: WHAT ELSE?

6 MR. MC CABLE: I KNEW TOO, THAT HE WAS CHARGED WITH THE  
7 CRIME OF MURDER. AND THEN I THINK THAT THE BODY HAS NOT BEEN  
8 FOUND. THERE ARE OTHER THINGS, TOO. BUT THOSE I THINK, WOULD  
9 SUFFICE AS FAR AS SOME OF THE THINGS THAT I RECALL ABOUT THE  
10 CASE.

11 THE COURT: WELL, AS I SAID, WHAT ELSE IS IT THAT YOU  
12 RECALL ABOUT THE CASE?

13 MR. MC CABLE: LET'S SEE. WHAT COMES TO MIND IS THAT  
14 THE DEENDANT HAD AN ASSISTANT. AND I THINK THE ASSISTANT  
15 IS THE INDIVIDUAL THAT TURNED STATE'S EVIDENCE.

16 AND HE WAS THE ONE THAT HAS ACTUALLY BEEN CHARGED  
17 WITH COMMITTING THE CRIME OF MURDER UNDER THE DIRECTION OF  
18 THE DEFENDANT.

19 THE COURT: THE ONE YOU SAY WHO TURNED STATE'S EVIDENCE?

20 MR. MC CABLE: YES.

21 THE COURT: WHEN YOU SAY THAT, THAT IS EXACTLY WHAT  
22 I HAD IN MIND BEFORE BY SAYING THAT THESE FACTS THAT YOU READ  
23 ABOUT MAY OR MAY NOT BE TRUE.

24 MR. MC CABLE: MY MEMORY ALSO ISN'T ALWAYS THE BEST.

25 THE COURT: SO FAR AS THE LAST PART THAT YOU TOLD US,  
26 IT IS PROBABLY INACCURATE, ANYWAY. SO THAT IS WHY I WANT  
27 YOU TO FORGET EVERYTHING THAT YOU READ AND IF YOU ARE A JUROR,  
28 JUST BE GUIDED BY THE EVIDENCE.

8-2

1           NOW, YOU HAVE NOT PREJUDGED THE DEFENDANT IN ANY  
2 WAY, HAVE YOU?

3           MR. MC CABLE: NO.

4           THE COURT: YOU START OUT NOW AND THERE IS NO MINUS  
5 AND NO PLUS, IS THAT RIGHT?

6           MR. MC CABLE: RIGHT. I REALIZE HOW IMPORTANT THIS CASE  
7 IS AND WHAT MY RESPONSIBILITY WOULD BE AS A JUROR.

8           THE COURT: FINE. I AM GLAD THAT YOU THINK SO. THAT  
9 IS WHAT YOU SHOULD BE THINKING.

10           ALL RIGHT. NOW, YOU KNOW, HE IS CHARGED WITH  
11 MURDER IN THE FIRST DEGREE AND IT WAS COMMITTED DURING THE  
12 COURSE OF A ROBBERY.

13           IN THE COURSE OF A ROBBERY HAS SOME SPECIAL  
14 CIRCUMSTANCES BECAUSE THE LAW AND THE LEGISLATURE HAS SAID  
15 THAT WHEN MURDERS ARE COMMITTED UNDER CERTAIN CIRCUMSTANCES  
16 LIKE A MURDER COMMITTED IN THE COURSE OF A ROBBERY AS IN THIS  
17 CASE OR A BURGLARLY OR A RAPE OR A KIDNAPPING OR TORTURE  
18 OR MULTIPLE MURDERS, THEY HAVE A SPECIAL TREATMENT.

19           BY "SPECIAL TREATMENT" I MEAN THAT THEY QUALIFY  
20 FOR A POSSIBLE DEATH PENALTY.

21           MR. MC CABLE: RIGHT.

22           THE COURT: DO YOU UNDERSTAND? IF IT IS REQUESTED BY  
23 THE DISTRICT ATTORNEY, THEN THE JURY IS SELECTED AND THE JURY  
24 WHO IS SELECTED WILL FIRST DETERMINE THE GUILT PHASE, DID  
25 HE COMMIT THE MURDER AND WAS IT FIRST DEGREE MURDER AND WAS  
26 IT COMMITTED DURING THE COURSE OF A ROBBERY.

27           NOW, COMMITTED DURING THE COURSE OF A ROBBERY,  
28 THAT IS WHAT IS KNOWN AS A SPECIAL FINDING. WE CALL IT A

1 SPECIAL CIRCUMSTANCE. IN THE CASE OF A MURDER COMMITTED IN  
2 THE COURSE OF A BURGLARY, THE SPECIAL CIRCUMSTANCE IS THAT  
3 IT WAS COMMITTED IN THE COURSE OF A BURGLARY OR A RAPE AND  
4 SO ON AND SO FORTH.

5 SO, FIRST THE JURY DETERMINES THE GUILT OR  
6 INNOCENCE OF THE DEFENDANT. IF THEY FIND HIM GUILTY OF MURDER  
7 IN THE FIRST DEGREE, THEN THEY HAVE TO MAKE A FINDING, WAS  
8 IT IN THE COURSE OF A ROBBERY.

9 IF THE JURY SO FINDS, THEN WE START A SECOND PHASE  
10 OF THE TRIAL THAT IS KNOWN AS THE PENALTY PHASE.

11 DURING THE PENALTY PHASE, BOTH SIDES WILL ADDUCE  
12 ADDITIONAL TESTIMONY. THE DEFENSE WILL ADDUCE GOOD THINGS,  
13 FAVORABLE THINGS ABOUT THE DEFENDANT, HIS BACKGROUND AND SO  
14 ON AND SO FORTH. THE DISTRICT ATTORNEY WILL SHOW AGGRAVATING  
15 CIRCUMSTANCES, BAD THINGS ABOUT HIM.

16 AND THOSE THINGS ARE WEIGHED BY THE JURY, INCLUDING  
17 THE FACTS OF THE OFFENSE ITSELF OF WHICH HE HAS BEEN FOUND  
18 GUILTY, THE PRIOR CRIMINAL RECORD IF ANY, HIS CHARACTER, HIS  
19 BACKGROUND, HIS HISTORY, HIS MENTAL AND PHYSICAL CONDITION.

20 ALL OF THOSE FACTORS MUST BE CONSIDERED BY THE  
21 JURY AND THEY WILL TAKE IT INTO ACCOUNT AND BE GUIDED BY IT.  
22 DO YOU UNDERSTAND THAT?

23 MR. MC CABLE: UH-HUH.

24 THE COURT: I AM READING FROM AN INSTRUCTION OF THE  
25 LAW THAT I WILL GIVE YOU DURING THAT PHASE OF THE TRIAL.  
26 SO, YOU WILL TAKE IT INTO ACCOUNT AND BE GUIDED BY ALL OF  
27 THE FACTORS AND CONSIDER THEM AND NOT MAKE UP YOUR MIND AS  
28 TO WHAT THE PENALTY IS THAT SHOULD BE IMPOSED AND THE PENALTY



R-4  
1 WILL BE ONE OF TWO THINGS, LIFE WITHOUT POSSIBILITY OF PAROLE  
2 OR DEATH. OKAY?

3 MR. MC CABLE: YES.

4 THE COURT: NOW, I WILL ASK YOU A SERIES OF QUESTIONS  
5 AND WE WILL TRY TO SEARCH AND EXPLORE YOUR MIND AS TO YOUR  
6 OPINIONS AND FEELINGS ABOUT THE DEATH PENALTY.

7 NOW, THE FIRST QUESTION THAT I AM GOING TO ASK  
8 YOU RELATES TO THE GUILT PHASE OF IT. THE FIRST QUESTION  
9 IS, DO YOU HAVE ANY OPINION REGARDING THE DEATH PENALTY THAT  
10 WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION AS TO  
11 THE GUILT OR INNOCENCE OF THE DEFENDANT?

12 MR. MC CABLE: NO.

13 THE COURT: OKAY. NOW, THE SECOND QUESTION YOU KNOW,  
14 IF YOU FOUND HIM GUILTY OF MURDER IN THE FIRST DEGREE THEN  
15 THE QUESTION IS WHETHER OR NOT IT WAS COMMITTED DURING THE  
16 COURSE OF A ROBBERY. THAT IS THE THING WHERE YOU HAVE MADE  
17 A FINDING IS IT TRUE OR IS IT FALSE.

18 DO YOU HAVE ANY OPINION REGARDING THE DEATH PENALTY  
19 THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION  
20 CONCERNING THE TRUTH OR FALSITY OF THE SPECIAL CIRCUMSTANCES  
21 ALLEGED?

22 MR. MC CABLE: WELL, I DO HAVE VERY STRONG FEELINGS  
23 ABOUT THE DEATH PENALTY. I AM AGAINST IT.

24 THE COURT: YOU ARE AGAINST IT CATEGORICALLY?

25 MR. MC CABLE: ABSOLUTELY.

26 THE COURT: UNDER NO CIRCUMSTANCES WOULD YOU VOTE FOR  
27 THE DEATH PENALTY?

28 MR. MC CABLE: THERE IS NO WAY.

1 THE COURT: NO WAY?

2 MR. MC CABLE: I HAVE THOUGHT ABOUT IT OVER THE YEARS.  
3 THERE ARE CONSTANT EDITORIAL REMARKS MADE ABOUT IT. I CERTAINLY  
4 HAVE PAID ATTENTION TO THOSE.

5 THEN IN THE LAST COUPLE OF WEEKS, I HAVE THOUGHT  
6 ABOUT IT MUCH MORE SERIOUSLY. THERE IS NO WAY THAT I WOULD  
7 WANT TO BE RESPONSIBLE FOR PUTTING A MAN OR A WOMAN TO DEATH.

8 THE COURT: YOUR ANSWER TO THAT QUESTION, DO YOU HAVE  
9 SUCH AN OPINION CONCERNING THE DEATH PENALTY THAT YOU WOULD  
10 AUTOMATICALLY VOTE AGAINST IT, NO MATTER WHAT THE CIRCUMSTANCES  
11 ARE, IS WHAT?

12 MR. MC CABLE: YES. I WOULD.

13 MR. BARENS: THE DEFENSE SUBMITS.

14 MR. WAPNER: NO QUESTIONS, YOUR HONOR.

15 THE COURT: ALL RIGHT. THANK YOU VERY, VERY MUCH FOR  
16 YOUR CANDOR AND YOUR FRANKNESS. WE APPRECIATE IT VERY, VERY  
17 MUCH. YOU QUALIFY FOR SOME OTHER KINDS OF CASES.

18 PLEASE GO TO THE JURY ASSEMBLY ROOM AND TELL THEM  
19 THAT YOU ARE AVAILABLE FOR SOME OTHER CASE. THANK YOU VERY  
20 MUCH.

21 MR. WAPNER: YOUR HONOR, MAY I HAVE ONE MOMENT TO CALL  
22 THE OFFICE?

23 THE COURT: YES.

24 (PROSPECTIVE JUROR MC CABLE EXITED  
25 THE COURTROOM.)

26 (BRIEF PAUSE.)

27

28

1 (PROSPECTIVE JUROR DAMERELL ENTERS THE  
2 COURTROOM.)

3 THE COURT: IS THAT DAMERELL, IS THAT THE NAME?

4 MR. DAMERELL: YES.

5 THE COURT: ALL RIGHT, MR. DAMERELL, WHERE DO YOU LIVE?

6 MR. DAMERELL: SANTA MONICA.

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

9 MR. DAMERELL: YES, A LITTLE BIT.

10 THE COURT: WHAT HAVE YOU HEARD? WHAT HAVE YOU READ  
11 FIRST, IF ANYTHING?

12 MR. DAMERELL: I HAVE READ THAT --

13 THE COURT: WAS IT IN THE SANTA MONICA OUTLOOK?

14 MR. DAMERELL: NO.

15 IT WAS IN THE L.A. TIMES.

16 THE COURT: ALL RIGHT.

17 MR. DAMERELL: I JUST READ A SHORT PIECE IN THE L.A.  
18 TIMES.

19 THE COURT: WHEN WAS THAT?

20 MR. DAMERELL: IT WAS RIGHT BEFORE I WAS GOING TO BE  
21 COMING TO JURY DUTY.

22 THE COURT: WAS IT IN THE METRO SECTION OF THE L.A.  
23 TIMES, DO YOU REEMMBER?

24 MR. DAMERELL: I CAN'T REMEMBER.

25 I JUST REMEMBER --

26 THE COURT: WHAT DO YOU REMEMBER ABOUT THE CASE?

27 MR. DAMERELL: I JUST REMEMBERED THAT MR. HUNT WAS  
28 INVOLVED IN SOME FINANCIAL DEALINGS WITH SOME PEOPLE HE HAD

1 GONE TO SCHOOL WITH AND THAT SOMEHOW OR ANOTHER, SOMEONE GOT  
2 MURDERED. I AM NOT SURE --

3 THE COURT: YOU DON'T REMEMBER ANYTHING MORE THAN THAT?

4 MR. DAMERELL: NO.

5 THE COURT: ALL RIGHT, OF COURSE, YOU KNOW MANY, MANY  
6 TIMES IN READING ACCOUNTS OF SOMETHING THAT IT IS A LOT  
7 DIFFERENT THAN WHAT THE ACTUAL FACTS ARE. IT MAY OR MAY NOT  
8 BE TRUE, BUT WE CAN'T ACCEPT THEM AS BEING GOSPEL; YOU UNDER-  
9 STAND THAT, DON'T YOU?

10 MR. DAMERELL: RIGHT.

11 THE COURT: WHAT I AM GOING TO ASK YOU TO DO, OF COURSE,  
12 IS TO FORGET EVERYTHING YOU HAVE READ ABOUT THIS PARTICULAR  
13 MATTER AND JUST BE GUIDED ONLY BY THE EVIDENCE THAT YOU HEAR  
14 IN THIS TRIAL IF YOU ARE SELECTED AS A JUROR AND YOU ARE WILLING  
15 TO DO THAT, AREN'T YOU?

16 MR. DAMERELL: YES.

17 THE COURT: YOU HAVEN'T DISCUSSED THIS MATTER WITH ANY  
18 OF THE JURORS, HAVE YOU?

19 MR. DAMERELL: NO.

20 THE COURT: GOOD.

21 JUST TO SUMMARIZE THE NATURE OF THE CASE SO AS  
22 TO USE THAT AS A BACKGROUND, PRELIMINARILY I WILL ASK YOU A  
23 NUMBER OF QUESTIONS AND THEY ALL HAVE TO DO WITH TOUCHING UPON  
24 YOUR ATTITUDE TOWARDS AND YOUR BELIEF ABOUT THE DEATH PENALTY.

25 FIRST, YOU KNOW THAT THE DEFENDANT HAS BEEN  
26 CHARGED WITH THE COMMISSION OF MURDER AND THAT MURDER WAS  
27 COMMITTED DURING THE COURSE OF A ROBBERY, SO ON THE GUILT  
28 PHASE OF THE TRIAL, WHICH IS THE FIRST PART OF THE TRIAL,

1 ON THAT PHASE YOU WILL HAVE TO DETERMINE WHETHER OR NOT THE  
2 DEFENDANT IS GUILTY BEYOND A REASONABLE DOUBT OF MURDER IN  
3 THE FIRST DEGREE AND THEN THEY WILL HAVE TO ANSWER THE QUESTION  
4 WHETHER OR NOT THAT MURDER WAS COMMITTED DURING THE COURSE  
5 OF A ROBBERY.

6 NOW, IN THE COURSE OF A ROBBERY IS SIGNIFICANT  
7 BECAUSE THE LEGISLATURE HAS SAID THAT NOT EVERY MURDER CALLS  
8 FOR THE DEATH PENALTY OR CONSIDERATION OF THE DEATH PENALTY  
9 EVEN IF IT IS MURDER IN THE FIRST DEGREE AND IT IS DELIBERATE  
10 AND PREMEDITATED AND PLANNED. IT IS ONLY WHEN THE MURDER HAS  
11 BEEN COMMITTED UNDER SPECIAL CIRCUMSTANCES, LIKE IN THE COURSE  
12 OF A ROBBERY IN THIS CASE, OR A BURGLARY, A KIDNAPPING, OF  
13 A RAPE, TORTURE, MULTIPLE MURDERS AT THE SAME TIME, ALL OF  
14 THOSE QUALIFY FOR A POSSIBLE DEATH SENTENCE OR DEATH PENALTY;  
15 DO YOU UNDERSTAND THAT?

16 SO THE FIRST PHASE OF THE TRIAL IS WHAT IS KNOWN  
17 AS THE GUILT PHASE WHERE THE QUESTION OF PENALTY NEVER COMES  
18 UP. THAT COMES UP LATER, IF IT DOES AT ALL.

19 IN THE FIRST PHASE, THE JURY DETERMINES WHETHER  
20 OR NOT THE DEFENDANT IS GUILTY OR NOT GUILTY OF MURDER IN THE  
21 FIRST DEGREE. IF THEY SAY HE IS GUILTY OF MURDER IN THE FIRST  
22 DEGREE, THEN THEY HAVE A QUESTION TO ANSWER: IS IT TRUE OR  
23 FALSE THAT IT WAS COMMITTED DURING THE COURSE OF A ROBBERY.

24 IF THEY SAY IT WAS COMMITTED DURING THE COURSE  
25 OF A ROBBERY, THEN THE PENALTY ASPECT COMES IN: SHOULD IT  
26 BE LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE OR SHOULD  
27 IT BE DEATH?

28 SO THE FIRST PHASE OF THE CASE IS ONLY IF THE JURY

1 FINDS THE DEFENDANT GUILTY OF MURDER IN THE FIRST DEGREE AND  
2 IT WAS COMMITTED IN THE COURSE OF A ROBBERY, THEN THE JURY  
3 CONSIDERS ON THE SECOND PHASE OF THE TRIAL KNOWN AS THE  
4 PENALTY PHASE, THE JURY IS TO DETERMINE WHAT PENALTY SHOULD  
5 BE IMPOSED. THE JURY WILL THEN HEAR EVIDENCE FROM THE  
6 DEFENDANT AND FROM THE PROSECUTION AND THE PURPOSE OF THAT  
7 EVIDENCE, THE DEFENDANT WILL TRY TO SHOW AND ATTEMPT TO SHOW  
8 THAT HE IS A PERSON WHO OTHERWISE IS GOOD, GOOD THINGS ABOUT  
9 HIM, FAVORABLE THINGS ABOUT HIM TO WEIGH WITH THE JURY AND  
10 THE PROSECUTION WILL SHOW AGGRAVATING CIRCUMSTANCES, BAD  
11 THINGS ABOUT HIM, WHICH WILL ALSO BE CONSIDERED.

12 THE JURY WILL ALSO CONSIDER ALL OF THE FACTS OF  
13 THE CRIME ITSELF, THEY HAVE A RIGHT TO CONSIDER THAT AND MUST  
14 CONSIDER IT.

15 THEY MUST ALSO CONSIDER THE AGE OF THE DEFENDANT,  
16 THE PRIOR BACKGROUND AND PARTICULARLY WITH RESPECT TO WHETHER  
17 OR NOT HE HAS A CRIMINAL BACKGROUND OR ABSENCE OF A CRIMINAL  
18 BACKGROUND. HE HAS NEVER BEEN IN TROUBLE OF ANY KIND, THAT  
19 IS ALSO A FACTOR TO BE TAKEN INTO CONSIDERATION AND MUST BE  
20 CONSIDERED BY THE JURY. AND ALSO HIS BACKGROUND, HIS HISTORY,  
21 HIS MENTAL AND PHYSICAL CONDITION AND FACTORS OF THAT KIND  
22 WHICH THE COURT WILL ENUMERATE FOR YOU AT THE TIME OF THE  
23 PENALTY PHASE OF THE TRIAL.

24 YOU WILL LISTEN TO ALL OF THAT AND THEN MAKE UP  
25 YOUR MIND WHETHER IT SHOULD BE LIFE IMPRISONMENT WITHOUT THE  
26 POSSIBILITY OF PAROLE OR DEATH.

27 AND LIFE WITHOUT THE POSSIBILITY OF PAROLE MEANS  
28 EXACTLY THAT, THERE IS NEVER ANY PAROLE. HE GOES TO PRISON,

1 THEN HE GOES TO PRISON FOR LIFE AND NEVER GETS PAROLED; DO  
2 YOU UNDERSTAND THAT?

3 (PROSPECTIVE JUROR DAMERELL NODS HIS HEAD  
4 UP AND DOWN.)

5 THE COURT: NOW, THAT IS ALL AS A PRELIMINARY TO DETERMINE  
6 WHAT YOUR ATTITUDE IS TOWARD THE DEATH PENALTY. I WILL ASK  
7 YOU A SERIES OF QUESTIONS SO WE CAN TRY TO FIND OUT HOW YOU  
8 FEEL ABOUT IT?

9 MR. DAMERELL: OKAY.

10 THE COURT: NOW THE FIRST TWO QUESTIONS RELATE TO THE  
11 GUILT PHASE: DO YOU HAVE ANY OPINION REGARDING THE DEATH PENALTY  
12 THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION AS  
13 TO THE GUILT OR INNOCENCE OF THE DEFENDANT?

14 MR. DAMERELL: NO.

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1 THE COURT: NOW, THE SECOND QUESTION HAS TO DO WITH  
2 THE SPECIAL CIRCUMSTANCE. I TOLD YOU THAT THE SPECIAL  
3 CIRCUMSTANCE IS THAT THE MURDER WAS COMMITTED DURING THE COURSE  
4 OF A ROBBERY. THE JURY SAYS TRUE OR FALSE AFTER THEY HAVE  
5 BROUGHT IN A VERDICT THAT IT WAS MURDER IN THE FIRST DEGREE,  
6 IF THEY DO.

7 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 CIRCUMSTANCES?

10 MR. DAMERELL: I DON'T UNDERSTAND.

11 THE COURT: WELL, I TOLD YOU THAT THE JURY FIRST  
12 DETERMINES THE GUILT OR INNOCENCE OF THE DEFENDANT. IF THEY  
13 FIND THAT HE IS GUILTY OF MURDER IN THE FIRST DEGREE, THEN  
14 THEY ARE CALLED UPON TO ANSWER THE QUESTION, IS IT TRUE OR  
15 FALSE THAT HE COMMITTED IT DURING THE COURSE OF A ROBBERY.  
16 THAT IS THE SPECIAL CIRCUMSTANCE.

17 MR. DAMERELL: OKAY.

18 THE COURT: NOW, DO YOU HAVE ANY OPINION ABOUT THE DEATH  
19 PENALTY SUCH THAT IT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL  
20 DECISION AS TO THAT PARTICULAR FINDING?

21 MR. DAMERELL: I FEEL VERY STRONGLY ON THE DEATH PENALTY.

22 THE COURT: IN FAVOR?

23 MR. DAMERELL: IN FAVOR.

24 THE COURT: IN FAVOR OF THE DEATH PENALTY, BUT AT ANY  
25 RATE, WE ARE NOT ON THE DEATH PENALTY, ARE WE?

26 MR. DAMERELL: BUT I WOULD --

27 THE COURT: IS YOUR FEELING ABOUT THE DEATH PENALTY  
28 SUCH THAT YOU WOULD ABSOLUTELY VOTE FOR THE SPECIAL CIRCUMSTANCE



1 WITHOUT CONSIDERING THE EVIDENCE IN THE CASE?

2 MR. DAMERELL: THAT A ROBBERY WAS --

3 THE COURT: YES.

4 MR. DAMERELL: NO. I WOULD --

5 THE COURT: YOU WOULD BE GUIDED BY THE TESTIMONY?

6 MR. DAMERELL: YES.

7 THE COURT: NOW WE COME TO THE PENALTY PHASE OF IT.

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?

12 MR. DAMERELL: YES. I THINK I WOULD.

13 THE COURT: YOU WOULD, WITHOUT EVEN LISTENING TO ANY  
14 OF THE TESTIMONY IN THE PENALTY PHASE?

15 MR. DAMERELL: I FEEL THAT YOU KNOW, REGARDLESS OF WHAT  
16 THE LAW IS, THAT ANYONE THAT IS CONVICTED OF MURDER --

17 THE COURT: YOU MEAN ANYBODY COMMITTING A MURDER IN  
18 THE COURSE OF A ROBBERY IMMEDIATELY SHOULD BE SENT TO THE  
19 GAS CHAMBER? IS THAT IT?

20 MR. DAMERELL: YES.

21 THE COURT: YOU ARE SURE ABOUT THAT?

22 MR. DAMERELL: YES.

23 THE COURT: NOTHING WILL CHANGE YOUR MIND? NO FACTS  
24 WILL CHANGE YOUR MIND?

25 MR. DAMERELL: I HAVE THOUGHT ABOUT IT. I DON'T THINK  
26 SO.

27 THE COURT: WELL, THE LAW IS THAT YOU DON'T SEND THEM  
28 TO THE GAS CHAMBER. YOU DON'T VOTE FOR DEATH UNTIL YOU HAVE

1 HEARD ALL OF THE TESTIMONY FAVORABLE AND UNFAVORABLE.

2 BUT YOU SAY THAT IT DOESN'T MAKE ANY DIFFERENCE  
3 WHAT THE TESTIMONY IS, YOU NONETHELESS WOULD VOTE FOR THE  
4 DEATH PENALTY?

5 MR. DAMERELL: IF IT WOULD BE ONE OF TWO OPTIONS, I  
6 THINK I PROBABLY WOULD.

7 THE COURT: WELL NOW, WHAT IS IT, PROBABLY OR WOULD  
8 YOU?

9 MR. DAMERELL: I WOULD.

10 THE COURT: YOU WOULD DEFINITELY?

11 MR. DAMERELL: YES.

12 THE COURT: IS THAT CORRECT?

13 MR. DAMERELL: UNLESS I WAS GIVEN SOME KIND OF DIRECTION  
14 BY YOU THAT UNDER SUCH CIRCUMSTANCES I COULD NOT.

15 THE COURT: NO. NO, THE ONLY DIRECTION I WILL GIVE  
16 YOU IS THAT YOU ARE TO CONSIDER ALL OF THE EVIDENCE WHICH  
17 WILL BE PRESENTED ON THE PENALTY PHASE WHICH I HAVE  
18 ENUMERATED FOR YOU AND THAT YOU WILL HEAR ALL OF THE EVIDENCE  
19 AND NOT MAKE UP YOUR MIND UNTIL YOU HAVE HEARD ALL OF IT,  
20 WEIGHING ALL OF THOSE FACTORS AND THEN MAKE UP YOUR MIND AS  
21 TO WHETHER IT SHOULD BE ONE OR THE OTHER.

22 BUT YOUR STATE OF MIND IS SUCH THAT ONCE YOU FIND  
23 THAT THE MAN COMMITTED A MURDER IN THE FIRST DEGREE IN THE  
24 COURSE OF A ROBBERY, YOU WOULD VOTE THE DEATH PENALTY?

25 MR. DAMERELL: YES.

26 MR. BARENS: I HAVE A MOTION, YOUR HONOR.

27 MR. WAPNER: I HAVE NO QUESTIONS.

28 THE COURT: ALL RIGHT. THANK YOU VERY MUCH FOR YOUR

1 FRANKNESS AND YOUR CANDOR. I APPRECIATE IT.

2 WHAT YOU WILL DO IS TO GO BACK TO THE JURY ASSEMBLY  
3 ROOM AND TELL THE JURY CLERK THERE THAT YOU WILL QUALIFY IN  
4 SOME OTHER CASE BUT NOT IN THIS ONE.

5 MR. DAMERELL: OKAY.

6 THE COURT: THANK YOU. YOU MAY SERVE IN SOME OTHER  
7 CASE. TELL HER NOT TO ASSIGN YOU OUT ON ANY MURDER CASE.

8 MR. DAMERELL: ALL RIGHT.

9 (PROSPECTIVE JUROR DAMERELL EXITED  
10 THE COURTROOM.)

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1 (PROSPECTIVE JUROR DELROWCINI ENTERED  
2 THE COURTROOM.)

3 THE COURT: IS THAT DELROWCINI?

4 MR. DELROWCINI: YES.

5 THE COURT: IF IT IS ITALIAN, SOMETIMES THEY PRONOUNCE  
6 IT DELROWCINI. BUT YOU SAY DELROWCINI?

7 MR. DELROWCINI: YES. ITALIAN.

8 THE COURT: ALL RIGHT. MR. DELROWCINI, WHERE DO YOU  
9 LIVE?

10 MR. DELROWCINI: NORTHRIDGE.

11 THE COURT: AND HAVE YOU READ ANYTHING AT ALL ABOUT  
12 THIS CASE?

13 MR. DELROWCINI: NO.

14 THE COURT: NO MAGAZINE OR NEWSPAPER OR ANYTHING?

15 MR. DELROWCINI: NO.

16 THE COURT: YOU HAVE NOT DISCUSSED IT WITH ANY JURORS  
17 OR THIRD PARTIES AT ALL, HAVE YOU?

18 MR. DELROWCINI: NO.

19 THE COURT: ALL RIGHT. YOUR MIND IS COMPLETELY BLANK  
20 EXCEPT WHAT I TOLD YOU WHEN YOU WERE ALL HERE TOGETHER, IS  
21 THAT RIGHT?

22 MR. DELROWCINI: YES.

23 THE COURT: LET ME BRIEFLY SUMMARIZE THIS. THE DEFENDANT  
24 IS CHARGED WITH THE COMMISSION OF THE CRIME OF MURDER AND  
25 MURDER IN THE FIRST DEGREE, IN THAT IT WAS COMMITTED DURING  
26 THE COURSE OF A ROBBERY.

27 IN THE COURSE OF A ROBBERY HAS A SPECIAL  
28 SIGNIFICANCE BECAUSE THE LEGISLATURE HAS SAID -- WELL, FIRST

1 OF ALL, NOT EVERY MURDER, PLANNED, DELIBERATE, PREMEDITATED,  
2 IS PUNISHABLE BY DEATH OR LIFE WITHOUT POSSIBILITY OF PAROLE.  
3 DO YOU UNDERSTAND THAT?

4 MR. DELROWCINI: YES.

5 THE COURT: IT IS ONLY WHERE THERE ARE SPECIAL  
6 CIRCUMSTANCES ATTENDING THAT PARTICULAR MURDER THAT THE DEATH  
7 PENALTY MIGHT COME INTO PLAY.

8 ONE OF THOSE IN THIS CASE IS WHETHER A MURDER  
9 WAS COMMITTED DURING THE COURSE OF A ROBBERY. THE LEGISLATURE  
10 HAS SAID SIMILARLY THAT IN CASES WHERE A MURDER IS COMMITTED  
11 IN THE COURSE OF A BURGLARY OR KIDNAPPING OR RAPE OR TORTURE  
12 OR MULTIPLE MURDERS, THEY QUALIFY FOR THE DEATH PENALTY IF  
13 THE DISTRICT ATTORNEY REQUESTS IT. DO YOU UNDERSTAND THAT?

14 MR. DELROWCINI: YES.

15 THE COURT: THAT IS WHY WE ARE HERE NOW, TO DETERMINE  
16 WHAT YOUR ATTITUDE IS TOWARD THE DEATH PENALTY.

17 SO, THE FIRST PHASE OF THE TRIAL IS WHAT IS KNOWN  
18 AS THE GUILT PHASE. DURING THE GUILT PHASE, THE FACTS WITH  
19 RESPECT TO THE ALLEGED MURDER AND ROBBERY WILL BE PRESENTED  
20 TO THE JURY.

21 AFTER THE EVIDENCE HAS BEEN CONCLUDED AND YOU  
22 RETIRE TO THE JURY ROOM, THEN YOU WILL DECIDE WHETHER OR NOT  
23 THE DEFENDANT IS GUILTY OR NOT GUILTY OF MURDER IN THE FIRST  
24 DEGREE.

25 IF THEY DECIDE HE IS GUILTY OF MURDER IN THE FIRST  
26 DEGREE, THEN THEY HAVE TO DECIDE THE COLLATERAL QUESTION,  
27 WAS IT COMMITTED DURING THE COURSE OF A ROBBERY. THAT IS  
28 THE SPECIAL CIRCUMSTANCE THAT I TOLD YOU ABOUT. ALL RIGHT?

1 IF THEY DO UNANIMOUSLY DECIDE THAT IT WAS  
2 COMMITTED DURING THE COURSE OF A ROBBERY, THEN WE GO THROUGH  
3 A SECOND PHASE OF THE TRIAL WHERE THE SAME JURY LISTENS TO  
4 ADDITIONAL EVIDENCE PRESENTED BY THE DEFENDANT AND PRESENTED  
5 BY THE PROSECUTION.

6 THE EVIDENCE PRESENTED BY THE DEFENDANT WOULD  
7 TRY TO SHOW THAT THE DEFENDANT IS ESSENTIALLY A GOOD MAN AND  
8 THAT THERE ARE FAVORABLE FACTORS ABOUT HIS LIFE, HIS BACKGROUND,  
9 HIS ABSENCE OF CRIMINAL ACTIVITY AND ANY OTHER FACTORS IN  
10 HIS HISTORY OR HIS MENTAL AND PHYSICAL CONDITION WHICH MIGHT  
11 BE FAVORABLE TOWARD HIM.

12 THE PROSECUTION ON THE OTHER HAND, WILL SHOW  
13 AGGRAVATING CIRCUMSTANCES TO AGGRAVATE THE OFFENSE, WHICH  
14 ARE BAD THINGS ABOUT HIM AND THE THINGS HE MIGHT HAVE DONE  
15 IN THE PAST. DO YOU UNDERSTAND THAT?

16 THEN THE JURY MAKES UP ITS MIND ON THE PENALTY,  
17 SHOULD IT BE LIFE WITHOUT POSSIBILITY OF PAROLE OR DEATH.

18 INCIDENTALLY, LIFE WITHOUT POSSIBILITY OF PAROLE  
19 MEANS EXACTLY THAT. IF A PERSON IS SENTENCED TO LIFE WITHOUT  
20 POSSIBILITY OF PAROLE, THERE IS NO PAROLE.

21 AND SECONDLY, THEY DECIDE WHETHER OR NOT IT SHOULD  
22 BE DEATH IN THE GAS CHAMBER. DO YOU UNDERSTAND THAT?

23 MR. DELROWCINI: YES.

24 THE COURT: ALL RIGHT. WITH ALL OF THAT, I AM SIMPLY  
25 GOING TO ASK YOU CERTAIN QUESTIONS TO EXPLORE YOUR STATE OF  
26 MIND AS TO THE DEATH PENALTY. OKAY?

27 MR. DELROWCINI: YES.

28 THE COURT: NOW, THE FIRST QUESTION OR THE FIRST TWO

1 QUESTIONS HAVE TO DO WITH THE GUILT PHASE OF IT. WE HAVE  
2 NOT DECIDED ANY QUESTION OF PENALTY.

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

6 MR. DELROWCINI: NO.

7 THE COURT: AND SECOND, STILL ON THE GUILT PHASE OF  
8 IT, THE JURY WILL IF THEY FIND HIM GUILTY OF MURDER IN THE  
9 FIRST DEGREE, THEY WILL HAVE TO DECIDE WHETHER OR NOT IT WAS  
10 COMMITTED DURING THE COURSE OF A ROBBERY WITH SPECIAL  
11 CIRCUMSTANCES. YOU HAVE TO SAY THAT IT IS TRUE OR FALSE THAT  
12 HE DID IT.

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1 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 CIRCUMSTANCE?

5 MR. DELROWCINI: NO.

6 THE COURT: NOW, THE NEXT TWO QUESTIONS HAVE TO DO WITH,  
7 SUPPOSING THE DEFENDANT HAD BEEN CONVICTED OF MURDER IN THE  
8 FIRST DEGREE AND IT WAS DURING THE COURSE OF A ROBBERY, NOW  
9 WE ARE ON THE PENALTY PHASE: DO YOU HAVE SUCH AN OPINION  
10 CONCERNING THE DEATH PENALTY THAT YOU WOULD AUTOMATICALLY VOTE  
11 TO IMPOSE THE DEATH PENALTY REGARDLESS OF ANY EVIDENCE THAT  
12 MAY BE PRESENTED AT THE PENALTY PHASE OF THE TRIAL?

13 MR. DELROWCINI: NO.

14 THE COURT: AND THE NEXT QUESTION IS THE SAME TYPE OF  
15 QUESTION, ONLY IT RELATES TO LIFE IMPRISONMENT WITHOUT THE  
16 POSSIBILITY OF PAROLE: DO YOU HAVE SUCH AN OPINION CONCERNING  
17 THE DEATH PENALTY THAT YOU WOULD AUTOMATICALLY VOTE FOR LIFE  
18 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE REGARDLESS OF  
19 ANY EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY PHASE OF  
20 THE TRIAL?

21 MR. DELROWCINI: NO.

22 THE COURT: AND LASTLY, DO YOU UNDERSTAND THAT THE  
23 ISSUE OF THE DEATH PENALTY MAY OR MAY NOT TAKE PLACE IN THIS  
24 CASE AND THAT THESE QUESTIONS HAVE BEEN ASKED ONLY IN THE  
25 EVENT THAT YOU REACH THE PENALTY PHASE OF THE TRIAL?

26 MR. DELROWCINI: YES.

27 THE COURT: ALL RIGHT.

28 MR. BARENS: GOOD MORNING, SIR.



1 MR. DELROWCINI: GOOD MORNING.

2 MR. BARENS: MY NAME IS ARTHUR BARENS AND I REPRESENT  
3 JOE HUNT, THE DEFENDANT IN THIS CASE, AND IT IS MY DUTY AT  
4 THIS JUNCTURE, AS IT WAS OF HIS HONOR, TO ASK YOU CERTAIN  
5 QUESTIONS REGARDING YOUR POINT OF VIEW ON THE DEATH PENALTY.

6 MR. DELROWCINI: OKAY.

7 MR. BARENS: THERE ARE NO RIGHT OR WRONG ANSWERS TO MY  
8 QUESTIONS. THERE ARE NO GOOD ANSWERS OR BAD ANSWERS. JUST  
9 YOUR OPINION.

10 MR. DELROWCINI, HOW DO YOU FEEL ABOUT THE DEATH  
11 PENALTY AS A GENERAL PROPOSITION IN OUR SOCIETY?

12 MR. DELROWCINI: I THINK IT HAS TO DEPEND ON THE CASE  
13 AND, YOU KNOW, THE CIRCUMSTANCES.

14 MR. BARENS: WHEN YOU SAY "CIRCUMSTANCES" WOULD YOU  
15 UNDERSTAND THAT WHEN YOU HAD TO MAKE THE LIFE OR DEATH DECISION  
16 ON MY CLIENT, IF WE EVER GET TO THAT, YOU WOULD ALREADY HAVE  
17 COME TO A BELIEF BEYOND A REASONABLE DOUBT THAT AN INTENTIONAL  
18 MURDER HAD OCCURRED IN THE FIRST DEGREE DURING THE COMMISSION  
19 OF A ROBBERY, DO YOU FEEL THAT GIVEN NOTHING ELSE, DEFENDANTS  
20 WHO COMMIT ROBBERIES WHERE A MURDER OCCURS SHOULD BE GIVEN  
21 THE DEATH PENALTY?

22 MR. DELROWCINI: NO.

23 MR. BARENS: WOULD YOU LISTEN TO ALL OF THE EVIDENCE  
24 CONCERNING FACTORS IN AGGRAVATION, WHICH THE JUDGE TALKED ABOUT,  
25 AND IN MITIGATION, GOOD STUFF, BEFORE YOU MADE THE LIFE OR  
26 DEATH DECISION?

27 MR. DELROWCINI: CERTAINLY.

28 MR. BARENS: DO YOU FEEL THAT YOU WOULD BE CAPABLE OF

1 MAKING A DECISION IN EITHER DIRECTION?

2 MR. DELROWCINI: YES.

3 MR. BARENS: DO YOU UNDERTAND THAT ALTHOUGH WE ARE  
4 HERE TALKING ABOUT YOUR VIEWS ON THE DEATH PENALTY, THAT THERE  
5 IS NO REASON FOR YOU TO BELIEVE THAT MR. HUNT HAS DONE ANYTHING  
6 WRONG OR IS GUILTY OF ANYTHING OR NOT GUILTY OF ANYTHING JUST  
7 BECAUSE WE ARE TALKING ABOUT HIS?

8 MR. DELROWCINI: YES.

9 MR. BARENS: YOU HAVEN'T HEARD ANY EVIDENCE EITHER WAY,  
10 HAVE YOU?

11 MR. DELROWCINI: O.

12 MR. BARENS: PASS FOR CAUSE, YOUR HONOR.

13 THANK YOU, SIR.

14 MR. WAPNER: GOOD MORNING, MR. DELROWCINI. I AM FRED  
15 WAPNER, THE DEPUTY D.A. WHO IS PROSECUTING THIS CASE.

16 MR. DELROWCINI: GOOD MORNING.

17 MR. WAPNER: HAD YOU GIVEN ANY THOUGHT TO THE QUESTION  
18 OF THE DEATH PENALTY BEFORE YOU WERE CALLED AS A JUROR ON THIS  
19 CASE?

20 MR. DELROWCINI: BEFORE THE JUDGE TALKED ABOUT IT OR --

21 MR. WAPNER: BEFORE THIS CASE, LIKE WHEN IT WAS ON THE  
22 BALLOT OR NEWSPAPER OR ANYTHING LIKE THAT?

23 MR. DELROWCINI: YES.

24 MR. WAPNER: AND WHAT WAS YOUR GENERAL FEELING?

25 MR. DELROWCINI: THAT IT IS PRETTY EXTREME BUT IN SOME  
26 CASES IT IS NECESSARY, I BELIEVE.

27 MR. WAPNER: I WANT TO GIVE YOU A HYPOTHETICAL SITUATION  
28 BASED ON SOMETHING THAT MR. BARENS ASKED: IMAGINE THAT YOU

1 WERE SITTING ON THIS JURY AND YOU HAVE HEARD ALL OF THE  
2 EVIDENCE ON THE GUILT AND THE PENALTY PHASE AND NOW YOU ARE  
3 IN THE JURY ROOM DELIBERATING AND YOU ARE TRYING TO DECIDE  
4 WHAT THE APPROPRIATE PUNISHMENT SHOULD BE. IF YOU THINK THAT  
5 THE EVIDENCE PROVES THAT DEATH IS THE APPROPRIATE PUNISHMENT,  
6 ARE YOU CAPABLE OF VOTING FOR THAT PENALTY?

7 MR. DELROWCINI: YES.

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1 MR. WAPNER: AND ON THE OTHER HAND, IF YOU THINK THAT  
2 THE EVIDENCE SUPPORTS THE PENALTY OF LIFE IMPRISONMENT WITHOUT  
3 THE POSSIBILITY OF PAROLE, YOU ARE CAPABLE OF RENDERING THAT  
4 VERDICT?

5 MR. DELROWCINI: YES.

6 MR. WAPNER: ARE THE OPINIONS THAT YOU HAVE ABOUT THE  
7 DEATH PENALTY ROOTED IN SOME RELIGIOUS, PHILOSOPHICAL OR  
8 MORAL BASIS?

9 MR. DELROWCINI: NO.

10 MR. WAPNER: WOULD YOU HOLD -- STRIKE THAT -- I WILL  
11 GO BACK A LITTLE BIT.

12 THE JUDGE IS GOING TO TELL YOU THAT ON THE GUILT  
13 PHASE OF THE CASE THE STANDARD OF PROOF IS PROOF BEYOND A  
14 REASONABLE DOUBT. WILL YOU TAKE IT UPON YOURSELF TO IMPOSE  
15 A HIGHER STANDARD ON THE PROSECUTION BECAUSE YOU KNEW THAT  
16 THE DEATH PENALTY MIGHT BE LURKING SOMEWHERE IN THE BACKGROUND?

17 DO YOU UNDERSTAND THAT?

18 MR. DELROWCINI: COULD YOU REPEAT THAT?

19 THE COURT: I WILL TELL YOU WHAT THE LAW IS FIRST. THE  
20 LAW IS THAT IN EVERY CRIMINAL CASE, IT DOESN'T MAKE A  
21 DIFFERENCE WHETHER IT IS A SLIGHT MISDEMEANOR OR SPEEDING OR  
22 MURDER, THE CRITERIA IS ALWAYS THE SAME: THAT THE DEFENDANT  
23 MUST BE PROVED GUILTY BEYOND A REASONABLE DOUBT AND YOU WILL  
24 ADOPT THAT STANDARD FOR THIS CASE, AS WELL AS ANY OTHER CASE  
25 WHICH YOU MIGHT SIT ON IN A CRIMINAL CASE; IS THAT RIGHT?

26 MR. DELROWCINI: YES.

27 THE COURT: ALL RIGHT.

28 MR. WAPNER: THANK YOU. I WILL PASS FOR CAUSE, YOUR

1 HONOR.

2 THE COURT: ALL RIGHT, YOU HAVE BEEN ACCEPTED AS A  
3 POSSIBLE JUROR IN THIS CASE SO WHAT I WILL ASK YOU TO DO IS  
4 TO COME BACK TOMORROW AND JOIN ALL OF THE OTHER JURORS WHO  
5 HAVE BEEN SIMILARLY ACCEPTED, COME TO THE JURY ASSEMBLY ROOM  
6 AT 10:30 IN THE MORNING.

7 MR. DELROWCINI: OKAY.

8 THE COURT: WE WILL HAVE YOU ALL BACK HERE AGAIN AND,  
9 HOPEFULLY, WE WILL DECIDE TO START THE TRIAL.

10 MR. DELROWCINI: OKAY.

11 THE COURT: THAT IS TOMORROW MORNING AT 10:30.

12 MR. DELROWCINI: OKAY. THANK YOU.

13 THE COURT: IN THE JURY ASSEMBLY ROOM.

14 MR. DELROWCINI: ALL RIGHT.

15 (PROSPECTIVE JUROR DELROWCINI EXITS THE  
16 COURTROOM.)

17 (PROSPECTIVE JUROR DOMINGUEZ ENTERS THE  
18 COURTROOM.)

19 THE COURT: ALL RIGHT, MR. DOMINGUEZ.

20 MR. BARENS: COULD WE CONCLUDE THIS JUROR BEFORE WE BREAK?

21 THE COURT: YES.

22 MR. BARENS: YES, I WOULD LIKE TO DO ONE MORE BEFORE  
23 WE BREAK SO I CAN CONCLUDE WITH THIS JUROR, YOUR HONOR.

24 THE COURT: YES. WE WILL CONCLUDE WITH THIS JUROR.

25 MR. BARENS: YES, YOUR HONOR.

26 THE COURT: AREN'T YOU GOING TO BE HERE THIS AFTERNOON?

27 MR. BARENS: MR. CHIER WILL BE HERE, YOUR HONOR.

28 THE COURT: WE WILL HAVE ALL OF THESE OTHER JURORS THIS

1 AFTERNOON.

2 MR. BARENS: IT IS AGREEABLE WITH ME.

3 THE COURT: YOU WON'T BE HERE.

4 MR. BARENS: I HAVE A MAJOR PROBLEM IN THAT REGARD  
5 TODAY, YOUR HONOR.

6 THE COURT: ALL RIGHT. THAT IS MR. DOMINGUEZ, IS THAT  
7 IT?

8 MR. DOMINGUEZ: DOMINGUEZ.

9 THE COURT: DOMINGUEZ?

10 MR. DOMINGUEZ: YES.

11 THE COURT: WHERE DO YOU LIVE?

12 MR. DOMINGUEZ: I LIVE IN VENICE.

13 THE COURT: VENICE?

14 MR. DOMINGUEZ: YEAH.

15 THE COURT: HAVE YOU READ ANYTHING AT ALL ABOUT THIS  
16 CASE OR KNOW ANYTHING ABOUT IT EXCEPT WHAT I TOLD YOU WHEN  
17 YOU WERE ALL HERE TOGETHER?

18 MR. DOMINGUEZ: NO, JUST WHAT YOU TOLD US THE FIRST DAY,  
19 YES.

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1 THE COURT: WHAT I AM GOING TO DO IS BRIEFLY SUMMARIZE  
2 THE NATURE OF THE CASE WE ARE ABOUT TO TRY AND GIVE YOU SOME  
3 ASPECTS OF IT AND THEN ASK YOU SOME QUESTIONS. THE PURPOSE  
4 OF THE QUESTIONS WILL BE TO DETERMINE WHAT YOUR STATE OF MIND  
5 IS WITH RESPECT TO THE DEATH PENALTY; DO YOU UNDERSTAND THAT?

6 MR. DOMINGUEZ: YES.

7 THE COURT: SO WHEN I USE THE WORD "DEATH PENALTY" IT  
8 INCLUDES TWO THINGS: LIFE IMPRISONMENT WITHOUT THE POSSIBILITY  
9 OF PAROLE AND THAT MEANS EXACTLY THAT, NO POSSIBILITY OF  
10 PAROLE, OR DEATH IN THE GAS CHAMBER; DO YOU UNDERSTAND?

11 MR. DOMINGUEZ: I UNDERSTAND.

12 THE COURT: NOW, THE JURY WHICH WILL BE SELECTED IN THIS  
13 CASE WILL FIRST HAVE TO DECIDE WHETHER OR NOT THE DEFENDANT  
14 IS GUILTY OR NOT GUILTY OF MURDER IN THE FIRST DEGREE.

15 IF THEY DECIDE HE IS GUILTY OF MURDER IN THE FIRST  
16 DEGREE, IT DOESN'T STOP THERE. THEY HAVE TO DECIDE WHETHER  
17 OR NOT THAT MURDER WAS COMMITTED IN THE COURSE OF A ROBBERY.

18 YOU KNOW, IT ISN'T EVERY MURDER IN THE FIRST  
19 DEGREE THAT CALLS FOR A LIFE IMPRISONMENT WITHOUT THE  
20 POSSIBILITY OF PAROLE OR DEATH. IT IS ONLY CERTAIN TYPES  
21 OF MURDERS WHICH ARE COMMITTED UNDER CERTAIN SPECIAL  
22 CIRCUMSTANCES.

23 NOW, AS IN THIS CASE, THE SPECIAL CIRCUMSTANCE  
24 WHICH QUALIFIES THIS CASE FOR THE DEATH PENALTY IS: WAS IT  
25 COMMITTED DURING THE COURSE OF A ROBBERY? THE LAW IS THAT  
26 A MURDER COMMITTED DURING THE COURSE OF A ROBBERY OR IN THE  
27 COURSE OF A BURGLARY OR IN THE COURSE OF A RAPE OR IN THE COURSE  
28 OF A KIDNAPPING OR IN THE COURSE OF TORTURE OR WHEN A CHILD

1 IS KILLED AS A RESULT OF MOLESTATION, OR A NUMBER OF OTHER  
2 INSTANCES, THE LEGISLATURE HAS SAID THAT THOSE CASES QUALIFY  
3 FOR THE DEATH PENALTY, IN OTHER WORDS, IT MAY BE METED OUT  
4 IF THE CIRCUMSTANCES WARRANT IT; DO YOU UNDERSTAND THAT?

5 MR. DOMINGUEZ: I UNDERSTAND.

6 THE COURT: SO THE FIRST THING THE JURY WILL BE CALLED  
7 UPON TO DECIDE ON WHAT WE CALL THE GUILT PHASE IS: IS THE  
8 DEFENDANT GUILTY OR NOT GUILTY OF MURDER IN THE FIRST DEGREE?

9 IF THEY FIND HIM TO BE GUILTY OF MURDER IN THE  
10 FIRST DEGREE, THEN THEY HAVE THE SPECIAL CIRCUMSTANCE, A  
11 COLLATERAL QUESTION, WAS IT COMMITTED DURING THE COURSE OF  
12 A ROBBERY?

13 IF THEY SAY AND VOTE UNANIMOUSLY THAT IT WAS  
14 COMMITTED IN THE COURSE OF A ROBBERY, THEN WE HAVE A SECOND  
15 COLLATERAL -- A SECOND PHASE OF THE TRIAL THAT HAS TO DO WITH  
16 THE PENALTY, WE CALL IT THE PENALTY PHASE.

17 NOW, THE SAME JURY LISTENS TO ADDITIONAL EVIDENCE,  
18 ADDITIONAL TESTIMONY AND THE PURPOSE OF THAT TESTIMONY ON THE  
19 PART OF THE DEFENDANT WILL BE TO SHOW ESSENTIALLY, YOU KNOW,  
20 NICE THINGS ABOUT HIM, HIS BACKGROUND, HIS HISTORY AND SO ON  
21 AND SO FORTH AND THE PROSECUTION -- THEY CALL IT MITIGATING  
22 CIRCUMSTANCES -- AND THE PROSECUTION WILL TRY TO INTRODUCE  
23 EVIDENCE OF AGGRAVATING CIRCUMSTANCES, THINGS ABOUT HIM WHICH  
24 WERE NOT NICE, BAD, AND SO ON AND SO FORTH. THE JURY THEN  
25 WEIGHS ALL OF THAT. THEY WEIGH EVERYTHING THAT THEY HAVE HEARD  
26 ON THE GUILT PHASE, ALL OF THE TESTIMONY FROM THE CRIME, THEY  
27 HEAR EVIDENCE OF HIS AGE, OF HIS LACK OF ANY CRIMINAL RECORD  
28 OR HAVING A RECORD, THEY HEAR EVIDENCE OF HIS HISTORY, HIS



1 CHARACTER AND HIS MENTAL AND PHYSICAL CONDITION, ALL OF THOSE  
2 THINGS ARE HEARD BY THE JURY AND THEN THEY GO TO THE JURY ROOM  
3 AND DELIBERATE AND MAKE UP THEIR MIND AS TO WHAT PENALTY TO  
4 IMPOSE: ONE, SHALL IT BE LIFE IMPRISONMENT WITHOUT THE  
5 POSSIBILITY OF PAROLE?

6 OR TWO, SHALL IT BE DEATH?

7 DO YOU UNDERSTAND?

8 MR. DOMINGUEZ: UH-HUH.

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1 THE COURT: I HAVE QUESTIONS TO ASK YOU TO EXPLORE YOUR  
2 STATE OF MIND WITH RESPECT TO YOUR OPINIONS REGARDING THE  
3 DEATH PENALTY AND HOW IT WILL AFFECT YOU IN DECIDING THOSE  
4 QUESTIONS THAT I HAVE BEEN TALKING ABOUT. DO YOU UNDERSTAND  
5 THAT?

6 MR. DOMINGUEZ: UH-HUH.

7 THE COURT: NOW, THE FIRST TWO QUESTIONS RELATE TO THE  
8 GUILT PHASE, GUILTY OR NOT GUILTY AND SO FORTH. NOW, THE  
9 FIRST QUESTION I AM GOING TO ASK YOU IS: DO YOU HAVE ANY  
10 OPINION REGARDING THE DEATH PENALTY THAT WOULD PREVENT YOU  
11 FROM MAKING AN IMPARTIAL DECISION AS TO THE GUILT OR INNOCENCE  
12 OF THE DEFENDANT?

13 MR. DOMINGUEZ: NO.

14 THE COURT: ALL RIGHT. AND THE SECOND ONE IS STILL  
15 ON THE GUILT PHASE. DO YOU REMEMBER THAT I TOLD YOU ABOUT  
16 THE SPECIAL CIRCUMSTANCE, THE TRUTH OR FALSITY OF THE SPECIAL  
17 CIRCUMSTANCE, THAT IT WAS COMMITTED IN THE COURSE OF A ROBBERY?  
18 THAT WILL HAVE TO BE ANSWERED BY THE JURY TRUE OR FALSE.

19 DO YOU HAVE ANY OPINION REGARDING THE DEATH PENALTY  
20 THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION  
21 CONCERNING THE TRUTH OR FALSITY OF THE SPECIAL CIRCUMSTANCES?

22 MR. DOMINGUEZ: NO.

23 THE COURT: ALL RIGHT. THE NEXT TWO QUESTIONS HAVE  
24 TO DO WITH THE PENALTY PHASE OF THE TRIAL. YOU HAVE ALREADY  
25 DECIDED THE GUILT.

26 DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH  
27 PENALTY THAT YOU WOULD AUTOMATICALLY VOTE FOR THE DEATH PENALTY  
28 REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY

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1 PHASE OF THE TRIAL?

2 MR. DOMINGUEZ: NO.

3 THE COURT: ALL RIGHT. THE SAME QUESTION RELATING NOW  
4 TO LIFE WITHOUT POSSIBILITY OF PAROLE. DO YOU HAVE SUCH AN  
5 OPINION CONCERNING THE DEATH PENALTY THAT YOU WOULD  
6 AUTOMATICALLY VOTE FOR LIFE WITHOUT POSSIBILITY OF PAROLE,  
7 REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY  
8 PHASE OF THE TRIAL?

9 MR. DOMINGUEZ: NO.

10 THE COURT: ALL RIGHT. NOW, DO YOU UNDERSTAND THAT  
11 THE ISSUE OF THE DEATH PENALTY MAY OR MAY NOT OCCUR IN THIS  
12 CASE AND THESE QUESTIONS HAVE BEEN ASKED ONLY IN THE EVENT  
13 THAT YOU REACH THAT PHASE OF THE TRIAL? IS THAT RIGHT?

14 MR. DOMINGUEZ: I UNDERSTAND.

15 THE COURT: ALL RIGHT.

16 MR. BARENS: THANK YOU, YOUR HONOR.

17 GOOD MORNING, MR. DOMINGUEZ. I AM ARTHUR BARENS.  
18 I REPRESENT JOE HUNT, THE DEFENDANT IN THIS CASE.

19 AND AS HIS HONOR DID, I AM GOING TO ASK YOU SOME  
20 QUESTIONS ABOUT YOUR POINT OF VIEW ON THE DEATH PENALTY. YOU  
21 UNDERSTAND, THAT THERE ARE NO RIGHT OR WRONG ANSWERS TO MY  
22 QUESTIONS. THERE ARE NO GOOD OR BAD ANSWERS, JUST YOUR  
23 OPINION.

24 MR. DOMINGUEZ: YES.

25 MR. BARENS: MR. DOMINGUEZ, HOW DO YOU FEEL ABOUT THE  
26 DEATH PENALTY AS A GENERAL IDEA OR PROPOSITION IN OUR SOCIETY?

27 MR. DOMINGUEZ: WELL, I BELIEVE THAT IF A MAN IS FOUND  
28 GUILTY AND GETS THE DEATH PENALTY --

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1 MR. BARENS: NOW, YOU SAY THAT IF HE IS FOUND GUILTY.  
2 DO YOU MEAN MR. DOMINGUEZ, IF HE IS FOUND GUILTY OF MURDER  
3 IN THE FIRST DEGREE? INTENTIONAL MURDER?

4 MR. DOMINGUEZ: YES.

5 MR. BARENS: DURING THE COMMISSION OF A ROBBERY, HE  
6 SHOULD AUTOMATICALLY GET THE DEATH PENALTY?

7 MR. DOMINGUEZ: YES.

8 THE COURT: WELL, I ASKED YOU THAT QUESTION. I ASKED  
9 YOU, DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH PENALTY  
10 THAT YOU WOULD AUTOMATICALLY VOTE TO IMPOSE THE DEATH PENALTY  
11 REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY  
12 PHASE OF THE TRIAL?

13 YOUR ANSWER WAS NO.

14 MR. DOMINGUEZ: NO. AUTOMATICALLY? NO.

15 THE COURT: WELL, THAT IS WHAT HE ASKED YOU.

16 MR. BARENS: YOU SEE, I GET A SENSE FROM YOU,  
17 MR. DOMINGUEZ, THAT YOU KNOW, YOU MIGHT BELIEVE THAT A GUY  
18 WHO INTENTIONALLY TAKES SOMEBODY'S LIFE DURING A ROBBERY,  
19 WE SHOULD GIVE THOSE PEOPLE THE DEATH PENALTY. IS THAT YOUR  
20 FEELING?

21 MR. DOMINGUEZ: IF HE IS PROVEN GUILTY, YES.

22 MR. BARENS: RIGHT. WELL, WE WILL NEVER TALK ABOUT  
23 THIS QUESTION, MR. DOMINGUEZ, UNLESS YOU BELIEVE BEYOND A  
24 REASONABLE DOUBT THAT THE DEFENDANT IS GUILTY.

25 WHAT I AM ASKING YOU AND WHAT THE JUDGE IS ASKING  
26 YOU IS, WHEN WE GET TO THAT POINT, YOU HAVE ALREADY DECIDED  
27 THE MURDER WAS COMMITTED INTENTIONALLY AND IT WAS DURING A  
28 ROBBERY.

1 AT THAT POINT IN TIME, IS IT YOUR OPINION THAT  
2 THE DEFENDANT SHOULD GET THE DEATH PENALTY?

3 MR. DOMINGUEZ: NO.

4 MR. BARENS: THAT IS NOT YOUR OPINION?

5 MR. DOMINGUEZ: NO.

6 MR. BARENS: OKAY. I AM A LITTLE CONFUSED. SO I NEED  
7 YOU TO HELP ME OUT.

8 EARLIER, YOU TOLD ME THAT YOU BELIEVED THAT A  
9 MAN WHO INTENTIONALLY KILLED SOMEBODY DURING A ROBBERY, SHOULD  
10 GET THE DEATH PENALTY. TO MY LAST QUESTION, YOU SAID YOU  
11 DON'T BELIEVE THAT. NOW, I KNOW YOU DON'T THINK BOTH WAYS.  
12 SO ONE OF THEM IS TRUE.

13 MR. DOMINGUEZ: WELL, THE LAST ONE.

14 MR. BARENS: WHAT IS YOUR OPINION?

15 MR. DOMINGUEZ: I DON'T BELIEVE IT.

16 THE COURT: WELL, YOU SEE, YOUR QUESTION IS INCOMPLETE.  
17 THAT IS THE REASON I IMAGINE HE GAVE THE ANSWER THAT HE DID.

18 STOPPING RIGHT THERE WITHOUT SAYING, BEFORE HE  
19 MAKES UP HIS MIND ON THE PENALTY PHASE AND HEARS THE GOOD  
20 AND THE BAD THINGS ABOUT THE DEFENDANT -- THAT I THINK, IS  
21 A LITTLE BIT MISLEADING.

22 MR. BARENS: THANK YOU, YOUR HONOR.

23 MR. DOMINGUEZ, IF YOU HEARD EVIDENCE ABOUT A  
24 DEFENDANT WHO HAD COMMITTED A MURDER DURING A ROBBERY, EVIDENCE  
25 ABOUT HIS AGE, EVIDENCE ABOUT WHETHER OR NOT HE HAD A PRIOR  
26 CRIMINAL RECORD, EVIDENCE OF WHETHER HE COMMITTED ANY VIOLENT  
27 CRIMES IN THE PAST, WOULD YOU CONSIDER THAT BEFORE YOU  
28 DECIDED WHETHER A DEFENDANT SHOULD LIVE OR DIE? OR, WOULD

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YOU BELIEVE THAT BECAUSE YOU WERE CONVINCED THAT HE HAD  
COMMITTED A FIRST DEGREE MURDER DURING A ROBBERY, THAT HE  
SHOULD GET THE DEATH PENALTY?

MR. DOMINGUEZ: NO.

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1 MR. BARENS: NO WHAT, SIR?

2 MR. DOMINGUEZ: WELL, I DON'T BELIEVE THAT YOU KNOW,  
3 HE SHOULD GET IT. IF HE IS FOUND GUILTY --

4 MR. BARENS: BECAUSE HE IS FOUND GULITY, DOESN'T  
5 AUTOMATICALLY MEAN THAT HE SHOULD GET THE DEATH PENALTY?

6 MR. DOMINGUEZ: NO.

7 MR. BARENS: WOULD YOU CONSIDER LIKE THE JUDGE SAID,  
8 ALL OF THE EVIDENCE ABOUT THE DEFENDANT'S CHARACTER, BACKGROUND  
9 AND SO ON BEFORE YOU MADE A DECISION?

10 MR. DOMINGUEZ: YES, I WOULD.

11 MR. BARENS: DO YOU BELIEVE THAT GIVEN A CHOICE BETWEEN  
12 LIFE AND DEATH FOR MY CLIENT IF WE EVER GET TO THAT, THAT  
13 YOU WOULD BE REALLY MAKING A CHOICE IN THE PENALTY PHASE?  
14 WOULD YOU BE OPEN-MINDED WHEN YOU GOT THERE?

15 MR. DOMINGUEZ: YES.

16 MR. BARENS: WOULD YOUR BELIEF SYSTEM NOW -- STRIKE  
17 THAT.

18 MR. DOMINGUEZ, I UNDERSTAND THAT YOU ARE IN FAVOR  
19 OF THE DEATH PENALTY. IS THAT TRUE?

20 MR. DOMINGUEZ: IF IT COMES TO THAT, YES.

21 MR. BARENS: WOULD YOU BE CAPABLE OF VOTING FOR LIFE  
22 WITHOUT POSSIBILITY OF PAROLE FOR A DEFENDANT CONVICTED OF  
23 COMMITTING A MURDER DURING A ROBBERY?

24 MR. DOMINGUEZ: YES.

25 MR. BARENS: YOU COULD VOTE FOR LIFE WITHOUT POSSIBILITY  
26 OF PAROLE?

27 MR. DOMINGUEZ: YES.

28 MR. BARENS: YOU WOULDN'T ALWAYS SAY THAT THAT TYPE

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1 OF A DEFENDANT SHOULD GET THE DEATH PENALTY?

2 MR. DOMINGUEZ: NO.

3 MR. BARENS: THE DEFENDANT AS WELL AS THE PROSECUTION  
4 IS ENTITLED TO A NEUTRAL JUROR, NEUTRAL IN THE GUILT PHASE,  
5 NEUTRAL ON THE PENALTY PHASE.

6 KNOWING OF YOUR BELIEF IN THE DEATH PENALTY, DO  
7 YOU CONSIDER YOURSELF IN YOUR HEART OF HEARTS, TRULY NEUTRAL  
8 WHEN IT WOULD COME TO A POINT WHERE WE WOULD HAVE TO DECIDE  
9 IF WE DO, WHETHER MY CLIENT LIVES OR DIES?

10 MR. DOMINGUEZ: WOULD I BE NEUTRAL, YOU SAY?

11 MR. BARENS: YES, SIR.

12 MR. DOMINGUEZ: I THINK SO, YES.

13 MR. BARENS: AND OPEN-MINDED?

14 MR. DOMINGUEZ: YES.

15 MR. BARENS: WOULD YOUR BELIEF IN THE DEATH PENALTY  
16 SUBSTANTIALLY IMPAIR YOUR MAKING A CHOICE AS TO WHETHER MY  
17 CLIENT WOULD GET THE DEATH PENALTY OR LIFE WITHOUT POSSIBILITY  
18 OF PAROLE?

19 MR. DOMINGUEZ: NO.

20 MR. BARENS: YOU COULD BE FAIR AND OPEN-MINDED IN MAKING  
21 THAT DECISION, NO MATTER HOW YOU FEEL ABOUT THE DEATH PENALTY?

22 MR. DOMINGUEZ: RIGHT.

23 MR. BARENS: YOU WOULD LISTEN TO ALL OF THE EVIDENCE?

24 MR. DOMINGUEZ: YES.

25 MR. BARENS: NOW MR. DOMINGUEZ, EVEN THOUGH WE ARE HERE  
26 DISCUSSING THE DEATH PENALTY AND MY CLIENT IS SITTING THERE,  
27 DO YOU HAVE IN YOUR MIND, ANY REASON TO BELIEVE HE IS GUILTY  
28 OF ANYTHING?



1 MR. DOMINGUEZ: WELL, I DON'T KNOW.

2 MR. BARENS: YOU HAVE NOT HEARD ANY EVIDENCE AND THE  
3 FACT THAT WE ARE DISCUSSING THIS, WE MAY NEVER COME TO A  
4 PENALTY PHASE IF THE JURY FINDS HIM NOT GUILTY. DO YOU  
5 UNDERSTAND THAT?

6 MR. DOMINGUEZ: UH-HUH.

7 MR. BARENS: AND YOU DON'T HAVE ANY REASON TO BELIEVE  
8 THAT HE IS GUILTY NOW, DO YOU?

9 MR. DOMINGUEZ: NO.

10 MR. BARENS: THANK YOU, SIR. I PASS FOR CAUSE.

11 THE COURT: DO YOU PASS FOR CAUSE?

12 MR. WAPNER: MR. DOMINGUEZ, YOU SAID YOU HAD NOT READ  
13 OR HEARD ANYTHING ABOUT THIS CASE.

14 MR. DOMINGUEZ: NO. JUST THAT FIRST DAY WHEN I WAS  
15 HERE, WHAT THE JUDGE SAID.

16 THE COURT: YES.

17 MR. WAPNER: THANK YOU. I PASS FOR CAUSE.

18 THE COURT: ALL RIGHT, MR. DOMINGUEZ, YOU QUALIFY TO  
19 BE A JUROR IN THIS CASE. WHAT YOU WILL DO NOW, IS COME BACK  
20 TOMORROW MORNING AT 10:30 INTO THE JURY ASSEMBLY ROOM. THERE  
21 WILL BE ALL OF THE OTHER JURORS WAITING, THE SAME AS YOU WERE  
22 WAITING TODAY TO COME INTO COURT AND START THE TRIAL.

23 MR. DOMINGUEZ: TOMORROW AT 10:30?

24 THE COURT: TOMORROW AT 10:30 IN THE JURY ASSEMBLY ROOM.  
25 THANK YOU.

26 (PROSPECTIVE JUROR DOMINGUEZ EXITED  
27 THE COURTROOM.)

28 MR. WAPNER: IS THAT 1:30?

1 THE COURT: YOU DON'T THINK YOU WILL BE HERE?

2 MR. BARENS: I WILL MAKE AN EFFORT. I CAN'T REPRESENT  
3 THAT I CAN.

4 I HAD MADE A COMMITMENT THAT I AM GOING TO TRY  
5 TO MODIFY AT THIS POINT.

6 HOWEVER, I UNDERSTAND WE HAVE THREE REMAINING  
7 FROM THIS MORNING TO BE DONE AND THEN YOU ARE GOING TO PROCEED  
8 WITH THE PANEL. I AM GOING TO DO MY BEST.

9 THE COURT: ALL RIGHT. THANK YOU.

10 (AT 12:02 P.M. A RECESS WAS TAKEN  
11 UNTIL 1:30 P.M. OF THE SAME DAY.)

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1 SANTA MONICA, CALIFORNIA; WEDNESDAY, DECEMBER 3, 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 (PROSPECTIVE JUROR DUNDORE ENTERED

7 THE COURTROOM.)

8 THE COURT: IS THAT DUNDORE?

9 MR. DUNDORE: DUNDORE.

10 THE COURT: MR. DUNDORE, GOOD AFTERNOON.

11 WHERE DO YOU LIVE?

12 MR. DUNDORE: I LIVE IN PACIFIC PALISADES.

13 THE COURT: DO YOU KNOW ANYTHING AT ALL OR HAVE YOU  
14 READ ANYTHING AT ALL ABOUT THIS CASE?

15 MR. DUNDORE: NO.

16 THE COURT: NOTHING AT ALL, EXCEPT WHAT I TOLD YOU WHEN  
17 YOU WERE ALL HERE TOGETHER; IS THAT RIGHT?

18 MR. DUNDORE: THAT IS THE EXTENT OF IT.

19 THE COURT: THE PURPOSE OF THE BACKGROUND OF THE QUESTIONS  
20 I AM GOING TO ASK YOU IS THAT I WANT TO BRIEFLY TELL YOU WHAT  
21 THE CASE IS ABOUT AND ASK YOUR OPINION ABOUT CERTAIN THINGS.

22 FIRST, YOU KNOW THAT THE CHARGE AGAINST THE  
23 DEFENDANT IS THAT HE COMMITTED A MURDER AND THAT THIS WAS  
24 MURDER IN THE FIRST DEGREE AND THAT IT WAS COMMITTED IN THE  
25 COURSE OF A ROBBERY.

26 NOW, IN THE COURSE OF A ROBBERY IS SIGNIFICANT  
27 FOR THIS REASON: THAT THE LEGISLATURE HAS SAID THAT THERE  
28 ARE CERTAIN -- NOT EVERY MURDER, YOU KNOW, CALLS FOR THE DEATH

1 PENALTY EVEN IF IT IS A DELIBERATE, PREMEDITATED AND PLANNED  
2 MURDER. IT IS ONLY WHERE IT IS ACCOMPANIED BY CERTAIN SPECIAL  
3 CIRCUMSTANCES THAT IT QUALIFIES FOR THE DEATH PENALTY.

4 NOT THAT, OF COURSE, THE DEATH PENALTY NECESSARILY  
5 MUST BE IMPOSED IN EVERY ONE OF THE CASES BUT IT IS SOMETHING  
6 FOR THE JURY TO CONSIDER.

7 NOW, THE SPECIAL CIRCUMSTANCE ALLEGED IN THIS  
8 CASE IS IT WAS COMMITTED DURING THE COURSE OF A ROBBERY AND  
9 THAT QUALIFIES THIS FOR THE DEATH PENALTY AND THE LEGISLATURE  
10 SAYS THERE ARE OTHER TYPES OF MURDERS ALSO ACCOMPANIED BY  
11 SPECIAL CIRCUMSTANCES LIKE BURGLARY, LIKE RAPE, MURDER COMMITTED  
12 DURING THE COURSE OF A KIDNAPPING, TORTURE AND MULTIPLE MURDERS,  
13 THEY ALL QUALIFY FOR THE DEATH PENALTY.

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1           SO CONSEQUENTLY, THE JURY SELECTED IN THIS CASE  
2 WILL FIRST HAVE TO DETERMINE WHETHER OR NOT THE DEFENDANT WAS  
3 GUILTY OR NOT GUILTY OF MURDER. AND IF GUILTY, WHETHER IT  
4 WAS MURDER COMMITTED IN THE FIRST DEGREE.

5           IF THEY FIND THAT HE WAS GUILTY OF MURDER IN THE  
6 FIRST DEGREE, THEN THEY HAVE A COLLATERAL QUESTION TO DECIDE,  
7 WHETHER IT WAS SPECIAL CIRCUMSTANCES, WAS IT COMMITTED IN THE  
8 COURSE OF A ROBBERY.

9           IF THEY FIND IT WAS COMMITTED IN THE COURSE OF  
10 A ROBBERY, THEN THE SAME JURY WILL HEAR ADDITIONAL EVIDENCE  
11 IN THE CASE WHICH THEY WILL CONSIDER.

12           THE PURPOSE OF THAT ADDITIONAL TESTIMONY WILL BE  
13 FOR THE DEFENDANT TO TELL YOU ALL OF THE GOOD THINGS ABOUT  
14 HIMSELF AND HIS BACKGROUND AND CHARACTER AND SO FORTH.

15           THE PROSECUTION WILL TELL YOU BAD THINGS ABOUT  
16 HIM WHICH WILL MILITATE AGAINST ANY FAVORABLE CONSIDERATION  
17 THAT YOU MIGHT HAVE.

18           THAT IS, THOSE ARE THE FACTORS THAT ARE FAVORABLE  
19 THAT ARE PRODUCED BY THE DEFENDANT AND THE UNFAVORABLE FACTORS  
20 ARE PRODUCED BY THE PEOPLE.

21           AFTER HEARING ALL OF THAT AND THE FACTS OF THE  
22 CRIME ITSELF AND AFTER CONSIDERING THE AGE OF THE DEFENDANT,  
23 HIS PRIOR CRIMINAL ACTIVITIES IF ANY, HIS LACK OF THEM, HIS  
24 CHARACTER, HIS PRIOR HISTORY, MENTAL AND PHYSICAL CONDITION  
25 AND ALL OF THOSE MATTERS WILL BE CONSIDERED BY THE JURY ON  
26 THE SECOND PHASE OF THE TRIAL WHICH IS THE PENALTY PHASE.

27           WE WON'T REACH THE PENALTY PHASE UNLESS THERE HAS  
28 BEEN A UNANIMOUS DECISION BY THE JURORS BEYOND A REASONABLE

1 DOUBT THAT THE DEFENDANT IS GUILTY OF MURDER IN THE FIRST  
2 DEGREE AND BEYOND A REASONABLE DOUBT IT WAS COMMITTED DURING  
3 THE COURSE OF A ROBBERY. DO YOU UNDERSTAND THAT?

4 MR. DUNDORE: YES.

5 THE COURT: WITH ALL OF THAT PREAMBLE, I AM GOING TO  
6 ASK YOU CERTAIN QUESTIONS WHICH ARE INTENDED FOR THE PURPOSE  
7 OF EXPLORING YOUR STATE OF MIND AS TO THE DEATH PENALTY.

8 NOW, THE FIRST TWO QUESTIONS I WILL ASK YOU ARE  
9 RELATED ONLY TO THE GUILT PHASE OF THE TRIAL. IN OTHER WORDS,  
10 I WILL ASK YOU FIRST, DO YOU HAVE AN OPINION REGARDING THE  
11 DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL  
12 DECISION AS TO THE GUILT OR THE INNOCENCE OF THE DEFENDANT?

13 MR. DUNDORE: NO.

14 THE COURT: ALL RIGHT. THE SECOND ONE IS ALSO RELATED  
15 TO THE GUILT PHASE. DO YOU HAVE ANY OPINION REGARDING THE  
16 DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL  
17 DECISION CONCERNING THE TRUTH OR FALSITY OF THE SPECIAL CIRCUMSTANCES  
18 ALLEGED IN THIS CASE?

19 MR. DUNDORE: NO.

20 THE COURT: NOW, THE NEXT QUESTIONS RELATE TO THE PENALTY  
21 PHASE OF IT, ASSUMING THE DEFENDANT NOW HAS BEEN FOUND GUILTY  
22 OF MURDER IN THE FIRST DEGREE WITH SPECIAL CIRCUMSTANCES.

23 THE NEXT QUESTION IS, DO YOU HAVE SUCH AN OPINION  
24 CONCERNING THE DEATH PENALTY THAT YOU WILL AUTOMATICALLY VOTE  
25 TO IMPOSE THE DEATH PENALTY REGARDLESS OF ANY EVIDENCE THAT  
26 MAY BE PRESENTED ON THE PENALTY PHASE OF THE TRIAL?

27 MR. DUNDORE: NO.

28 THE COURT: ALL RIGHT. NOW, THERE IS A COLLATERAL

1 QUESTION WHICH IS ALMOST THE SAME. BUT IT RELATES TO LIFE  
2 WITHOUT POSSIBILITY OF PAROLE.

3 DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH  
4 PENALTY THAT YOU WOULD AUTOMATICALLY VOTE FOR LIFE WITHOUT  
5 POSSIBILITY OF PAROLE, REGARDLESS OF ANY EVIDENCE THAT MAY  
6 BE PRESENTED IN THE PENALTY PHASE OF THIS TRIAL?

7 MR. DUNDORE: NO.

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

12 MR. DUNDORE: YES.

13 THE COURT: ALL RIGHT. YOU MAY INQUIRE.

14 MR. CHIER: GOOD AFTERNOON.

15 THE COURT: THE WORST IS YET TO COME.

16 MR. CHIER: MY NAME IS RICHARD CHIER, MR. DUNDORE. I  
17 REPRESENT MR. HUNT, THE DEFENDANT.

18 I WOULD LIKE TO ASK YOU SOME QUESTIONS ALONG THE  
19 LINES OF THE QUESTIONS PROPOUNDED TO YOU BY HIS HONOR, WHICH  
20 ARE INTENDED TO REALLY SEE IF THERE IS ANY KIND OF A KNEE-JERK  
21 REACTION TO SOME OF THESE BUZZ WORDS LIKE "DEATH PENALTY" AND  
22 "MURDER" AND THINGS LIKE THAT.

1           THERE NOT BEING ANY, SIR, I WOULD LIKE TO THEN  
2 PROBE ON A LITTLE DIFFERENT LEVEL AND I WILL TELL YOU THAT  
3 THIS WHOLE SYSTEM DEPENDS UPON CANDOR IN YOUR ANSWER. THERE  
4 IS NO WAY, WE HAVE NEVER MET BEFORE, I KNOW NOTHING ABOUT  
5 YOU, IT REQUIRES A CANDID ANSWER FOR THE SYSTEM TO WORK  
6 PROPERLY.

7           AND SO WITH THAT IN MIND, I WOULD LIKE TO ASK  
8 YOU TO ANSWER THIS QUESTION FOR ME IF YOU WOULD. I AM A PERSON  
9 WHO IS: A, STRONGLY IN FAVOR OF THE DEATH PENALTY.

10           B, SOMEWHAT IN FAVOR OF THE DEATH PENALTY.

11           C, OPPOSED TO THE DEATH PENALTY.

12           D, HAVEN'T REALLY THOUGHT ABOUT IT BEFORE NOW.

13           OR E, OTHER.

14           DO YOU WANT ME TO GO THROUGH THOSE AGAIN?

15           MR. DUNDORE: NO. I THINK THAT IS CLEAR.

16           MR. CHIER: HOW WOULD YOU CHARACTERIZE YOURSELF?

17           MR. DUNDORE: SOMEWHAT IN FAVOR WHERE THE CIRCUMSTANCES  
18 DICTATE IT.

19           MR. CHIER: BY SOMEWHAT IN FAVOR, DO YOU MEAN THAT YOU  
20 DON'T THINK IT IS A GOOD IDEA TO EXECUTE ALL OR ALMOST EVERY  
21 PERSON CONVICTED OF FIRST DEGREE MURDER?

22           THE COURT: UNDER SPECIAL CIRCUMSTANCES.

23           MR. CHIER: WELL, LET'S JUST TALK ABOUT MURDER ITSELF,  
24 SIR, DO YOU THINK ALL MURDERERS OUGHT TO BE EXECUTED?

25           MR. DUNDORE: NO.

26           MR. CHIER: DO YOU THINK SOME MURDERERS OUGHT TO BE  
27 EXECUTED?

28           MR. DUNDORE: YES.



1 MR. CHIER: AND ARE THERE ANY TYPES OF CASES YOU HAVE  
2 IN MIND FOR WHICH THERE OUGHT TO BE THE DEATH PENALTY OR --

3 THE COURT: YOU MEAN OTHER THAN MURDER?

4 MR. CHIER: NO, NO.

5 ANY TYPES OF CIRCUMSTANCES CONNECTED WITH IT.  
6 IN OTHER WORDS, DO YOU THINK THERE ARE CIRCUMSTANCES THAT  
7 OUGHT TO BE PREDETERMINED FOR WHICH THE DEATH PENALTY IS  
8 REQUESTED?

9 MR. DUNDORE: YES, I DO.

10 MR. CHIER: ALL RIGHT. COULD YOU TELL ME WHAT TYPE  
11 OF CIRCUMSTANCES, DO YOU THINK, ARE DESERVING OF THE DEATH  
12 PENALTY IN A MURDER CASE, SIR?

13 MR. DUNDORE: WELL, THE CIRCUMSTANCES THE JUDGE JUST  
14 OUTLINED, IF ALL OF THOSE WERE TRUE AND GUILT WAS VERY  
15 EVIDENT AND THE MITIGATING CIRCUMSTANCES WERE INSUFFICIENT  
16 TO CALL FOR A LIFE SENTENCE, IN OTHER WORDS, THERE ARE FACTS  
17 I THINK WHICH COULD DICTATE, AND IT SEEMS TO BE THE LAW AND  
18 THE WILL OF THE PEOPLE, THAT UNDER THOSE CIRCUMSTANCES THE  
19 DEATH PENALTY IS JUSTIFIED.

20 MR. CHIER: OKAY. I TAKE IT THAT WHEN YOU REFER TO  
21 THE WILL OF THE PEOPLE, THAT YOU ARE INCLUDING YOURSELF AS  
22 A PERSON WHO VOTED FOR THE DEATH PENALTY.

23 MR. DUNDORE: YES, UNDER THE PROPER CIRCUMSTANCES.

24 MR. CHIER: WERE YOU IN FAVOR OF THE DEATH PENALTY PRIOR  
25 TO CASTING YOUR VOTE IN ITS FAVOR, SIR?

26 MR. DUNDORE: YES, I THINK SO.

27 MR. CHIER: HAVE YOU BECOME MORE OR LESS IN FAVOR OF  
28 THE DEATH PENALTY OVER THE YEARS, SIR?

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1 MR. DUNDORE: NO, I DON'T THINK SO.

2 MR. CHIER: HAVE YOU ALWAYS MAINTAINED APPROXIMATELY  
3 THE SAME FAVORITISM FOR THE DEATH PENALTY, IF THAT IS A CORRECT  
4 WORD?

5 MR. DUNDORE: THAT IS NOT A GOOD WORD.

6 MR. CHIER: OKAY. HAVE YOU ALWAYS MAINTAINED YOUR  
7 PRESENT ATTITUDE TOWARD THE DEATH PENALTY?

8 MR. DUNDORE: YES, WHERE THE CIRCUMSTANCES DICTATE IT.

9 MR. CHIER: OKAY. I DON'T MEAN TO BE REPETITIOUS BUT  
10 IT IS NECESSARY, IT IS PRELIMINARY TO MY QUESTION.

11 YOU UNDERSTAND THAT THERE ARE ABOUT SOME 19 DIFFERENT  
12 CIRCUMSTANCES OUTLINED BY THE LEGISLATURE FOR WHICH THE DEATH  
13 PENALTY MAY BE GIVEN?

14 MR. DUNDORE: YES.

15 MR. CHIER: YOU ALSO UNDERSTAND THAT THERE IS NO SUCH  
16 THING AS MANDATORY DEATH PENALTY IN THIS STATE?

17 MR. DUNDORE: RIGHT.

18 MR. CHIER: SO THAT IN EVERY SPECIAL CIRCUMSTANCE CASE  
19 THERE CAN BE EITHER DEATH OR LIFE WITHOUT POSSIBILITY OF  
20 PAROLE?

21 MR. DUNDORE: YES.

22 MR. CHIER: DO YOU BELIEVE THAT LIFE WITHOUT POSSIBILITY  
23 OF PAROLE MEANS THAT OR THAT IT IS ILLUSORY IN THE SENSE --

24 THE COURT: I WILL TELL YOU NOW THAT LIFE WITHOUT  
25 POSSIBILITY OF PAROLE MEANS EXACTLY THAT: THERE WON'T BE  
26 ANY POSSIBILITY OF PAROLE, ALL RIGHT?

27 MR. CHIER: PRIOR TO THE JUDGE'S INSTRUCTION, WHAT WAS  
28 YOUR BELIEF?

1 THE COURT: WHAT DIFFERENCE DOES THAT MAKE? LET'S GO  
2 ON, WILL YOU, PLEASE? WE HAVE OTHER PEOPLE WAITING.

3 MR. CHIER: DO YOU BELIEVE, SIR, THAT IN THE CASE OF  
4 AN INTENTIONAL MURDER COMMITTED IN THE COURSE OF A ROBBERY  
5 PROVEN BEYOND A REASONABLE DOUBT, THAT IT WOULD BE DIFFICULT  
6 TO FIND MUCH IN MITIGATION OF SUCH AN ACT?

7 THE COURT: HOW DOES HE KNOW UNLESS HE HEARS ALL OF  
8 THE TESTIMONY?

9 I TOLD HIM THAT WE WILL HAVE ANOTHER TRIAL AND  
10 THAT TRIAL WILL BE FOR THE PURPOSE OF HAVING ADDITIONAL  
11 TESTIMONY COMING IN OF CIRCUMSTANCES WHICH MAY OR MAY NOT  
12 WARRANT THE DEATH PENALTY.

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1 MR. CHIER: DID YOU UNDERSTAND MY QUESTION, SIR?

2 THE COURT: DID YOU UNDERSTAND MY EXPLANATION?

3 MR. DUNDORE: CERTAINLY DO.

4 THE COURT: ALL RIGHT. LET'S GET ON TO THE NEXT  
5 QUESTION.

6 MR. CHIER: MR. DUNDORE, IN ASSESSING OR IN ADDRESSING  
7 THE QUESTION OF WHETHER A DEFENDANT SHOULD LIVE OR DIE IN A  
8 SITUATION WHERE YOU HAVE BEEN FOUND GUILTY OF FIRST DEGREE,  
9 INTENTIONAL MURDER IN THE COURSE OF A ROBBERY, WOULD SUCH  
10 THINGS AS HIS AGE OR LACK OF PRIOR CRIMINAL BACKGROUND EITHER  
11 INDIVIDUALLY OR IN THE AGGREGATE CONSTITUTE ANY MITIGATION,  
12 IN YOUR OPINION?

13 THE COURT: I INSTRUCTED YOU THAT THAT WOULD BE ONE OF  
14 THE FACTORS YOU HAVE TO CONSIDER. YOU WILL ACCEPT THAT, WILL  
15 YOU?

16 MR. DUNDORE: YES.

17 THE COURT: THE ANSWER IS YES.

18 MR. CHIER: MAY I QUESTION THE WITNESS?

19 THE COURT: NO. YOU MAY NOT. JUST GO AHEAD. HE HAS  
20 ALREADY TOLD YOU THAT.

21 MR. CHIER: I WOULD LIKE TO GET HIS ANSWER TO THE  
22 QUESTION, YOUR HONOR. THAT IS, NOT TO YOUR HONOR'S QUESTIONS.

23 THE COURT: YOU GO AHEAD. ASK FURTHER QUESTIONS OR I  
24 WILL CUT OFF THE QUESTIONING AT THIS POINT. GO AHEAD, WILL  
25 YOU?

26 I HAVE GONE OVER THE ENTIRE GROUND WITH HIM. I  
27 DON'T KNOW THE NECESSITY FOR YOUR DOING THE SAME THING.

28 MR. CHIER: MR. DUNDORE, COULD YOU TELL ME IN YOUR OWN

1 WORDS, THE CIRCUMSTANCES IN WHICH YOU THINK THE DEATH PENALTY  
2 IS MORE APPROPRIATE THAN LIFE WITHOUT POSSIBILITY OF PAROLE?

3 THE COURT: WELL, HOW COULD HE DO THAT UNLESS HE KNOWS  
4 ALL OF THE CIRCUMSTANCES?

5 MR. CHIER: I DON'T KNOW. YOUR HONOR, THAT IS WHY I  
6 AM ASKING.

7 THE COURT: WELL, YOU CAN'T -- MR. DUNDORE, YOU HEARD  
8 ME TELL YOU THE VARIOUS FACTORS WHICH ARE GOING TO BE  
9 CONSIDERED?

10 MR. DUNDORE: YES.

11 THE COURT: BEFORE YOU MAKE UP YOUR MIND PRO AND CON,  
12 FAVORABLE FACTORS AND UNFAVORABLE FACTORS YOU MUST CONSIDER  
13 BEFORE MAKING UP YOUR MIND ON THE PENALTY?

14 MR. DUNDORE: YES.

15 THE COURT: YOU WILL FOLLOW THAT, WILL YOU NOT?

16 MR. DUNDORE: YES, I WILL.

17 MR. CHIER: WHEN YOU SAID THAT YOU WILL FOLLOW IT, WHAT  
18 DO YOU MEAN BY THAT, SIR?

19 MR. DUNDORE: I MEAN THAT I WILL TAKE ALL THOSE FACTORS  
20 INTO CONSIDERATION COMING TO A CONCLUSION.

21 MR. CHIER: WOULD YOU TAKE SUCH THINGS AS HIS AGE AT  
22 THE TIME OF THE OFFENSE OR LACK OF CRIMINAL BACKGROUND --  
23 WOULD YOU GIVE THOSE EQUAL WEIGHT WITH THE CIRCUMSTANCES OF  
24 THE OFFENSE?

25 MR. WAPNER: WELL, I THINK THAT IS ASKING HIM TO PRE-  
26 JUDGE THE TESTIMONY. HOW IS HE GOING TO KNOW WHAT WEIGHT TO  
27 ASSIGN TO ANYTHING UNLESS HE HAS HEARD TESTIMONY?

28 THE COURT: I WILL SUSTAIN THE OBJECTION.

1           MR. CHIER: OF THE LIST OF THINGS THAT THE JUDGE HAS  
2 TOLD YOU YOU SHOULD CONSIDER. ARE THERE ANY THINGS -- ARE THERE  
3 ANY OF THOSE ITEMS THAT YOU FEEL ARE NOT ENTITLED TO MUCH  
4 CONSIDERATION IN DETERMINING WHETHER A PERSON SHOULD LIVE OR  
5 DIE HAS COMMITTED A MURDER?

6           MR. WAPNER: AGAIN, OBJECTION. THAT IS ASKING HIM TO  
7 PUT A VALUE OR WEIGHT ON EVIDENCE BEFORE HE HAS HEARD IT.

8           THE COURT: SUSTAINED.

9           MR. CHIER: I AM NOT ASKING YOU TO JUDGE THE EVIDENCE.

10          THE COURT: SUSTAINED. GET ON TO SOMETHING ELSE.

11          MR. CHIER: YOUR HONOR, BASED UPON THE RESTRICTIONS ON  
12 THIS INQUIRY, I AM COMPELLED TO PASS FOR CAUSE.

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

15          MR. WAPNER: I HAVE A FEW.

16                 MR. DUNDORE, HAVE YOU READ ANYTHING ABOUT THIS  
17 CASE?

18          THE COURT: I THOUGHT I ASKED HIM THAT.

19          MR. DUNDORE: NO.

20          MR. WAPNER: ARE YOUR VIEWS ON THE DEATH PENALTY INCLUDED  
21 IN SOME RELIGIOUS, MORAL OR PHILOSOPHICAL BASE?

22          MR. DUNDORE: WELL, THEY ARE BOTH MORAL AND PHILOSOPHICAL.  
23 NOT RELIGIOUS.

24          MR. WAPNER: OKAY. AND ARE YOU THE KIND OF PERSON WHO,  
25 IF THE INCIDENT WARRANTS, IS CAPABLE OF MAKING A LIFE OR  
26 DEATH DECISION?

27          MR. DUNDORE: I THINK SO, YES.

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

1 THE COURT: YOU QUALIFY AS A POSSIBLE JUROR IN THIS CASE.  
2 WE HAVE TO FINISH UP TWO OR THREE MORE WHICH WILL TAKE PROBABLY  
3 THE BALANCE OF THE MORNING (SIC).

4 I WILL ASK YOU TO COME BACK TOMORROW MORNING TO  
5 THE JURY ASSEMBLY ROOM AT 10:30. THAT IS 10:30 TOMORROW WITH  
6 ALL THE OTHER JURORS WHO HAVE PASSED MUSTER AND THEN WE'LL  
7 HAVE YOU HERE AND WE'LL START THE TRIAL.

8 MR. DUNDORE: YES.

9 THE COURT: THANK YOU VERY MUCH. IN THE MEANTIME, YOU  
10 ARE NOT TO READ OR TALK ABOUT THE CASE WITH ANYBODY.

11 MR. DUNDORE: YES, SIR.

12 (PROSPECTIVE JUROR DUNDORE EXITS THE  
13 COURTROOM.)

14 MR. CHIER: I HAVE A MOTION.

15 THE COURT: GO ON, MAKE YOUR MOTION. IS IT THAT I  
16 DIDN'T GIVE YOU A CHANCE TO COMPLETE THE QUESTIONING OF THE  
17 PROSPECTIVE JUROR?

18 MR. CHIER: THAT IS IT, YES, IN PART, YOUR HONOR. ALSO,  
19 I WAS GOING TO --

20 THE COURT: DON'T MAKE IT LONG BECAUSE WE HAVE MATTERS  
21 TO TAKE CARE OF TODAY.

22 MR. CHIER: I THOUGHT THAT TODAY WAS SET ASIDE FOR  
23 HOVEY VOIR DIRE.

24 THE COURT: PART OF IT. WE HAVE OTHER MATTERS TO TAKE  
25 CARE OF, TOO. WE HAVE 70 PEOPLE WAITING.

26 MR. CHIER: I WILL NOT BE RUSHED IN DECIDING --

27 THE COURT: YOU GO AHEAD AND TELL ME WHAT IT IS THAT  
28 YOU WANT TO. DO IT NOW.

1 MR. CHIER: I MOVE TO DISQUALIFY THE WITNESS FOR CAUSE  
2 ON THE BASIS OF YOUR HONOR'S --

3 THE COURT: YOU TOLD ME THAT YOU PASSED FOR CAUSE.  
4 DIDN'T YOU, BEFORE?

5 MR. CHIER: I SAID ON THE BASIS OF THE LIMITED INQUIRY,  
6 THAT --

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1 THE COURT: YOU PASSED FOR CAUSE, DIDN'T YOU?

2 MR. CHIER: I HAVE A CHALLENGE BASED UPON I THINK THE  
3 WITNESS' OBSERVATION OF YOUR HONOR'S TREATMENT OF ME.

4 THE COURT: WELL, YOU HAVE TOLD US TIME AND TIME AND  
5 TIME AGAIN THAT I HAVE NOT GIVEN YOU AN OPPORTUNITY OF  
6 FINISHING YOUR SO-CALLED EXAMINATION OF THE PROSPECTIVE JURORS  
7 AND I HAVE CUT YOU SHORT. NOW YOU ARE MAKING THE SAME KIND  
8 OF MOTION.

9 MR. CHIER: THE MANNER IN WHICH YOUR HONOR --

10 THE COURT: I WILL DENY YOUR MOTION.

11 MR. CHIER: THE MANNER IN WHICH YOU ADDRESS ME IS  
12 ABUSIVE AND --

13 THE COURT: WELL, YOU DESERVE IT.

14 MR. CHIER: WE ARE BECOMING PREJUDICED AND WE ARE BEING  
15 PREJUDICED BECAUSE --

16 THE COURT: WELL, YOU ARE INVITING IT YOURSELF.

17 MR. CHIER: I HAVE DONE NOTHING TO --

18 THE COURT: I HAVE NO DIFFICULTY WITH YOUR ASSOCIATE.

19 MR. CHIER: WELL, IT MUST BE ON THE BASIS OF SOME SORT  
20 OF CASTE SYSTEM, THEN BECAUSE --

21 THE COURT: YOU ARE THE ONE THAT ALWAYS PROVOKES THESE  
22 THINGS. WHY SHOULD YOU DO IT?

23 ARE YOU DELIVERATELY TRYING TO PROVOKE ME? ARE  
24 YOU TRYING TO PROVOKE ME, BECAUSE IT SEEMS THAT WAY TO ME.

25 YOU ARE NOT TRYING TO CONSCIENTIOUSLY AND  
26 IMPARTIALLY EXAMINE A PARTICULAR JUROR. THAT IS, AS HIS OPINION  
27 ON THE DEATH PENALTY.

28 YOU ARE TRYING TO TRICK HIM INTO SOME KIND OF

1 ADMISSION THAT WOULD GIVE YOU AN OPPORTUNITY BECAUSE THEY  
2 BELIEVE IN THE DEATH PENALTY, OF NOT HAVING THEM ON THE PANEL.

3 NOW, YOU ARE NOT KIDDING ME. I KNOW WHAT YOU ARE  
4 TRYING TO DO.

5 MR. CHIER: I AM NOT TRYING TO TRICK ANYBODY. I AM NOT --

6 THE COURT: YOU ARE NOT IMPARTIAL AND YOU --

7 MR. CHIER: I AM NOT REQUIRED TO BE IMPARTIAL. I AM AN  
8 ADVOCATE.

9 THE COURT: YOU ARE NOT REQUIRED TO BE, BUT YOUR  
10 QUESTIONS ARE DELIBERATELY DESIGNED TO CONFUSE AND DECEIVE  
11 THE JURORS.

12 MR. CHIER: THERE IS NO WAY TO KNOW THAT, BECAUSE YOUR  
13 HONOR DOES NOT LET THEM ANSWER THE QUESTIONS THAT I ASK AND --

14 THE COURT: LET'S GET THE NEXT ONE, WILL YOU PLEASE?

15 (PROSPECTIVE JUROR ENGEL ENTERS THE  
16 COURTROOM.)

17 THE COURT: GOOD AFTERNOON, MR. ENGEL. WHERE DO YOU  
18 LIVE, SIR?

19 MR. ENGEL: WESTCHESTER.

20 THE COURT: ALL RIGHT. HAVE YOU READ ANYTHING AT ALL  
21 ABOUT THIS CASE?

22 MR. ENGEL: NO.

23 THE COURT: HAVE YOU TALKED TO ANY OF THE JURORS OR ANY  
24 THIRD PARTIES OR KNOW ANYTHING ABOUT IT EXCEPT WHAT I TOLD  
25 THE OTHER JURORS?

26 MR. ENGEL: NO.

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1 THE COURT: JUST TO SUMMARIZE BRIEFLY: THE DEFENDANT  
2 IS CHARGED WITH THE COMMISSION OF THE CRIME OF MURDER, FIRST  
3 DEGREE MURDER, AND THAT IT WAS COMMITTED DURING THE COURSE  
4 OF A ROBBERY.

5 NOW, DURING THE COURSE OF A ROBBERY QUALIFIES  
6 IT FOR THE POSSIBLE IMPOSITION OF THE DEATH PENALTY, THE DEATH  
7 PENALTY WHERE THE JURY FINDS HIM GUILTY OF MURDER IN THE FIRST  
8 DEGREE AND THAT IT WAS COMMITTED IN THE COURSE OF ROBBERY  
9 AND THEY THEN HAVE TO DECIDE WHAT PUNISHMENT SHALL BE METED  
10 OUT TO HIM INCLUDING DEATH AND LIFE IMPRISONMENT WITHOUT THE  
11 POSSIBILITY OF PAROLE.

12 NOW, THE LEGISLATURE HAS SAID IN THESE SPECIAL  
13 CIRCUMSTANCE CASES LIKE IF IT WAS MURDER COMMITTED DURING  
14 THE COURSE OF A ROBBERY, COMMITTED DURING THE COURSE OF A  
15 BURGLARY OR RAPE, KIDNAPPING, MULTIPLE MURDERS, CHILD  
16 MOLESTATION WHERE THE CHILD DIES, AND TEN OR MORE OF SIMILAR  
17 TYPES OF SPECIAL CIRCUMSTANCES, THE DEATH PENALTY MIGHT BE  
18 APPLICABLE DEPENDING UPON WHAT THE FACTS ARE.

19 SO THAT THE JURORS, THE FIRST THING THEY HAVE  
20 TO DETERMINE FIRST IS WHETHER OR NOT THE DEFENDANT IS GUILTY  
21 OR NOT GUILTY. AND IF HE IS GUILTY, WHETHER HE IS GUILTY  
22 OF MURDER IN THE FIRST DEGREE AND IF HE IS, THEN THEY HAVE  
23 TO DECIDE ANOTHER QUESTION: IS IT TRUE OR IS IT FALSE THAT  
24 THAT MURDER WAS COMMITTED DURING THE COURSE OF A ROBBERY,  
25 WHICH WE CALL THE SPECIAL CIRCUMSTANCE.

26 DO YOU UNDERSTAND?

27 MR. ENGEL: YES.

28 THE COURT: ALL RIGHT. NOW IF THE JURY DOES DECIDE

1 THAT HE IS GUILTY OF MURDER IN THE FIRST DEGREE AND WITH SPECIAL  
2 CIRCUMSTANCES, NAMELY, THAT IT WAS COMMITTED DURING THE COURSE  
3 OF A ROBBERY, THEN WE WILL HAVE ANOTHER TRIAL -- NOT ANOTHER  
4 TRIAL BUT A CONTINUANCE OF THE TRIAL, WHICH IS CALLED THE  
5 PENALTY PHASE OF THE TRIAL WHERE THE SAME JURORS THEN HEAR  
6 OTHER TESTIMONY FROM THE DEFENSE AND FROM THE PROSECUTION.  
7 THAT OTHER TESTIMONY FROM THE DEFENDANT, OF COURSE, WOULD  
8 BE TO SHOW FAVORABLE THINGS ABOUT HIM IN HIS BACKGROUND WHICH  
9 MILITATE AGAINST THE DEATH PENALTY AND IT MIGHT BE LIFE  
10 IN PRISON WITHOUT THE POSSIBILITY OF PAROLE. THOSE ARE CALLED  
11 MITIGATING CIRCUMSTANCES.

12 ON THE OTHER HAND, THE PROSECUTION WILL ATTEMPT  
13 TO SHOW AGGRAVATING CIRCUMSTANCES, THINGS ABOUT THE DEFENDANT  
14 WHICH ARE UNFAVORABLE OTHER THAN THE COMMISSION OF THE MURDER,  
15 OF WHICH THEY FOUND HIM GUILTY. THE JURY WILL CONSIDER ALL  
16 OF THAT TESTIMONY. THEY WILL CONSIDER THE TESTIMONY WHICH  
17 WAS HEARD ON THE GUILT PHASE OF THE TRIAL AND THEY WILL HEAR  
18 MATTERS ABOUT THE DEFENDANT'S CHARACTER, HIS BACKGROUND, HIS  
19 HISTORY, HIS MENTAL AND PHYSICAL CONDITION AND HIS LACK OF  
20 CRIMINAL RECORD IN THE PAST. ALL OF THOSE MATTERS WILL BE  
21 CONSIDERED BY THE JURY AND THEY THEN MUST CONSIDER THEM AS  
22 FACTORS IN DETERMINING SHOULD HE OR SHOULD HE NOT GET THE  
23 DEATH PENALTY OR SHOULD HE GET LIFE IMPRISONMENT.

24 DO YOU UNDERSTAND THAT?

25 MR. ENGEL: YES, I DO.

26 THE COURT: THE QUESTIONS I AM GOING TO ASK YOU RELATE  
27 TO YOUR STATE OF MIND, YOUR FEELINGS ABOUT THE DEATH PENALTY  
28 AND THEY ARE AS FOLLOWS --

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1 AND THE FIRST AND SECOND QUESTIONS RELATE ONLY  
2 TO THE GUILT PHASE, NOT THE PENALTY PHASE.

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

6 MR. ENGEL: NO.

7 THE COURT: SECONDLY, STILL ON THE GUILT PHASE OF IT --  
8 DO YOU REMEMBER, I TOLD YOU THAT IF THEY FIND HIM GUILTY OF  
9 MURDER IN THE FIRST DEGREE, THEN THEY CONSIDER WHETHER OR  
10 NOT IT IS TRUE OR FALSE THAT IT WAS DURING THE COURSE OF A  
11 ROBBERY. THAT IS ANOTHER QUESTION THEY HAVE TO ANSWER.

12 DO YOU HAVE ANY OPINION REGARDING THE DEATH PENALTY  
13 THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION  
14 CONCERNING THE TRUTH OR FALSITY OF THE SPECIAL CIRCUMSTANCE  
15 ALLEGED?

16 MR. ENGEL: NO, YOUR HONOR, I DON'T.

17 THE COURT: ALL RIGHT, NOW THE NEXT TWO QUESTIONS ARE  
18 ON THE PENALTY ASPECT, THE PENALTY PHASE OF IT. HE HAS ALREADY  
19 BEEN FOUND GUILTY OF MURDER IN THE FIRST DEGREE AND THE SPECIAL  
20 CIRCUMSTANCES HAVE BEEN FOUND AND NOW THESE RELATE TO THE  
21 PENALTY PHASE: DO YOU HAVE SUCH AN OPINION CONCERNING THE  
22 DEATH PENALTY THAT YOU WOULD AUTOMATICALLY VOTE TO IMPOSE  
23 THE DEATH PENALTY REGARDLESS OF ANY EVIDENCE THAT MAY BE  
24 PRESENTED ON THE PENALTY PHASE OF THE TRIAL?

25 MR. ENGEL: NO, I DON'T.

26 THE COURT: AND THE NEXT QUESTION IS ALONG THE SAME  
27 LINES BUT IT INVOLVES LIFE IMPRISONMENT WITHOUT THE POSSIBILITY  
28 OF PAROLE AS ONE OF THE TWO POSSIBLE PENALTIES: DO YOU HAVE

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1 SUCH AN OPINION CONCERNING THE DEATH PENALTY THAT YOU WOULD  
2 AUTOMATICALLY VOTE FOR LIFE IMPRISONMENT WITHOUT THE POSSIBILITY  
3 OF PAROLE REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED  
4 AT THE PENALTY PHASE OF THE TRIAL?

5 MR. ENGEL: NO, SIR.

6 THE COURT: DO YOU UNDERSTAND THAT THE ISSUE OF THE  
7 DEATH PENALTY MAY OR MAY NOT OCCUR 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 MR. ENGEL: YES, I UNDERSTAND.

11 THE COURT: ALL RIGHT, THANK YOU.

12 COUNSEL WILL NOW ASK YOU SOME QUESTIONS IF HE  
13 WANTS TO.

14 MR. CHIER: GOOD AFTERNOON, MR. ENGEL. MY NAME IS  
15 RICHARD CHIER AND I REPRESENT MR. HUNT.

16 AND I WOULD LIKE TO CONTINUE ALONG THE LINES  
17 TOUCHED UPON BY HIS HONOR, QUESTIONING YOU ABOUT YOUR  
18 FEELINGS TOWARD THE DEATH PENALTY.

19 BUT BEFORE I GET TO THE QUESTIONS, I WOULD LIKE  
20 TO TELL YOU WHAT IT IS THAT I AM TRYING TO DO, WHICH IS NOT  
21 TO TRICK YOU IN ANY WAY OR TO JUDGE YOU. IT IS SIMPLY TO  
22 DETERMINE WHAT YOUR ATTITUDES AND FEELINGS ARE TOWARD THE  
23 DEATH PENALTY WITH A VIEW TOWARDS DECIDING WHETHER THIS IS  
24 AN APPROPRIATE CASE FOR YOU TO BE A JUROR. THERE IS NO RIGHT  
25 OR WRONG ANSWER TO THOSE QUESTIONS OR GOOD OR BAD ATTITUDE.  
26 THERE IS JUST YOUR PERSONAL ATTITUDE.

27 MR. ENGEL: RIGHT.

28 MR. CHIER: AND MY TASK IS TO SEE IF YOU HAVE STRONG

1 BIASES IN THIS CASE IN FAVOR OF THE DEATH PENALTY TO THE EXTENT  
2 THAT I WOULD BE HANDICAPPED IF YOU WERE A JUROR AND THAT YOU  
3 WOULD BE LEANING TOWARD THE PROSECUTION OR TOWARD THE DEATH  
4 PENALTY IRRESPECTIVE OF THE EVIDENCE.

5 MR. ENGEL: I UNDERSTAND.

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1 MR. CHIER: SO LET ME ASK YOU SOME QUESTIONS AND REMIND  
2 YOU, SIR, THAT THE SYSTEM CAN ONLY WORK IF THERE ARE COMPLETELY  
3 CANDID ANSWERS, SINCE WE HAVE NEVER MET BEFORE AND I HAVE  
4 NO IDEA WHAT IS IN YOUR MIND UNLESS YOU TELL ME.

5 ARE YOU IN FAVOR OF THE DEATH PENALTY, SIR?

6 MR. ENGEL: YES.

7 MR. CHIER: ALL RIGHT. AND HAVE YOU ALWAYS BEEN IN  
8 FAVOR OF THE DEATH PENALTY DURING YOUR ADULT LIFE?

9 MR. ENGEL: YES.

10 MR. CHIER: AND WHY DO YOU BELIEVE THAT THE DEATH PENALTY  
11 IS NECESSARY, SIR?

12 MR. ENGEL: I BELIEVE THAT IT IS A TOOL THAT THE COURTS  
13 AND THE POLICE SYSTEM CAN USE IN SERIOUS SITUATIONS WHERE  
14 NO OTHER MEANS IS AVAILABLE TO THEM TO CORRECT THE SITUATION.

15 MR. CHIER: AND DO YOU BELIEVE THAT THE DEATH PENALTY  
16 IS A NECESSARY EVIL?

17 MR. ENGEL: YES.

18 MR. CHIER: DO YOU BELIEVE THAT THE DEATH PENALTY IS  
19 ONE WAY OF ELIMINATING UNDESIRABLE MURDERERS FROM SOCIETY?

20 MR. ENGEL: NO.

21 MR. CHIER: DO YOU SEE IT MORE AS A DETERRENT?

22 MR. ENGEL: YES.

23 MR. CHIER: DO YOU SEE IT AS AN AID TO LAW ENFORCEMENT  
24 AND TO THE POLICE?

25 MR. ENGEL: YES.

26 MR. CHIER: COULD YOU TELL ME HOW IN YOUR OWN WORDS,  
27 HOW YOU SEE THAT RELATIONSHIP, SIR?

28 MR. ENGEL: MOSTLY IN THE CASES OF A PRISONER WHO IS



1 SENTENCED TO LIFE WITHOUT PAROLE AND THERE IS NOTHING TO  
2 DETER HIM FROM KILLING ANYONE IN PRISON OR KILLING GUARDS  
3 OR KILLING ANYONE ELSE, IF THERE IS NO OTHER COURSE THAN TO  
4 KEEP HIM WHERE HE IS AT THE PRESENT TIME.

5 MR. CHIER: INSTITUTIONAL TYPE OF MURDERS?

6 MR. ENGEL: YES.

7 MR. CHIER: DO YOU SEE THE DEATH PENALTY INTERRELATING  
8 WITH LAW ENFORCEMENT IN SETTINGS OUTSIDE OF INSTITUTIONS?

9 MR. ENGEL: OH, I HAVE PROBABLY HEARD ABOUT SOME HEINOUS  
10 CRIMES THAT I FELT THE DEATH PENALTY WAS APPROPRIATE.

11 MR. CHIER: MAY I TAKE IT FROM YOUR ANSWER, READING  
12 BETWEEN THE LINES, SIR, THAT YOU DON'T FEEL THAT THE DEATH  
13 PENALTY IS NECESSARILY APPROPRIATE IN EVERY CASE OF FIRST  
14 DEGREE MURDER?

15 MR. ENGEL: NO, SIR, I DON'T.

16 MR. CHIER: AND THERE CAN BE SOME THINGS WHICH WOULD  
17 WEIGH AGAINST GIVING SOMEONE THE DEATH PENALTY?

18 MR. ENGEL: YES.

19 MR. CHIER: SUCH AS THE PERSON'S AGE AT THE TIME OF  
20 THE COMMISSION OF THE OFFENSE?

21 MR. ENGEL: YES.

22 MR. CHIER: HOW ABOUT HIS BACKGROUND AS A CHILD, WOULD  
23 YOU THINK THAT IS ENTITLED TO MUCH CONSIDERATION IN THE  
24 EQUATION?

25 MR. ENGEL: I WOULD HAVE TO HAVE THE PARTICULAR  
26 CIRCUMSTANCE BEFORE I COULD GIVE YOU A TRUE ANSWER.

27 MR. CHIER: OKAY. HOW ABOUT THEN AS A GENERAL  
28 PROPOSITION, WHETHER A PERSON THAT HAS BEEN CONVICTED HAS

1 OR DOESN'T HAVE A RECORD OF ANY CRIMINAL BEHAVIOR?

2 MR. ENGEL: THAT WOULD HAVE A BEARING, YES.

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1 MR. CHIER: IT WOULD? DO YOU THINK THAT IN THIS  
2 PARTICULAR CASE, IF YOU WERE SELECTED TO BE A JUROR AND YOU  
3 FOUND THAT -- THIS IS HYPOTHETICAL -- THE DEFENDANT WAS  
4 GUILTY AS CHARGED OF FIRST DEGREE MURDER WHICH WAS INTENTIONAL  
5 AND IN THE COURSE OF A ROBBERY, DO YOU THINK THAT GOING INTO  
6 THE PENALTY PHASE WHICH IS THE SECOND SEGMENT OF A TRIAL OF  
7 THIS TYPE, DO YOU THINK THAT YOU WOULD BE ABLE TO START IN  
8 A NEUTRAL POSITION OR THAT YOU WOULD BE LEANING TOWARD THE  
9 DEATH PENALTY AT THAT POINT SO THAT IT WOULD REQUIRE MORE  
10 EFFORT BY THE DEFENDANT TO PERSUADE YOU TO SAVE HIS LIFE THAN  
11 THE PEOPLE WOULD HAVE TO EXERT TO GET YOU TO TAKE HIS LIFE?

12 MR. ENGEL: NO. I THINK I WOULD BE ABLE TO WEIGH THE  
13 CIRCUMSTANCES AND LISTEN TO THE TESTIMONY AND DECIDE FROM THAT.

14 MR. CHIER: SO YOU WOULD WANT IF THE SITUATION WERE  
15 REVERSED AND YOU WERE SITTING WHERE THE DEFENDANT IS, PRESUMED  
16 TO BE INNOCENT AND YOU AND YOUR ATTORNEY WERE LOOKING FOR 12  
17 JURORS TO SIT IN YOUR CASE, WOULD YOU BE COMFORTABLE HAVING  
18 12 JURORS IN YOUR PRESENT STATE OF NEUTRALITY TO BE A JUROR  
19 IN YOUR CASE, SIR?

20 MR. ENGEL: I THINK SO, YES.

21 MR. CHIER: OKAY. NOW I -- JUST A MOMENT, PLEASE, YOUR  
22 HONOR.

23 THE COURT: YES.

24 (BRIEF PAUSE.)

25 MR. CHIER: PASS FOR CAUSE.

26 THE COURT: ALL RIGHT.

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

1                    TELL ME ABOUT THE CATEGORY OF CRIMES THAT YOU WERE  
2 TALKING ABOUT WHEN YOU SAID "OTHER HEINOUS CRIMES"?

3                    MR. ENGEL: I CAN'T RECALL NAMES, BUT KIDNAPPING WITH  
4 TORTURE AND MURDER AND THAT IS DONE OVER A LONG PERIOD OF TIME  
5 AND HAS CREATED A GREAT DEAL OF PAIN AND SUFFERING TO THE  
6 VICTIM.

7                    I BELIEVE I COULD JUSTIFY CAPITAL PUNISHMENT IN  
8 THOSE CASES.

9                    MR. WAPNER: IN ANY CASE SUCH AS THIS WHERE YOU DON'T  
10 KNOW THE FACTS AND ALL YOU KNOW IS THAT THE CHARGE IS A MURDER  
11 THAT HAPPENED DURING A ROBBERY, DOES THAT FIT INTO THE GENERAL  
12 CATEGORY OF CRIMES FOR WHICH YOU WOULD CONSIDER THE DEATH  
13 PENALTY IF THE EVIDENCE WARRANTED IT?

14                   MR. ENGEL: IF THE EVIDENCE WARRANTED IT, YES.

15                   MR. WAPNER: OKAY. DO YOU HAVE ANY HESITATION ABOUT  
16 YOUR ABILITY TO VOTE FOR THE DEATH PENALTY IN THIS TYPE OF  
17 A CASE, AS OPPOSED TO SOME OTHER TYPE OF A CASE?

18                   MR. ENGEL: I DON'T THINK SO. I NEVER BEEN IN THIS  
19 SITUATION. BUT I CAN ANSWER UNEQUIVOCALLY THAT I DON'T THINK  
20 SO.

21                   MR. WAPNER: ALL RIGHT. ARE YOU THE TYPE OF PERSON WHO  
22 IS CAPABLE OF MAKING A LIFE OR DEATH TYPE OF DECISION?

23                   MR. ENGEL: YES. I MADE THEM FOR MANY YEARS.

24                   MR. WAPNER: CAN YOU EXPLAIN THAT TO ME A LITTLE MORE?

25                   MR. ENGEL: I WAS AT THE FIRE DEPARTMENT FOR 32 YEARS.  
26 I WAS WITH A CREW FOR 23 YEARS THAT I HAD RESPONSIBILITY FOR.

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

28                   THE COURT: ALL RIGHT. THANK YOU, MR. ENGEL. YOU

1 QUALIFY TO BECOME A JUROR ON THIS CASE, POSSIBLY.

2 WHAT WE ARE DOING NOW IS FINISHING UP THE DEATH  
3 QUALIFICATIONS OF THE JURORS. YOU QUALIFY TO BE ONE OF THOSE  
4 JURORS THAT MIGHT BE CHOSEN IN THIS CASE.

5 SO WHAT I WILL ASK YOU TO DO, IS GO TO THE JURY  
6 ASSEMBLY ROOM TOMORROW MORNING AT 10:30.

7 THEN, HOPEFULLY, WE'LL BE ABLE TO GET ALL OF YOU  
8 IN HERE AND START THIS TRIAL.

9 MR. ENGEL: FINE.

10 THE COURT: TOMORROW MORNING IN THE JURY ASSEMBLY ROOM  
11 AT 10:30. THANK YOU VERY MUCH.

12 (PROSPECTIVE JUROR ENGEL EXITS THE  
13 COURTROOM.)

14 (PROSPECTIVE JUROR ERRIDGE ENTERS THE  
15 COURTROOM.)

16 THE COURT: IS IT MISS ERRIDGE?

17 MS. ERRIDGE: UH-HUH.

18 THE COURT: HOW OLD ARE YOU, BY THE WAY?

19 MS. ERRIDGE: 19.

20 THE COURT: ALL RIGHT. WHERE DO YOU LIVE?

21 MS. ERRIDGE: SANTA MONICA.

22 THE COURT: ALL RIGHT. HAVE YOU EVER READ ANYTHING AT  
23 ALL ABOUT THIS CASE OR HEARD ANYTHING ABOUT IT, EXCEPT WHAT  
24 I HAVE TOLD THE JURORS?

25 MS. ERRIDGE: YES. THAT IS THE ONLY THING I HEARD ABOUT  
26 IT.

27 THE COURT: DO YOU THINK BECAUSE OF YOUR COMPARATIVE --  
28 BECAUSE OF YOUR YOUNG YEARS, YOU WOULD WANT TO BECOME A JUROR

1 ON THIS CASE WITH A POSSIBILITY OF THE DEATH PENALTY BEING  
2 INVOLVED?

3 MS. ERRIDGE: YOU MEAN, DO I --

4 THE COURT: I MEAN, WOULD YOU WANT TO SIT AS A JUROR?

5 MS. ERRIDGE: YES, I WOULD.

6 THE COURT: ALL RIGHT. FINE.

7 NOW, EXCEPT FOR WHAT I TOLD YOU, YOU HEARD NOTHING  
8 AS YOU SAID, ABOUT THIS CASE.

9 NOW, WHAT I WILL DO IS BRIEFLY GIVE YOU A BACKGROUND  
10 FOR THE QUESTIONS I WILL BE ASKING YOU RELATING TO THE DEATH  
11 PENALTY AND I WILL SUMMARIZE CERTAIN ASPECTS OF THE CASE.

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1           YOU KNOW THAT THE DEFENDANT HAS BEEN CHARGED WITH  
2 THE COMMISSION OF THE CRIME OF MURDER AND THE MURDER WAS IN  
3 THE FIRST DEGREE. AND IT IS ALLEGED THAT THAT MURDER TOOK  
4 PLACE UNDER CERTAIN SPECIAL CIRCUMSTANCES. IN OTHER WORDS,  
5 IT WAS IN THE COURSE OF A ROBBERY THAT THAT MURDER TOOK PLACE.

6           DO YOU UNDERSTAND THAT? NOW, THE PHRASE, "IN THE  
7 COURSE OF A ROBBERY" QUALIFIES THIS CASE POSSIBLY FOR THE  
8 DEATH PENALTY BECAUSE THE LEGISLATURE HAS SAID THAT NOT EVERY  
9 MURDER QUALIFIES FOR THE DEATH PENALTY OR LIFE WITHOUT  
10 POSSIBILITY OF PAROLE. IT HAS GOT TO BE ACCOMPANIED -- IT  
11 MUST HAVE BEEN COMMITTED UNDER CERTAIN CIRCUMSTANCES WHICH  
12 I WILL EXPLAIN TO YOU.

13           FOR INSTANCE, A MURDER COMMITTED IN THE COURSE  
14 OF A ROBBERY, A MURDER COMMITTED DURING THE -- WHICH IS  
15 THIS CASE -- A MURDER COMMITTED IN THE COURSE OF A BURGLARY,  
16 MURDER COMMITTED IN THE COURSE OF A KIDNAPPING, MURDER  
17 COMMITTED IN THE COURSE OF A RAPE OR THE MOLESTATION OF A CHILD  
18 WHERE HE DIES, OR A MURDER COMMITTED IN THE CASE OF TORTURE  
19 OR MULTIPLE MURDERS. THEY QUALIFY FOR POSSIBLE DEATH PENALTIES.

20           THE DEATH PENALTY CONSISTS OF ONE OF TWO THINGS,  
21 EITHER ACTUAL DEATH OR LIFE WITHOUT POSSIBILITY OF PAROLE.  
22 SO THE JURORS WILL FIRST HAVE TO DETERMINE THE GUILT PHASE  
23 OF THE TRIAL. THE GUILT PHASE OF THE TRIAL IS WHERE THE  
24 QUESTION OF PENALTY NEVER COMES INTO PLAY. THE GUILT PHASE  
25 OF THE TRIAL, THE JURORS DECIDE THE GUILT OR INNOCENCE OF THE  
26 DEFENDANT, WAS HE GUILTY OF MURDER IN THE FIRST DEGREE OR NOT.

27           IF HE WAS, THEN THEY CONSIDER A COLLATERAL QUESTION,  
28 WAS THAT MURDER COMMITTED DURING THE COURSE OF A ROBBERY.

1 AND THE JURY VOTES TRUE OR FALSE, THAT IT WAS COMMITTED IN  
2 THE COURSE OF A ROBBERY.

3 IF THEY SAY THAT IT WAS COMMITTED DURING THE COURSE  
4 OF A ROBBERY, THEN THAT SAME JURY TAKES THE BOX AGAIN AND NEW  
5 TESTIMONY COMES IN FROM THE DEFENDANT AND FROM THE PROSECUTION.

6 THE NEW TESTIMONY WILL TRY TO PERSUADE THE JURORS  
7 THAT THE DEFENDANT --FAVORABLE THINGS ABOUT HIM DURING HIS  
8 LIFETIME, THE FACT OF HIS YOUTH AND THAT HE DOESN'T HAVE ANY  
9 CRIMINAL RECORD OF ANY KIND AND HIS BACKGROUND AND CHARACTER  
10 AND ALL OF THAT WILL BE GIVEN TO YOU IN THE COURSE OF THE  
11 SECOND PHASE, THE PENALTY PHASE OF THE TRIAL.

12 THE PROSECUTION ON THE OTHER HAND, WILL SHOW  
13 AGGRAVATING CIRCUMSTANCES, WILL SHOW THAT HE IS NOT A NICE  
14 PERSON, NOT A GOOD PERSON AND THEREFORE, NO CONSIDERATION TO  
15 BE SHOWN TO HIM.

16 SO THEN, THE JURORS TAKE ALL OF THAT INTO  
17 CONSIDERATION, AS THEY MUST AND THEN VOTE UPON WHETHER OR NOT  
18 HE SHOULD GET LIFE WITHOUT THE POSSIBILITY OF PAROLE OR  
19 DEATH. DO YOU UNDERSTAND THAT?

20 MS. ERRIDGE: UH-HUH, YES.

21 THE COURT: NOW, THE QUESTION I AM GOING TO ASK YOU IS  
22 TO DETERMINE YOUR STATE OF MIND AND EXPLORE YOUR STATE OF MIND  
23 AND YOUR OPINION WITH RESPECT TO THE DEATH PENALTY. THAT IS  
24 WHY WE ARE ASKING ALL OF THESE QUESTIONS AT THIS TIME, TO SEE  
25 WHETHER OR NOT YOU WOULD BE A FAIR JUROR TO BOTH SIDES. DO  
26 YOU UNDERSTAND THAT?

27 MS. ERRIDGE: YES.

28 THE COURT: NOW, THE FIRST TWO QUESTIONS I WILL ASK YOU



1 RELATE TO THE GUILT PHASE, IN OTHER WORDS, WHETHER YOU SHOULD  
2 FIND HIM GUILTY OR NOT GUILTY AND THE SPECIAL CIRCUMSTANCES.

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

7 MS. ERRIDGE: SO WHAT YOU WANT TO KNOW IS DO I FEEL I  
8 AM FOR THE DEATH PENALTY?

9 THE COURT: NO, NO. NO, NOT YET. WHATEVER OPINION  
10 THAT YOU HAVE ABOUT THE DEATH PENALTY, WHATEVER OPINION YOU  
11 MIGHT HAVE, WOULD THAT AFFECT YOU IN ANY WAY IN DECIDING THE  
12 GUILT OR INNOCENCE OF THE DEFENDANT ON THE GUILT PHASE?

13 MS. ERRIDGE: NO.

14 THE COURT: ALL RIGHT. THAT IS THE ANSWER, THAT IS AN  
15 ANSWER TO IT.

16 THE SECOND QUESTION IS, DO YOU HAVE ANY OPINION  
17 REGARDING THE DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING  
18 AN IMPARTIAL DECISION CONCERNING THE TRUTH OR FALSITY OF THE  
19 SPECIAL CIRCUMSTANCES? I TOLD YOU THAT THE JURY WILL FIND  
20 THE DEFENDANT GUILTY OF MURDER IN THE FIRST DEGREE, IF THEY  
21 DO, AND THEN THEY HAVE TO CONSIDER THE QUESTION, IS IT TRUE  
22 OR FALSE THAT IT WAS COMMITTED DURING THE COURSE OF A ROBBERY.

23 WHATEVER YOUR OPINION IS ABOUT THE DEATH PENALTY,  
24 WOULD THAT AFFECT YOU IN ANY WAY IN DETERMINING THE SPECIAL  
25 CIRCUMSTANCES IN THIS CASE?

26 MS. ERRIDGE: NO.

27 THE COURT: ALL RIGHT. NOW, THE NEXT TWO HAVE TO DO  
28 WITH THE PENALTY ASPECT, ASSUMING THAT HE HAS BEEN CONVICTED

1 OF MURDER IN THE FIRST DEGREE AND THAT IT WAS IN THE COURSE  
2 OF A ROBBERY, THE SPECIAL CIRCUMSTANCES.

3 NOW, DO YOU HAVE ANY OPINION CONCERNING THE DEATH  
4 PENALTY THAT YOU WOULD AUTOMATICALLY VOTE TO IMPOSE THE DEATH  
5 PENALTY, REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED AT  
6 THE PENALTY PHASE OF THE TRIAL? DO YOU UNDERSTAND IT?

7 MS. ERRIDGE: NO, I DON'T. REPEAT IT ONE MORE TIME.

8 THE COURT: ALL RIGHT. I WILL REPEAT IT TO YOU. WHAT-  
9 EVER OPINION YOU MAY HAVE ABOUT THE DEATH PENALTY, WHATEVER  
10 OPINION THAT YOU MAY HAVE, WOULD YOU AUTOMATICALLY VOTE TO  
11 IMPOSE THE DEATH PENALTY, WITHOUT REGARD TO ANY EVIDENCE THAT  
12 MAY BE PRESENTED ON THE PENALTY PHASE OF THE TRIAL?

13 MS. ERRIDGE: NO.

14 THE COURT: NOW, THE NEXT QUESTION IS ABOUT THE SAME,  
15 EXCEPT THAT IT RELATES TO LIFE WITHOUT POSSIBILITY OF PAROLE.  
16 DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH PENALTY, THAT  
17 YOU WOULD AUTOMATICALLY VOTE FOR LIFE WITHOUT THE POSSIBILITY  
18 OF PAROLE, REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED  
19 IN THE PENALTY PHASE OF THE TRIAL? IT IS THE SAME AS THE OTHER  
20 ONE EXCEPT THAT THE OTHER ONE HAD TO DO WITH THE DEATH  
21 PENALTY. THIS ONE HAS TO DO WITH LIFE WITHOUT POSSIBILITY  
22 OF PAROLE.

23 MS. ERRIDGE: NO.

24 THE COURT: ALL RIGHT. NOW, YOU UNDERSTAND THAT THE  
25 ISSUE OF THE DEATH PENALTY MAY OR MAY NOT OCCUR IN THIS CASE  
26 AND THAT THESE QUESTIONS HAVE BEEN ASKED ONLY IN THE EVENT  
27 THAT YOU REACH THAT PHASE OF THE TRIAL.

28 MS. ERRIDGE: UH-HUH.

1 THE COURT: ALL RIGHT. INCIDENTALLY, DO YOU HAVE AN  
2 OPINION AS TO THE DEATH PENALTY?

3 MS. ERRIDGE: HOW I FEEL ABOUT IT?

4 THE COURT: YES.

5 MS. ERRIDGE: WHETHER I BELIEVE IN IT?

6 THE COURT: YES.

7 MS. ERRIDGE: YES, I DO.

8 THE COURT: YOU DO? ALL RIGHT. GO AHEAD.

9 MR. CHIER: GOOD AFTERNOON, MS. ERRIDGE. MY NAME IS  
10 RICHARD CHIER. I REPRESENT MR. HUNT.

11 I WANT TO SAY THAT CONSIDERING THAT WE HAVE NEVER  
12 MET BEFORE AND WE DON'T KNOW ANYTHING ABOUT EACH OTHER, IT  
13 IS A LITTLE AWKWARD FOR ME AS IT IS FOR YOU TO BE SUDDENLY  
14 TALKING ABOUT MATTERS AS SERIOUS AS THIS, THE DEATH PENALTY,  
15 LIFE OR DEATH AND YOUR ATTITUDES ON CAPITAL PUNISHMENT.

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1 I WOULD LIKE TO SAY BEFORE I ASK YOU SOME QUESTIONS  
2 THAT IT IS IMPORTANT TO HAVE YOUR MOST CANDID ANSWERS BECAUSE  
3 THE SYSTEM CAN ONLY WORK IF PROSPECTIVE JURORS SUCH AS YOURSELF  
4 ARE COMPLETELY CANDID.

5 WHAT WE ARE TRYING TO DO IS TO SEE IF THERE ARE  
6 PERSONS WITH AGENDAS, HIDDEN OR NOT HIDDEN, THAT ARE SO STRONGLY  
7 IN FAVOR OF OR AGAINST THE DEATH PENALTY THAT IT ERODES THEIR  
8 NEUTRALITY SO THEY WOULD NOT BE APPROPRIATE JURORS TO SIT  
9 IN THIS CASE.

10 PEOPLE CAN BE APPROPRIATE JURORS TO SIT ON ONE  
11 TYPE OF CASE BUT NOT ANOTHER AND THIS INQUIRY IS LIMITED TO  
12 DETERMINING YOUR ATTITUDES ON THE DEATH PENALTY, ABOUT THE  
13 DEATH PENALTY TO SEE WHERE THAT LEADS US IN TERMS OF YOUR  
14 NEUTRALITY.

15 SO WITH THAT IN MIND, LET ME ASK YOU HOW YOU WOULD  
16 ANSWER THIS QUESTION. YOU HAVE INDICATED TO THE COURT THAT  
17 YOU ARE IN FAVOR OF THE DEATH PENALTY BUT HOW WILL YOU ANSWER  
18 THE FOLLOWING:

19 I AM A PERSON WHO IS:

20 A, STRONGLY IN FAVOR OF THE DEATH PENALTY.

21 B, SOMEWHAT IN FAVOR OF THE DEATH PENALTY.

22 C, OPPOSED TO IT -- WELL, YOU HAVE ANSWERED THAT.

23 ARE YOU SOMEWHAT IN FAVOR OF THE DEATH PENALTY

24 OR STRONGLY IN FAVOR OF IT?

25 MS. ERRIDGE: B, SOMEWHAT.

26 MR. CHIER: SOMEWHAT?

27 COULD YOU TELL ME IN YOUR OWN WORDS, MISS ERRIDGE,  
28 WHY WE NEED A DEATH PENALTY AND WHY YOU FAVOR IT?

1 MS. ERRIDGE: OKAY. I FEEL THAT WE NEED THE DEATH PENALTY  
2 BECAUSE OF, LIKE, IF THERE IS A CRIMINAL WITH MULTIPLE,  
3 CONTINUING MURDERS.

4 MR. CHIER: SERIAL KILLERS?

5 MS. ERRIDGE: YES, OVER AND OVER AGAIN, 16 PEOPLE OR  
6 SOMETHING LIKE THAT. I FEEL THEY DON'T HAVE A RIGHT TO TAKE  
7 SOMEONE ELSE'S LIFE OR THAT MANY PEOPLE'S LIVES AND WHEN HE  
8 MIGHT GO TO JAIL AND GET OUT, WHO KNOWS, IN TEN YEARS WHEN  
9 16 PEOPLE MAYBE, FOR AN EXAMPLE, HAVE LOST THEIR LIFE.

10 THE COURT: PARDON ME. LET ME TELL YOU THIS RIGHT NOW:  
11 WHEN WE TALK ABOUT LIFE IMPRISONMENT WITHOUT THE POSSIBILITY  
12 OF PAROLE, HE NEVER GETS OUT.

13 MS. ERRIDGE: HE WON'T GET OUT?

14 THE COURT: HE NEVER GETS OUT, ALL RIGHT?

15 MS. ERRIDGE: OKAY.

16 MR. CHIER: OKAY, NOW DO YOU THINK THAT THE DEATH PENALTY  
17 IS NECESSARY TO DETER PEOPLE FROM DOING THE SAME TYPES OF  
18 CRIMINAL ACTS OR IT IS NECESSARY TO KIND OF ELIMINATE FROM  
19 SOCIETY REAL UNDESIRABLE ELEMENTS, KILLERS?

20 MS. ERRIDGE: IN OTHER WORDS, YOU ARE ASKING IF --  
21 THE DEATH PENALTY SO THAT HE DOESN'T CONTINUE IT OR IS  
22 IT JUST TO GET --

23 MR. CHIER: OR IS IT TO MAKE A PUBLIC EXAMPLE OF THEM  
24 SO OTHER PEOPLE DON'T DO IT, OR IS IT A WAY OF GETTING RID  
25 OF SOMEBODY WHO HAS TAKEN A LIFE?

26 MS. ERRIDGE: I THINK IT IS SO HE DOESN'T CONTINUE BECAUSE  
27 HE TOOK SOMEONE ELSE'S LIFE.

28 MR. CHIER: LET ME ASK YOU THIS --

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1 THE COURT: YOU MEAN IF HE WERE TO ESCAPE FROM PRISON,  
2 IS THAT WHAT YOU ARE TALKING ABOUT, LIFE IN PRISON WITHOUT  
3 THE POSSIBILITY OF PAROLE, HE WOULD NEVER GET OUT, SO HE WILL  
4 NEVER DO IT AGAIN EXCEPT IF HE ESCAPES FROM PRISON, AND HE  
5 WILL NEVER DO IT AGAIN, HE WOULD BE PUT TO DEATH BEFORE THAT;  
6 IS THAT WHAT YOU MEAN?

7 MS. ERRIDGE: YES, SO --

8 THE COURT: SO HE WOULDN'T HAVE A CHANCE TO DO IT AGAIN?

9 MS. ERRIDGE: YES, IF HE GOT OUT.

10 MR. CHIER: LET'S GET RIGHT DOWN TO THE REAL ISSUE,  
11 MISS ERRIDGE.

12 BEARING IN MIND THAT WHAT WE ARE LOOKING FOR --  
13 EVERYONE THINKS OF HIMSELF AS A FAIR PERSON, RIGHT? I DON'T  
14 KNOW OF ANYONE WHO THINKS OF THEMSELVES AS AN UNFAIR PERSON.

15 BUT THE QUESTION OF IMPARTIALITY IS SLIGHTLY  
16 DIFFERENT.

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1                   THERE ARE SOME THINGS THAT WE ARE LIKE TOTALLY  
2 IMPARTIAL ABOUT, INDIFFERENT ABOUT EVEN AND OTHER THINGS WE  
3 FEEL REAL PASSIONATE ABOUT, RIGHT, AND THAT CAN BE FOOD, IT  
4 COULD BE COLORS OR IT COULD BE TYPES OF MUSIC, A LOT OF THINGS;  
5 RIGHT?

6                   MS. ERRIDGE: UH-HUH.

7                   MR. CHIER: IN THIS SETTING HERE, WE ARE LOOKING FOR  
8 PEOPLE WHO DON'T HAVE STRONG FEELINGS ONE WAY OR THE OTHER  
9 TOWARD THE DEATH PENALTY SO THAT THEY COULD, LIKE, LISTEN  
10 TO THE EVIDENCE PROBABLY MORE OPEN MINDED THAN PEOPLE THAT  
11 HAVE VERY STRONG PASSIONS.

12                   LOOKING INTO YOURSELF, AS YOU SIT HERE TODAY,  
13 ARE YOU THE TYPE OF PERSON YOU FEEL THAT IS SUITABLE TO BE  
14 A JUROR WHERE YOU DON'T HAVE STRONG PASSIONS FOR OR AGAINST  
15 THE DEATH PENALTY SO YOU COULD BE TOTALLY OPEN MINDED AND  
16 CONSIDER EVERYTHING THAT YOU HEARD AND FOLLOW THE COURT'S  
17 INSTRUCTIONS?

18                   MS. ERRIDGE: UH-HUH, I FEEL THAT I COULD, YOU KNOW,  
19 BE ON THE JURY BECAUSE IT JUST DEPENDS ON WHAT THE EVIDENCE  
20 IS AGAINST HIM, WHICH WAY IT GOES.

21                   I AM NOT AS STRONG AS SAYING "PUT HIM TO THE DEATH  
22 PENALTY." IT HAS TO BE, YOU KNOW, WHAT EVIDENCE IS AGAINST  
23 HIM AND --

24                   MR. CHIER: ALL RIGHT, I WILL PASS FOR CAUSE, YOUR HONOR.

25                   THE COURT: ALL RIGHT.

26                   MR. WAPNER: MISS ERRIDGE, GOOD AFTERNOON. I AM FRED  
27 WAPNER. I AM THE DEPUTY D.A. WHO IS PROSECUTING THIS CASE.

28                   FIRST OF ALL, DO YOU UNDERSTAND THAT IF YOU ARE

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1 CHOSEN TO SERVE ON THIS JURY, IT IS GOING TO BE YOUR JOB  
2 ULTIMATELY TO MAKE A DECISION AS TO WHETHER THE DEFENDANT  
3 SHOULD LIVE OR WHETHER HE SHOULD DIE?

4 MS. ERRIDGE: UH-HUH.

5 MR. WAPNER: DO YOU THINK YOU ARE CAPABLE OF MAKING  
6 THAT DECISION?

7 MS. ERRIDGE: YES.

8 MR. WAPNER: OKAY, LET ME JUST GIVE YOU A POSSIBLE  
9 FACTUAL SCENARIO AND THAT IS, THAT YOU WOULD SIT AND LISTEN  
10 TO ALL OF THE EVIDENCE ON THE FIRST PART OF THE CASE AND HAVE  
11 TO MAKE A DECISION OF WHETHER HE IS GUILTY OR NOT. AND THEN  
12 ONCE YOU HAVE MADE A DECISION THAT HE WAS GUILTY, YOU WOULD  
13 LISTEN TO THE EVIDENCE AT THE PENALTY PHASE AND AFTER YOU  
14 DID THAT, YOU WOULD GO INTO THE JURY ROOM AND YOU HAVE TO  
15 DISCUSS THE CASE WITH 11 OTHER JURORS AND ALL I CAN TELL YOU  
16 RIGHT NOW, BASED ON ALL OF THE OTHER PEOPLE WE HAVE TALKED  
17 WITH, EVERYONE OF THEM IS GOING TO BE OLDER THAN YOU.

18 MS. ERRIDGE: I KNOW, THAT'S RIGHT.

19 MR. WAPNER: IN DISCUSSING THE CASE WITH 11 OTHER PEOPLE,  
20 THE JUDGE WILL TELL YOU THAT YOU HAVE TO DISCUSS YOUR OPINIONS  
21 AND LISTEN TO THEIR OPINIONS, BUT HE WILL ALSO TELL YOU THAT  
22 YOU HAVE TO MAKE UP YOUR OWN INDIVIDUAL OPINION, YOU HAVE  
23 TO CAST YOUR OWN INDIVIDUAL BALLOT AS TO WHAT THE PUNISHMENT  
24 SHOULD BE; DO YOU UNDERSTAND THAT?

25 MS. ERRIDGE: UH-HUH.

26 THE COURT: DOES THAT MEAN YES?

27 MS. ERRIDGE: YES.

28 MR. WAPNER: YOU HAVE TO SAY YES OR NO SO SHE CAN WRITE



19A-3

1 IT DOWN.

2 MS. ERRIDGE: I AM SORRY.

3 MR. WAPNER: THAT MEANS YOU HAVE TO MAKE UP YOUR OWN  
4 MIND, CAST YOUR OWN VOTE AS TO WHETHER THE PUNISHMENT SHOULD  
5 BE LIFE IN PRISON WITHOUT THE POSSIBILITY OF PAROLE OR WHETHER  
6 IT SHOULD BE DEATH; DO YOU UNDERSTAND THAT?

7 MS. ERRIDGE: UH-HUH, YES.

8 MR. WAPNER: OKAY. AND DO YOU HAVE IT WITHIN YOU TO  
9 MAKE THAT TYPE OF A DECISION?

10 MS. ERRIDGE: I REALLY DON'T KNOW. IT IS HARD -- IT  
11 IS, YOU KNOW, IT IS A HARD DECISION, I MEAN.

12 MR. WAPNER: I AM SURE IT IS A VERY HARD DECISION.

13 THE COURT: OF COURSE, IT IS VERY SERIOUS.

14 MS. ERRIDGE: YES.

15 THE COURT: BUT IF YOU ARE ACCEPTED AS A JUROR IN THIS  
16 CASE, WOULD YOU BE CAPABLE OF MAKING THE DECISION, HARD AS  
17 IT MAY BE?

18 MS. ERRIDGE: I DON'T THINK I COULD REALLY, REALLY WITHOUT  
19 BEING INFLUENCED, YOU KNOW, ON THE OTHERS, HOW THEY FEEL.

20 THE COURT: NO, NO. YOU HAVE TO MAKE UP YOUR MIND.

21 MS. ERRIDGE: THAT IS WHAT I MEAN.

22 THE COURT: YOU HAVE TO MAKE UP YOUR OWN MIND AFTER  
23 TALKING WITH THEM, OF COURSE, BUT IT HAS TO BE YOUR INDIVIDUAL  
24 DECISION. YOU JUST CAN'T GO ALONG WITH WHAT THE MAJORITY  
25 WANTS. YOU HAVE GOT TO MAKE UP YOUR OWN MIND AFTER LISTENING  
26 TO THEM.

27 MR. ERRIDGE: I DON'T THINK I COULD REALLY MAKE THE  
28 DECISION.

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1 THE COURT: ALL RIGHT.

2 MR. WAPNER: OKAY, I HAVE NOTHING FURTHER.

3 THE COURT: ALL RIGHT, IN VIEW OF THAT, YOU  
4 CONSCIENTIOUSLY FEEL IN GOOD FAITH YOU WOULDN'T BE ABLE TO  
5 MAKE ANY DECISION ON THIS CASE ONE WAY OR THE OTHER, IS THAT  
6 THE IDEA?

7 MS. ERRIDGE: YES.

8 MR. CHIER: MAY I INQUIRE, YOUR HONOR?

9 THE COURT: GO AHEAD.

10 MR. CHIER: MISS ERRIDGE, ARE YOU SAYING THAT YOU ARE  
11 AT THE PRESENT TIME OF SUCH A MIND THAT YOU WOULD NOT BE  
12 WILLING TO EVEN CONSIDER THE PUNISHMENT OF DEATH IF YOU FELT  
13 THAT THE EVIDENCE IN THIS CASE WARRANTED IT, THE DEATH PENALTY;  
14 ARE YOU SAYING THAT?

15 MS. ERRIDGE: WELL, WHAT I UNDERSTOOD WAS WHAT YOUR  
16 ARE ASKING IS, CAN I MAKE A DECISION WHETHER, YOU KNOW, WHO  
17 LIVES OR DIES? I COULDN'T MAKE THAT.

18 MR. CHIER: WELL, IF YOU WERE SELECTED AS A JUROR, COULD  
19 YOU FOLLOW -- COULD YOU OBEY YOUR OATH AS A JUROR TO FOLLOW  
20 THE LAW?

21 MS. ERRIDGE: TO FOLLOW THE LAW, YES, I CAN MAKE A  
22 DECISION BUT I WOULD FEEL GUILTY OR --

23 MR. CHIER: GUILTY OR NOT GUILTY, RIGHT.

24 WELL, I AM NOT ASKING YOU RIGHT NOW TO COMMIT  
25 YOURSELF TO BRINGING IN A VERDICT OF THE DEATH PENALTY, OKAY?

26 WHAT I AM ASKING IS IF, WHETHER AFTER HEARING  
27 THE WHOLE CASE AND HEARING ALL OF THE GOOD STUFF AND BAD STUFF  
28 ABOUT THE DEFENDANT, WHETHER YOU WOULD CONSIDER IN THE SENSE

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1 THAT YOU WOULDN'T HAVE -- YOU DON'T PUT OUT OF YOUR MIND RIGHT  
2 NOW THE POSSIBILITY OF VOTING FOR DEATH, WOULD YOU REMAIN  
3 OPEN-MINDED UNTIL THE VERY END?

4 MS. ERRIDGE: WHICH WAY IT GOES?

5 MR. CHIER: YES.

6 MS. ERRIDGE: YES, I WOULD.

7 MR. CHIER: AND YOU WOULD BE GUIDED BY YOUR OWN  
8 CONSCIENCE, AS WELL AS THE JUDGMENT OF THE OTHER JURORS THAT  
9 YOU WOULD BE DISCUSSING THE CASE WITH?

10 THE COURT: DO YOU MEAN GUIDED BY THE OTHER JURORS VIEWS?

11 MR. CHIER: NO.

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1 MR. CHIER: WOULD YOU TAKE INTO CONSIDERATION THE OPINIONS  
2 OF THE OTHER JURORS, AS WELL AS YOUR OWN IN COMING TO A  
3 DECISION? IS THAT CORRECT?

4 MS. ERRIDGE: YES.

5 MR. CHIER: PASS FOR CAUSE.

6 MR. WAPNER: MAY I INQUIRE FURTHER?

7 THE COURT: YES.

8 MR. WAPNER: MISS ERRIDGE, I HOPE THAT YOU DON'T THINK  
9 WE ARE TRYING TO BEAT A DEAD HORSE OR SOMETHING. BUT OBVIOUSLY,  
10 THE QUESTION IS IMPORTANT TO EVERYONE.

11 WHEN WE TALK ABOUT CONSIDERING THINGS ONE WAY OR  
12 ANOTHER, WE ARE NOT TALKING ABOUT AN INTELLECTUAL EXERCISE  
13 WHERE YOU THINK OF IT FOR THE SAKE OF THINKING OF IT. DO YOU  
14 UNDERSTAND THAT?

15 MS. ERRIDGE: UH-HUH.

16 MR. WAPNER: IS THAT YES?

17 MS. ERRIDGE: YES.

18 MR. WAPNER: WHAT IT REALLY COMES DOWN TO IS, REGARDLESS  
19 OF WHAT YOU MIGHT BE ABLE TO THINK ABOUT OR NOT, THE BOTTOM  
20 LINE QUESTION IS, THAT AT THE VERY END, YOU ARE GOING TO BE  
21 ASKED TO VOTE ON THE QUESTION OF WHETHER THE DEFENDANT SHOULD  
22 LIVE OR WHETHER HE SHOULD DIE. THAT IS, AFTER YOU HAVE  
23 CONSIDERED AND THOUGHT ABOUT EVERYTHING. DO YOU UNDERSTAND  
24 THAT?

25 MS. ERRIDGE: YES.

26 MR. WAPNER: OKAY. NOW, DO YOU THINK THAT YOU ARE THE  
27 KIND OF A PERSON WHO, IF THE EVIDENCE WARRANTS IT, IF YOU  
28 HAVE LISTENED TO ALL OF THE EVIDENCE AND YOU DECIDE THAT THE

1 EVIDENCE PROVES THAT THE PUNISHMENT SHOULD BE DEATH, CAN YOU  
2 MAKE THAT VOTE AND SAY THAT YOUR VOTE IS THAT THIS PERSON  
3 SHOULD DIE?

4 MR. CHIER: OBJECTION. THAT IS ASKING THE WITNESS TO  
5 PRECOMMIT TO SOMETHING, WHEN THE ONLY TEST IS --

6 MR. WAPNER: WELL, I THINK THAT --

7 THE COURT: THAT IS WHAT YOU HAVE BEEN ASKING ALL ALONG.  
8 HE IS ASKING THE SAME QUESTION THAT YOU DO IN ANOTHER WAY.

9 OVERRULED. GO AHEAD.

10 MR. WAPNER: I THINK THE TEST IS -- THANK YOU. DO YOU  
11 UNDERSTAND THE QUESTION?

12 MS. ERRIDGE: UH-HUH.

13 MR. WAPNER: CAN YOU ANSWER IT, IF YOU CAN?

14 MS. ERRIDGE: SO, YOU WANT ME -- YOU WANT TO KNOW IF  
15 I CAN MAKE A DECISION?

16 MR. WAPNER: WHAT I WANT TO KNOW IS, IF THE LAW AND THE  
17 FACTS ARE SUCH THAT IN YOUR MIND, THE PUNISHMENT SHOULD BE  
18 DEATH, CAN YOU CAST THAT VOTE?

19 MS. ERRIDGE: YES. BUT I WOULD FEEL -- HOW COULD I PUT  
20 IT? I WOULD FEEL GUILTY.

21 MR. WAPNER: OKAY. THE QUESTION IS --

22 MS. ERRIDGE: EVEN IF --

23 MR. WAPNER: GO AHEAD.

24 MS. ERRIDGE: SAY THAT HE WAS PUT TO DEATH --

25 THE COURT: SAY WHAT?

26 MS. ERRIDGE: SAY THAT HE WAS PUT TO DEATH.

27 THE COURT: YES?

28 MS. ERRIDGE: AND THEN I READ ABOUT IT OR SOMETHING.

1 I WOULD FEEL GUILTY, YOU KNOW.

2 THE COURT: YOU MEAN THAT IT WOULD AFFECT YOU TO SUCH  
3 A POINT -- IT WOULD AFFECT YOU TO SUCH A POINT THAT YOU WUOLD  
4 RATHER NOT SAY HE IS GUILTY? IS THAT IT?

5 MS. ERRIDGE: UH-HUH.

6 THE COURT: IS THAT RIGHT?

7 MS. ERRIDGE: YES.

8 MR. WAPNER: OKAY. CAN I ASK A FEW FOLLOW-UP QUESTIONS?

9 THE COURT: GO AHEAD.

10 MR. WAPNER: YOU HAVE TO ASSUME WHEN YOU VOTE FOR A  
11 VERDICT OF DEATH, THAT THAT SENTENCE WILL BE CARRIED OUT. DO  
12 YOU UNDERSTAND THAT?

13 MS. ERRIDGE: UH-HUH.

14 MR. WAPNER: SO IT IS NOT TALKING ABOUT VOTING FOR IT  
15 AND JUST SOMETHING IN THE ABSTRACT THAT MAY OR MAY NOT HAPPEN  
16 LATER.

17 WHEN YOU MAKE THAT VOTE, THAT IS A VOTE THAT --

18 MR. CHIER: THIS IS IMPROPER, YOUR HONOR.

19 MR. WAPNER: WELL, I THINK IT IS --

20 MR. CHIER: IT HAS NOTHING TO DO WITH WHAT --

21 MR. WAPNER: IT IS ALONG THE SAME LINES, IF THE COURT  
22 PLEASE, OF THE LIFE WITHOUT POSSIBILITY OF PAROLE QUESTION.

23 THE COURT: HE HAS NOT FINISHED HIS QUESTION. LET HIM  
24 FINISH HIS QUESTION.

25 MR. WAPNER: MEANING THAT, DO YOU UNDERSTAND THAT WHEN  
26 YOU VOTE IN THIS CASE FOR A VERDICT OF DEATH, IT MEANS THAT,  
27 WHAT IT SAYS, DEATH?

28 MS. ERRIDGE: THAT HE IS GOING TO GET --

1 THE COURT: DO YOU UNDERSTAND THAT IF THE FACTS AND THE  
2 LAW JUSTIFIED IT -- WOULD YOU VOTE FOR IT, DEATH?

3 MS. ERRIDGE: YOU MEAN ON MY PERSONAL VOTE? HOW I WOULD  
4 VOTE? IS THAT IT?

5 MR. WAPNER: IF YOU WERE ON THE JURY --

6 MS. ERRIDGE: UH-HUH.

7 MR. WAPNER: YOU HAVE TO CAST YOUR OWN, INDIVIDUAL  
8 BALLOT.

9 AND WHEN YOU CAST THE BALLOT IN THIS CASE THAT  
10 SAYS THAT IT SHOULD BE DEATH, YOU HAVE TO DO THAT KNOWING THAT  
11 THAT IS WHAT IS GOING TO HAPPEN IF THAT IS YOUR VOTE. DO  
12 YOU UNDERSTAND THAT?

13 MS. ERRIDGE: UH-HUH.

14 MR. WAPNER: NOW, IF YOU CAST THAT VOTE AND YOU KNOW  
15 AT THE TIME THAT YOU CAST THAT VOTE THAT IT MIGHT MEAN THAT  
16 THE STATE WILL THEN EXECUTE THE DEFENDANT, ARE YOU CAPABLE  
17 OF MAKING THAT DECISION?

18 MS. ERRIDGE: I CAN MAKE THE DECISION BUT PERSONALLY,  
19 AFTERWARDS, I WOULD FEEL VERY GUILTY, LIKE.

1 THE COURT: WELL, I WILL TELL YOU WHAT YOU DO. WHY  
2 DON'T YOU WAIT OUTSIDE FOR JUST A MOMENT? WE'LL CALL YOU  
3 BACK IN.

4 (PROSPECTIVE JUROR ERRIDGE EXITED  
5 THE COURTROOM.)

6 THE COURT: IT SEEMS TO ME THAT THE STATEMENTS AND THE  
7 DEMEANOR OF THE PROSPECTIVE JUROR ARE SUCH AS TO PREVENT OR  
8 SUBSTANTIALLY IMPAIR HER ABILITY TO BE NEUTRAL IN THIS CASE  
9 AND SERVE AS A TRIAL JUROR. DO YOU DISAGREE?

10 MR. WAPNER: WELL, I THINK THAT THE RECORD SHOULD REFLECT  
11 THAT SHE WAS ALMOST IN TEARS WHEN SHE LEFT. BUT I DO THINK  
12 THAT I WOULD LIKE TO -- I DON'T NECESSARILY DISAGREE WITH  
13 THE COURT. I WOULD LIKE TO BE ABLE TO --

14 THE COURT: WELL, THEN DO YOU WANT TO PASS FOR CAUSE?

15 MR. WAPNER: I WOULD LIKE TO TRY TO ASK HER SOME MORE  
16 QUESTIONS TO GET IT A LITTLE MORE CLARIFIED.

17 THE COURT: WELL, I THOUGHT YOU EXHAUSTED YOUR QUESTIONS.  
18 WHAT ELSE DO YOU WANT TO ASK HER?

19 MR. WAPNER: WELL, I WANT TO TRY TO FIND OUT FIRST OF  
20 ALL, WHETHER HER OPINIONS ARE GOING TO AFFECT HER DECISION  
21 ON THE GUILT PHASE BECAUSE THE COURT JUST TOUCHED ON THAT.

22 BUT, WE DIDN'T REALLY HAVE A CHANCE TO GO INTO --

23 THE COURT: ASK HER TO COME BACK IN, WILL YOU PLEASE.

24 (PROSPECTIVE JUROR ERRIDGE RE-ENTERED  
25 THE COURTROOM.)

26 THE COURT: ARE YOU COMPOSED A LITTLE BIT NOW?

27 MS. ERRIDGE: YES.

28 THE COURT: THAT IS WHY I GAVE YOU A CHANCE TO GO OUTSIDE.



005-2  
1 MS. ERRIDGE: JUST NERVOUS.

2 THE COURT: GO AHEAD.

3 MR. WAPNER: MISS ERRIDGE, I WANT TO GO A LITTLE BIT  
4 BACKWARDS FROM WHERE WE WERE. AS THE JUDGE HAS TOLD YOU,  
5 THERE ARE TWO PARTS TO THIS TRIAL. AND THE FIRST PART IS  
6 WHERE YOU DECIDE WHETHER THE PERSON IS GUILTY OR NOT. DO  
7 YOU UNDERSTAND THAT?

8 MS. ERRIDGE: YES.

9 MR. WAPNER: AND HE IS GOING TO TELL YOU THAT DURING  
10 THAT PART OF THE CASE, YOU ARE NOT ALLOWED TO THINK ABOUT  
11 WHAT MIGHT HAPPEN TO HIM IF YOU FIND HIM GUILTY. DO YOU UNDER-  
12 STAND THAT?

13 MS. ERRIDGE: YES.

14 MR. WAPNER: EVEN THOUGH THE JUDGE TELLS YOU THAT, WOULD  
15 YOU HAVE THIS QUESTION OF THE DEATH PENALTY IN THE BACK OF  
16 YOUR MIND WHEN YOU WERE DECIDING ON THE ISSUE OF GUILT OR  
17 INNOCENCE?

18 MS. ERRIDGE: YES.

19 MR. WAPNER: WOULD YOUR FEELINGS ABOUT THE DEATH PENALTY  
20 KEEP YOU FROM BEING FAIR IN DECIDING THE QUESTION OF WHETHER  
21 HE IS GUILTY OR NOT?

22 MS. ERRIDGE: AND HOW I FEEL ABOUT IT?

23 MR. WAPNER: RIGHT.

24 MS. ERRIDGE: NO.

25 MR. WAPNER: OKAY. WOULD YOUR FEELINGS ABOUT THE DEATH  
26 PENALTY -- LET ME ASK YOU A QUESTION A DIFFERENT WAY.

27 YOU SAID THAT IF YOU HAD TO VOTE FOR A VERDICT  
28 OF DEATH, THAT YOU MIGHT BE ABLE TO DO IT BUT THAT YOU WOULD

202-3

1 FEEL GUILTY ABOUT IT?

2 MS. ERRIDGE: UH-HUH.

3 MR. WAPNER: IS THAT YES?

4 MS. ERRIDGE: YES.

5 MR. WAPNER: WOULD THOSE FEELINGS, THOSE GUILTY FEELINGS  
6 THAT YOU HAVE, KEEP YOU FROM BEING NEUTRAL IN WEIGHING THE  
7 EVIDENCE ON BOTH SIDES DURING THE PENALTY PHASE OF THE CASE?

8 MS. ERRIDGE: I THINK IT WOULD, YES.

9 MR. WAPNER: HOW SO?

10 MS. ERRIDGE: I WOULD -- LIKE I DO RIGHT NOW. IF I  
11 DECIDE MY OWN PERSONAL OPINION THAT WELL, THIS MAN IS GUILTY,  
12 DEATH PENALTY, I WOULD STILL FEEL THAT IT IS A HUMAN, YOU  
13 KNOW.

14 I WOULD FEEL GUILTY ABOUT IT. I DON'T KNOW --  
15 I DON'T KNOW BUT I WOULD --

16 THE COURT: ASSUMING YOU WOULD FEEL GUILTY ABOUT IT,  
17 WOULD YOU NONETHELESS, VOTE?

18 MS. ERRIDGE: WOULD YOU SAY THAT AGAIN, PLEASE? SORRY.

19 THE COURT: I KNOW IT IS VERY DIFFICULT FOR ANYBODY  
20 AS YOUNG OR FOR PEOPLE MUCH OLDER. THIS IS A SERIOUS MATTER,  
21 TO VOTE, IF THE FACTS WARRANTED IT THAT SOMEBODY ELSE SHOULD  
22 BE PUT TO DEATH. RIGHT? WE START OFF WITH THAT.

23 THE QUESTION IN THIS CASE IS, DESPITE THAT KIND  
24 OF A FEELING, WOULD YOU NONETHELESS VOTE THE DEATH PENALTY,  
25 IF YOU THINK THAT THE FACTS AND THE EVIDENCE WARRANT IT?

26 MS. ERRIDGE: YES.

27 THE COURT: ALL RIGHT.

28 MR. WAPNER: NOTHING ELSE.

20B-4

1 THE COURT: ALL RIGHT. DO YOU PASS FOR CAUSE?

2 MR. WAPNER: CAN SHE JUST -- CAN WE DO THIS OUTSIDE  
3 OF THE PRESENCE OF THE JUROR?

4 THE COURT: YES. PLEASE WAIT OUTSIDE AGAIN A MOMENT.

5 (PROSPECTIVE JUROR ERRIDGE EXITED  
6 THE COURTROOM.)

7 THE COURT: YES?

8 MR. WAPNER: SHE HAS OBVIOUSLY MADE CONTRADICTORY  
9 STATEMENTS. ON THE ONE HAND, SHE SAYS TO YOU THAT SHE CAN  
10 NONETHELESS VOTE FOR THE DEATH PENALTY, NOTWITHSTANDING HER  
11 FEELINGS.

12 ON THE OTHER HAND, SHE SAYS THAT HER FEELINGS  
13 ABOUT IT WOULD KEEP HER FROM BEING NEUTRAL ON THE ISSUE OF  
14 WHAT PENALTY SHOULD BE IMPOSED. AND I THINK --

15 THE COURT: I THINK UNDER THE CASE OF PEOPLE V. WITT,  
16 THE PROSPECTIVE JUROR SHOULD BE EXCLUDED FOR CAUSE WHEN HIS  
17 OR HER ACTION AND Demeanor -- AND Demeanor IS IMPORTANT IN  
18 THIS CASE -- INDICATE THE JUROR'S VIEWS WOULD PREVENT OR  
19 SUBSTANTIALLY IMPAIR HER ABILITY.

20 MR. CHIER: MAY I BE HEARD, YOUR HONOR?

21 THE COURT: I AM MAKING A RULING AND --

22 MR. CHIER: I WOULD LIKE TO BE HEARD AND --

23 THE COURT: DO YOU WANT TO HAVE HER ON THE JURY? DO  
24 YOU? YOU ARE THE DISTRICT ATTORNEY. HAVE YOU GOT ANY POINT  
25 OF VIEW?

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1 MR. WAPNER: YES, YOUR HONOR, I DON'T KNOW.

2 THE COURT: WHICH IS IT, DO YOU WANT HER EXCUSED OR DO  
3 YOU PASS FOR CAUSE?

4 MR. WAPNER: YOUR HONOR, I THINK -- WELL, FIRST OF ALL,  
5 I DON'T KNOW THAT IT HAS BEEN CLEAR THROUGHOUT THIS ENTIRE  
6 PROCESS WHETHER WE ARE USING THE WAINWRIGHT STANDARD OR  
7 WHETHER WE ARE USING THE WITHERSPOON STANDARD, THAT IS PART  
8 OF THE PROBLEM.

9 AND I THINK THAT THE DEFENSE HAS BEEN WILLING TO  
10 TAKE WHICHEVER STANDARD THEY FEEL LIKE, DEPENDING UPON WHICH  
11 JUROR IT IS BUT --

12 THE COURT: WELL, IF YOU ARE CONVINCED THAT IT IS  
13 UNMISTAKABLY CLEAR THAT SHE WOULD VOTE AGAINST THE DEATH  
14 PENALTY, IF THAT IS YOUR POSITION ON WITHERSPOON --

15 MR. WAPNER: YOUR HONOR, I DO NOT THINK IT IS  
16 UNMISTAKABLY CLEAR.

17 I THINK SHE HAS VACILLATED BACK AND FORTH AND I  
18 THINK THAT WHILE PROBABLY SHE IS EXCLUDABLE UNDER THE  
19 WAINWRIGHT V. WITT TEST, OUT OF AN ABUNDANCE OF CAUTION AND  
20 NOT TO -- I AM LOOKING DOWN THE LINE SOME PLACE AT SOME  
21 APPELLATE COURT REVIEWING THIS, AND OUT OF AN ABUNDANCE OF  
22 CAUTION, I THINK SHE SHOULD BE KEPT.

23 THE COURT: ALL RIGHT, I THINK IT IS, TOO. WE WILL  
24 ERR ON THE SIDE OF CAUTION AND WE WILL KEEP HER.

25 IT IS OBVIOUS BECAUSE OF HER YOUTH AND HER  
26 EMOTIONALITY ABOUT THE THING, SHE WILL BE LARGELY PERSUADED  
27 BY WHAT THE OTHER JURORS TELL HER ANYWAY. NONETHELESS, I DON'T  
28 THINK THERE EXISTS ANY LEGAL REASON FOR EXCLUDING HER FOR CAUSE.

1                    WOULD YOU HAVE HER COME IN?

2                    I AM NOT EXCUSING HER, UNLESS YOU DON'T WANT  
3 HER.

4                    MR. CHIER: I UNDERSTAND. NO, YOUR HONOR, IT IS ABOUT  
5 THIS WAINWRIGHT VERSUS WITHERSPOON SITUATION, IF IT SEEMS  
6 I HAVE VACILLATED, IT IS BECAUSE I DO NOT KNOW WHAT THE  
7 CONTROLLING STANDARD IS IN THE STATE OF CALIFORNIA, YOUR HONOR.

8                    THE COURT: MY FEELING IS THAT THE SUPREME COURT TO BE  
9 WILL DECIDE THAT WAINWRIGHT IS PROPER.

10                    MR. CHIER: BUT FOR PURPOSES OF THIS EXERCISE OR THIS  
11 PROCEDURE, I DON'T KNOW WHAT THE STANDARD IS. THE COURT HAS  
12 NOT SAID WHAT STANDARD IT IS FOLLOWING.

13                    THE COURT: WHAT DO YOU WANT ME TO DO AT THIS PARTICULAR  
14 POINT? I AM ASKING YOU: DO YOU PASS FOR CAUSE?

15                    MR. CHIER: ON THIS JUROR.

16                    THE COURT: AND THE PEOPLE PASS FOR CAUSE, TOO.

17                    YOU CAN DO IT EITHER WAY YOU WANT, I WILL PERMIT  
18 YOU TO DO IT ON WITHERSPOON AND WAINWRIGHT AND THE COURT WILL,  
19 TOO.

20                    WILL YOU GET HER IN, PLEASE?

21                    (PROSPECTIVE JUROR ERRIDGE ENTERS THE  
22 COURTROOM.)

23                    THE COURT: WE HAVE DECIDED THAT YOU WILL MAKE A PROPER  
24 JUROR IN THIS CASE, ALL RIGHT?

25                    MS. ERRIDGE: OKAY.

26                    THE COURT: SO WE WILL ASK YOU TO COME BACK TO THE JURY  
27 ASSEMBLY ROOM TOMORROW AT 10:30.

28                    MS. ERRIDGE: 10:30, OKAY.

1 THE COURT: ALL RIGHT, THANK YOU.

2 MS. ERRIDGE: UH-HUH, THANK YOU.

3 THE COURT: I AM SORRY WE MADE IT A LITTLE DIFFICULT  
4 FOR YOU.

5 MS. ERRIDGE: JUST NERVES.

6 THE COURT: BUT IT IS A PROCESS WE HAVE TO GO THROUGH.

7 (PROSPECTIVE JUROR ERRIDGE EXITS THE  
8 COURTROOM.)

9 THE COURT: NOW WE ARE READY FOR ALL THE PROSPECTIVE  
10 JURORS. THAT WAS THE LAST ONE.

11 MR. WAPNER: CAN WE JUST HAVE A LITTLE DISCUSSION ABOUT  
12 THE PROCEDURE THAT YOU ARE PLANNING TO EMPLOY?

13 THE COURT: YES.

14 WHAT I INTEND TO DO IS TO TELL THE JURORS WHAT  
15 THE CASE IS ALL ABOUT. I WILL INTRODUCE BOTH OF YOU, I THINK  
16 IT IS APPROPRIATE AT THIS TIME.

17 THEN THE FIRST QUESTION I AM GOING TO ASK THEM,  
18 OR TELL THEM THAT IT IS ANTICIPATED THIS CASE WILL TAKE ABOUT  
19 TWO OR THREE MONTHS TO TRY, BECAUSE WE HAVE SPENT ABOUT A MONTH  
20 ALREADY ON THE JURY SELECTION, SO ABOUT TWO AND A HALF MONTHS  
21 TO TRY AND I FIRST WANT TO FIND OUT FROM ANY OF THE  
22 PROSPECTIVE JURORS WHETHER OR NOT FOR ECONOMIC OR MEDICAL  
23 REASONS THEY WANT TO BE EXCUSED.

24 AND THOSE WHO WANT TO BE EXCUSED, I AM GOING TO  
25 EXCUSE.

26 MR. WAPNER: OKAY.

27 MR. CHIER: WITHOUT A HEARING, YOUR HONOR?

28 THE COURT: YES, WITHOUT A HEARING. AND THEN THE

1 REMAINING JURORS WILL REMAIN AND WE WILL SEE HOW MANY WE GET.

2 MR. WAPNER: YOUR HONOR, THERE MAY BE A GRAY AREA WITH  
3 SOME AS TO WHETHER OR NOT THEIR EMPLOYERS WILL PAY THEM AND  
4 YOU MIGHT WANT TO INQUIRE.

5 THE COURT: THAT WILL COME AFTERWARD. FIRST, I WANT TO  
6 FIND OUT MEDICAL -- WELL, ECONOMIC REASONS AND WHETHER THEIR  
7 EMPLOYER WILL PAY THEM OR NOT.

8 MR. WAPNER: WHAT I AM SAYING IS THERE WILL BE A CERTAIN  
9 GROUP THAT WILL KNOW FOR SURE THAT THEIR EMPLOYERS WILL NOT  
10 PAY THEM AND THERE WILL BE ANOTHER GROUP THAT WILL KNOW FOR  
11 SURE THAT --

12 THE COURT: ALL RIGHT, I WILL ADDRESS THEM IN THIS WAY:  
13 ARE THERE ANY OF YOU WHOSE EMPLOYERS WILL NOT PAY YOU FOR ANY  
14 TIME IN EXCESS OF, SAY, TEN TO THIRTY DAYS? IS THAT WHAT YOU  
15 WANT ME TO DO?

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1 MR. WAPNER: THE ONLY THING I AM SUGGESTING IS THAT  
2 FOR THOSE PEOPLE WHO DON'T KNOW, THAT WE GIVE THEM AN  
3 OPPORTUNITY TO FIND OUT. WHAT I AM SAYING IS THAT IF YOU  
4 JUST ASK THEM ONE QUESTION, CAN YOU STAY OR CAN YOU NOT, AND  
5 THEN THOSE PEOPLE SAY THEY CAN'T AND LEAVE, THERE MIGHT BE  
6 A GREY AREA OF --

7 THE BAILIFF: ARE YOU GOING TO GO INTO CHAMBERS AGAIN  
8 LIKE YOU DID LAST TIME?

9 MR. WAPNER: NO.

10 THE BAILIFF: BECAUSE IF YOU DO, THEN THE ONES IN THE  
11 GREY AREA COULD CALL THEIR EMPLOYERS RIGHT HERE WHILE YOU  
12 ARE DOING THE REST OF THEM IN THERE.

13 THE COURT: THERE IS NO NECESSITY, I THINK, OF HAVING  
14 EACH ONE OF THEM STEP IN THERE. WE CAN ASK THEM RIGHT OUTSIDE.

15 MR. WAPNER: WE CAN EITHER ASK THEM OUT HERE OR ONCE --  
16 THERE ARE A CERTAIN NUMBER OF THEM THAT ARE GOING TO BE EXCUSED  
17 AND THEN IT WAS MY UNDERSTANDING THAT THE CLERK AND THE BAILIFF  
18 WOULD PREPARE A LIST.

19 AFTER WE EXCUSE THE INITIAL GROUP, SINCE IT IS  
20 NOW QUARTER TO 3:00 ANYWAY, MAYBE WE CAN JUST TAKE A 10-MINUTE  
21 BREAK AND TELL THOSE PEOPLE WHO HAVE QUESTIONS THAT THEY CAN  
22 GO AND USE THAT 10 MINUTES TO GO MAKE THE CALL RIGHT NOW AND  
23 THEY CAN COME BACK AND TELL US BY 3 O'CLOCK.

24 THE COURT: DON'T WE FIRST INQUIRE OF THESE PROSPECTIVE  
25 JURORS WHETHER THEY HAVE ANY MEDICAL REASONS WHY THEY WANT  
26 TO BE EXCUSED? THEY WON'T HAVE TO CONSULT ANYBODY ABOUT THAT.  
27 THERE MAY BE ECONOMIC REASONS. IN OTHER WORDS, THEIR JOB  
28 MIGHT BE INVOLVED SO I WILL FIND OUT ABOUT THAT AND SEGREGATE



11A-2

1 THEM IN THE COURTROOM.

2 WE WILL HAVE A LIST OF THEM, WON'T WE?

3 THE CLERK: WE HAVE JUST THESE AT THIS POINT.

4 THE COURT: HOW MANY HAVE YOU GOT THERE?

5 THE CLERK: WE HAVE 73.

6 THE BAILIFF: THE ONES THAT LEAVE, YOUR HONOR, WE WILL  
7 JUST GIVE THEM THEIR TICKETS AND THEY WILL BE GONE AND THE  
8 ONES THAT STAY, WE WILL MAKE A LIST OF THOSE.

9 THE COURT: YOU SEE, WE HAVE TO INQUIRE AS TO EACH ONE  
10 OF THEM AS TO THEIR ECONOMIC HARDSHIP.

11 MR. WAPNER: I AM NOT SUGGESTING THAT WE DO IT  
12 INDIVIDUALLY.

13 ALL I AM SAYING IS THERE IS GOING TO BE A GREY  
14 AREA OF SOME PEOPLE WHO DON'T KNOW.

15 THE COURT: I WILL ASK DEFINITELY THOSE WHOSE EMPLOYERS  
16 WILL NOT PAY THEM OR THEY PAY THEM FROM 10 TO 30 DAYS AND  
17 THEY WILL BE CATEGORICALLY EXCUSED.

18 MR. WAPNER: RIGHT.

19 THE COURT: UNLESS THEY WANT TO CALL THEIR EMPLOYERS  
20 AND FIND OUT WHETHER THEIR EMPLOYERS WILL PERMIT THEM TO BE  
21 PAID FOR TWO AND A HALF OR THREE MONTHS. FOR THOSE WHO SAY  
22 THAT "MY EMPLOYER WON'T," THEN THOSE CAN BE EXCUSED.

23 MR. WAPNER: THAT IS FINE.

24 MR. CHIER: YOUR HONOR, I BELIEVE THESE PROSPECTIVE  
25 JURORS SHOULD BE HANDLED THE SAME WAY.

26 THE COURT: NO, I WON'T HANDLE THEM THE SAME WAY. THERE  
27 IS NO NECESSITY FOR IT.

28 ALL RIGHT, WILL YOU GET THEM IN, PLEASE, PAT?

1 (PROSPECTIVE JURORS ENTERED THE COURTROOM.)

2 THE COURT: GOOD AFTERNOON, LADIES AND GENTLEMEN. WE  
3 HAVE BEEN IN THE PROCESS IN THE LAST TWO WEEKS OF GETTING  
4 TOGETHER A SUFFICIENT NUMBER OF JURORS TO TRY A CASE WHICH  
5 I WILL TELL YOU ABOUT.

6 IN THIS PARTICULAR CASE, THE DEFENDANT IS ACCUSED  
7 OF THE CRIME OF MURDER IN THE FIRST DEGREE, AND THAT IT WAS  
8 COMMITTED DURING THE COURSE OF A ROBBERY. AND POSSIBLY, THE  
9 DEATH PENALTY MIGHT BE INVOLVED.

10 AND FOR THAT REASON, IT IS A LONG PROCESS IN  
11 CHOOSING A JURY AND WE HAVE RUN OUT OF THE PRESENT BATCH OF  
12 JURORS THAT WE HAVE AND WE NEED SOME MORE.

13 NOW, MY FIRST QUESTION TO YOU ALL IS, IT IS  
14 ANTICIPATED THAT THIS CASE ACTUALLY WILL TAKE ABOUT ANOTHER  
15 TWO MONTHS AND A HALF TO TRY. ARE THERE ANY OF YOU WHO FOR  
16 MEDICAL REASONS OR FOR ECONOMIC REASONS, FEEL THAT YOU CANNOT  
17 SERVE IF YOU ARE SELECTED AS A JUROR FOR THAT PARTICULAR PERIOD  
18 OF TIME, TWO AND A HALF MONTHS? RAISE YOUR HANDS, PLEASE.

19 (THERE WAS A SHOW OF HANDS.)

20 THE COURT: NOW, THOSE OF YOU WHO COULD POSSIBLY REMAIN  
21 FOR THAT PARTICULAR PERIOD OF TIME AND ARE IN A POSITION TO  
22 DO SO, WHAT I WILL ASK YOU TO DO PLEASE, IS TO GO INTO THE  
23 JURY ASSEMBLY ROOM UNTIL WE ASK SOME QUESTIONS OF ALL OF THOSE  
24 WHO SAY THAT THEY WANT TO BE EXCUSED AND FIND THE REASONS  
25 WHY THEY SHOULD BE EXCUSED.

26 SO, YOU NEED NOT STAY HERE. ALL OF THOSE OF YOU  
27 WHO HAVE NOT RAISED YOUR HANDS, WILL YOU ALL GO BACK TO THE  
28 JURY ASSEMBLY ROOM AND WE'LL GET TO YOU LATER ON.

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(SOME PROSPECTIVE JURORS EXITED THE  
COURTROOM.)

THE COURT: THAT IS TWO AND A HALF MONTHS. IF YOU CAN  
STAY FOR THAT PERIOD OF TIME, PLEASE GO TO THE JURY ASSEMBLY  
ROOM AND WE WILL GET TO YOU IN A LITTLE WHILE.

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1 THE COURT: ALL RIGHT. NOW, VERY BRIEFLY, LET'S START  
2 ROW BY ROW. WE'LL START WITH THE FIRST ROW. THAT LADY. WHAT  
3 IS YOUR NAME?

4 MS. CALDWELL: DOLORES CALDWELL.

5 THE COURT: IS THAT MISS OR MRS. CALDWELL?

6 MS. CALDWELL: MS.

7 THE COURT: WHAT IS YOUR REASON THAT YOU WANT TO BE  
8 EXCUSED?

9 MS. CALDWELL: I AM IN THE CLASSROOM.

10 THE COURT: PARDON ME?

11 MS. CALDWELL: I TEACH.

12 THE COURT: YOU MEAN CLASSES?

13 MS. CALDWELL: YES.

14 THE COURT: UNLESS YOU INDICATE TO THE CONTRARY, THERE  
15 WILL BE NOBODY TO TAKE YOUR PLACE?

16 MS. CALDWELL: NOT REALLY.

17 MR. WAPNER: MAY WE APPROACH THE BENCH, BRIEFLY, YOUR  
18 HONOR?

19 THE COURT: YES.

20 HAVE THE JURORS SWORN.

21 THE CLERK: PLEASE STAND TO BE SWORN. RAISE YOUR RIGHT  
22 HANDS. EACH OF YOU DO SOLEMNLY SWEAR YOU WILL WELL AND TRULY  
23 ANSWER SUCH QUESTIONS AS MAY BE ASKED OF YOU TOUCHING UPON  
24 YOUR QUALIFICATIONS TO ACT AS TRIAL JURORS IN THE CAUSE NOW  
25 PENDING BEFORE THIS COURT, SO HELP YOU GOD?

26 (THE PROSPECTIVE JURORS ANSWERED IN THE  
27 AFFIRMATIVE.)

28 THE CLERK: THANK YOU.

1 (THE FOLLOWING PROCEEDINGS WERE HELD  
2 AT THE BENCH:)

3 THE COURT: YES?

4 MR. WAPNER: TWO THINGS. FIRST OF ALL, AS IT PERTAINS  
5 TO MS. CALDWELL, I THINK OUR POLICY WAS WITH THE OTHER TWO  
6 PEOPLE WHO WERE TEACHERS THAT IT WAS A HARDSHIP TO THE SCHOOL  
7 BUT NOT TO THE INDIVIDUAL. WE REQUIRED THEM TO STAY.

8 SECOND OF ALL, I DNO'T HAVE ANY OBJECTION TO THIS  
9 PROCESS IF YOU WANT TO DO THE EXAMINATION WHILE THEY ARE ALL  
10 HERE. BUT I THINK THAT RATHER THAN MAKING A DECIISION TO  
11 EXCUSE THEM, WE CAN JUST LISTEN TO ALL OF IT AND WRITE THE  
12 EXCUSES DOWN AND THEN WE CAN DECIDE.

13 THE COURT: ALL RIGHT. MAKE A NOTE OF EACH ONE, WILL  
14 YOU?

15 MR. CHIER: YES.

16 (THE FOLLOWING PROCEEDINGS WERE HELD IN  
17 OPEN COURT:)

18 THE COURT: WHAT IS YOUR NAME?

19 MR. AARON: BENJAMIN AARON, A-A-R-O-N.

20 THE COURT: WHAT IS YOUR EXCUSE?

21 MR. AARON: YOUR HONOR, I AM PRESIDENT OF AN INTERNATIONAL  
22 SOCIETY THAT IS HOLDING A CONVENTION IN SINGAPORE. WE HAVE  
23 HAD IT SCHEDULED FOR SEVERAL YEARS. I AM SUPPOSED TO BE THERE  
24 TO PRESIDE AT IT. IT IS THE 1ST OF FEBRUARY.

25 THE COURT: THAT WOULD BE A HARDSHIP FOR YOU FROM THE  
26 STANDPOINT OF AN ECONOMIC HARDSHIP?

27 MR. AARON: NO, SIR.

28 THE COURT: BUSINESS-WISE?

1 MR. AARON: NO, SIR.

2 THE COURT: WELL, IF IT ISN'T AN ECONOMIC HARDSHIP, YOU  
3 SEE, WE CANNOT EXCUSE YOU.

4 ALL RIGHT. WHAT IS YOUR NAME, PLEASE?

5 MR. CHILTON: TOM CHILTON, C-H-I-L-T-O-N.

6 THE COURT: WHAT IS YOUR REASON FOR WANTING TO BE  
7 EXCUSED?

8 MR. CHILTON: I WORK FOR MC DONNELL DOUGLAS. I AM  
9 A PROGRAM MANAGER FOR WEAPONS SYSTEMS. IT IS A FAIRLY TAXING  
10 TYPE OF JOB --

11 THE COURT: DON'T THEY HAVE A POLICY? HOW LONG DO THEY  
12 PAY YOU?

13 MR. CHILTON: TWENTY DAYS.

14 THE COURT: ALL RIGHT. YOU WILL BE EXCUSED. GO BACK  
15 TO THE JURY ASSEMBLY ROOM AND TELL THEM THAT YOU CAN SERVE  
16 ON SOME OTHER CASE. THANK YOU.

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1 THE COURT: STATE YOUR NAME, PLEASE.

2 MR. GREEN: MY NAME IS WHALEN GREEN.

3 THE COURT: YES. WHAT IS YOUR EXCUSE?

4 MR. GREEN: I AM A FREE-LANCE WRITER AND I HAVE  
5 CONTRACTUAL OBLIGATIONS TO COMPLETE -- ACTUALLY, TWO PROJECTS  
6 OVER THE DURATION OF THE NEXT THREE MONTHS AND I WOULD IMAGINE  
7 I WOULD BE IN BREACH OF CONTRACT WERE THAT PUT ASIDE AND I  
8 WOULD NOT GET THE MONEY THAT I NEED.

9 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. YOU WILL  
10 BE EXCUSED.

11 MR. NOCERINO: MY NAME IS JOHN NOCERINO, N-O-C-E-R-I-N-O,  
12 AND MY COMPANY WILL ONLY COMPENSATE ME FOR 20 DAYS.

13 THE COURT: WHAT?

14 MR. NOCERINO: MY COMPANY WILL ONLY COMPENSATE ME FOR  
15 20 DAYS.

16 THE COURT: THANK YOU. YOU MAY BE EXCUSED.

17 WHICH COMPANY DO YOU WORK FOR?

18 MR. NOCERINO: THE AEROSPACE CORPORATION.

19 THE COURT: OH, YES. THANK YOU.

20 YES, SIR?

21 MR. SUBLETTE: I AM RICHARD SUBLETTE, S-U-B-L-E-T-T-E.

22 I AM NOW PUBLICATIONS DIRECTOR AT ASC UCLA ON  
23 THE CAMPUS BUT MY JOB ENDS THIS FRIDAY AND I AM ENGAGED IN  
24 FINDING WORK ELSEWHERE, PROBABLY OUT OF STATE, SO I WILL BE  
25 IN INTERVIEWS.

26 THE COURT: IT WILL BE A HARDSHIP FOR YOU?

27 MR. SUBLETTE: OH, YES.

28 I HAVE A DAUGHTER IN COLLEGE AND I HAVE GOT --

1 THE COURT: ALL RIGHT, THANK YOU, MR. SUBLETTE. YOU  
2 WILL BE EXCUSED.

3 MR. SAMSON: MY NAME IS SAMSON. I AM EMPLOYED BY MYSELF  
4 AND I HAVE ARRANGEMENTS TO SEE PEOPLE IN THE FIRST PART OF  
5 JANUARY AND THE FIRST PART OF FEBRUARY OVER DIFFERENT PARTS  
6 OF THE COUNTRY AND I MUST KEEP THOSE ENGAGEMENTS.

7 THE COURT: IT WILL BE AN ECONOMIC HARDSHIP FOR YOU  
8 IF YOU ARE PREVENTED FROM DOING THAT?

9 MR. SAMSON: IT DEFINITELY WILL BE.

10 THE COURT: THANK YOU, MR. SAMSON. YOU ARE EXCUSED.

11 MR. DOMINGUEZ: MY NAME IS PEDRO DOMINGUEZ AND I AM  
12 A FULL-TIME STUDENT. MY SEMESTER STARTS AGAIN JANUARY 5TH.

13 THE COURT: OF COURSE, YOUR EDUCATION WOULD BE  
14 INTERRUPTED IF YOU WERE TO SERVE ON A JURY.

15 MR. DOMINGUEZ: ABSOLUTELY.

16 THE COURT: UNLESS THERE IS ANY OPPOSITION, I WILL EXCUSE  
17 HIM.

18 MR. WAPNER: I HAVE NO OPPOSITION.

19 THE COURT: THANK YOU VERY MUCH. YOU WILL BE EXCUSED.

20 YES, SIR?

21 MR. KUSCHNER: MY NAME IS RUBIN KUSCHNER.

22 AND I THINK I AM A LITTLE TOO OLD TO BE SPENDING  
23 A LONG TIME ON A JURY.

24 THE COURT: HOW OLD ARE YOU?

25 MR. KUSCHNER: 76.

26 THE COURT: WELL, I AM OLDER THAN YOU AND I AM GOING  
27 TO SPEND ALL OF THAT TIME HERE.

28 MR. KUSCHNER: MAYBE YOU CAN TAKE IT BUT I DON'T THINK



1 I WILL BE ABLE TO TAKE IT FOR A LONG PERIOD OF TIME.

2 THE COURT: YOU MEAN YOUR HEALTH MIGHT BE AFFECTED,  
3 IS THAT IT?

4 MR. KUSCHNER: PARDON?

5 THE COURT: YOUR HEALTH MIGHT BE AFFECTED?

6 MR. KUSCHNER: WELL, I THINK IT MIGHT GET ON MY NERVES.

7 THE COURT: ALL RIGHT, THANK YOU. YOU WILL BE EXCUSED.

8 THE BAILIFF: THAT IS SPELLED K-U-S-C-H-N-E-R.

9 THE COURT: ALL RIGHT, THE SECOND ROW.

10 MR. KLAYMAN: MY NAME IS JEROME KLAYMAN. I WORK FOR  
11 TRW AND TRW PAYS A MAXIMUM 20 DAYS.

12 THE COURT: I KNOW, WE HAVE HAD YOUR OTHER CO-WORKERS  
13 HERE. YOU WILL BE EXCUSED. THANK YOU VERY MUCH.

14 AND THE LADY NEXT TO YOU, YOUR NAME?

15 MS. CHRISTIAN: MY NAME IS ESTELLE CHRISTIAN,  
16 C-H-R-I-S-T-I-A-N. MY FIRM WILL NOT PAY.

17 THE COURT: WHOM DO YOU WORK FOR?

18 MS. CHRISTIAN: MITCHELL, SILBERBERG & KNUPP.

19 THE COURT: I WILL CALL MR. ARTHUR GROMAN AND FIND OUT  
20 FROM HIM WHETHER OR NOT HE WILL PERMIT YOU TO STAY IF YOU  
21 WANT ME TO DO THAT. HE IS THE HEAD OF THE FIRM, ISN'T HE?

22 MS. CHRISTIAN: YES.

23 THE COURT: THE POLICY IS NOT TO PAY YOU FOR MORE THAN  
24 HOW LONG?

25 MS. CHRISTIAN: NOT BEYOND 10 DAYS.

26 THE COURT: TEN DAYS?

27 MS. CHRISTIAN: YES.

28 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. I WILL

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1 EXCUSE YOU.

2 NOW THE LADY NEXT TO YOU?

3 MS. HOLDIN: MY NAME IS ROBIN HOLDIN, H-O-L-D-I-N.  
4 I AM A FREE-LANCE DIRECTOR FOR THE MOTION PICTURE INDUSTRY.  
5 I AM PAID ONLY FOR THE DAYS THAT I WORK. I HAD A VERY BAD  
6 YEAR IN 1986. I WAS UNEMPLOYED FOR SEVEN MONTHS.

7 THE COURT: THIS WOULD BE AN ECONOMIC HARDSHIP FOR YOU?

8 MS. HOLDIN: A DEFINITE ECONOMIC HARDSHIP. THIS IS  
9 ONE OF THE BUSIEST TIMES OF THE YEAR FOR THE MOTION PICTURE  
10 INDUSTRY.

11 THE COURT: I DON'T WANT TO DEPRIVE YOU. WE WILL EXCUSE  
12 YOU. THANK YOU.

13 MR. YAMANE: MY NAME IS RUSSELL YAMANE. I WORK FOR  
14 ANGELES CORPORATION AND THEY ONLY COMPENSATE ME FOR 10 DAYS.

15 THE COURT: WHAT BUSINESS ARE THEY IN?

16 MR. YAMANE: IT IS A REAL ESTATE SYNDICATOR.

17 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. YOU WILL  
18 BE EXCUSED.

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1 MS. ZENTER: MY NAME IS JUDITH ZENTER, Z-E-N-T-E-R. I  
2 AM ASSISTANT MANAGER-LENDING OFFICER FOR SECURITY BANK. I  
3 THINK WE HAVE A MAXIMUM ON THE AMOUNT OF DAYS. I WANT TO SEE  
4 WHAT IT IS BUT I AM NOT SURE.

5 THE COURT: I WILL TELL YOU WHAT YOU DO, WHY DON'T YOU  
6 GO AND CALL YOUR EMPLOYER AND FIND OUT HOW LONG THEY WILL PAY?  
7 FIND OUT FROM YOUR EMPLOYER WHETHER OR NOT THEY WILL PAY YOU  
8 FOR TWO AND A HALF MONTHS. YOU WANT TO CALL THEM?

9 MS. ZENTER: I KNOW IF I CALL MY OFFICE, SHE WILL SAY  
10 SHE WANTS ME BACK TOMORROW BECAUSE OUR OFFICE IS THAT BAD AS  
11 FAR AS STAFF.

12 BUT WHAT THEY WILL ACTUALLY PAY, IT MAY BE  
13 DIFFERENT.

14 THE COURT: YOU DON'T THINK THEY WILL PERMIT YOU TO STAY  
15 FOR TWO AND A HALF MONTHS?

16 MS. ZENTER: NO.

17 A JUROR: I AM GOING TO GO CALL MY EMPLOYER.

18 THE COURT: I TELL YOU WHAT YOU DO, ANYONE ELSE WHO WANTS  
19 TO CALL YOUR EMPLOYER, WHY DON'T YOU LEAVE NOW AND COME BACK  
20 AFTER YOU CALL THEM? BE SURE YOU COME BACK NOW OR I WILL SEND  
21 THE SHERIFF AFTER YOU.

22 (LAUGHTER IN THE COURTROOM.)

23 (WHEREUPON, A GROUP OF PROSPECTIVE JURORS  
24 LEAVE THE COURTROOM.)

25 THE COURT: ALL RIGHT, YOUR NAME, PLEASE.

26 MS. SCHRIENER: LINDA SCHRIENER, S-C-H-R-I-E-N-E-R. I  
27 AM WITH THE SANTA MONICA HOSPITAL AND THEY ALSO PAY FOR TEN  
28 DAYS.

1 THE COURT: YES, ALL RIGHT. THANK YOU VERY MUCH. YOU  
2 WILL BE EXCUSED.

3 MS. SHAW: I AM DOLORES SHAW AND I WORK FOR THE  
4 CALABASAS PSYCHIATRIC HOSPITAL AND THEY ONLY PAY FOR TEN DAYS.

5 THE COURT: OF COURSE, IT WILL BE AN ECONOMIC HARDSHIP  
6 FOR YOU.

7 MS. KRAFT: I AM ALYSON KRAFT. THE HARDSHIP WOULD NOT  
8 BE ON YOU BUT IT MIGHT BE ON MY HUSBAND.

9 THE COURT: WHAT IS THE PROBLEM?

10 MS. KRAFT: HE IS ILL. HE IS NOT TOO WELL. HE IS 85.

11 THE COURT: YOU HAVE GOT TO TAKE CARE OF HIM?

12 MS. KRAFT: HE DOESN'T DRIVE AND HE DOESN'T GET TO THE  
13 DOCTOR UNLESS I TAKE HIM. IT IS NOT A LEGITIMATE EXCUSE BUT  
14 I AM RATHER TIED DOWN.

15 THE COURT: ALL RIGHT, MRS. KRAFT, I WILL EXCUSE YOU  
16 FOR MEDICAL REASONS.

17 MS. KRAFT: OH, THANK YOU.

18 THE COURT: YOU ARE WELCOME.

19 MS. CARROLL: I AM DENISE CARROLL. I AM A PARALEGAL  
20 AT LEOPOLD, FREDRIC & SMITH.

21 THE COURT: YES.

22 MS. CARROLL: AND THEY WON'T PAY ME FOR THE FULL TIME.

23 THE COURT: YOU NEED THE MONEY, DON'T YOU?

24 MS. CARROLL: VERY MUCH.

25 THE COURT: ALL RIGHT, YOU WILL BE EXCUSED THEN.

26 THAT GENTLEMAN?

27 MR. HERMAN: MY NAME IS MARK HERMAN. I AM AN ATTORNEY  
28 AT BAKER, ANCEL, MORRIS & RUBY. OUR FIRM'S POLICY IN THE

1 PAST HAS BEEN TO PAY ONLY FOR 30 DAYS.

2 THE COURT: AND YOU THINK THEY WILL MAKE AN EXCEPTION  
3 IN THIS CASE?

4 MR. HERMAN: WELL, THEY COULD IF THAT WAS YOUR DECISION  
5 BUT IN TERMS OF MY OWN WORKLOAD, THEY ARE A SMALL FIRM WITH  
6 TEN LAWYERS AND THEY HAVE DEPOSITIONS AND HEARINGS AND  
7 CALENDAR FOR JANUARY FOR A GOOD PART OF THAT MONTH AND IT WOULD  
8 INDIRECTLY IMPAIR MY --

9 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. YOU WILL  
10 BE EXCUSED.

11 THAT GENTLEMAN SEATED THERE.

12 MR. TARLOW: MY NAME IS BRUCE TARLOW AND MY EMPLOYER  
13 WILL ONLY PAY FOR TEN DAYS.

14 THE COURT: WHOM DO YOU WORK FOR?

15 MR. TARLOW: AMTRAK.

16 THE COURT: AMTRAK?

17 MR. TARLOW: YES.

18 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. YOU WILL  
19 BE EXCUSED.

20 YES, SIR?

21 MR. GILBERT: MY NAME IS ROBERT GILBERT. I WORK FOR  
22 HUGHES AIRCRAFT AND THEY WILL ONLY PAY FOR 22 DAYS.

23 THE COURT: I KNOW THAT BECAUSE WE HAVE HAD OTHER HUGHES  
24 EMPLOYEES HERE, TOO.

25 MR. KWON: MY NAME IS JAMES KWON. I WORK FOR TMIC  
26 INSURANCE COMPANY.

27 THE COURT: WHO DO YOU WORK FOR?

28 MR. KWON: TMIC INSURANCE COMPANY. THEY WILL ONLY PAY

1 FOR TEN DAYS.

2 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. YOU WILL  
3 BE EXCUSED.

4 YES, MA'AM?

5 MS. CEREGHETTI: MY NAME IS SALLIE, S-A-L-L-I-E,  
6 CEREGHETTI, C-E-R-E-G-H-E-T-T-I. I AM IN SALES AND IT WOULD  
7 BE AN ECONOMIC HARDSHIP FOR ME. I AM PAID ON THE SALES I  
8 PRODUCE AND I HAVE A NINE-MONTH TRAVEL SCHEDULE BEGINNING  
9 JANUARY 1ST.

10 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. YOU WILL  
11 BE EXCUSED, TOO.

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1 MR. GRAY: MY NAME IS HARRY GRAY. I AM A RESEARCH  
2 SCIENTIST AT SOUTH COAST AIR QUALITY MANAGEMENT DISTRIBUTION  
3 AND I WORK IN THE PLANNING DIVISION. WE HAVE A SMALL STAFF  
4 OF ABOUT THREE OR FOUR PEOPLE WHO WORK ON SIMILAR PROBLEMS.

5 WE HAVE HAD A RESEARCH PROJECT THAT IS GOING ON  
6 FOR THE NEXT YEAR. IT IS A SMALL PART OF A BIG PIECE OF THE  
7 PIE, IN WHICH CASE I HAVE A LOT OF RESPONSIBILITIES. IF MY  
8 PART IS NOT DONE AND THERE IS NO ONE ELSE THAT CAN DO IT, THEN  
9 OTHER PEOPLE WILL HAVE TO WAIT ON IT AND OUR PROJECT WILL NOT  
10 GET DONE. THERE IS A 14-MEMBER BOARD.

11 THE COURT: OTHER PEOPLE WILL BE AFFECTED BY IT?

12 MR. GRAY: QUITE A LOT OF OTHER PEOPLE, INCLUDING ALL  
13 OF THE PEOPLE THAT LIVE IN THIS AIR BASIN.

14 THE COURT: ALL RIGHT. MR. WAPNER?

15 MR. WAPNER: YOUR HONOR, CAN WE DEFER THAT AND HAVE SOME  
16 OF THESE OTHERS --

17 THE COURT: WHICH OTHERS ARE YOU TALKING ABOUT?

18 MR. WAPNER: WELL, SOME OF THE ONES THAT YOU HAVEN'T  
19 EXCUSED.

20 THE COURT: WELL, THEY WENT OUT TO MAKE TELEPHONE CALLS.

21 I AM TALKING ABOUT THIS ONE SPECIFICALLY.

22 MR. WAPNER: MAY I HAVE A MOMENT WITH MR. CHIER?

23 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

24 MR. WAPNER: ALL RIGHT, WE WOULD AGREE TO EXCUSE MR.  
25 GRAY.

26 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. YOU WILL  
27 BE EXCUSED.

28 MR. BROWN: MY NAME IS GERALD BROWN. I WORK FOR THE

1 LOS ANGELES UNIFIED SCHOOL DISTRICT AS SYSTEMS PROGRAM MANAGER.  
2 I AM INVOLVED IN A PROJECT FOR STUDENT INTEGRATION TO SATISFY  
3 COURT MANDATES. THESE ITEMS HAVE TO BE COMPLETED BY THE  
4 BEGINNING OF THE NEXT SCHOOL SEMESTER AND WE ARE BEHIND SCHEDULE  
5 NOW AND JUST THROUGH THE GRACE OF MY BOSS, HE HAS GIVEN ME  
6 SOME TIME TO COME HERE AND I DON'T THINK I CAN GET OFF FOR --  
7 IT WOULD JUST DESTROY THE PROJECT.

8 THE COURT: ALL RIGHT, THANK YOU. YOU WILL BE EXCUSED,  
9 MR. BROWN. THANK YOU.

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1 MS. ESCOE: MY NAME IS LOUISE ESCOE, E-S-C-O-E. I HAVE  
2 BROKEN MY HIP AND I NOW HAVE ARTHRITIS IN MY LEFT HIP. I  
3 JUST DON'T THINK I COULD SIT THAT LONG.

4 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. THAT IS  
5 A MEDICAL EXCUSE. YOU WILL BE EXCUSED FOR MEDICAL REASONS.

6 MS. BROMBERG: I AM KATHLEEN BROMBERG, B-R-O-M-B-E-R-G.  
7 I WORK IN A HOSPITAL. MY EMPLOYER ONLY PAYS FOR TEN DAYS.

8 THE COURT: YOU WORK IN A HOSPITAL?

9 MS. BROMBERG: YES.

10 THE COURT: WHICH ONE?

11 MS. BROMBERG: BEVERLY ENTERPRISES.

12 THE COURT: AND THEY WON'T PAY YOU FOR --

13 MS. BROMBERG: ONLY TEN DAYS.

14 THE COURT: YOU WILL BE EXCUSED. THANK YOU.

15 THE NEXT GENTLEMAN?

16 MR. BAILEY: MY NAME IS BAILEY, B-A-I-L-E-Y. MY WIFE  
17 AND I ARE SCHEDULED FOR A TRIP TO AUSTRALIA AND NEW ZEALAND.  
18 OUR DEPARTURE IS THE 15TH OF FEBRUARY. I HAVE PASSED THE  
19 POINT OF NO RETURN FOR GETTING MY MONEY BACK IF I CANCEL OUT.

20 THE COURT: ALL RIGHT. YOU WILL BE EXCUSED. THANK  
21 YOU VERY MUCH.

22 MR. KIMBALL: MY NAME IS DAVID KIMBALL. I WORK FOR  
23 NORTHROP ELECTRONICS. THEY ONLY PAY FOR 20 DAYS.

24 THE COURT: THANK YOU. YOU ARE EXCUSED.

25 YOUR NAME IS?

26 MS. DEEG: MARSHA DEEG, D-E-E-G.

27 THE COURT: YOUR EMPLOYER SAID WHAT?

28 MS. DEEG: MY EMPLOYER -- THE HEADQUARTERS ARE IN

C/A-2

1 VALLEY FORGE, PENNSYLVANIA. IT IS 6 O'CLOCK THERE. I CANNOT  
2 GET AN ANSWER.

3 THE COURT: WELL, I WILL TELL YOU WHAT YOU DO. CALL  
4 THEM BACK TOMORROW MORNING AND INDICATE THE SITUATION TO THEM.  
5 WILL YOU DO THAT?

6 MS. DEEG: I WILL, YES.

7 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

8 YES, MA'AM?

9 MS. KYLE: MY NAME IS RAMONA KYLE, K-Y-L-E. MY HUSBAND  
10 AND I ALSO HAVE A TRIP PLANNED FOR AUSTRALIA. IT HAS BEEN  
11 PAID FOR. WE ARE SUPPOSED TO LEAVE --

12 THE COURT: YOU LOSE YOUR MONEY IF YOU DON'T GO?

13 MS. KYLE: THAT'S RIGHT.

14 THE COURT: YOU WILL BE EXCUSED. THANK YOU.

15 AND YOU?

16 MR. STERN: MY NAME IS DAN STERN, S-T-E-R-N. THE COMPANY  
17 I WORK FOR IS ROCKCOR. THEY DO NOT PAY FOR MORE THAN TEN  
18 DAYS OR THEY HAVE NOT IN THE PAST. THEY DON'T HAVE A WRITTEN  
19 POLICY.

20 BUT, IT WOULD BE DIFFICULT FOR ME AND BAD FOR  
21 MY CAREER TO GO THAT LONG A TIME.

22 THE COURT: ALL RIGHT. THANK YOU. YOU WILL BE EXCUSED.

23 MR. WAPNER: WAS THAT ROCKCOR?

24 MR. STERN: R-O-C-K-C-O-R.

25 THE COURT: THANK YOU.

26 MS. WIEDERHORN: MY NAME IS MARSHA WIEDERHORN,  
27 W-I-E-D-E-R-H-O-R-N. I AM A PART-TIME INSTRUCTOR AT  
28 EL CAMINO COLLEGE. I ALSO DO TEMPORARY OFFICE WORK AT UCLA.

1 I AM SORRY TO SAY THAT NEITHER EMPLOYER PAYS FOR JURY DUTY  
2 AT ALL. SO IT WOULD BE AN ECONOMIC HARDSHIP. SORRY.

3 THE COURT: ALL RIGHT. THANK YOU. YOU WILL BE EXCUSED.  
4 GO BACK TO THE JURY ASSEMBLY ROOM AND TELL THEM YOU ARE  
5 AVAILABLE FOR SOMETHING ELSE.

6 MR. KARKLYN: MY NAME IS EDWARD KARKLYN, K-A-R-K-L-Y-N.  
7 I WORK FOR THE HARTFORD INSURANCE GROUP IN A SUBSIDIARY INDUSTRY.  
8 I HAVE BEEN UNABLE TO GET IN TOUCH WITH ANYBODY IN AUTHORITY  
9 TO TELL ME HOW MANY DAYS THEY PAY FOR.

10 IN VIEW OF WHAT I KNOW ABOUT THE ORGANIZATION,  
11 I SUSPECT THAT IT IS A SUBSTANTIAL NUMBER. BUT I AM IN A  
12 VERY SMALL DEPARTMENT. I HAVE TWO PEOPLE. I HAVE A LOT OF  
13 TRAVEL OBLIGATIONS IN ORDER TO ACHIEVE MY GOALS AND WHAT NOT.

14 AND I THINK THAT IT WOULD BE POTENTIALLY DIFFICULT  
15 TO BE OUT FOR THOSE THREE MONTHS, POSSIBLY.

16 THE COURT: YOU ECONOMICALLY?

17 MR. KARKLYN: POSSIBLY BECAUSE OF PERFORMANCE ON THE  
18 JOB. IT IS AN IMPORTANT FACTOR, SINCE I AM BASICALLY RESPONSIBLE  
19 FOR MY PERFORMANCE WITH THE SUBSIDIARY PEOPLE.

20 THE COURT: YES?

21 MR. WAPNER: WHY DON'T WE ASK HIM TO CHECK? IF THEY  
22 ARE NOT GOING TO PAY, THAT WILL SOLVE IT. IN THE MEANTIME,  
23 WE MIGHT BE ABLE TO INQUIRE.

24 THE COURT: DO YOU WANT TO CHECK?

25 MR. KARKLYN: I WAS UNABLE TO GET IN TOUCH.

26 THE COURT: YES. YOU CALLED THEM, DIDN'T YOU? WHY  
27 DON'T YOU DO IT BETWEEN NOW AND TOMORROW MORNING AT 10:30.  
28 LET US KNOW.

1 MR. KARKLYN: SURE.

2 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. YOU CAN  
3 LEAVE.

4 MS. THORNHILL: MY NAME IS GAIL THORNHILL. I JUST CHECKED  
5 WITH MY EMPLOYER. THEY SAID 20 DAYS IS THEIR POLICY.

6 THE COURT: THEY DON'T PAY FOR ANYTHING MORE THAN THAT?

7 MS. THORNHILL: NO.

8 THE COURT: THANK YOU. YOU WILL BE EXCUSED.  
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1 MS. ADLER: I AM SUE ADLER, A-D-L-E-R. I WILL GET  
2 REIMBURSED FOR AS LONG AS IT TAKES.

3 THE COURT: ALL RIGHT. FINE. JUST SIT THERE. THANK  
4 YOU.

5 MR. FAVORITE: MY NAME IS FAVORITE, F-A-V-O-R-I-T-E.

6 I AM A SENIOR OFFICER IN A SMALL, INDEPENDENT  
7 BANK. MY ACTIVITIES FOR THE BANK PRESENT A GREAT AMOUNT OF  
8 THEIR INCOME. IT WOULD BE A FINANCIAL HARDSHIP TO THAT BANK.

9 THE COURT: BUT WOULD IT BE A HARDSHIP TO YOU?

10 MR. FAVORITE: INDIRECTLY, I WOULD THINK.

11 THE COURT: HOW IS THAT?

12 MR. FAVORITE: THEY MAY HAVE TO REPLACE MY POSITION,  
13 WERE I GONE FOR AN EXTENDED PERIOD OF TIME.

14 THE COURT: BUT YOU WOULD BE PAID IN THE MEANTIME,  
15 WOULDN'T YOU?

16 MR. FAVORITE: WELL, I DON'T KNOW HOW LONG THAT COULD  
17 HAPPEN.

18 THE COURT: HOW LONG WHAT?

19 MR. FAVORITE: HOW LONG THEY WOULD PAY ME. I DON'T  
20 KNOW.

21 THE COURT: WHY DON'T YOU CALL THEM AND FIND OUT IF  
22 YOU WILL, PLEASE. WILL YOU?

23 MR. FAVORITE: WELL -- OKAY. BUT IT WOULD BE A HARDSHIP  
24 TO THEM PROBABLY TO HAVE TO --

25 THE COURT: WELL, THE HARDSHIP TO THEM IS NOT THE  
26 CRITERIA. IT IS THE HARDSHIP TO YOU WHICH IS THE CRITERIA.  
27 DO YOU UNDERSTAND?

28 IF THEY ARE GOING TO PAY YOU, THERE IS NO HARDSHIP

1 ON YOU. WE WOULD VERY MUCH LIKE TO HAVE YOU. CALL THEM UP  
2 AND FIND OUT, WILL YOU? THANK YOU.

3 MR. DIAPOLA: I AM PHIL DIAPOLA, D-I-A-P-O-L-A. I AM  
4 A SALES EXECUTIVE FOR GTE. WE ARE IN THE MIDST OF A VERY  
5 COMPETITIVE RISE IN THE BUSINESS I AM RESPONSIBLE FOR.

6 I BELIEVE I NEED TO BE THERE TO HELP IT FUNCTION  
7 PROPERLY IN THE NEXT FEW MONTHS.

8 THE COURT: WOULD THEY PAY FOR YOUR ENTIRE TIME IF YOU  
9 WERE TO STAY?

10 MR. DIAPOLA: THEY HAVE A POLICY OF PAYMENT, YES.

11 THE COURT: YOU MEAN IT WOULD BE A HARDSHIP ON THEM,  
12 WOULD IT?

13 MR. DIAPOLA: I BELIEVE IT WOULD BE BECAUSE IT IS --

14 THE COURT: YOU THINK THAT YOU ARE INDISPENSABLE FOR  
15 THEM? DO YOU THINK THAT YOU ARE INDISPENSABLE? IS THAT THE  
16 IDEA?

17 MR. DIAPOLA: I DOUBT THEY WOULD SAY THAT.

18 THE COURT: WELL, YOU SEE, THE LAW SAYS THAT IT MUST  
19 BE AN ECONOMIC HARDSHIP ON THE PROSPECTIVE JUROR, NOT ON THE  
20 EMPLOYER.

21 THE EMPLOYER COMPENSATES YOU AND THEN WE WOULD  
22 LIKE TO HAVE YOU VERY MUCH. ALL RIGHT. SO YOU STAY.

23 NEXT TO HIM?

24 MR. GERRARD: I AM PETER GERRARD, G-E-R-R-A-R-D. I  
25 WORK FOR NORTHROP AIRCRAFT.

26 THE COURT: WHO?

27 MR. GERRARD: NORTHROP AIRCRAFT DIVISION.

28 THE COURT: DO THEY HAVE A POLICY?

1 MR. GERRARD: YES.

2 THE COURT: HOW MANY DAYS? 30 DAYS?

3 MR. GERRARD: I DON'T KNOW EXACTLY. BUT IF THE ELECTRONICS  
4 DIVISION IS 20 DAYS, THEN I AM DARN SURE THAT AIRCRAFT DIVISION  
5 WOULD BE 20 DAYS ALSO.

6 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. YOU WILL  
7 BE EXCUSED.

8 NEXT?

9 MR. VANARMANI: MY NAME IS DON VANARMANI,  
10 V-A-N-A-R-M-A-N-I. I HAVE TWO SMALL CHILDREN THAT I TAKE  
11 CARE OF IN THE AFTERNOONS. IT WOULD BE VERY DIFFICULT TO  
12 GET CHILD CARE, ESPECIALLY OVER THE HOLIDAYS.

13 THE COURT: IS YOUR WIFE AT HOME?

14 MR. VANARMANI: NO. SHE IS WORKING.

15 THE COURT: YOU TAKE CARE OF THEM?

16 MR. VANARMANI: IN THE AFTERNOON, YES.

17 THE COURT: WHILE SHE WORKS?

18 MR. VANARMANI: YES, SIR.

19 MR. WAPNER: NO OBJECTION.

20 THE COURT: IN VIEW OF THAT, YOU PROBABLY SHOULD BE  
21 EXCUSED FROM ALL JURY SERVICE. IT IS GOING TO BE A PROBLEM  
22 NO MATTER WHAT, SIR.

23 MR. VANARMANI: YES.

24 THE COURT: YOU CAN'T SERVE ON ANY JURY, CAN YOU?

25 MR. VANARMANI: NOT VERY LONG, NO. I TAKE CARE OF THEM --  
26 I HAVE TAKEN CARE OF IT FOR THE NEXT COUPLE OF DAYS.

27 THE COURT: ALL RIGHT. GO BACK TO THE JURY ASSEMBLY  
28 ROOM AND TELL THEM THAT YOU ARE AVAILABLE FOR A SHORT PERIOD

1 OF TIME.

2 WHO IS THE LADY NEXT TO YOU?

3 MS. MORRIS: I AM CHRISTINE MORRIS, M-O-R-R-I-S. I  
4 WORK FOR SECURITY PACIFIC NATIONAL BANK. THE POLICY IS 22  
5 DAYS.

6 THE COURT: YES. I KNOW. THANK YOU VERY MUCH. YOU  
7 ARE EXCUSED.

8 NEXT?

9 MS. ZORN: I AM KATHRINE ZORN, Z-O-R-N. I WORK IN SALES.  
10 I HAVE COMMISSIONS. IT WOULD BE AN ECONOMIC HARDSHIP, SINCE  
11 I AM PAID ON MY SALES.

12 THE COURT: ALL RIGHT. ANY OBJECTION?

13 MR. WAPNER: NO OBJECTION.

14 MR. CHIER: NO OBJECTION.

15 THE COURT: ALL RIGHT. THANK YOU. YOU WILL BE EXCUSED.

16 NEXT?

17 MS. CALDWELL: I HAVE CHECKED WITH MY EMPLOYER. I AM  
18 DOLORES CALDWELL. AND I AM THE ONLY BILINGUAL AID IN THE  
19 CLASSROOM AND I CANNOT BE REPLACED.

20 THE COURT: WHAT IS THE EMPLOYER? A SCHOOL?

21 MR. WAPNER: NO OBJECTION.

22 THE COURT: ALL RIGHT. MISS CALDWELL, THANK YOU. YOU  
23 ARE EXCUSED. GO TO THE JURY ASSEMBLY ROOM AND TELL THEM YOU  
24 ARE AVAILABLE FOR A SHORT PERIOD OF TIME.

25

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1 MR. WAPNER: WHAT DID THE EMPLOYER SAY?

2 THE COURT: YES, MA'AM?

3 MS. COSKO: MY NAME IS JACKIE COSKO, C-O-S-K-O, AND MY  
4 EMPLOYER DOES NOT PAY FOR ANY TIME OF JURY SERVICE AND I AM  
5 GOING TO BE GOING TO SCHOOL FULL TIME IN FEBRUARY.

6 THE COURT: AND YOU WHAT?

7 MS. COSKO: I AM GOING TO BE GOING TO SCHOOL FULL TIME  
8 IN FEBRUARY.

9 THE COURT: ANY OBJECTION?

10 MR. CHIER: NO OBJECTION.

11 MR. WAPNER: NO OBJECTION.

12 THE COURT: THANK YOU, MISS COSKO. YOU ARE EXCUSED.  
13 THANK YOU.

14 YES, SIR?

15 MR. CARRIER: MY NAME IS MICHAEL CARRIER, C-A-R-R-I-E-R.

16 I WORK FOR THE SANTA MONICA-MALIBU UNIFIED SCHOOL  
17 DISTRICT. I JUST TALKED TO THE SECRETARY IN MAINTENANCE AND  
18 OPERATIONS AND CALLED PERSONNEL. PERSONNEL SAID THEY WILL  
19 NOT AUTHORIZE THAT LONG OF A STAY OFF OF MY JOB.

20 THE COURT: YOU MEAN THEY WON'T PAY YOU?

21 MR. CARRIER: THEY WON'T PAY IT.

22 THE COURT: ALL RIGHT, MR. CARRIER, THANK YOU. YOU WILL  
23 BE EXCUSED.

24 ALL RIGHT, EVERYBODY HAS BEEN TAKEN CARE OF?

25 THE BAILIFF: THERE IS SOMEONE RIGHT THERE.

26 MR. FAVORIT: MY NAME IS JAMES FAVORIT, F-A-B-O-R-I-T.  
27 I CALLED MY EMPLOYER AND THEY SAID THEY WOULD ONLY PAY FOR  
28 TEN DAYS.

1 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. YOU WILL  
2 BE EXCUSED.

3 WE HAVE FIVE LEFT.

4 ALL RIGHT, APPROACH THE BENCH A MINUTE, GENTLEMEN.

5 (WHEREUPON, THE FOLLOWING PROCEEDINGS

6 WERE HELD AT THE BENCH.)

7 THE COURT: I THINK WE CAN GET THE OTHER JURORS IN AND  
8 START ALPHABETICALLY THE SAME AS WE HAVE BEEN DOING ON THE  
9 HOVEY.

10 MR. WAPNER: WELL, CAN I SUGGEST, FIRST OF ALL, WE NEED  
11 TO MAKE A LIST ALPHABETICALLY?

12 THE COURT: WHAT DIFFERENCE DOES IT MAKE?

13 MR. CHIER: IT IS HARD TO KEEP TRACK OF THEM.

14 THE COURT: WE ARE GOING TO MAKE A LIST. WE WILL CALL  
15 THEM ONE AT A TIME AND YOU CAN WRITE THEIR NAMES DOWN.

16 MR. WAPNER: OKAY, IF THAT IS THE WAY YOU WANT TO DO  
17 IT, THAT IS OKAY, TOO.

18 THE COURT: IT WILL SAVE A LOT OF TIME, ALL RIGHT?

19 MR. WAPNER: IT WILL SAVE A LITTLE BIT OF TIME.

20 THE CLERK: PAT AND I WILL HAVE A LIST WITHIN 10 OR 15  
21 MINUTES.

22 THE BAILIFF: THERE ARE 34 LEFT.

23 THE COURT: HOW MANY HAVE YOU GOT OUT THERE?

24 THE BAILIFF: THIRTY-FOUR TOTAL.

25 THE COURT: YOU MEAN INCLUDING THESE PEOPLE HERE?

26 THE BAILIFF: THIRTY-FOUR TOTAL.

27 THE COURT: THEN I THINK WE WON'T GET STARTED TOMORROW  
28 WITH THE REST OF THOSE. WHAT WE WILL HAVE TO DO IS EXCUSE

1 THEM ALL.

2 WE TALKED ABOUT IT TODAY WITH MR. BARENS AND HE  
3 SUGGESTED, AND I THINK IT IS A GOOD IDEA, WE EXCUSE THEM UNTIL  
4 TUESDAY.

5 MR. WAPNER: AND SEE IF WE CAN GET THROUGH THIS GROUP  
6 BY TUESDAY?

7 THE COURT: YES, YES. IF WE GET THE COOPERATION OF BOTH  
8 OF YOU, WE MIGHT BE ABLE TO DO IT.

9 MR. WAPNER: THE OTHER THING IS, SINCE WE HAVE BEEN  
10 WORKING STRAIGHT THROUGH NOW SINCE 1:30, CAN WE TAKE A BRIEF  
11 BREAK BEFORE WE START WITH THESE PEOPLE?

12 THE COURT: CERTAINLY.

13 MR. WAPNER: THANK YOU.

14 THE COURT: ALL RIGHT, HAVE THEM ALL COME IN AND WE WILL  
15 TAKE A RECESS FOR TEN MINUTES.

16 MR. WAPNER: DO WE NEED TO HAVE THEM IN FOR THAT OR WE  
17 CAN CALL THE JURY CLERK?

18 THE COURT: WE WILL HAVE THEM IN AND YOU WILL GET ALL  
19 THE NAMES, WON'T YOU?

20 THE CLERK: PAT IS WRITING THEM UP NOW.

21 (RECESS.)

22

23

24

25

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1 THE CLERK: WOULD YOU ALL STAND TO BE SWORN, THOSE WHO  
2 HAVE NOT BEEN SWORN? I BELIEVE THAT THERE ARE A FEW OF YOU  
3 WHO HAVE NOT BEEN SWORN. RAISE YOUR RIGHT HANDS EACH OF YOU.

4 DO YOU SOLEMNLY SWEAR THAT YOU WILL WELL AND TRULY  
5 ANSWER SUCH QUESTIONS AS MAY BE ASKED OF YOU TOUCHING UPON  
6 THE QUALIFICATIONS TO ACT AS TRIAL JURORS IN THE CAUSE NOW  
7 PENDING BEFORE THIS COURT, SO HELP YOU GOD?

8 (THE PROSPECTIVE JURORS ANSWERED IN THE  
9 AFFIRMATIVE.)

10 THE CLERK: THANK YOU. BE SEATED.

11 THE COURT: PLEASE APPROACH THE BENCH.

12 (THE FOLLOWING PROCEEDINGS WERE HELD AT  
13 THE BENCH:)

14 THE COURT: THE CLERK TELLS ME THAT MR. AARON WAS THE  
15 FIRST ONE WHO WANTED TO BE EXCUSED.

16 MR. WAPNER: MAY WE HAVE JUST A MOMENT?

17 (BRIEF PAUSE.)

18 MR. WAPNER: SHALL WE ASK HIM AGAIN ON THE RECORD AND  
19 SEE WHAT HE WANTS TO SAY?

20 THE COURT: DO YOU WANT TO ASK HIM?

21 MR. WAPNER: WELL, MAYBE WE COULD LISTEN TO WHAT HE HAS  
22 TO SAY.

23 THE COURT: ALL RIGHT. THEN I WILL GET THE NOD FROM  
24 YOU.

25 MR. WAPNER: ALL RIGHT.

26 MR. CHIER: YOUR HONOR, IT SEEMS A LITTLE UNREALISTIC  
27 TO EXPECT TO GET THROUGH ALL 34 OF THESE PEOPLE IN TWO DAYS.  
28 EVEN IF WE PROCEED WITH CELERITY, IT IS --

1 THE COURT: THEY ARE COMING TOMORROW, AREN'T THEY?

2 MR. WAPNER: SOME WILL BE COMING IN TOMORROW. SOME WILL  
3 BE COMING IN ON MONDAY. I AGREE WITH MR. CHIER. I THINK THAT  
4 IT IS SOMEWHAT --

5 THE COURT: SO, LET'S HAVE THEM COME BACK ON WEDNESDAY,  
6 THEN.

7 MR. WAPNER: I THINK IT IS BETTER, RATHER THAN TELLING  
8 THEM TUESDAY AND THEN CHANGING IT.

9 THE BAILIFF: I WAS APPROACHED BY A COUPLE MORE JURORS.  
10 I THINK THERE ARE A COUPLE MORE WHO HAVE HARDSHIPS.

11 THE COURT: ALL RIGHT.

12 (THE FOLLOWING PROCEEDINGS WERE HELD IN  
13 OPEN COURT:)

14 THE COURT: MR. AARON, DO YOU WANT TO MAKE AN ADDITIONAL  
15 STATEMENT AS TO WHY YOU SHOULD BE EXCUSED?

16 MR. AARON: YES, SIR. I AM IN PRIVATE PRACTICE AS AN  
17 ARBITRATOR ON LABOR DISPUTES. I HAVE HEARINGS SCHEDULED THIS  
18 MONTH AND JANUARY AND FEBRUARY, A NUMBER OF THEM. IT WOULD  
19 BE ECONOMIC HARDSHIP IF I HAD TO CANCEL THEM ALL.

20 THE COURT: ALL RIGHT. NO OBJECTION.

21 MR. CHIER: NO OBJECTION.

22 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. YOU WILL  
23 BE EXCUSED.

24 ALL OF THE REST OF YOU HAVE INDICATED THAT THERE  
25 IS NO ECONOMIC HARDSHIP. HOWEVER, THE BAILIFF INDICATES TO  
26 ME THAT ONE OR TWO OF YOU FEEL THAT YOU WANT TO BE EXCUSED.  
27 PLEASE RAISE YOUR HANDS.

28 (A SHOW OF HANDS.)

1 THE COURT: WAIT A MINUTE. I THOUGHT YOU PEOPLE SAID  
2 YOU WANTED TO BE ON THE JURY AND IT WOULDN'T BE ANY ECONOMIC  
3 HARDSHIP FOR YOU.

4 WHAT IS YOUR NAME, PLEASE?

5 MR. MIDDGAUGH: I AM LARRY MIDDGAUGH.

6 THE COURT: YOU WANT TO BE EXCUSED?

7 MR. MIDDGAUGH: YES. I CHECKED WITH MY EMPLOYER DURING  
8 THE TIME WE WERE OUT OF THE ROOM HERE. THEY PAY FOR 22 DAYS.  
9 I WORK FOR HUGHES AIRCRAFT.

10 THE COURT: YES. I KNOW THEIR POLICY. THANK YOU VERY  
11 MUCH. WE'LL EXCUSE YOU, MR. MIDDGAUGH. THANK YOU.

12 MR. TOOMEY: STEPHEN TOOMEY. I WORK FOR WESTERN AIRLINES.  
13 THEY WILL PAY FOR 30 DAYS.

14 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. MR. TOOMEY  
15 WILL BE EXCUSED.

16 WHO IS THE GENTLEMAN NEXT TO HIM?

17 MR. KARKLYN: MY NAME IS ED KARKLYN, K-A-R-K-L-Y-N.  
18 I GOT IN TOUCH WITH THE ADMINISTRATOR OF OUR SOUTHERN CALIFORNIA  
19 REGION. HE ADVISES ME THAT THEY PAY TWO WEEKS.

20 THE COURT: ALL RIGHT. THANK YOU. YOU WILL BE EXCUSED.

21 ANY MORE?

22 MS. HEE: I AM AUDREY HEE. I WILL BE AWAY TWO WEEKS  
23 IN JANUARY, FIRST TWO WEEKS. MY MOTHER-IN-LAW HAD A STROKE  
24 TWO WEEKS AGO. WE HAVE WORKED IT OUT SO THAT IT IS NOT REALLY  
25 AN ECONOMIC HARDSHIP.

26 BUT PSYCHOLOGICALLY, I NEED TO BE THERE TO TAKE  
27 OVER FOR THE NEIGHBORS AND FOR THE SISTER WHO IS GOING TO BE  
28 THERE UNTIL CHRISTMAS AND --

1 THE COURT: AUDREY HEE? IS THAT IT?

2 MS. HEE: YES.

3 THE COURT: ALL RIGHT. THANK YOU. YOU WILL BE EXCUSED.

4 WHAT IS YOUR NAME?

5 MS. SIMONIS: KATRINA SIMONIS. MY EMPLOYER WILL ONLY  
6 PAY FOR TWO WEEKS.

7 THE COURT: ALL RIGHT. YOU WILL BE EXCUSED.

8 MS. ROBERTS: I AM PEGGY ROBERTS. I DON'T THINK I WOULD  
9 LIKE TO SERVE ON A MURDER TRIAL.

10 THE COURT: WELL, WE WILL FIND OUT ABOUT THAT LATER.  
11 IN THE MEANTIME, WE WON'T EXCUSE YOU. WE WILL ASK YOU  
12 QUESTIONS LATER ON, MRS. ROBERTS. THAT IS NOT AN EXCUSE FOR  
13 HARDSHIP. WE'LL TALK TO YOU LATER ON. ALL RIGHT?

14 NOW, WHAT WE WILL DO THE BALANCE OF THE AFTERNOON,  
15 IS THAT WE WILL ASK MS. ADLER, MS. BRINTON, MR. CANADY AND  
16 MR. DAVIS TO REMAIN. THE REST OF YOU WILL COME BACK TOMORROW  
17 MORNING AT 10:00 O'CLOCK.

18 SO WAIT A MINUTE. MS. MARSHA DEEG AND JOHN DENT  
19 AND PHILIP DIPAOLO WILL COME BACK AT 10:30 TOMORROW MORNING.

20 WELL, THAT SHOULD BE 10:00 O'CLOCK, TOMORROW  
21 MORNING. THE REST OF YOU WILL COME BACK 10:30. YOU ALL GO  
22 TO THE JURY ASSEMBLY ROOM. WHEN WE ARE READY FOR YOU, WE WILL  
23 CALL YOU TO COME IN HERE.

24 THE PURPOSE YOU SEE OF THESE PRELIMINARY TALKS  
25 IS THAT WE WILL HAVE INTERVIEWS. WE HAVE TO DETERMINE WHETHER  
26 OR NOT THERE EXISTS ANY ATTITUDES THAT YOU HAVE TOWARDS THE  
27 DEATH PENALTY THAT WOULD PREVENT YOU FROM SERVING AS A FAIR  
28 AND IMPARTIAL JUROR IN THE CASE.

1                   QUESTIONS HAVE TO BE ASKED OF EACH ONE OF YOU  
2 SEPARATELY. SO, THE FIRST --

3           MR. WAPNER: THE ONLY THING IS, I WAS JUST DISCUSSING  
4 WITH THE CLERK AND THE BAILIFF. I WONDER WHETHER OR NOT WE  
5 SHOULD SCHEDULE A TIME FOR THEM TO COME BACK SO THEY WON'T  
6 HAVE TO ALL COME BACK AT THE SAME TIME AND WAIT.

7           THE COURT: WELL, WE HAD SCHEDULED TIMES. I SCHEDULED  
8 THE TIMES FOR WHEN THEY COME.

9           MS. ADLER, MS. BRINTON, MR. CANADY AND MR. DAVIS,  
10 THEY WILL REMAIN THIS AFTERNOON.

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27-1  
1 THE COURT: MISS DEEG, MR. DENT, MR. DIPAOLA, YOU COME  
2 AT 10 O'CLOCK.

3 MISS FARKAS, MISS FLOYD, MR. GARVIN -- NO, MAKE  
4 IT --

5 MISS DEEG, MR. DENT AND MR. DEPAOLA, MISS FARKAS,  
6 MISS FLOYD AND MR. GARVIN WILL COME IN TOMORROW MORNING AT  
7 10 O'CLOCK.

8 MISS GHAEMMAGHAMI, HOW DO YOU PRONOUNCE IT?

9 MS. GHAEMMAGHAMI: GHAEMMAGHAMI.

10 THE COURT: YOU WILL COME IN TOMORROW AFTERNOON TOGETHER  
11 WITH MR. GHIRARDI, MR. HARRIS --

12 MS. HARRIS: THAT IS MRS. HARRIS, JUDITH HARRIS.

13 THE COURT: THAT IS JUDITH HARRIS.

14 MS. HARRIS: IT IS JUDITH.

15 THE COURT: DIANA JONSSON, LINDA KING AND MR. KRAMER.  
16 THAT WILL BE 1:30. THAT WILL BE AT 1:30 TOMORROW.

17 FRIDAY, WE DON'T HAVE ANY SESSION OF CRIMINAL  
18 TRIALS SO THAT EVERYBODY WILL BE EXCUSED ON FRIDAY.

19 NEXT MONDAY, PAUL MC CABE, SUZETTE MONROE,  
20 CECILIA MORRIS, ROGER REID AND PEGGY ROBERTS AND PATRICIA  
21 ROBLES WILL COME IN ON MONDAY MORNING AT 10 O'CLOCK.

22 AND MR. SEGELKE, IS THAT IT?

23 MR. SEGELKE: YES, SIR.

24 THE COURT: MR. SEGELKE, MISS SIMONIS, MISS SOMMER,  
25 MR. TAUB AND MR. WERNER WILL COME IN MONDAY AT 1:30.

26 NOW ALL OF YOU HAVE YOUR ASSIGNMENTS, HAVEN'T  
27 YOU?

28 AND FOR THOSE OF YOU WHO WILL NOT BE HERE TOMORROW,

1 HAVE A PLEASANT WEEKEND AND FOR THOSE --

2 MR. WERNER: I HAVEN'T HEARD MY NAME.

3 THE COURT: AND YOUR NAME IS?

4 MR. WERNER: MY NAME IS WERNER, FIRST NAME VON DER OHE.

5 THE COURT: VON DER OHE WERNER?

6 MR. WERNER: YES.

7 THE COURT: MR. WERNER, YOU WILL BE HERE MONDAY  
8 AFTERNOON -- NO, WAIT A MINUTE NOW -- ALSO, WE HAVE MR. WIENS  
9 AND MR. WILLETT, YOU ALSO WILL COME IN ON MONDAY AFTERNOON.

10 NOW LET'S SEE IF WE HAVE GOT IT ALL RIGHT NOW.  
11 WE HAVE MISS ADLER, MR. BRINTON AND MR. CANADY AND MR. DAVIS  
12 WILL STAY.

13 TOMORROW MORNING WE WILL HAVE MISS DEEG, MR. DENT,  
14 MR DIPAOLA, MISS FARKAS AND MISS FLOYD, THAT WILL BE TOMORROW  
15 MORNING.

16 THE CLERK: YES, AND ALSO MR. GARVIN.

17 THE COURT: YES, MR. GARVIN WILL BE HERE TOMORROW MORNING  
18 AT 10 O'CLOCK.

19 AT 1:30 IN THE AFTERNOON, WE WILL HAVE  
20 MISS GHAEMMAGHAMI, MR. GHIRARDI, MISS HARRIS, MISS OR  
21 MRS. JONSSON, LINDA OR MISS OR MRS. KING AND KAYLYN KRAMER,  
22 THAT WILL BE AT 1:30 IN THE AFTERNOON.

23 AT 10 O'CLOCK ON MONDAY, WE WILL HAVE MR. PAUL  
24 MC CABE, SUZETTE MONROE, CECILIA MORRIS, ROGER REID, PEGGY  
25 ROBERTS AND PATRICIA ROBLES.

26 AND THEN MONDAY AFTERNOON, WE WILL HAVE MR.  
27 SEGELKE, MISS SIMONIS, MISS SOMMER, LEONARD TAUB, VON DER  
28 OHE WERNER, STEVEN WIENS AND MR. CLAYTON WILLETT.

1 IS THAT CLEAR NOW TO EVERYBODY?

2 MR. CHIER: COULD WE APPROACH THE BENCH BEFORE YOU EXCUSE  
3 THEM, YOUR HONOR?

4 THE COURT: YES.

5 (THE FOLLOWING PROCEEDINGS WERE HELD  
6 AT THE BENCH:)

7 MR. CHIER: I THOUGHT WE WERE GOING TO SPREAD THESE  
8 PEOPLE OUT OVER THURSDAY, MONDAY AND TUESDAY.

9 THE COURT: WE ARE GOING TO HAVE THEM THURSDAY. TOMORROW  
10 IS THURSDAY.

11 MR. CHIER: YOU HAVE THEM ALL JAMMED UP.

12 THE COURT: WE HAVE THEM THURSDAY MORNING, THURSDAY  
13 AFTERNOON, MONDAY MORNING AND MONDAY AFTERNOON.

14 MR. CHIER: WE WERE GOING TO USE TUESDAY ALSO.

15 THE COURT: WHY DO YOU WANT TO USE TUESDAY?

16 MR. CHIER: IT SEEMS TO BE A LITTLE UNREALISTIC TO BE  
17 ABLE TO DO FOUR PEOPLE BETWEEN NOW AND 4:30, YOUR HONOR.

18 THE COURT: WELL, AT ANY RATE, LET'S WAIT AND SEE WHAT  
19 WE DO AND TOMORROW MORNING WE CAN CALL THEM. IF WE OVER  
20 ESTIMATE OUR TIME, IF IT IS GETTING TOO CLOSE, WE WILL MAKE  
21 IT FOR TUESDAY, ALL RIGHT?

22 (THE FOLLOWING PROCEEDINGS WERE HELD  
23 IN OPEN COURT:)

24 THE COURT: ALL RIGHT, THANK YOU VERY MUCH, LADIES AND  
25 GENTLEMEN. GOOD NIGHT. WE WILL SEE YOU AT THE TIME WE  
26 INDICATED.

27

28

27A-1

1 MISS SUE ADLER, MISS BRINTON, MR. CANADY AND  
2 MR. DAVIS, YOU WAIT OUTSIDE AND WE WILL HAVE MISS ADLER HERE.  
3 WE WILL TAKE YOU IN ORDER.

4 (PROSPECTIVE JUROR SUE ADLER ASSUMES  
5 WITNESS STAND.)

6 THE COURT: AREN'T YOU GLAD YOUR NAME BEGINS WITH AN A  
7 SO YOU DON'T HAVE TO WAIT.

8 AS I INDICATED TO YOU, THE CHARGE AGAINST THE  
9 DEFENDANT --

10 BEFORE I ASK YOU ANY QUESTIONS, WHERE DO YOU LIVE?

11 MS. ADLER: MAR VISTA.

12 THE COURT: MAR VISTA?

13 ALL RIGHT, AND HAVE YOU READ ANYTHING AT ALL ABOUT  
14 THIS CASE OR KNOW ANYTHING ABOUT IT EXCEPT WHAT I BRIEFLY  
15 TOLD YOU?

16 MS. ADLER: NO.

17 THE COURT: YOU DON'T KNOW ANYTHING ABOUT IT AND YOU  
18 HAVEN'T TALKED TO ANYBODY ABOUT IT?

19 MS. ADLER: NO.

20 WELL --

21 THE COURT: WELL -- WHAT?

22 MS. ADLER: THE ONLY THING WAS THIS MORNING IN THE ROOM,  
23 A MAN SAID THAT HE WAS DISQUALIFIED FROM THE CASE AND HE SAID  
24 IT WAS THREE AND A HALF MONTHS AND --

25 MR. WAPNER: I AM SORRY. I CAN'T HEAR YOU.

26 MS. ADLER: OH, I AM SORRY.

27 THE COURT: SOME MAN SAID IT WOULD BE A TRIAL OF ABOUT  
28 THREE AND A HALF MONTHS, HE SAID?

1 MS. ADLER: YES, AND THAT IT WAS -- THE MAN WHO HAD  
2 BROKEN INTO A HOUSE OR SOMETHING.

3 THE COURT: THAT IS ALL YOU KNOW ABOUT IT?

4 MS. ADLER: AND MURDERED.

5 THE COURT: THAT IS ALL YOU KNOW?

6 MS. ADLER: YES.

7 THE COURT: YOU FORGET ABOUT THE CONVERSATION YOU HAD.

8 MS. ADLER: YES.

9 THE COURT: ALL RIGHT, TO REPEAT, THE CHARGE AGAINST  
10 THIS DEFENDANT IS THAT HE COMMITTED A MURDER AND IT WAS MURDER  
11 IN THE FIRST DEGREE AND THAT THAT MURDER WAS COMMITTED IN  
12 THE COURSE OF A ROBBERY.

13 NOW, THE WORDS "IN THE COURSE OF A ROBBERY" ARE  
14 SIGNIFICANT BECAUSE IF A MURDER IS COMMITTED IN THE COURSE  
15 OF A ROBBERY, JUST AS IN THE CASE OF A BURGLARY OR A RAPE  
16 OR A KIDNAPPING OR MOLESTING A CHILD AND THE CHILD DIES AS  
17 A RESULT OR MULTIPLE MURDERS, THERE ARE 19 INSTANCES WHERE  
18 THE LEGISLATURE HAS SAID THAT ANYBODY WHO COMMITS A MURDER  
19 UNDER THOSE CIRCUMSTANCES, BURGLARY, ROBBERY AND SO FORTH,  
20 QUALIFIES FOR THE DEATH PENALTY.

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1 THE QUESTIONS WE ARE GOING TO PUT TO YOU, COUNSEL  
2 AND MYSELF, RELATE TO YOUR STATE OF MIND WITH RESPECT TO YOUR  
3 ATTITUDE TOWARD THE DEATH PENALTY.

4 THE JURY WHICH IS SELECTED TO TRY THE CASE WILL  
5 FIRST HAVE TO DETERMINE THE GUILT OR INNOCENCE OF THE DEFENDANT.  
6 THAT IS WHAT IS KNOWN AS THE GUILT PHASE OF THE TRIAL. AND  
7 IF THEY FIND THE DEFENDANT GUILTY OF MURDER IN THE FIRST  
8 DEGREE, THEN THEY HAVE TO ANSWER ANOTHER QUESTION, WAS THAT  
9 MURDER COMMITTED IN THE COURSE OF A ROBBERY, WHICH WOULD  
10 QUALIFY FOR THE DEATH PENALTY.

11 IF THEY SAY IT WAS NOT COMMITTED IN THE COURSE  
12 OF A ROBBERY, THAT IS THE END OF THE CASE AS FAR AS THE JURY  
13 IS CONCERNED AFTER THEY BRING IN A VERDICT OF MURDER IN THE  
14 FIRST DEGREE, IF THEY DO. DO YOU UNDERSTAND THAT?

15 MS. ADLER: YES.

16 THE COURT: IF THEY SAY IT WAS COMMITTED DURING THE COURSE  
17 OF A ROBBERY, THEN WE BEGIN A SECOND PHASE OF THE TRIAL THAT  
18 IS KNOWN AS THE PENALTY PHASE. THE PENALTY PHASE IS THE ONE  
19 WHERE THE JURY WILL HAVE TO DETERMINE AFTER THEY HEAR THE  
20 EVIDENCE, WHETHER OR NOT THE DEFENDANT SHOULD BE SENTENCED  
21 TO LIFE WITHOUT POSSIBILITY OF PAROLE OR DEATH IN THE GAS  
22 CHAMBER. DO YOU SEE?

23 MS. ADLER: YES.

24 THE COURT: AND IN CONNECTION WITH THAT PHASE OF THE  
25 TRIAL, EVIDENCE WILL BE ADDUCED IN THE CASE BY THE DEFENDANT  
26 AND BY THE PROSECUTION. THE DEFENDANT WILL SHOW THINGS ABOUT  
27 HIMSELF OR EVIDENCE WILL BE ADDUCED TO SHOW FAVORABLE FACTORS,  
28 THINGS THAT ARE IN MITIGATION OF THE OFFENSE HE COMMITTED,

1 MITIGATING IT, EXTENUATING IT.

2 AND THOSE THINGS ABOUT HIM THE JURY WOULD THEN  
3 CONSIDER AND HEAR INSTRUCTIONS FROM THE COURT. THEY MUST  
4 CONSIDER HIS AGE AND ANY CRIMINAL BACKGROUND IF ANY, THAT HE  
5 HAS, HIS HISTORY, HIS CHARACTER AND ANYTHING AT ALL ABOUT HIM,  
6 MENTAL AND PHYSICAL CONDITION AND ALL OF THOSE FACTORS WILL  
7 BE CONSIDERED BY THE JURY, INCLUDING WHAT THEY LEARN IN THE  
8 FIRST PHASE OF THE TRIAL WHICH IS THE GUILT PHASE. DO YOU  
9 UNDERSTAND THAT?

10 MS. ADLER: YES.

11 THE COURT: ALL OF THOSE THINGS ARE HEARD BY THE JURY  
12 BEFORE THE JURY MAKES UP ITS MIND. THESE ARE FACTORS THEY  
13 MUST CONSIDER BEFORE THEY MAKE UP THEIR MINDS, WHAT PENALTY  
14 IT SHOULD BE, LIFE WITHOUT POSSIBILITY OF PAROLE OR DEATH.

15 THE PROSECUTION ON THE OTHER HAND, WILL SHOW  
16 EVIDENCE IN AGGRAVATION AND SHOW FACTS WHICH WERE UNFAVORABLE  
17 TO THE DEFENDANT TO COUNTER THE FAVORABLE EVIDENCE THE DEFENDANT  
18 WILL OFFER.

19 ALL OF THAT THEN IS ULTIMATELY TO BE CONSIDERED  
20 BY THE JURY. YOU MUST UNDERSTAND THAT OF COURSE THAT ON THE  
21 GUILT PHASE, TO DETERMINE GUILT OR INNOCENCE, WHETHER HE DID  
22 IT OR NOT COMMIT THE CRIME, THE MATTER OF THE PENALTY PHASE  
23 IS NOT TO BE CONSIDERED IN ANY WAY OR DISCUSSED. DO YOU UNDER-  
24 STAND THAT?

25 MS. ADLER: UH-HUH.

26 THE COURT: NOW, WITH THAT OTHER PRELIMINARY STATEMENT,  
27 I WILL ASK YOU THE FIRST TWO QUESTIONS THAT HAVE TO DO WITH  
28 THE GUILT PHASE OF THE TRIAL. DO YOU HAVE ANY OPINION

1 REGARDING THE DEATH PENALTY WHICH WILL PREVENT YOU FROM  
2 MAKING AN IMPARTIAL DECISION ON THE GUILT OR INNOCENCE OF THE  
3 DEFENDANT?

4 NOW, WE ARE ON THE GUILT PHASE. IS THERE ANYTHING,  
5 ANY OPINIONS THAT YOU HAVE ABOUT THE DEATH PENALTY OR OTHER  
6 FEELINGS ABOUT IT THAT WILL PREVENT YOU FROM MAKING AN  
7 IMPARTIAL DECISION AS TO HIS GUILT OR INNOCENCE?

8 MS. ADLER: I AM NOT SURE. I AM AGAINST THE DEATH PENALTY.

9 THE COURT: YOU ARE AGAINST IT?

10 MS. ADLER: YES.

11 THE COURT: SO NO MATTER WHAT THE EVIDENCE IS, YOU WILL  
12 VOTE TO ACQUIT, FIND THE DEFENDANT NOT GUILTY BECAUSE YOU KNOW  
13 IF YOU FIND HIM GUILTY, THAT THERE MIGHT BE A POSSIBILITY THAT  
14 HE MAY HAVE TO SUFFER THE PENALTY FOR IT?

15 MS. ADLER: I AM NOT SURE IF I WOULD DO THAT OR NOT.  
16 YOU KNOW --

17 THE COURT: WELL, WE HAVE GOT TO KNOW NOW. THE WAY YOU  
18 FEEL NOW, YOU FEEL THAT YOU CANNOT OR YOU CAN LISTEN TO THE  
19 EVIDENCE AS TO THE MURDER AND MAKE AN IMPARTIAL DECISION AS  
20 TO WHETHER HE IS GUILTY OF THAT MURDER WITH SPECIAL  
21 CIRCUMSTANCES, KNOWING THAT IF YOU FIND HIM GUILTY OF THE MURDER,  
22 YOU ARE GOING TO FACE THE POSSIBILITY OF THE DEATH PENALTY?  
23 WELL, TELL US IN YOUR HEART OF HEARTS HOW YOU FEEL ABOUT IT.

24 DON'T HESITATE TO TELL US HOW YOU FEEL ONE WAY  
25 OR THE OTHER ABOUT IT.

26 MS. ADLER: WELL, I GUESS RIGHT NOW I CAN STILL DECIDE  
27 IF THE PERSON IS INNOCENT OR GUILTY.

28 THE COURT: ON THE EVIDENCE?



1                    THAT IS IRRESPECTIVE OF HOW YOU FEEL ABOUT THE  
2 DEATH PENALTY?

3                    MS. ADLER:    YES.

4                    THE COURT:    OKAY, FINE.    NOW, THE NEXT QUESTION IS, I  
5 TOLD YOU THAT IF YOU FIND HIM GUILTY OF MURDER IN THE FIRST  
6 DEGREE, THEN YOU DECIDE WHETHER OR NOT IT WAS COMMITTED IN  
7 THE COURSE OF A ROBBERY.    THAT IS KNOWN AS THE SPECIAL  
8 CIRCUMSTANCE.    BECAUSE IF THE JURY DECIDES TRUE OR FALSE, IF  
9 IT WAS COMMITTED DURING THE COURSE OF A ROBBERY.    YOU HAVE  
10 TO MAKE THAT DECISION AFTER YOU FIND HIM GUILTY OF MURDER IN  
11 THE FIRST DEGREE IF YOU DO.    DO YOU UNDERSTAND?

12                   MS. ADLER:    YES.

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1 THE COURT: NOW, IS YOUR OPINION WITH REGARD TO THE DEATH  
2 PENALTY SUCH AS WOULD PREVENT YOU FROM MAKING AN IMPARTIAL  
3 DECISION CONCERNING THE TRUTH OR FALSITY OF THE SPECIAL  
4 CIRCUMSTANCES?

5 MS. ADLER: I THINK THAT MIGHT -- THAT MIGHT PREVENT  
6 ME FROM MAKING AN IMPARTIAL DECISION.

7 THE COURT: NOW, YOU ARE COMING IN WITH A VERDICT OF  
8 GUILTY OF MURDER IN THE FIRST DEGREE. NOW, THE NEXT QUESTION  
9 IS, WAS IT IN THE COURSE OF A ROBBERY.

10 BEFORE YOU SAY YOU CANNOT MAKE A DECISION OF THAT  
11 KIND, IN OTHER WORDS, THAT IT WAS COMMITTED IN THE COURSE OF  
12 A ROBBERY -- THAT IS BECAUSE IT MIGHT QUALIFY THE CASE FOR  
13 THE DEATH PENALTY? IS THAT IT?

14 MS. ADLER: YES.

15 THE COURT: IS THAT RIGHT?

16 MS. ADLER: YES.

17 THE COURT: ARE YOU SURE ABOUT THAT?

18 MS. ADLER: YES.

19 MR. WAPNER: SINCE I AM SURE MR. CHIER IS GOING TO HAVE  
20 SOME INQUIRY, CAN YOU JUST ASK THE OTHER TWO QUESTIONS OR THREE  
21 QUESTIONS, PLEASE?

22 THE COURT: YES. THE OTHER TWO QUESTIONS HAVE TO DO  
23 WITH AFTER YOU FOUND THE DEFENDANT GUILTY, IF YOU FIND HIM  
24 GUILTY OF MURDER IN THE SPECIAL DEGREE AND IT WAS ALSO IN THE  
25 COURSE OF A ROBBERY.

26 DO YOU HAVE ANY OPINION CONCERNING THE DEATH  
27 PENALTY THAT YOU WOULD AUTOMATICALLY VOTE TO IMPOSE THE DEATH  
28 PENALTY, IRRESPECTIVE OR REGARDLESS OF THE EVIDENCE PRESENTED

1 AT THE PENALTY PHASE OF THE TRIAL?

2 MS. ADLER: NO.

3 THE COURT: AND DO YOU HAVE SUCH AN OPINION CONCERNING  
4 THE DEATH PENALTY THAT YOU WOULD AUTOMATICALLY VOTE FOR LIFE  
5 WITHOUT POSSIBILITY OF PAROLE, REGARDLESS OF ANY EVIDENCE THAT  
6 MAY BE PRESENTED IN THE PENALTY PHASE OF THE TRIAL?

7 MS. ADLER: I THINK I WOULD.

8 THE COURT: WOULD YOU?

9 MS. ADLER: YES.

10 THE COURT: IS THAT RIGHT?

11 MS. ADLER: YES.

12 THE COURT: IN OTHER WORDS, IF YOU PASSED THE GUILT PHASE  
13 OF THE TRIAL, ANY VOTE THAT YOU WOULD MAKE WILL BE FOR -- IF  
14 YOU MAKE A VOTE, IT WILL BE FOR LIFE WITHOUT POSSIBILITY OF  
15 PAROLE AND NOT FOR DEATH? IS THAT IT?

16 MS. ADLER: YES. UH-HUH.

17 THE COURT: IS THAT YES?

18 MS. ADLER: YES.

19 MR. CHIER: MAY I INQUIRE?

20 THE COURT: GO AHEAD.

21 MR. CHIER: GOOD AFTERNOON, MISS ADLER. MY NAME IS  
22 RICHARD CHIER. I REPRESENT THE DEFENDANT.

23 I WOULD LIKE TO JUST INQUIRE ALONG THE LINES OF  
24 THE JUDGE'S QUESTIONS, IF I MIGHT. I WANT TO ASK YOU IF YOU  
25 FEEL -- ARE YOU BASICALLY OPPOSED TO THE DEATH PENALTY, I TAKE  
26 IT?

27 MS. ADLER: UH-HUH.

28 MR. CHIER: I TAKE IT THAT YOU VOTED WHEN IT WAS AN

1 INITIATIVE? IT WAS AN INITIATIVE ON THE BALLOT AND YOU VOTED  
2 AGAINST IT?

3 MS. ADLER: I DON'T REMEMBER THAT. BUT I WOULD HAVE,  
4 YES.

5 MR. CHIER: ALL RIGHT. HAVE YOU KNOWN -- HOW LONG HAVE  
6 YOU KNOWN THAT YOU WERE GOING TO BE A PROSPECTIVE JUROR IN  
7 A DEATH CASE HERE?

8 MS. ADLER: I THINK JUST WHEN I CAME HERE.

9 MR. CHIER: ALL RIGHT. HOW LONG WOULD YOU SAY THAT YOU  
10 HAVE BEEN OPPOSED TO THE DEATH PENALTY?

11 MS. ADLER: I THINK ALL OF MY LIFE.

12 MR. CHIER: OKAY. NOW, YOU CONSIDER YOURSELF A FAIR-  
13 MINDED OPENMINDED PERSON?

14 MS. ADLER: UH-HUH, YES.

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28B-1

1 MR. CHIER: HAD YOU EVER HAD STRONG FEELINGS ABOUT AN  
2 EVENT OR SITUATION IN ADVANCE OF THE SITUATION ONLY TO FIND  
3 OUT THAT WHAT YOU ANTICIPATED TURNED OUT TO BE COMPLETELY  
4 DIFFERENT, SUCH AS THE BREAKING UP OF A RELATIONSHIP OR DEATH  
5 IN THE FAMILY WHERE YOU, LET'S SAY FOR EXAMPLE, YOU ANTICIPATED  
6 AT ONE TIME IT WOULD MEAN SO MUCH AND THEN WHEN IT HAPPENED,  
7 YOU COMPLETELY CHANGED YOUR MIND? HAVE YOU HAD THAT EXPERIENCE  
8 BEFORE?

9 MS. ADLER: YES.

10 MR. CHIER: DO YOU UNDERSTAND VOTING AS A JUROR IN A  
11 DEATH PENALTY CASE, MAY INVOLVE THE SAME TYPE OF SITUATION  
12 WHERE IT IS DIFFICULT TO ANTICIPATE IN ADVANCE, HOW YOU MIGHT  
13 REACT ON THE LINE? DO YOU UNDERSTAND THAT?

14 MS. ADLER: YES.

15 MR. CHIER: AND THERE IS NO WAY OF KNOWING AT THIS  
16 JUNCTURE, HOW YOU MIGHT REACT TO CERTAIN OF THE EVIDENCE AS  
17 IT COMES IN CONCERNING THE ALLEGED KILLING, RIGHT?

18 MS. ADLER: YES.

19 MR. CHIER: NOW, IT IS POSSIBLE, IS IT NOT, THAT THE  
20 MANNER IN WHICH THE EVIDENCE WOULD UNFOLD, MIGHT BE VERY  
21 OFFENSIVE TO YOU, THE NATURE OF THE EVIDENCE, THE CIRCUMSTANCES  
22 OF THE CASE AND YOU WOULD BE OFFENDED BY THE CRIME, ISN'T THAT  
23 POSSIBLE?

24 MS. ADLER: YES.

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1 MR. CHIER: AND WHAT MY QUESTION IS, BEARING ALL OF  
2 THIS IN MIND, DO YOU FEEL THAT WITHOUT PROMISING THAT YOU  
3 WOULD EVER RETURN A PENALTY OF DEATH, CAN YOU SAY THAT YOU  
4 WOULD CONSIDER, AFTER HEARING ALL OF THE EVIDENCE AND HEARING  
5 ALL OF THE EVIDENCE IN MITIGATION OR AGGRAVATION, WOULD YOU  
6 CONSIDER THE DEATH PENALTY IN DETERMINING WHAT TO DO WITH  
7 THE DEFENDANT?

8 MS. ADLER: NO, I DON'T THINK SO.

9 MR. CHIER: NO? SO YOU WOULD ALWAYS VOTE IN SUCH A  
10 MANNER AS TO PRECLUDE YOUR HAVING TO REACH THE ISSUE OF DEATH  
11 IN THIS CASE IF YOU WERE A JUROR?

12 MS. ADLER: OR AT LEAST WHEN IT CAME TO VOTING ON THE  
13 PENALTY.

14 THE COURT: I CAN'T HEAR YOU. WOULD YOU KEEP YOUR VOICE  
15 UP?

16 MS. ADLER: AT LEAST WHEN IT CAME TO VOTING ON THE  
17 PENALTY PART, I WOULDN'T BE ABLE TO VOTE FOR THE DEATH PENALTY.

18 MR. CHIER: ALL RIGHT, I PASS FOR CAUSE.

19 THE COURT: ALL RIGHT.

20 MR. WAPNER: I HAVE NO QUESTIONS.

21 THE COURT: THANK YOU VERY MUCH FOR YOUR FRANKNESS  
22 AND YOUR CANDOR. THIS IS EXACTLY WHAT WE WANT TO HAVE, WHICH  
23 IS YOUR STATE OF MIND AND DEEP AND HONEST FEELINGS OF PEOPLE,  
24 HOW THEY FEEL AND IF THAT IS GOING TO INFLUENCE YOU AS A  
25 TRIAL JUROR IN THIS CASE.

26 IN THIS CASE YOU WILL BE EXCUSED AND YOU CAN  
27 RETURN TO THE JURY ASSEMBLY ROOM AND TELL THEM YOU CAN BE  
28 A JUROR IN ANOTHER CASE BUT NOT ON THIS ONE. THANK YOU VERY

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1 MUCH.

2 (PROSPECTIVE JUROR ADLER EXITED THE  
3 COURTROOM.)

4 (PROSPECTIVE JUROR WILLETT ENTERED  
5 THE COURTROOM.)

6 THE COURT: WE HAVE A NOTE FROM MR. WILLETT, HE WROTE  
7 ME A NOTE SAYING THAT HIS OFFICE REQUIRES TWO DAYS ADVANCE  
8 NOTICE OF DAYS OFF AND HE SAYS "WE HAVE RESERVATIONS PREPAID  
9 FOR TUESDAY THROUGH FRIDAY IN LAS VEGAS, 12-9 THROUGH 12-12.  
10 THE OCCASION IS MY BIRTHDAY, WHICH IS DECEMBER 10TH."

11 AND HIS NAME IS WILLETT, CLAYTON WILLETT.

12 IS THAT YOUR NAME?

13 MR. WILLETT: YES.

14 THE COURT: I JUST READ INTO THE RECORD YOUR EXCUSE.

15 WILL WE EXCUSE MR. WILLETT? HE HAS PREPAID PLANS  
16 TO GO TO LAS VEGAS.

17 MR. WAPNER: THAT IS MONEY HE WILL LOSE?

18 THE COURT: YOU WILL LOSE THAT MONEY, WILL YOU?

19 MR. WILLETT: I PROBABLY COULD CANCEL IT BY PHONE BECAUSE  
20 I HAVE ENOUGH TIME. IT IS JUST THAT IT IS MY 65TH BIRTHDAY  
21 AND WE SET IT UP EARLIER THIS YEAR.

22 MR. CHIER: I HAVE NO OBJECTION.

23 MR. WAPNER: I HAVE NO OBJECTION.

24 THE COURT: THANK YOU VERY MUCH. YOU WILL BE EXCUSED,  
25 MR. WILLETT.

26 MR. WILLETT: THANK YOU VERY MUCH.

27 THE COURT: YOU GO BACK TO THE JURY ASSEMBLY ROOM AND  
28 TELL THEM THAT YOU WILL BE AVAILABLE FOR ANY OTHER TIME BUT

1 THE TIMES THAT YOU WILL BE AWAY.

2 MR. WILLETT: THANK YOU.

3 (PROSPECTIVE JUROR WILLETT EXITED THE  
4 COURTROOM.)

5 (PROSPECTIVE JUROR BRINTON ENTERED THE  
6 COURTROOM.)

7 THE COURT: IS THAT MISS BRINTON?

8 MS. BRINTON: WHAT?

9 THE COURT: IS THAT MISS?

10 MS. BRINTON: MRS. BRINTON.

11 THE COURT: MRS. BRINTON, WHERE DO YOU LIVE?

12 MS. BRINTON: IN MALIBU.

13 THE COURT: AND HAVE YOU EVER READ ANYTHING AT ALL ABOUT  
14 THIS CASE?

15 MS. BRINTON: I DON'T EVEN KNOW WHAT THE NAME OF IT  
16 IS.

17 THE COURT: THE NAME OF THE DEFENDANT IS JOE HUNT AND  
18 ALLEGEDLY HE WAS IDENTIFIED WITH SOME CLUB OR GROUP OF PEOPLE  
19 KNOWN AS THE BILLIONAIRES' BOYS CLUB. DOES THAT IN ANY WAY  
20 REFRESH YOUR RECOLLECTION?

21 MS. BRINTON: NO, I DON'T KNOW ANYTHING.

22 THE COURT: YOU DON'T KNOW ANYTHING ABOUT IT AND YOU  
23 DIDN'T TALK TO ANYBODY ABOUT THE CASE?

24 MS. BRINTON: NOT A THING. I DON'T KNOW A THING ABOUT  
25 IT.

26 THE COURT: VERY GOOD. THANK YOU.

27 WHAT I AM GOING TO DO IS BRIEFLY TELL YOU ABOUT  
28 THE CASE AND ASK QUESTIONS OF YOU, AS COUNSEL WILL, TOUCHING



29-4

1 UPON YOUR ATTITUDE AND YOUR MENTAL STATE ABOUT THE DEATH PENALTY  
2 AND HOW IT WOULD AFFECT YOU IF YOU WERE A JUROR.

3 AS I TOLD YOU BEFORE, THE CHARGE AGAINST THE  
4 DEFENDANT IS THAT HE COMMITTED A MURDER IN THE FIRST DEGREE  
5 AND THAT MURDER WAS COMMITTED IN THE COURSE OF A ROBBERY.

6 NOW, IN THE COURSE OF A ROBBERY THAT IS CALLED  
7 A SPECIAL CIRCUMSTANCE. IN THE COURSE OF A ROBBERY, THE  
8 LEGISLATURE HAS SAID THAT THAT QUALIFIES, WHEN THE JURY FINDS  
9 HIM GUILTY OF MURDER IN THE FIRST DEGREE AND IT WAS IN THE  
10 COURSE OF A ROBBERY, THAT QUALIFIES THE CASE FOR A POSSIBLE  
11 DEATH PENALTY; DO YOU UNDERSTAND?

12 MS. BRINTON: YES, YOUR HONOR.

13 THE COURT: AND THE LEGISLATURE HAS PICKED OUT CERTAIN  
14 KINDS OF CRIMES AND CERTAIN SPECIAL CIRCUMSTANCES CONNECTED  
15 WITH MURDER WHICH THEY SAY QUALIFY A CASE FOR THE DEATH PENALTY.

16 AND AMONG THEM IS THE MURDER IN THE COURSE OF  
17 A ROBBERY, MURDER IN THE COURSE OF A BURGLARY, MURDER IN THE  
18 COURSE OF A KIDNAPPING OR A RAPE OR IF A CHILD IS MOLESTED  
19 AND IS KILLED OR TORTURED MULTIPLE MURDERS, AND THERE ARE  
20 19 OF THEM.

21 NOW, THIS IS ONE OF THE 19 CASES WHERE THE  
22 LEGISLATURE SAYS IT QUALIFIES THE CASE FOR THE DEATH PENALTY.

23 NOW, WHEN I TALK ABOUT THE DEATH PENALTY, THE  
24 JURY MAKES A DECISION OF EITHER LIFE IMPRISONMENT WITHOUT  
25 THE POSSIBILITY OF PAROLE OR DEATH, DEPENDING UPON FACTORS  
26 WHICH I WILL EXPLAIN TO YOU IN A MINUTE.

27 SO THE FIRST FUNCTION OF THE JURY WOULD BE TO  
28 DETERMINE WHETHER OR NOT THE DEFENDANT IS GUILTY OR NOT GUILTY

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OF THE CRIME OF MURDER IN THE FIRST DEGREE AND IF THEY SAY  
YES, THEN THEY HAVE A COLLATERAL QUESTION TO ANSWER: WAS  
THAT MURDER COMMITTED IN THE COURSE OF A ROBBERY? BECAUSE  
THEN THAT WOULD QUALIFY IT FOR THE DEATH PENALTY.

29A-1

1 IF THE JURY SAYS YES, IT WAS COMMITTED IN THE  
2 COURSE OF A ROBBERY, WE THEN ENTER INTO A SECOND PHASE OF  
3 THE TRIAL.

4 THE FIRST PHASE, THE GUILT PHASE, IS GUILTY OR  
5 NOT GUILTY. THE SECOND PHASE IS WHAT IS KNOWN AS THE PENALTY  
6 PHASE WHERE THE JURY DETERMINES WHAT THE PENALTY WILL BE:  
7 SHOULD IT BE LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF  
8 PAROLE OR SHALL IT BE DEATH IN THE GAS CHAMBER?

9 NOW BEFORE THEY MAKE THEIR MINDS UP, THEY WILL  
10 BE LISTENING TO TESTIMONY, ADDITIONAL TESTIMONY OTHER THAN  
11 WHAT THEY HEARD ON THE GUILT PHASE. ADDITIONAL TESTIMONY  
12 FROM THE DEFENSE AND FROM THE PROSECUTION. THE PURPOSE OF  
13 THAT TESTIMONY WILL BE, SO FAR AS THE DEFENDANT IS CONCERNED,  
14 TO SHOW YOU FAVORABLE FACTORS WHICH ARE IN HIS FAVOR AS TO  
15 WHY THE DEATH PENALTY SHOULD NOT BE IMPOSED ON HIM, AMONG  
16 WHICH YOU CAN CONSIDER HIS AGE, HIS LACK OF ANY CRIMINAL  
17 RECORD AND HIS MANNER OF LIVING, IS IT EXEMPLARY, HAS HE LED  
18 AN EXEMPLARY LIFE AND EVERYTHING ABOUT HIM WHICH IS FAVORABLE  
19 TOWARDS HIM.

20 ON THE OTHER HAND, THE PROSECUTION WILL ENDEAVOR  
21 TO SHOW UNFAVORABLE THINGS ABOUT HIM, THINGS THAT HE HAS DONE  
22 IN THE PAST THAT MAY BE UNFAVORABLE.

23 NOW, ALL OF THOSE THINGS MUST BE CONSIDERED BY  
24 THE JURY BEFORE THEY MAKE UP THEIR MINDS AS TO WHAT TO DO  
25 WITH THE DEFENDANT, LIFE IMPRISONMENT OR DEATH.

26 AND SO THE CHARACTER, THE BACKGROUND, THE MENTAL  
27 AND PHYSICAL CONDITION OF THE DEFENDANT, ALL OF THESE ARE  
28 ALL FACTORS WHICH MUST BE CONSIDERED BY THE JURY; DO YOU

29A-2

1 UNDERSTAND THAT?

2 MS. BRINTON: YES.

3 THE COURT: NOW AS A PRELIMINARY, I AM GOING TO ASK  
4 YOU CERTAIN QUESTIONS WHERE I AM TRYING TO EXPLORE YOUR  
5 ATTITUDE TOWARDS THE DEATH PENALTY AND SEE WHETHER OR NOT  
6 YOU CAN QUALIFY AS A JUROR IN A CASE OF THIS KIND, OKAY?

7 MS. BRINTON: UH-HUH.

8 THE COURT: NOW THE FIRST QUESTION I AM GOING TO ASK  
9 YOU RELATES TO -- IT TOUCHES UPON THE GUILT PHASE OF IT. YOU  
10 FIND HIM EITHER GUILTY OR NOT GUILTY.

11 DO YOU HAVE AN OPINION WITH RESPECT TO THE DEATH  
12 PENALTY WHICH WOULD PREVENT YOU FROM MAKING AN IMPARTIAL  
13 JUDGMENT OR OPINION OF THE GUILT OR INNOCENCE OF THE  
14 DEFENDANT?

15 MS. BRINTON: WELL, I DON'T THINK I COULD BE PART OF  
16 PUTTING A MAN TO DEATH FOR TAKING A LIFE.

17 THE COURT: UNDER ANY CIRCUMSTANCES?

18 MS. BRINTON: I THINK UNDER ANY CIRCUMSTANCES, I COULDN'T.

19 THE COURT: I WANT YOU TO BE SURE OF THAT.

20 IS IT UNDER NO CIRCUMSTANCES, YOU WOULD NOT VOTE  
21 THE DEATH PENALTY?

22 MS. BRINTON: NO.

23 I COULD HOLD A PERSON IN PRISON FOR LIFE THREE  
24 TIMES OVER BUT I COULDN'T VOTE A PERSON TO DEATH.

25 THE COURT: HOWEVER, COULD YOU VOTE FOR LIFE IMPRISONMENT  
26 WITHOUT THE POSSIBILITY OF PAROLE?

27 MS. BRINTON: CERTAINLY.

28 THE COURT: BUT YOU COULDN'T VOTE FOR THE DEATH PENALTY?

1 MS. BRINTON: NO. I AM A HUNDRED PERCENT SURE OF THAT.

2 I AM SORRY, YOUR HONOR, BECAUSE I WOULD BE  
3 INTERESTED.

4 THE COURT: UNDER NO CIRCUMSTANCES?

5 MS. BRINTON: RIGHT.

6 I WOULD BE INTERESTED IN HELPING.

7 THE COURT: ALL RIGHT. YES, I UNDERSTAND.

8 ANY QUESTIONS?

9 MR. CHIER: YES, JUST A COUPLE.

10 MRS. BRINTON, MY NAME IS RICHARD CHIER. I  
11 REPRESENT MR. HUNT.

12 LET ME ASK YOU THIS, WITHOUT ASKING YOU HOW YOU  
13 WOULD VOTE IN SUCH A CASE, COULD YOU TELL ME WHAT THE WORST  
14 CRIME IS THAT YOU COULD THINK OF.

15 THE COURT: I THINK THAT IS IMMATERIAL. LET'S GET ON  
16 TO SOMETHING ELSE. WE ARE TALKING ABOUT THIS PARTICULAR CASE,  
17 NOT ANY OTHER HYPOTHETICAL CASE.

18 MR. CHIER: I AM NOT ASKING HER --

19 THE COURT: YES, YOU ARE ASKING HER ABOUT SOME OTHER  
20 TYPE OF CASE WHICH IS NOT INVOLVED HERE.

21 MR. CHIER: I AM ASKING HER THE WORST CRIME THAT SHE  
22 CAN THINK OF. IT IS A PRELUDE TO ANOTHER QUESTION.

23 THE COURT: NO MATTER WHAT THE CRIME WAS, UNDER ANY  
24 CIRCUMSTANCES, WOULD YOU EVER VOTE A DEATH PENALTY?

25 MS. BRINTON: NEVER.

26 MR. CHIER: UNDER ANY CIRCUMSTANCES?

27 MS. BRINTON: UNDER ANY CIRCUMSTANCES.

28 MR. WAPNER: I HAVE NO QUESTIONS. THERE WILL BE A

1 CHALLENGE OF MRS. BRINTON FOR CAUSE.

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

4 MS. BRINTON: THANK YOU, YOUR HONOR.

5 THE COURT: YOU ARE ENTITLED TO YOUR OPINION. NOBODY  
6 IS CRITICISING YOU.

7 MS. BRINTON: THANK YOU.

8 THE COURT: BUT BECAUSE OF YOUR OPINION, YOU CANNOT  
9 SERVE AS A TRIAL JUROR ON THIS CASE. YOU CAN BE A VERY FINE  
10 JUROR ON SOME OTHER CASE, YOU MAY TELL THAT TO THE JURY CLERK  
11 WHEN YOU GO BACK THERE.

12 MS. BRINTON: I SEE, YOUR HONOR. THANK YOU.

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1 (PROSPECTIVE JUROR CANADY ENTERS THE  
2 COURTROOM.)

3 THE COURT: MR. CANADY, IS THAT HOW YOU PRONOUNCE IT?

4 MR. CANADY: YES.

5 THE COURT: MR. CANADY, MIGHT IT BE A CORRUPTION OF  
6 KENNEDY? DON'T YOU THINK SO?

7 MR. CANADY: THAT IS THE WAY MOST PEOPLE PRONOUNCE IT,  
8 KENNEDY.

9 THE COURT: YOU PRONOUNCE IT CANADY?

10 MR. CANADY: YES.

11 THE COURT: WHERE DO YOU LIVE?

12 MR. CANADY: SANTA MONICA.

13 THE COURT: AND HAVE YOU HEARD ANYTHING AT ALL ABOUT  
14 THIS CASE, EXCEPT THAT IT IS PENDING IN THIS COURT?

15 MR. CANADY: NO.

16 THE COURT: LET ME BRIEFLY TELL YOU NOT TO -- DID YOU  
17 TALK TO ANYBODY ABOUT IT?

18 MR. CANADY: NO. I JUST WAS TOLD ABOUT IT BEFORE.

19 THE COURT: ALL RIGHT. IF DURING THE COURSE OF THE  
20 QUESTIONS THAT WE ASK YOU ABOUT, IF IT COMES BACK TO YOUR MIND  
21 IN ANY WAY, YOU TELL US IF YOU HAVE HEARD ABOUT IT OR READ  
22 ABOUT IT.

23 MR. CANADY: YES.

24 THE COURT: AS I TOLD YOU ALL BEFORE, THE DEFENDANT IS  
25 ACCUSED OF THE CRIME OF MURDER AND THE CRIME WAS COMMITTED  
26 DURING THE COURSE OF A ROBBERY.

27 NOW, IN THE COURSE OF A ROBBERY IS SIGNIFICANT  
28 BECAUSE THAT IS ONE OF THE CASES WHERE THE LEGISLATURE HAS

1 SAID THAT THE DEATH PENALTY MAY BE IMPOSED.

2 ROBBERY, BURGLARY, KIDNAPPING, MURDER COMMITTED  
3 IN THE COURSE OF A ROBBERY, RAPE, TORTURE, MULTIPLE MURDERS  
4 AND THERE ARE A NUMBER OF THEM, 19 IN ALL, THE LEGISLATURE SAYS  
5 THAT IN THOSE CASES, THE DEATH PENALTY MIGHT BE AN APPROPRIATE  
6 PENALTY. RIGHT?

7 NOW, SINCE IT IS AN APPROPRIATE PENALTY, THE  
8 QUESTIONS THAT WE ARE GOING TO ASK YOU NOW RELATE TO OR DEAL  
9 WITH WHAT YOUR STATE OF MIND IS, WHAT YOUR OPINION IS, YOUR  
10 FEELINGS ARE WITH RESPECT TO THE DEATH PENALTY. DO YOU  
11 UNDERSTAND?

12 MR. CANADY: YES.

13 THE COURT: NOW, THE JURY WILL BE SELECTED IN THE CASE  
14 AND THEY FIRST WILL BE CALLED UPON TO DETERMINE THE GUILT OR  
15 INNOCENCE OF THE DEFENDANT.

16 IF THEY FIND HIM GUILTY OF MURDER IN THE FIRST  
17 DEGREE, THEN THEY HAVE TO ANSWER A QUESTION AS TO WHETHER OR  
18 NOT THAT MURDER WAS COMMITTED IN THE COURSE OF A ROBBERY.  
19 BECAUSE THEN, THAT MIGHT QUALIFY THE CASE FOR THE DEATH  
20 PENALTY BECAUSE IT WAS COMMITTED DURING THE COURSE OF A ROBBERY.  
21 SO THEY WILL SAY THAT IT IS TRUE OR FALSE.

22 IF IT IS TRUE, THEN WE COME TO THE SECOND PHASE  
23 OF THE TRIAL, WHAT IS KNOWN AS THE PENALTY PHASE WHERE THE  
24 JURY DETERMINES WHETHER OR NOT, AFTER LISTENING TO FURTHER  
25 EVIDENCE THAT I WILL TELL YOU ABOUT -- THE JURY DETERMINES  
26 SHALL IT BE LIFE WITHOUT THE POSSIBILITY OF PAROLE OR DEATH.

27 WHEN I SAID LIFE WITHOUT THE POSSIBILITY OF PAROLE,  
28 IT MEANS EXACTLY THAT. THERE IS NO POSSIBILITY OF PAROLE



1 UNDER ANY CIRCUMSTANCES. DO YOU UNDERSTAND THAT?

2 MR. CANADY: YES.

3 THE COURT: OR SHALL IT BE DEATH? BEFORE THE JURY MAKES  
4 UP ITS MIND, IT HAS GOT TO LISTEN TO NOT ONLY THE EVIDENCE,  
5 THEY HAVE TO NOT ONLY CONSIDER THE EVIDENCE THEY HAVE HEARD  
6 IN THE GUILT PHASE OF THE TRIAL, BUT ALSO, NEW EVIDENCE WHICH  
7 WILL COME BEFORE THE JURY.

8 THE DEFENSE AND THE PROSECUTION WILL PUT ON  
9 ADDITIONAL EVIDENCE. THE DEFENSE WILL UNDOUBTEDLY PRODUCE  
10 EVIDENCE WHICH WOULD SHOW THE DEFENDANT IN A VERY FAVORABLE  
11 ASPECT.

12 THE PROSECUTION ON THE OTHER HAND, WOULD TRY TO  
13 PAINT A PICTURE OF THE DEFENDANT AS BEING A BAD MAN, AN EVIL  
14 MAN. THE JURY CONSIDERS ALL OF THE TESTIMONY THAT THEY HEAR  
15 ON THE PENALTY PHASE. DO YOU UNDERSTAND THAT?

16 MR. CANADY: YES.

17 THE COURT: AND CONSIDER ALSO THE EVIDENCE THAT THEY  
18 HEARD ON THE GUILT PHASE. AND THERE WILL BE EVIDENCE FOR  
19 EXAMPLE THAT YOU HAVE A RIGHT -- YOU MUST CONSIDER, FOR  
20 INSTANCE, THE AGE OF THE DEFENDANT, HIS CRIMINAL RECORD IF  
21 HE HAS ANY, THE LACK OF CRIMINAL RECORD, YOU WILL CONSIDER  
22 HIS BACKGROUND, HIS CHARACTER AND HIS PHYSICAL AND MENTAL  
23 CONDITION, FACTORS WHICH THE COURT WILL OUTLINE TO YOU.

24 NOT ONLY MUST YOU CONSIDER IT, BUT YOU WILL TAKE  
25 INTO ACCOUNT AND BE GUIDED BY THOSE PARTICULAR FACTORS BEFORE  
26 YOU MAKE YOUR DECISION ON WHAT THE PENALTY IS GOING TO BE.

27 MR. CANADY: UH-HUH.

28 THE COURT: ALL RIGHT. DO YOU UNDERSTAND THAT?

1 MR. CANADY: YES.

2 THE COURT: NO QUESTIONS?

3 MR. CANADY: NO.

4 THE COURT: NOW, I WILL ASK YOU A SERIES OF QUESTIONS  
5 THAT WILL TOUCH UPON OR TRY TO GET AN IDEA AS TO WHAT YOUR  
6 MENTAL ATTITUDE IS TOWARD THE DEATH PENALTY AND HOW IT WILL  
7 AFFECT YOU AS A JUROR IN THIS CASE.

8 NOW, DO YOU REMEMBER THE FIRST PHASE OF THE TRIAL  
9 IS THE GUILT OR INNOCENCE OF THE DEFENDANT? NOW, DO YOU HAVE  
10 ANY OPINION WHATSOEVER -- WHATEVER IT MAY BE, REGARDING THE  
11 DEATH PENALTY, THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL  
12 DECISION AS TO THE GUILT OR THE INNOCENCE OF THE DEFENDANT?

13 MR. CANADY: I DON'T THINK SO.

14 THE COURT: ALL RIGHT. NOW, ASSUMING THAT THE  
15 DEFENDANT HAD BEEN FOUND GUILTY OF MURDER IN THE FIRST DEGREE,  
16 THEN I TOLD YOU THE SECOND QUESTION WILL BE TO DETERMINED WAS  
17 IT COMMITTED DURING THE COURSE OF A ROBBERY.

18 AND, THE JURY WILL SAY TRUE OR FALSE, THAT IT WAS  
19 COMMITTED DURING THE COURSE OF A ROBBERY. NOW, DO YOU HAVE  
20 AN OPINION WHATSOEVER IT MAY BE, REGARDING THE DEATH PENALTY,  
21 THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION  
22 CONCERNING THE TRUTH OR FALSITY OF THE SPECIAL CIRCUMSTANCES?

23 MR. CANADY: NOPE.

24 THE COURT: OKAY. NOW, THE NEXT TWO QUESTIONS HAVE TO  
25 DO WITH THE PENALTY PHASE. WE ASSUME THAT THE DEFENDANT HAS  
26 BEEN FOUND GUILTY OF MURDER IN THE FIRST DEGREE DURING THE  
27 COURSE OF A ROBBERY.

28 NOW, THIS QUESTION IS, DO YOU HAVE SUCH AN OPINION

1 CONCERNING THE DEATH PENALTY, THAT YOU WOULD AUTOMATICALLY  
2 VOTE TO IMPOSE THE DEATH PENALTY, REGARDLESS OF ANY EVIDENCE  
3 THAT MAY BE PRESENTED AT THE PENALTY PHASE OF THE TRIAL?

4 MR. CANADY: NO.

5 THE COURT: THE NEXT QUESTION IS A RELATED QUESTION.  
6 DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH PENALTY, THAT  
7 YOU WOULD AUTOMATICALLY VOTE FOR LIFE WITHOUT POSSIBILITY OF  
8 PAROLE, REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED AT  
9 THE PEANLTY PHASE OF THE TRIAL?

10 MR. CANADY: NOPE.

11 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

12 I HAVE ONE OTHER QUESTION. YOU OF COURSE, UNDER-  
13 STAND THE ISSUE OF THE PENALTY PHASE MAY OR MAY NOT OCCUR  
14 IN THIS CASE AND THAT THE QUESTIONS HAVE BEEN ASKED ONLY IN  
15 THE EVENT THAT YOU REACH THAT PHASE OF THE TRIAL?

16 MR. CANADY: YES.

17 THE COURT: GO AHEAD.

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1 MR. CHIER: GOOD AFTERNOON, MR. CANADY. MY NAME IS  
2 RICHARD CHIER. I REPRESENT MR. HUNT.

3 I WOULD LIKE TO ASK YOU SOME QUESTIONS TO FURTHER  
4 PROBE YOUR ATTITUDES ALONG THE LINES THAT THE JUDGE HAS  
5 QUESTIONED YOU.

6 LET ME JUST BEGIN BY ASKING YOU, HOW DO YOU FEEL  
7 ABOUT THE DEATH PENALTY?

8 MR. CANADY: HOW DO I FEEL ABOUT IT? WELL, I NEVER  
9 THOUGHT ABOUT IT THAT MUCH. BUT IF SOMEONE LEGALLY DESERVED  
10 IT, IT DEPENDS UPON ALL OF THE EVIDENCE PUT FORWARD.

11 I WOULD CONVICT SOMEBODY IF IT NEED BE.

12 MR. CHIER: WELL, WOULD YOU TELL US WHAT'S THE WORST  
13 OFFENSE THAT YOU COULD THINK OF.

14 THE COURT: THE WORST WHAT?

15 MR. CHIER: WHAT IS THE WORST OFFENSE THAT YOU CAN THINK  
16 OF?

17 MR. CANADY: I THINK THIS CASE IS PRETTY CLOSE, SOMETHING  
18 LIKE THAT.

19 MR. CHIER: INTENTIONAL MURDER IN THE COURSE OF A  
20 ROBBERY?

21 MR. CANADY: PREMEDITATED. THE GUY KNOWS THAT HE IS  
22 GOING OUT TO KILL SOMEONE.

23 MR. CHIER: PLANNED?

24 MR. CANADY: YES.

25 MR. CHIER: DO YOU THINK THAT IF THE JURY WERE TO FIND  
26 ALL OF THOSE THINGS TRUE BEYOND A REASONABLE DOUBT, THERE  
27 COULD BE ANYTHING SAID IN MITIGATION OF SUCH BEHAVIOR?

28 THE COURT: WELL, WAIT A MINUTE. I TOLD YOU THAT IF

30RL-2

1 THE JURY FINDS THE DEFENDANT GUILTY OF MURDER IN THE FIRST  
2 DEGREE IN THE COURSE OF A ROBBERY, I TOLD YOU THAT THERE WILL  
3 BE A SECOND PHASE OF THE TRIAL WHERE A LOT OF EVIDENCE WILL  
4 BE INTRODUCED.

5 BEFORE YOU MAKE UP YOUR MIND AS TO WHAT THE  
6 VERDICT IS GOING TO BE, WHETHER IT SHOULD BE LIFE WITHOUT  
7 POSSIBILITY OF PAROLE OR DEATH, YOU WON'T MAKE UP YOUR MIND  
8 UNTIL YOU HEAR ALL OF THAT EVIDENCE, WOULD YOU?

9 MR. CANADY: RIGHT, RIGHT.

10 THE COURT: ALL RIGHT.

11 MR. CANADY: RIGHT.

12 MR. CHIER: SO IF THE JUDGE TELLS YOU THAT YOU HAVE  
13 TO LISTEN TO EVIDENCE ABOUT HIS AGE AND WHETHER HE HAD A RECORD  
14 OR NOT, WOULD YOU LISTEN TO THAT? WOULD YOU?

15 MR. CANADY: WELL, I THINK THAT YOU SHOULD TAKE EVERYTHING  
16 INTO ACCOUNT.

17 MR. CHIER: BUT YOU WOULDN'T REALLY CARE ABOUT IT, WOULD  
18 YOU?

19 THE COURT: WHAT DO YOU MEAN, YOU WOULDN'T CARE ABOUT  
20 IT? DISREGARD IT? IS THAT WHAT YOU MEAN?

21 MR. CHIER: NO.

22 THE COURT: WELL, THAT IS WHAT YOUR QUESTION IMPLIED.

23 MR. CHIER: IT WOULDN'T BE ALL OF THOSE THINGS, EITHER  
24 INDIVIDUALLY OR IN THE AGGREGATE -- IT WOULDN'T BE ANY REASON  
25 TO SAVE HIS LIFE, WOULD IT?

26 MR. CANADY: PARDON ME?

27 MR.. CHIER: THINGS LIKE HIS AGE OR LACK OF CRIMINAL  
28 BACKGROUND, EVEN THOUGH YOU WOULD HEAR THESE THINGS --

3  
1 MR. CANADY: I WOULD TAKE INTO CONSIDERATION EVERYTHING  
2 THAT HAD TO DO WITH THE CASE.

3 MR. CHIER: WELL, WHAT TYPE OF FACTORS OF THOSE ELICITED  
4 TO YOU BY THE COURT -- ELICITED FOR YOU BY THE COURT, DO YOU  
5 THINK WOULD MAKE A DIFFERENCE IN DETERMINING WHAT TO DO WITH  
6 THIS PERSON?

7 THE COURT: I TOLD YOU THAT ALL OF THOSE FACTORS MUST  
8 BE CONSIDERED BY THE JURY. YOU WILL FOLLOW THAT INSTRUCTION,  
9 WILL YOU NOT?

10 MR. CANADY: RIGHT. EVERYTHING YOU WERE SAYING,  
11 EXACTLY.

12 MR. CHIER: WHICH ONE OF THOSE FACTORS DO YOU THINK  
13 WOULD MAKE A DIFFERENCE?

14 MR. CANADY: HIS CHARACTER, HIS BACKGROUND, HIS PERSONAL  
15 LIFE, HIS FAMILY, EVERYTHING.

16 MR. CHIER: DO YOU THINK THAT IF HE HAD A BAD FAMILY  
17 LIFE FOR EXAMPLE, IT WOULD WEIGH AGAINST GIVING HIM THE DEATH  
18 PENALTY?

19 MR. CANADY: I AM NOT SAYING IT WOULD WEIGH AGAINST  
20 IT --

21 THE COURT: ARE YOU ASKING HIM TO JUDGE THE TESTIMONY?  
22 WE HAVE NOT HEARD ANYTHING YET. I WILL SUSTAIN AN OBJECTION.

23 MR. CHIER: DO YOU BELIEVE IN THE CONCEPT OF AN EYE  
24 FOR AN EYE, GENERALLY?

25 MR. CANADY: DO I BELIEVE THAT?

26 MR. CHIER: YES.

27 MR. CANADY: NOT NECESSARILY.

28 MR. CHIER: WHEN YOU SAY "NOT NECESSARILY," ARE THERE

303-4

1 SOME CIRCUMSTANCES WHERE YOU THINK THAT IT IS AN APPROPRIATE  
2 CONCEPT?

3 MR. CANADY: NO.

4 MR. CHIER: DO YOU HAVE IN MIND A LIST OF CONSIDERATIONS  
5 THAT THE JUDGE READ OFF FOR YOU OF THE THINGS YOU WERE  
6 SUPPOSED TO CONSIDER AT THE TIME OF SENTENCING?

7 MR. CANADY: WHAT DO YOU MEAN?

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1 MR. CHIER: LIKE LACK OF PRIOR RECORD, IF ANY, PHYSICAL  
2 OR MENTAL CONDITION?

3 MR. CANADY: WHAT IS THE QUESTION NOW?

4 I DON'T UNDERSTAND.

5 MR. CHIER: DO YOU RECALL THOSE THINGS THAT THE JUDGE  
6 ENUMERATED FOR YOU?

7 MR. CANADY: YEH.

8 MR. CHIER: DO YOU THINK THAT ANY OF THOSE THINGS MAKE  
9 A DIFFERENCE IN DECIDING WHAT TO DO WITH A PERSON YOU HAVE  
10 FOUND COMMITTED A FIRST DEGREE, DELIBERATE, INTENTIONAL MURDER?

11 MR. CANADY: YES.

12 MR. CHIER: WHICH OF THOSE THINGS DO YOU FEEL THAT ARE  
13 SIGNIFICANT?

14 MR. CANADY: ALL OF THEM.

15 MR. CHIER: FOR EXAMPLE, HOW IS THE QUESTION OF AGE  
16 SIGNIFICANT?

17 MR. CANADY: I DON'T KNOW.

18 MR. CHIER: WHAT IS THE SIGNIFICANCE OF AGE, FOR  
19 EXAMPLE, IN DETERMINING THIS?

20 MR. CANADY: WHETHER HE IS A MINOR OR HE IS AN ADULT.

21 MR. CHIER: LET'S ASSUME THAT HE IS AN ADULT; DOES IT  
22 MAKE ANY DIFFERENCE IN YOUR MIND WHETHER HE WAS LIKE 21 OR  
23 51?

24 MR. WAPNER: WELL, I WOULD OBJECT TO THAT AS ASKING  
25 HIM TO PREJUDGE THE EVIDENCE AND ASKING HIM TO SAY NOW HOW  
26 MUCH WEIGHT HE IS GOING TO ATTACH TO ANY GIVEN FACT.

27 THE COURT: I WILL SUSTAIN THE OBJECTION.

28 MR. CHIER: I AM NOT ASKING HIM TO ASSIGN WEIGHT.



1 THE COURT: I WILL SUSTAIN THE OBJECTION.

2 GO AHEAD AND ASK YOUR NEXT QUESTION.

3 MR. CHIER: I CANNOT FRAME THE NEXT QUESTION WITHOUT  
4 KNOWING HOW TO CURE IT.

5 THE COURT: YOU DON'T HAVE TO CURE IT. I AM SUSTAINING  
6 THE OBJECTION.

7 HE SAID CATEGORICALLY THAT HE WILL CONSIDER ALL  
8 OF THE FACTORS THAT I TOLD HIM ABOUT, HE WILL TAKE THEM INTO  
9 ACCOUNT. NOW YOU ARE ASKING HIM TO EVALUATE EACH SINGLE ONE  
10 OF THEM AND HE CAN'T DO THAT. I CAN'T DO THAT EITHER.

11 MR. CHIER: NO.

12 HE WAS OBVIOUSLY UNDER THE IMPRESSION THAT IT  
13 WAS A MINOR WAS WHAT THE AGE MEANT.

14 THE COURT: LET'S GET ON TO SOMETHING ELSE, WILL YOU,  
15 PLEASE?

16 MR. CHIER: IN ASSESSING WHETHER A PERSON SHOULD LIVE  
17 OR DIE, COULD YOU TELL US HOW, IF AT ALL, A PERSON'S CHILDHOOD  
18 COULD POSSIBLY ENTER INTO THE DECISION?

19 THE COURT: HE WOULD HAVE TO KNOW THE FACTS AND YOU  
20 ARE ASKING HIM TO PREJUDGE IT. I AM GOING TO SUSTAIN THE  
21 OBJECTION.

22 MR. CHIER: I AM NOT ASKING HIM -- I AM ASKING HIM HOW --

23 THE COURT: WILL YOU PLEASE GET ON TO SOMETHING ELSE?  
24 THAT IS THE SAME THING YOU ASKED HIM ABOUT YOUTH, ABOUT HIS  
25 CHILDHOOD.

26 MR. CHIER: MAY WE APPROACH THE BENCH, PLEASE, JUDGE?

27 THE COURT: NO.

28 MR. CHIER: THERE SEEMS TO BE -- I DON'T KNOW WHAT THE

1 SCOPE OF THIS INQUIRY IS BECAUSE MY QUESTION --

2 THE COURT: WILL YOU PROCEED, NOW, PLEASE?

3 YOU KNOW FROM MY PRIOR RULINGS THAT I MADE WHAT  
4 YOU CAN AND CANNOT ASK AND YOU PERSIST IN ASKING THE SAME  
5 THINGS ALL OF THE TIME.

6 MR. CHIER: THESE ARE THE QUESTIONS THAT I HAVE FOR  
7 THIS JUROR, YOUR HONOR.

8 THE COURT: WILL YOU PLEASE ASK THE QUESTIONS AND I  
9 WILL MAKE A RULING ON IT?

10 MR. CHIER: LET ME ASK YOU SOMETHING, MR. CANADY: WOULD  
11 YOU LIKE TO BE A JUROR ON A CASE WHERE THE PEOPLE ARE  
12 REQUESTING THE DEATH PENALTY?

13 MR. CANADY: NOT PARTICULARLY.

14 MR. CHIER: DO YOU THINK IN YOUR HEART OF HEARTS THAT  
15 YOU ARE LIKE A PERSON WHO IS SUFFICIENTLY NEUTRAL SO AS TO  
16 BE ABLE TO GIVE THE DEFENDANT A FAIR TRIAL IF YOU WERE  
17 SELECTED AS A JUROR?

18 MR. CANADY: I COULD PROBABLY DO IT IF I WAS PUT ON  
19 THERE.

20 THE COURT: PARDON ME? I DIDN'T HEAR YOU.

21 MR. CANADY: PARDON ME?

22 THE COURT: WHAT DID YOU SAY?

23 MR. CANADY: I PROBABLY COULD DO IT, YES.

24 MR. CHIER: WHEN YOU SAY THAT YOU PROBABLY COULD DO  
25 IT, DO YOU HAVE ANY KIND OF RESERVATIONS?

26 MR. CANADY: ABOUT WHAT?

27 MR. CHIER: ABOUT WHETHER YOU WOULD BE NEUTRAL OR YOU  
28 MIGHT BE TILTED TOWARDS THE PROSECUTION?

1 MR. CANADY: NO.

2 I AM JUST SAYING ABOUT MY OWN PERSONAL LIFE.

3 THE COURT: WHAT YOU ARE SAYING IS YOU WILL BE A FAIR  
4 JUROR, IS THAT IT?

5 MR. CANADY: YEAH. JUST MY OWN PERSONAL LIFE, I HAVE  
6 PROBLEMS.

7 MR. WAPNER: I AM SORRY. I DIDN'T UNDERSTAND YOU.

8 MR. CANADY: JUST MY OWN PERSONAL LIFE, IT WOULD BE  
9 A LITTLE HARD TO DEAL WITH.

10 THE COURT: YOU SAID WHAT?

11 (THE RECORD WAS READ BY THE COURT REPORTER.)

12 THE COURT: IT WOULD BE HARD TO DO WHAT?

13 MR. CANADY: TO DEAL WITH.

14 THE COURT: TO DEAL WITH? I DON'T KNOW WHAT YOU MEAN  
15 BY THAT. WHAT DO YOU MEAN?

16 MR. CANADY: JUST WHAT I WAS SAYING.

17 WHAT WAS YOUR QUESTION?

18 MR. CHIER: MY QUESTION NOW IS, WHAT PROBLEMS DO YOU  
19 HAVE THAT WOULD MAKE IT HARD TO DEAL WITH YOUR BEING A JUROR  
20 ON A DEATH PENALTY CASE?

21 MR. CANADY: JUST MENTAL STRESS, JUST THAT IS ABOUT  
22 IT.

31A-1

1 MR. CHIER: WOULD YOU FIND IT STRESSFUL TO BE A JUROR  
2 ON THIS TYPE OF CASE?

3 MR. CANADY: I THINK IT COULD BE.

4 MR. CHIER: BECAUSE YOU ARE BEING ASKED TO DETERMINE  
5 WHETHER A PERSON LIVES OR DIES ULTIMATELY?

6 MR. CANADY: NO.

7 THE LENGTH OF THE TRIAL, I THINK IT WOULD BE A  
8 HARDSHIP ON MY WORK AND I HAVE GOT A LOT OF THINGS GOING ON  
9 AT WORK RIGHT NOW.

10 THE COURT: WELL, I ASKED YOU IF THERE WAS ANY HARDSHIP  
11 AND YOU DIDN'T ANSWER THERE WAS.

12 MR. CANADY: WELL, NOT THAT IT WOULD BE THAT HARD.

13 WELL, IT WOULD BE INEVITABLY.

14 THE COURT: WHAT?

15 MR. CANADY: INEVITABLY IT WOULD BE A HARDSHIP IN THE  
16 LONG RUN BUT I COULD DO IT.

17 MR. CHIER: COULD YOU TELL US HOW YOU WOULD HAVE THIS  
18 HARDSHIP, MR. CANADY.

19 MR. CANADY: WE ARE IN THE MIDDLE OF A PROJECT AT WORK  
20 RIGHT NOW.

21 MR. CHIER: DO YOU THINK IT WOULD BE DISTRACTING FOR  
22 YOU, THAT YOUR MIND WOULD BE HALFWAY ON YOUR PROJECT AND HALFWAY  
23 HERE IN THIS COURTROOM?

24 MR. CANADY: NO.

25 I'D JUST HAVE TO WORK A LOT OF OVERTIME.

26 MR. CHIER: DO YOU THINK THAT WOULD PUT PHYSICAL  
27 AND MENTAL STRESS ON YOU SUCH THAT IT MIGHT AFFECT YOUR ABILITY  
28 TO CONCENTRATE IN THIS CASE?

1 MR. CANADY: NO, I DON'T THINK IT WOULD DO THAT.

2 MR. CHIER: AND IT IS SOMETHING WHERE IF YOU WERE GOING  
3 TO WORK A DOUBLE SHIFT AT YOUR WORK, WOULD THAT AFFECT YOUR  
4 CONCENTRATION IN THE COURTROOM?

5 MR. CANADY: I WOULDN'T HAVE TO WORK DOUBLE SHIFT.  
6 I WOULD HAVE TO WORK WEEKENDS OR WORK FIVE DAYS HERE OR TWO  
7 DAYS HERE, WHAT HAVE YOU.

8 MR. CHIER: IS THERE A REASON YOU DIDN'T CLAIM HARDSHIP  
9 WHEN THE COURT ASKED YOU FOR A DECLARATION OF HARDSHIP?

10 MR. CANADY: BECAUSE I DIDN'T THINK HE WOULD ALLOW IT.

11 THE COURT: YOU DIDN'T THINK I WOULD ALLOW IT?

12 MR. CANADY: YES, THAT IS THE IDEA.

13 AND WHEN I CAME BACK IN, I THOUGHT WHEN IT CAME  
14 BACK DOWN TO IT, I WOULD BE THROWN OUT LIKE RIGHT NOW.

15 MR. CHIER: YOU WOULD NOT LIKE TO BE EXCUSED?

16 MR. CANADY: NO. I WOULD RATHER BE EXCUSED, REALLY,  
17 BUT IF YOU NEED JURORS, I WOULD SERVE.

18 THE COURT: YOU FEEL IT IS YOUR DUTY, IS THAT RIGHT,  
19 AS A CITIZEN?

20 MR. CANADY: YES, EXACTLY, RIGHT.

21 THE COURT: IF YOU ARE SELECTED AS A JUROR, WILL YOU  
22 GIVE YOUR FULL ATTENTION TO ALL OF THE EVIDENCE IN THE CASE  
23 AND NOT HAVE YOUR MIND WANDER TO SOMETHING ELSE?

24 MR. CANADY: ABSOLUTELY.

25 THE COURT: ALL RIGHT.

26 MR. CHIER: COUNSEL CAN INQUIRE, YOUR HONOR.

27 THE COURT: DO YOU PASS FOR CAUSE?

28 MR. CHIER: NO, YOUR HONOR.

1 MR. WAPNER: GOOD AFTERNOON, MR. CANADY. I AM FRED  
2 WAPNER, THE DEPUTY D.A. WHO IS PROSECUTING THIS CASE.

3 YOU SAID THAT YOU WOULDN'T LIKE TO SERVE AS A  
4 JUROR IN A DEATH PENALTY CASE; WAS THAT AGAIN IN REFERENCE  
5 TO THIS CASE AND YOUR JOB OR DOES THAT REFER TO SOMETHING  
6 ELSE?

7 MR. CANADY: NO. THIS CASE AND MY JOB.

8 MR. WAPNER: SO YOU WEREN'T SPECIFICALLY TALKING ABOUT  
9 A CASE JUST WHERE THE ISSUE IS DEATH?

10 MR. CANADY: NO.

11 MR. WAPNER: THANK YOU. I WILL PASS FOR CAUSE, YOUR  
12 HONOR.

13 THE COURT: ALL RIGHT. WOULD YOU WAIT OUTSIDE JUST  
14 A COUPLE OF SECONDS?

15 MR. CANADY: SURE.

16 THE COURT: I WILL GET YOU RIGHT BACK IN.

17 (PROSPECTIVE JUROR CANADY EXITED THE  
18 COURTROOM.)

19 MR. CHIER: YOUR HONOR, I HAVE, AS WITH THE OTHER JURORS,  
20 I HAVE SELECTED A NUMBER OF QUESTIONS TO PUT TO THIS JUROR  
21 THAT HAVE BEEN CULLED FROM THE VARIOUS CASES IN THE STATE  
22 BY THE CALIFORNIA PUBLIC DEFENDER'S OFFICE, THE STATE PUBLIC  
23 DEFENDER'S OFFICE AND BASED ON YOUR REFUSAL TO LET ME ASK  
24 QUESTIONS THAT BEAR UPON HIS QUALIFICATIONS IN HOVEY --

52A-1

1 THE COURT: THAT IS YOUR CONCLUSION. I HAVE NOT MADE  
2 ANY RULING WHICH WOULD IN ANY WAY PROHIBIT YOU OR PREVENT YOU  
3 FROM ASKING QUESTIONS WHICH ARE ON PERTINENT MATTERS TO THE  
4 DEATH PENALTY.

5 MR. CHIER: WELL YOUR HONOR, YOU SEEM TO FEEL THAT THE  
6 INQUIRY AS TO WHETHER OR NOT THEY WOULD CONSIDER THINGS LIKE  
7 AGE AND --

8 THE COURT: GET HIM IN, WILL YOU PLEASE? YOU HAVE MADE  
9 YOUR RECORD.

10 MR. CHIER: BUT YOUR HONOR, I HAVE NOT FINISHED.

11 THE COURT: YES YOU HAVE.

12 MR. CHIER: PLEASE, YOUR HONOR. I HAVE NOT --

13 THE COURT: YOU ARE REPEATING THE SAME INFORMATION.  
14 ARE YOU SETTING FORTH ALL OF THE SAME GROUNDS THAT YOU GAVE  
15 ME BEFORE?

16 MR. CHIER: NO. I AM ABOUT TO SAY SOMETHING I HAVE NEVER  
17 SAID BEFORE.

18 THE COURT: WHAT DO YOU WANT TO SAY? SAY IT.

19 MR. CHIER: I WANT TO SAY THAT THE INQUIRY DOES NOT STOP  
20 WITH THEIR AGREEING TO LISTEN TO THOSE THINGS. I AM ENTITLED  
21 TO ASK THEM IF THEY THINK THESE THINGS MAKE ANY DIFFERENCE,  
22 NOT TO PREJUDGE THE EVIDENCE, BUT THEY ARE FACTORS.

23 PEOPLE CAN SAY, I DON'T THINK AGE MAKES ANY  
24 DIFFERENCE. I DON'T THINK --

25 THE COURT: WELL, THE RECORD HAS ALREADY BEEN MADE.  
26 ALL RIGHT? YOU HAVE YOUR OBJECTION.

27 CALL HIM IN, WILL YOU PLEASE?

28 DO YOU PASS FOR CAUSE?

1 MR. WAPNER: YES. I SAID THAT BEFORE.

2 THE COURT: I WANTED TO BE SURE. YOU MIGHT CHANGE YOUR  
3 MIND.

4 (PROSPECTIVE JUROR CANADY ENTERS THE  
5 COURTROOM.)

6 THE COURT: MR. CANADY, THE COURT HAS RULED THAT YOU  
7 QUALIFY AS A JUROR IN THIS CASE.

8 WE HAVE GOT TO GO THROUGH A NUMBER OF THESE SAME  
9 QUESTIONS THAT WERE ASKED OF YOU, TO DETERMINE WHAT ATTITUDES  
10 ARE. THAT WILL TAKE TIME.

11 WE ARE SCHEDULED UNTIL MONDAY AFTERNOON. SO WHAT  
12 I WILL DO, IS ASK YOU TO COME BACK ON TUESDAY, NEXT TUESDAY  
13 COME BACK TO THE JURY ASSEMBLY ROOM AT 10:30.

14 THAT WILL BE 10:30 NEXT TUESDAY IN THE JURY ASSEMBLY  
15 ROOM. IN THE MEANTIME, YOU CAN ATTEND TO YOUR BUSINESS. ALL  
16 RIGHT?

17 MR. CANADY: THANK YOU.

18 THE COURT: THANK YOU.

19 (PROSPECTIVE JUROR CANADY EXITS THE  
20 COURTROOM.)

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52B-1

1 (PROSPECTIVE JUROR DAVIS ENTERS THE  
2 COURTROOM.)

3 THE COURT: ALL RIGHT. MR. DAVIS, WHERE DO YOU LIVE?

4 MR. DAVIS: I LIVE IN WOODLAND HILLS.

5 THE COURT: AND HAVE YOU READ ANYTHING AT ALL ABOUT THIS  
6 CASE OR DO YOU KNOW ANYTHING AT ALL ABOUT IT?

7 MR. DAVIS: I DON'T HAVE ANY IDEA WHAT IT IS, AT THE  
8 MOMENT.

9 THE COURT: EXCEPT WHAT I TOLD YOU ABOUT THE NATURE OF  
10 THE CASE?

11 MR. DAVIS: YES.

12 THE COURT: NOTHING COMES TO MIND IF I WERE TO SAY THE  
13 BILLIONAIRES BOYS CLUB OR JOE HUNT OR ANYTHING? NOTHING LIKE  
14 THAT COMES TO MIND?

15 MR. DAVIS: NO.

16 THE COURT: ALL RIGHT. IN THE MEANTIME, YOU ARE NOT  
17 TO TALK ABOUT THIS CASE WITH ANYBODY OR READ ANYTHING IF ANY-  
18 THING APPEARS IN THE NEWSPAPER. IF YOU HEAR IT ON THE RADIO  
19 OR SEE IT ON TELEVISION, TURN IT OFF. WOULD YOU?

20 ALL RIGHT. I DID TELL YOU BEFORE THAT THE CHARGE  
21 AGAINST THE DEFENDANT IS MURDER IN THE FIRST DEGREE AND THAT  
22 THAT MURDER WAS COMMITTED DURING THE COURSE OF A ROBBERY.

23 IF THE JURY FINDS THE DEFENDANT GUILTY OF MURDER  
24 IN THE FIRST DEGREE, THEN THEY CONSIDER WHETHER OR NOT IT WAS  
25 COMMITTED DURING THE COURSE OF A ROBBERY AND MAKE A SPECIAL  
26 FINDING OUT OF THAT. THEY CALL THAT A SPECIAL CIRCUMSTANCE.

27 IN OTHER WORDS, IT IS NOT EVERY MURDER THAT IS  
28 DELIBERATE AND PLANNED AND CALCULATED THAT CALLS FOR THE DEATH

1 PENALTY. IT IS ONLY WHERE IT IS COMMITTED UNDER CERTAIN  
2 SPECIAL CIRCUMSTANCES THAT THE DEATH PENALTY MAY COME INTO  
3 PLAY. DO YOU UNDERSTAND THAT?

4 MR. DAVIS: UH-HUH.

5 THE COURT: SO FOR EXAMPLE, IN THIS CASE, A MURDER IS  
6 COMMITTED IN THE COURSE OF A ROBBERY AND SIMILARLY, A MURDER  
7 COMMITTED IN THE COURSE OF A BURGLARY OR A KIDNAPPING OR A  
8 RAPE OR A CHILD MOLESTATION WHERE THE CHILD DIES OR MULTIPLE  
9 MURDERS OR MURDER BY TORTURE, THE LEGISLATURE HAS SAID THAT  
10 THERE ARE 19 TYPES OF SPECIAL CIRCUMSTANCES WHERE THE DEATH  
11 PENALTY MIGHT BE APPLICABLE.

12 NOW, THE JURY DECIDES THE QUESTION OF THE DEATH  
13 PENALTY AND THEY DECIDE ONE OF TWO THINGS, EITHER LIFE WITHOUT  
14 POSSIBILITY OF PAROLE OR DEATH. LIFE WITHOUT POSSIBILITY OF  
15 PAROLE MEANS EXACTLY THAT. YOU DON'T GET ANY PAROLE. YOU  
16 ARE IN THERE FOR LIFE. DO YOU UNDERSTAND THAT?

17 MR. DAVIS: OKAY.

18 THE COURT: NOW, SO THE JURY DECIDES AS I TOLD YOU FIRST,  
19 ON THE QUESTION OF GUILT OR INNOCENCE OF THE DEFENDANT. IF  
20 HE IS INNOCENT, THAT IS THE END OF IT.

21 IF HE IS GUILTY, THEN THEY MUST DETERMINE IF HE  
22 IS GUILTY OF MURDER IN THE FIRST DEGREE.

23 IF HE IS GUILTY OF MURDER IN THE FIRST DEGREE,  
24 THEN THEY HAVE A QUESTION TO ANSWER. THAT QUESTION IS, WAS  
25 THAT MURDER COMMITTED IN THE COURSE OF A ROBBERY. THE ANSWER  
26 IS TRUE OR FALSE TO THE QUESTION PUT TO THEM. IS IT TRUE OR  
27 FALSE IT WAS COMMITTED IN THE COURSE OF A ROBBERY? THAT IS  
28 WHAT IS KNOWN AS A SPECIAL CIRCUMSTANCE.

1           ALL RIGHT. IF THE JURY FINDS THE DEFENDANT GUILTY  
2 OF MURDER IN THE FIRST DEGREE AND SPECIAL CIRCUMSTANCES THAT  
3 IT WAS COMMITTED DURING THE COURSE OF A ROBBERY, THEN THAT  
4 SAME JURY LISTENS TO ADDITIONAL TESTIMONY THAT THEY HAVE NOT  
5 HEARD BEFORE.

6           THE TESTIMONY THAT THEY HAVE HEARD FIRST ONLY HAS  
7 TO DO WITH THE CRIME, WHETHER OR NOT IT HAS BEEN -- PARDON  
8 ME JUST A MOMENT.

9           (BRIEF PAUSE.)

10          THE COURT: THEN AS I SAY, YOU GO TO THE SECOND PHASE  
11 OF THE TRIAL. THAT IS AS I TOLD YOU, THE PENALTY PHASE WHERE  
12 ADDITIONAL TESTIMONY WOULD BE ADDUCED BY THE DEFENDANT, GIVEN  
13 BY THE DEFENDANT AND THE PROSECUTION.

14          OBVIOUSLY, THE TESTIMONY GIVEN BY THE DEFENDANT  
15 AND THE EVIDENCE GIVEN BY THE DEFENDANT WILL SHOW THAT HE IS  
16 A PERSON OF GOOD CHARACTER, THAT HE LED AN EXEMPLARY LIFE,  
17 THAT HE WAS A GOOD CITIZEN, THAT HE HAD NO PRIOR CRIMINAL  
18 RECORD. THEY WOULD SHOW ALL OF HIS WHOLE BACKGROUND WAS  
19 EXTREMELY FAVORABLE AND OTHER FACTORS WHICH MAY BE FAVORABLE  
20 TO HIM, HIS CHARACTER, HIS HISTORY AND EVERYTHING ABOUT HIM.  
21 THAT MUST BE CONSIDERED BY THE JURY.

22          THE PROSECUTION WILL SHOW AGGRAVATING CIRCUMSTANCES,  
23 WILL SHOW THAT HE IS NOT A GOOD PERSON OR THINGS THAT HE HAS  
24 DONE WHICH DON'T BEAR FAVORABLY UPON HIM. THAT WILL BE HEARD  
25 BY THE JURY. AND THEN THEY WILL MAKE UP THEIR MINDS AS TO  
26 WHETHER OR NOT THEY SHOULD IMPOSE THE DEATH PENALTY OR LIFE  
27 WITHOUT POSSIBILITY OF PAROLE. ALL OF THOSE FACTORS MUST BE  
28 TAKEN INTO CONSIDERATION BY THE JURY.

52B-4

1                   AND THE LANGUAGE OF IT IS THAT THE JURY SHOULD  
2 TAKE INTO ACCOUNT AND BE GUIDED BY THE FACTORS WHICH I HAVE JUST  
3 INDICATED TO YOU. AND YOU WILL DO THAT IF YOU ARE SELECTED  
4 AS A JUROR? YOU WOULD DO THAT?

5                   MR. DAVIS: YES, I WOULD.

6                   THE COURT: YOU WILL FOLLOW THAT, WON'T YOU?

7                   MR. DAVIS: YES.

8                   THE COURT: ALL RIGHT. THANK YOU. NOW, WHAT I AM GOING  
9 TO DO IS, ASK YOU A SERIES OF QUESTIONS. THE PURPOSE OF THAT  
10 IS TO EXPLORE YOUR MIND AND YOUR CONSCIENCE AND TO DETERMINE  
11 WHETHER OR NOT YOUR ATTITUDES TOWARD THE DEATH PENALTY ARE  
12 SUCH THAT WHATEVER IT IS, THAT IT MIGHT AFFECT YOUR DETERMINING  
13 THE ISSUES IN THIS CASE. DO YOU UNDERSTAND THAT?F

14                   MR. DAVIS: YES.

15                   THE COURT: ALL RIGHT. MY FIRST QUESTION IS, DO YOU  
16 HAVE AN OPINION ABOUT THE DEATH PENALTY, WHATEVER IT MAY BE,  
17 THAT WILL PREVENT YOU FROM REACHING AN IMPARTIAL DECISION ON  
18 THE GUILT OR INNOCENCE OF THE DEFENDANT?

19                   MR. DAVIS: I DON'T HAVE ANY IDEAS ABOUT THE DEATH  
20 PENALTY THAT WOULD AFFECT MY DECISION AS TO WHETHER HE IS  
21 INNOCENT OR GUILTY. BUT I DO HAVE SOME OPINIONS ABOUT THE  
22 DEATH PENALTY.

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1 THE COURT: ALL RIGHT, AND WHAT ARE THOSE OPINIONS?

2 MR. DAVIS: I DON'T -- I DON'T REALLY -- I AM NOT REALLY  
3 ADAMANTLY OPPOSED TO THE DEATH PENALTY BUT I DON'T THINK IT  
4 IS GOOD AS A DETERRENT, IF THERE IS SUCH A THING AS A DETERRENT,  
5 I DON'T THINK IT IS AS GOOD A DETERRENT AS LIFE IMPRISONMENT  
6 WITH NO POSSIBILITY FOR PAROLE.

7 THE COURT: ALL RIGHT, THANK YOU FOR YOUR FRANKNESS.

8 LET ME ASK YOU THE NEXT QUESTION.

9 MR. DAVIS: OKAY.

10 THE COURT: DO YOU HAVE ANY OPINION, WHATEVER IT MAY  
11 BE, REGARDING THE DEATH PENALTY THAT WOULD PREVENT YOU --  
12 NO, YOU HAVEN'T ANSWERED MY FIRST QUESTION, I DON'T THINK  
13 YOU HAVE --

14 WHATEVER YOUR OPINION IS AS TO THE DEATH PENALTY,  
15 WOULD THAT IN ANY WAY AFFECT YOUR DETERMINING THE GUILT OR  
16 INNOCENCE OF THE DEFENDANT?

17 MR. DAVIS: NO.

18 THE COURT: ALL RIGHT, THAT IS FINE.

19 NOW THE SECOND QUESTION IS: WHATEVER YOUR OPINION  
20 IS WITH REGARD TO THE DEATH PENALTY, WOULD IT PREVENT YOU  
21 FROM MAKING AN IMPARTIAL DECISION REGARDING THE TRUTH OR  
22 FALSITY OF THE SPECIAL CIRCUMSTANCE?

23 MR. DAVIS: NO.

24 THE COURT: GOOD.

25 MY NEXT QUESTION IS -- AND THESE NEXT TWO  
26 QUESTIONS HAVE TO DO WITH THE PENALTY PHASE OF THE TRIAL,  
27 THAT IS, ASSUMING YOU HAVE REACHED A VERDICT OF GUILTY OF  
28 MURDER IN THE FIRST DEGREE AND IT WAS IN THE COURSE OF A

33-2

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

5 MR. DAVIS: NO.

6 THE COURT: THE NEXT QUESTION IS A SIMILAR TYPE OF  
7 QUESTION BUT IT RELATES TO LIFE IMPRISONMENT: DO YOU HAVE  
8 AN OPINION CONCERNING THE DEATH PENALTY THAT YOU WOULD  
9 AUTOMATICALLY VOTE FOR LIFE IMPRISONMENT WITHOUT THE  
10 POSSIBILITY OF PAROLE, REGARDLESS OF ANY EVIDENCE THAT MAY  
11 BE PRESENTED AT THE PENALTY PHASE OF THE TRIAL?

12 MR. DAVIS: IF I HAD MY DRUTHERS, I WOULD GO FOR THE  
13 LIFE IMPRISONMENT.

14 THE COURT: SO THAT YOUR IDEA OF THE DEATH PENALTY WILL  
15 AFFECT YOUR MAKING AN IMPARTIAL DECISION?

16 MR. DAVIS: I HAVE GOT TO SAY YES.

17 THE COURT: ALL RIGHT, GO AHEAD.

18 MR. CHIER: MR. DAVIS --

19 THE COURT: PARDON ME. JUST SO I UNDERSTAND. DO YOU  
20 MEAN THAT IF YOU HAD THE CHOICE, YOU WOULD ONLY MAKE ONE CHOICE  
21 AND THAT IS LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE?  
22 YOU WOULD NEVER VOTE FOR A VERDICT OF DEATH; IS THAT WHAT  
23 YOU ARE SAYING?

24 MR. DAVIS: THAT IS WHAT I AM SAYING. IF I HAD MY  
25 DRUTHERS, I WOULD GO FOR LIFE.

26 THE COURT: YOUR DRUTHERS OR WHATEVER, YOU WOULD NEVER  
27 VOTE FOR THE DEATH PENALTY, IS THAT WHAT YOU ARE SAYING?

28 MR. DAVIS: IF GIVEN A CHOICE, I WOULD NEVER VOTE FOR

1 THE DEATH PENALTY.

2 THE COURT: YOU HAVE GOT THE CHOICES, WHICH ONE WOULD  
3 YOU VOTE FOR?

4 MR. DAVIS: I WOULD VOTE FOR THE LIFE IMPRISONMENT.

5 THE COURT: ALWAYS?

6 MR. DAVIS: YES.

7 THE COURT: WITHOUT DEVIATION, IS THAT IT, UNDER ANY  
8 CIRCUMSTANCES?

9 (PAUSE IN PROCEEDINGS.)

10 THE COURT: YOU DON'T KNOW?

11 MR. DAVIS: WELL, I -- WELL, I MEAN THERE MIGHT BE  
12 SOMETHING OVERRIDING THAT WOULD COME OUT IN THE EVIDENCE THAT  
13 MIGHT CHANGE MY MIND.

14 THE COURT: ABOUT VOTING FOR THE DEATH PENALTY?

15 MR. DAVIS: YEAH.

16 BUT SITTING HERE RIGHT NOW, MY THOUGHTS ARE IF  
17 I WAS GIVEN A CHOICE, DO YOU WANT THE DEATH PENALTY OR LIFE  
18 IMPRISONMENT WITHOUT PAROLE, I WOULD TAKE THE LIFE  
19 IMPRISONMENT.

20 THE COURT: IRRESPECTIVE OF THE EVIDENCE?

21 MR. DAVIS: YES.

22 THE COURT: GOOD.

23 MR. CHIER: THAT IS HOW YOU FEEL, IRRESPECTIVE OF THE  
24 EVIDENCE, RIGHT?

25 MR. DAVIS: WELL --

26 MR. CHIER: I MEAN YOU HAVEN'T HEARD ANY EVIDENCE.

27 MR. DAVIS: THAT'S RIGHT. IF I HAVEN'T HEARD ANY  
28 EVIDENCE, THAT IS MY ANSWER TO THAT QUESTION.

1                   BUT NOW IF THERE IS SOMETHING COMES UP IN THE  
2 TRIAL THAT IN MY OPINION WOULD OVERRIDE IT, THEN IT IS LIKE  
3 I SAY, I HAVE NO MORAL OBJECTIONS TO THE DEATH PENALTY.

4                   I DON'T THINK IT IS A --

5           MR. CHIER: A DETERRENT.

6           MR. DAVIS: -- A DETERRENT.

7                   I DON'T EVEN KNOW IF THERE IS SUCH A THING AS  
8 A DETERRENT.

9           MR. CHIER: IF I UNDERSTAND YOU CORRECTLY, YOU ARE  
10 SAYING THAT HAVING NOT HEARD ANY EVIDENCE, YOU DON'T KNOW  
11 WHAT THE EVIDENCE IS BUT THAT IN THE COURSE OF A TRIAL YOU  
12 MIGHT HEAR EVIDENCE OF SUCH A KIND AND CHARACTER THAT IT WOULD  
13 OFFEND YOU GREATLY AND YOU WOULD FIND THAT THE DEATH PENALTY  
14 WOULD BE APPROPRIATE IN THIS CASE; IS THAT CORRECT, ARE YOU  
15 SAYING THAT? OR ARE YOU SAYING YOU WOULD CONSIDER THE DEATH  
16 PENALTY IN THIS CASE?

17           MR. DAVIS: YES, I WOULD CONSIDER THE DEATH PENALTY  
18 IF THERE IS SOMETHING THAT CAME OUT IN THE TRIAL THAT  
19 OVERRIDES -- OVERRODE -- I AM SORRY -- MY CURRENT OPINION.

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1 MR. CHIER: AND YOU ARE NOT SAYING THAT YOU HAVE YOUR  
2 MIND MADE UP AT THIS MOMENT IN TIME AS YOU SIT THERE AS TO  
3 HOW YOU WOULD VOTE, NOT HEARING ANY EVIDENCE, RIGHT?

4 MR. DAVIS: THAT IS RIGHT.

5 MR. CHIER: YOU DON'T HAVE YOUR MIND MADE UP NOW, YOU  
6 HAVEN'T HEARD A THING; IS THAT RIGHT?

7 MR. DAVIS: YEP. I HAVEN'T GOT MY MIND MADE UP, NO,  
8 AS REGARDS THIS SPECIFIC THING OR MIGHT COME OUT IN THE TRIAL.

9 MR. CHIER: ALL RIGHT, PASS FOR CAUSE.

10 MR. WAPNER: GOOD AFTERNOON, MR. DAVIS. I AM FRED  
11 WAPNER, THE DEPUTY D.A. WHO IS PROSECUTING THIS CASE.

12 IF YOU GET TO THE PENALTY PHASE OF THIS CASE, YOU  
13 ARE ONLY GOING TO HAVE TWO CHOICES AND THAT IS LIFE IMPRISON-  
14 MENT WITHOUT THE POSSIBILITY OF PAROLE OR DEATH; DO YOU UNDER-  
15 STAND THAT?

16 MR. DAVIS: YEP.

17 MR. WAPNER: YOU SAID "IF I HAD MY DRUTHERS, I WOULD  
18 ALWAYS VOTE FOR LIFE."

19 IF YOU HAVE ONLY GOT TWO CHOICES AND YOU HAVE YOUR  
20 DRUTHERS, DOESN'T THAT MEAN YOU WOULD ALWAYS VOTE FOR LIFE?

21 MR. DAVIS: WELL, YOU PEOPLE PUT A CONTINGENCY IN THERE.  
22 YOU PUT A CONTINGENCY IN THERE AND YOU SAID "IF THERE IS SOME-  
23 THING COMES OUT IN THE TRIAL IN THE WAY OF EVIDENCE THAT COULD  
24 I BE PERSUADED AND I SAID YES, THERE IS A POSSIBILITY THAT  
25 I COULD BE.

26 NOW IF THAT IS CONTRADICTIONARY, I AM SORRY.

27 MR. WAPNER: WELL, OBVIOUSLY NOBODY IS EVER GOING TO  
28 ASK YOU TO VOTE UNTIL WE HAVE ANY EVIDENCE.

34-2

1                   SO IF YOU SAY IF THERE IS SOMETHING THAT COMES  
2 OUT IN THE TRIAL, THERE ARE GOING TO BE THINGS THAT COME OUT  
3 IN THE TRIAL, OTHERWISE, WE WOULDN'T BE HERE, SO WHEN YOU SAY  
4 IF THERE IS SOMETHING THAT COMES OUT, YOU HAVE SOMETHING  
5 SPECIFIC IN MIND, SOME TYPE OF EVIDENCE THAT YOU ARE TALKING  
6 ABOUT?

7                   MR. DAVIS: NO.

8                   MR. WAPNER: ARE YOU SAYING THAT YOU ARE BIASED IN FAVOR  
9 OF LIFE IMPRISONMENT AS YOU START OUT?

10                  MR. DAVIS: YES, I WOULD SAY THAT THAT IS TRUE.

11                  MR. WAPNER: HOW STRONGLY BIASED IN FAVOR OF LIFE  
12 IMPRISONMENT ARE YOU?

13                  MR. DAVIS: I DON'T REALLY THINK THAT THE DEATH PENALTY  
14 IS A GOOD DETERRENT, IF YOU ARE TALKING ABOUT GETTING PEOPLE  
15 OFF THE STREET OR PUNISHING PEOPLE OR KEEPING THEM FROM DOING  
16 SOMETHING ELSE OF A CRIMINAL NATURE, I DON'T BELIEVE THAT THE  
17 DEATH PENALTY IS AS GOOD A DETERRENT AS LIFE IN PRISON WITHOUT  
18 PAROLE.

19                  MR. WAPNER: NOW IF THAT IS YOUR VIEW --

20                  MR. DAVIS: IF THE GUY EVER THINKS ABOUT IT, IF IT EVER  
21 CROSSES HIS MIND BEFORE HE COMMITS THE ACT, WHICH IS SOMETHING  
22 WHICH IS A QUESTION IN MY MIND THAT THE GUY WOULD EVEN THINK  
23 ABOUT IT, BUT IF HE DOES, THEN I WOULD SAY THAT HE HIMSELF  
24 WOULD SAY "I WOULD RATHER NOT DO THE THING THAN TO TAKE LIFE  
25 IN PRISON WITHOUT PAROLE".

26                  Q       IF THAT IS YOUR VIEW, THEN WHEN YOU GET TO DECIDING  
27 THE QUESTION OF THE PENALTY AND YOU ARE IN THE JURY ROOM AND  
28 YOU HAVE ONLY GOT TWO CHOICES AND YOU THINK IN EVERY INSTANCE

1 LIFE IMPRISONMENT IS GOING TO BE MORE OF A DETERRENT, WHAT  
2 IS IT GOING TO TAKE YOU TO MAKE YOU VOTE FOR SOMETHING ELSE  
3 BESIDES LIFE IN PRISON?

4 MR. CHIER: WELL, THE QUESTION IS ALWAYS OBJECTED  
5 TO WHEN I ASK IT. I DON'T KNOW WHY --

6 THE COURT: OVERRULED. GO AHEAD.

7 MR. DAVIS: THERE IS PROBABLY SOMETHING THAT I CAN'T  
8 FORESEE THAT MIGHT COME UP THAT MIGHT SAY TO ME, WELL, YOU  
9 KNOW, I DON'T WANT TO CLOSE THAT DOOR AND SAY THAT, HECK, UNDER  
10 ABSOLUTELY NO CIRCUMSTANCES WOULD I VOTE FOR THE DEATH PENALTY.

11 BUT I WOULD SAY THIS: IT HAS GOT TO BE SOMETHING  
12 UNUSUAL BECAUSE I BELIEVE THAT A BETTER DETERRENT AND BETTER  
13 PUNISHMENT, IF YOU WANT TO CALL IT THAT, WOULD BE LIFE  
14 IMPRISONMENT WITHOUT PAROLE.

15 I HOPE I HAVE CLEARED THAT UP.

16 THE COURT: YES, YOU CLEARED IT UP.

17 MR. WAPNER: WHEN YOU SAY IT HAS TO BE SOMETHING UNUSUAL,  
18 WOULD IT BE FAIR TO SAY THAT YOU ARE STRONGLY BIASED IN FAVOR  
19 OF LIFE IMPRISONMENT?

20 MR. DAVIS: I WILL GO FOR THAT, YES.

21 MR. WAPNER: I DON'T WANT TO PUT WORDS IN YOUR MOUTH,  
22 BUT IS THAT A FAIR STATEMENT?

23 MR. DAVIS: YES.

24 MR. WAPNER: I HAVE A CHALLENGE, YOUR HONOR.

25 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. WOULD YOU  
26 WAIT OUTSIDE FOR JUST A MINUTE, PLEASE?

27 MR. DAVIS: ALL RIGHT.

28 THE COURT: I WILL HAVE A DISCUSSION WITH COUNSEL.

1 (PROSPECTIVE JUROR DAVIS EXITS THE  
2 COURTROOM.)

3 THE COURT: DO YOU THINK HIS BELIEF WITH RESPECT TO LIFE  
4 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE SUBSTANTIALLY  
5 IMPAIRS HIS SERVING AS A TRIAL JUROR IN THIS CASE?

6 MR. WAPNER: ABSOLUTELY. I DON'T THINK THERE IS ANY  
7 QUESTION ABOUT IT.

8 I THINK THAT HE WAS ADAMANT ABOUT THE STRENGTH  
9 OF HIS BELIEF AND IT SEEMS FROM WHAT HE IS SAYING IS THAT  
10 ALTHOUGH THERE MAY BE SOMETHING OUT THERE SOME PLACE, HE  
11 COULDN'T EVEN PUT HIS FINGER ON IT TO SAY WHAT IT EVEN  
12 POSSIBLY WOULD TAKE.

13 THE COURT: THAT MEANS THAT IF THERE WASN'T SOMETHING  
14 HE HAD IN MIND, WHATEVER IT MIGHT BE SUBJECTIVELY, THAT IN  
15 EVERY CASE HE WOULD VOTE FOR LIFE IMPRISONMENT WITHOUT THE  
16 POSSIBILITY OF PAROLE.

17 MR. WAPNER: WELL, THAT IS GENERALLY WHAT I GOT OUT OF  
18 IT.

19 AND I WOULD CHALLENGE HIM FOR CAUSE.

20 THE COURT: ALL RIGHT, I WILL HEAR FROM YOU.

21 MR. CHIER: THERE APPEARS TO BE A TOTAL LACK OF  
22 SYMMETRY HERE.

23 WHEN I ASK THESE DEATH ORIENTED PEOPLE WHAT WOULD  
24 IT TAKE FOR THEM TO CHANGE SOMEBODY'S MIND, YOU SUSTAIN YOUR  
25 OWN OBJECTION. WHEN MR. WAPNER ASKS WHAT WOULD IT TAKE FOR  
26 THIS LIFE ORIENTED PERSON TO KILL A PERSON, YOU SEIZE UPON  
27 THE FACT THAT HE COULDN'T THINK OF A PARTICULAR FACT.  
28

34-1

1 THE COURT: DON'T BE CRITICAL OF ME, WILL YOU PLEASE?  
2 WILL YOU ADDRESS YOURSELF TO THE QUESTION WHICH IS INVOLVED  
3 IN --

4 MR. CHIER: THE QUESTION IS JUDGE, THAT THIS MAN HAS  
5 SAID HE COULD CONSIDER THE DEATH PENALTY.

6 THE COURT: ONLY IF THERE WERE UNUSUAL CIRCUMSTANCES.

7 MR. CHIER: WELL, HE HAS NO IDEA. HE SAYS HE HAS NO  
8 IDEA WHAT EVIDENCE IS GOING TO BE --

9 THE COURT: WELL, SUPPOSE THOSE CIRCUMSTANCES HE HAS  
10 IN MIND ARE NOT PRESENT? THEN CAN HE CONSIDER THE POSSIBILITY?

11 MR. CHIER: HE DID NOT HAVE TO COMMIT HIMSELF TO VOTING  
12 FOR DEATH RIGHT NOW.

13 THE COURT: I WILL SUSTAIN THE CHALLENGE. THE COURT  
14 IS MAKING A FINDING THAT IT WOULD PREVENT OR SUBSTANTIALLY  
15 IMPAIR HIS ABILITY TO BE NEUTRAL AND FOLLOW THE JUDGE'S  
16 INSTRUCTIONS.

17 MR. CHIER: SO HE IS WITT EXCLUDABLE, YOUR HONOR?

18 THE COURT: WHATEVER IT IS. THAT IS MY RULING.

19 (PROSPECTIVE JUROR DAVIS ENTERED THE  
20 COURTROOM.)

21 THE COURT: THANK YOU VERY MUCH FOR YOUR CANDOR AND  
22 YOUR FRANKNESS. THE ANSWERS YOU HAVE GIVEN TO THE QUESTIONS  
23 THAT HAVE BEEN PUT BY THE DISTRICT ATTORNEY ARE SUCH AS TO  
24 NOT QUALIFY YOU TO ACT AS A TRIAL JUROR HERE. YOU WILL BE  
25 A FINE JUROR --

26 YOU TELL THE CLERK IN THE JURY ASSEMBLY ROOM THAT  
27 YOU WILL REMAIN AS A TRIAL JUROR IN SOME OTHER CASE BUT NOT  
28 THIS ONE. ALL RIGHT?

34-2

1 MR. DAVIS: THANK YOU.

2 THE COURT: THANK YOU VERY MUCH.

3 MR. DAVIS: OKAY. VERY GOOD.

4 (PROSPECTIVE JUROR DAVIS EXITED THE  
5 COURTROOM.)

6 THE COURT: DO YOU WANT TO SEARCH THE RECORD? YOU WILL  
7 FIND THAT YOUR COLLEAGUE, WHOM I HAVE GREAT RESPECT FOR, HAD  
8 BEEN USING THE TERM "SUBSTANTIALLY IMPAIR" IN MANY, MANY  
9 INSTANCES WHEN YOU WEREN'T PRESENT IN QUESTIONING THE  
10 PROSPECTIVE JURORS.

11 I ASSUME THAT HE BELIEVES ALSO, THAT IF A JUROR'S  
12 OPINIONS WOULD SUBSTANTIALLY IMPAIR HIS ABILITY TO ACT AS  
13 A TRIAL JUROR, HE SHOULD BE DISQUALIFIED.

14 I THINK THAT YOU BETTER GET YOUR ACTS TOGETHER.

15 MR. CHIER: WELL, I HAVE A REQUEST FOR THE RECORD, JUDGE,  
16 SO THAT I DON'T HAVE TO LOOK LIKE SUCH A JERK IN FRONT OF  
17 THESE JURORS BY HAVING YOU SUSTAIN YOUR OWN OBJECTIONS OVER  
18 AND OVER.

19 WOULD YOU TELL ME WHAT YOU THINK THE SCOPE OF  
20 THIS INQUIRY IS, SO THAT I CAN PLAY WITHIN THE RULES?

21 THE COURT: WELL, I DON'T HAVE TO DEFINE IT. THE SCOPE  
22 OF THE INQUIRY IS TO FIND OUT THE STATE OF MIND OF THE JUROR.

23 DID THEY HAVE SUCH OPINIONS WITH RESPECT TO THE  
24 DEATH PENALTY THAT WOULD PREVENT THEM FROM SERVING FAIRLY  
25 AND IMPARTIALLY AS A TRIAL JUROR IN THE CASE?

26 NOW, YOU CAN'T USE SUPPOSITITIOUS CASES, ACTUAL  
27 OUTSIDE CASES.

28 MR. CHIER: BUT --

34-3

1 THE COURT: YOU FIND OUT ABOUT THIS PARTICULAR CASE  
2 AND YOU ASK THEM ABOUT THIS PARTICULAR CASE AND NOT SOME OTHER  
3 FACTS OR CIRCUMSTANCES WHICH ARE COMPLETELY UNRELATED TO THIS  
4 CASE. THOSE QUESTIONS ARE NOT PROPER. AND THE CASES SET  
5 FORTH THAT --

6 MR. CHIER: BUT I HAVE BEEN NOT PERMITTED TO --

7 THE COURT: THE FIELDS CASE AND ANY NUMBER OF OTHER  
8 CASES --

9 MR. CHIER: BUT, I HAVE TO BE PERMITTED TO ASK THEM  
10 ABOUT THE FACTS OF THE CASE. YOU DON'T LET ME ASK THAT. YOU  
11 ARE TELLING ME THAT IT IS PREJUDGING AND I --

12 THE COURT: IN MY OPINION, I HAVE NEVER PREVENTED YOU  
13 FROM ASKING ANY PERTINENT QUESTIONS RELATING TO THE SPECIFIC,  
14 LIMITED ISSUE THAT --

15 MR. CHIER: IF I SAY, SUPPOSE THAT THE EVIDENCE WERE  
16 TO SHOW THAT HE COMMITTED TWO MURDERS, WHICH THE PEOPLE ARE  
17 GOING TO TRY TO PROVE -- THEY SERVED NOTICE ON ME UNDER  
18 190 AND --

19 THE COURT: I WITHDREW MY OBJECTION, DID I NOT?

20 MR. WAPNER: I THINK HE PERMITTED THOSE QUESTIONS.

21 THE COURT: OF COURSE I DID.

22 MR. CHIER: ONCE YOU DID AND FOUR TIMES YOU DIDN'T.

23 THE COURT: NO, NO. NO, YOU ARE WRONG ABOUT THAT.

24 ALL RIGHT. IT WILL BE 10 O'CLOCK TOMORROW  
25 MORNING.

26 (AT 5 P.M. AN ADJOURNMENT WAS TAKEN UNTIL  
27 THURSDAY, DECEMBER 4, 1986, AT 10 A.M.)

28