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COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

FEB 2 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

OCT 0 9 1987

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

APPEARANCES:

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

FOR DEFENDANT-APPELLANT: IN PROPRIA PERSONA

VOLUME 17 OF 101
(PAGES 220 TO 2407, INCLUSIVE)

COPY

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

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE
4

5 THE PEOPLE OF THE STATE OF CALIFORNIA,)
6)
7) PLAINTIFF,)
8)
9) VS.) NO. A-090435
10)

11 JOSEPH HUNT,)
12)
13) DEFENDANT.)
14)

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(PAGES 2220 TO 2407, INCLUSIVE)

APPEARANCES :

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

FOR THE DEFENDANT: ARTHUR H. BARENS, ESQ.
10209 SANTA MONICA BOULEVARD
LOS ANGELES, CALIFORNIA 90067
AND
RICHARD C. CHIER, ESQ.
10920 WILSHIRE BOULEVARD
LOS ANGELES, CALIFORNIA 90024

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



1 SANTA MONICA, CALIFORNIA; THURSDAY, DECEMBER 4, 1986; 10:07 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 IN CHAMBERS:)

8 MR. WAPNER: YOUR HONOR, BEFORE WE ACTUALLY START WITH
9 THE SUBSTANCE OF THIS, IT SEEMS TO ME THAT WE HAD MR. HUNT
10 IN HERE WHEN WE WERE DOING THE JURY SELECTION IN CHAMBERS
11 BECAUSE, OBVIOUSLY, WE HAD JURORS AND IT WAS A COURT
12 PROCEEDING BUT AS FAR AS THE LAWYERS TALKING TO THE COURT
13 IN CHAMBERS, I SEE NO NECESSITY FOR MR. HUNT TO BE HERE EVERY
14 TIME.

15 THE COURT: IT IS ALL RIGHT WITH ME IF IT IS ALL RIGHT
16 WITH YOU.

17 MR. BARENS: WELL, YOUR HONOR, I HAVE TRIED TO --
18 MR. HUNT HAS BEEN INVOLVED IN THE PREPARATION OF HIS DEFENSE
19 THROUGHOUT, AS I HAVE MADE KNOWN. I DON'T SEE ANY PURPOSE
20 IN EXCLUDING HIM WHEN WE ARE DISCUSSING MATTERS THAT COULD
21 INFLUENCE THE REST OF HIS LIFE.

22 UNLESS YOUR HONOR HAD AN OBJECTION, I DON'T --
23 I AM SORRY. I DON'T UNDERSTAND WHAT THE PROBLEM IS.

24 THE COURT: IS IT SUCH A DISCUSSION THAT WOULD REQUIRE
25 HIS ABSENCE?

26 MR. WAPNER: I DON'T KNOW THE NATURE OF THE DISCUSSION.
27 I DIDN'T ASK FOR THE CONFERENCE. MR. BARENS DID.

28 THE COURT: YOU DID?

1 MR. BARENS: YES, I REQUESTED THIS CONFERENCE.

2 MR. WAPNER: ALL I AM SAYING IS THAT EVERY TIME --

3 THE COURT: IT WOULD SEEM TO ME THE DEFENDANT SHOULD
4 BE PRESENT AT ALL TIMES EXCEPT WHEN WE HAVE CONFERENCES AT
5 THE BENCH.

6 MR. WAPNER: OR FOR EXAMPLE, DURING THE TRIAL IN CASES
7 WHERE YOU HAVE A CONFERENCE IN CHAMBERS WITH THE LAWYERS,
8 THE DEFENDANTS ARE NEVER PRESENT.

9 MR. BARENS: WHAT I WOULD LIKE TO SAY IS, I BELIEVE
10 HIS HONOR CAN DETERMINE ON AN AD HOC BASIS DURING THE TRIAL
11 WHEN IT IS APPROPRIATE FOR THE DEFENDANT TO BE PRESENT.

12 THE COURT: I THINK SO, TOO.

13 MR. BARENS: THE JUDGE CAN ANTICIPATE WHAT WE ARE GOING
14 TO DISCUSS IN CHAMBERS.

15 IN THIS INSTANCE, I DON'T BELIEVE HE CAN AND IT
16 IS APPROPRIATE TO HAVE THE DEFENDANT PRESENT.

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

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1 (THE PRIOR GAG ORDER HAVING BEEN RESCINDED
2 THE FOLLOWING PROCEEDINGS ARE NOW INCLUDED
3 IN THE RECORD:)

4 MR. BARENS: YOUR HONOR, THE DEFENSE IS FILING THIS
5 MORNING A NOTICE OF MOTION FOR PRETRIAL DISCOVERY CONCERNING
6 THE ALLEGED INVOLVEMENT OF DEAN KARNY IN A HOMICIDE IN
7 HOLLYWOOD, WHICH WAS PREVIOUSLY DISCUSSED THIS WEEK.

8 OUT OF AN ABUNDANCE OF CAUTION, COUNSEL IS ASKING
9 THE COURT HOW TO PROCEED IN THIS REGARD. I AM HANDING THE
10 ORIGINAL -- I HAVE NOT FILED THIS, AS I NORMALLY WOULD BECAUSE
11 OF THE GAG ORDER IN THIS MATTER, NOR AM I GOING TO SERVE IT
12 ON THE VARIOUS DEPARTMENTS THAT HAVE TO BE SERVED UNTIL I
13 GET ADVICE FROM YOUR HONOR AS TO HOW TO PROCEED WITH CAUTION,
14 HERE.

15 THERE ARE A VARIETY OF ENTITIES, POLICE DEPARTMENTS
16 AND COUNSEL THAT NEED TO BE SERVED WITH THIS DOCUMENT.

17 WHAT I WOULD PROPOSE TO DO, IS TO GIVE THE ORIGINAL
18 TO YOUR HONOR AND AGAIN, OUT OF ABUNDANCE OF CAUTION, ASK
19 MR. WAPNER TO SERVE THE VARIOUS PARTIES THAT HE IS AFFILIATED
20 WITH, THAT WOULD BE SUBJECTS OF THE NOTED MOTION.

21 ALTERNATIVELY, I WOULD BE PLEASED TO FOLLOW
22 CONVENTIONAL CHANNELS OF MAILING THE DOCUMENT TO THE VARIOUS
23 PARTIES WHO ARE BEING NOTICED.

24 THE COURT: WELL, LET ME SAY THIS. OF COURSE, I
25 ANTICIPATE -- I SUPPOSE THAT KARNY WILL BE A WITNESS,
26 OBVIOUSLY, IN THIS PARTICULAR CASE.

27 NOW, NONE OF THIS INFORMATION COULD POSSIBLY BE
28 USED IN FRONT OF A JURY UNLESS HE WERE CONVICTED OF THE

1 OFFENSE FOR WHICH HE IS BEING CHARGED, WHATEVER THE OFFENSE.
2 YOU CAN'T USE THAT IN ANY WAY IN YOUR CROSS-
3 EXAMINATION OF KARNY. I DON'T KNOW THE MATERIALITY OF IT
4 AT THIS STAGE.

5 MR. BARENS: YOUR HONOR, WE WOULD LIKE THE OPPORTUNITY
6 TO PROVIDE A BRIEF TO THE COURT. WE HAVE COMMENCED OUR
7 RESEARCH ON THE VERY SUBJECT YOUR HONOR IS REFERENCING.
8 ALTHOUGH I AM NOT GOING TO ARGUE WITH YOUR HONOR ON THAT
9 POINT THIS MORNING, I WOULD LIKE THE OPPORTUNITY TO FILE THIS
10 SPECIFIC MATERIAL.

11 THE COURT: I DO NOT SEE ANY REASON -- WELL, YOU CAN
12 GIVE ME ANYTHING THAT YOU HAVE ON HOW THIS IS MATERIAL IN
13 THIS PARTICULAR CASE. I WOULD VERY SERIOUSLY CONSIDER IT,
14 OBVIOUSLY. DO WHATEVER YOU THINK.

15 IF YOU WANT TO FILE THE PAPERS, YOU MAY FILE THE
16 PAPERS AND HAVE THEM MARKED SECRET. IT IS ALL RIGHT WITH
17 ME.

18 BUT INSOFAR AS DELAYING THE TRIAL BECAUSE YOU
19 WANT ME TO GET SOMETHING ON KARNY, UNLESS THE MAN IS
20 CONVICTED, I CAN'T SEE THE MATERIALITY OF ANYTHING YOU WANT
21 TO GET BECAUSE OF ANYTHING THAT HE MIGHT HAVE DONE.

22 MR. BARENS: YOUR HONOR, I HAVE NOT ASKED TO DELAY THE
23 TRIAL. I HAVE MERELY ASKED TO FILE A NOTICED DISCOVERY
24 PROCEEDING. I HAVE NOTICED A 20-MINUTE HEARING TIME ESTIMATE
25 ON HERE, WHICH WE COULD DO PART OF THE TIME WE WOULD NORMALLY
26 START WITH THE JURORS.

27 I BELIEVE THAT THE DEFENSE IS CATEGORICALLY
28 ENTITLED TO MATERIAL AND WE CAN'T EVEN MAKE AN INTELLIGENT

1 OPENING STATEMENT REGARDING MR. KARNY, UNTIL WE ARE APPRISED
2 OF THESE MATERIALS.

3 LET ME TELL YOU THE DEFENSE CONCERN IN A VERY
4 CANDID, FORTHRIGHT MANNER, YOUR HONOR. WE BELIEVE THAT THE
5 PROSECUTION IS GOING TO DELAY PROSECUTING MR. KARNY ON THIS
6 OTHER HOMICIDE IN ORDER TO AVOID ANY TAIN'T THAT COULD BE
7 CAST ON MR. KARNY DURING THIS TRIAL.

8 MR. KARNY IS AN IMMUNIZED WITNESS. HE IS GOING
9 TO BE THE PIVOTAL, LEAD WITNESS FOR THE PEOPLE. WE BELIEVE
10 THAT THE PEOPLE HAVE BEEN AWARE OF THE PENDENCY OF THIS OTHER
11 MURDER ALLEGATION FOR A MONTH BEFORE BRINGING IT TO THE
12 DEFENSE ATTENTION.

13 WE WOULD LIKE TO COMPEL THEM TO ACT IN AN
14 APPROPRIATE AND RESPONSIBLE MANNER IN THIS RECORD.

15 WE WOULD LIKE TO COMPEL THEM TO GIVE US THE
16 INFORMATION THAT THEY HAVE DEVELOPED TO DATE CONCERNING
17 MR. KARNY'S INVOLVEMENT.

18 THE COURT: MR. WAPNER?

19 MR. WAPNER: YOUR HONOR, I HAVE NOT SEEN THE MOTION.
20 I WOULD LIKE FIRST OF ALL, TO HAVE AN OPPORTUNITY TO SEE THE
21 MOTION BEFORE I RESPOND TO IT.

22 IF I COULD JUST TAKE A LOOK AT IT FOR A MOMENT
23 RIGHT NOW, TO FIND OUT WHO IT IS MR. BARENS IS ANTICIPATING
24 SERVING WITH THIS MOTION.

25 (PAUSE.)

26 MR. BARENS: I HAVE WITNESSED A DECLARATION FOLLOWING
27 THE MOTION.

28 THE COURT: WHICH CONFIDENTIAL INFORMANT?

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MR. BARENS: WE ARE ADVISED THAT THIS MATTER WAS BROUGHT
TO THE ATTENTION OF THE POLICE DEPARTMENT THROUGH A
CONFIDENTIAL INFORMANT.

THE COURT: THAT THERE WAS THIS PENDING INVESTIGATION,
YOU MEAN?

MR. BARENS: YES.

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1 MR. WAPNER: YOUR HONOR, I THINK THAT IT IS, FIRST OF
2 ALL, TOO EARLY TO HAVE A HEARING ON THIS. I HONESTLY NEED
3 SOME TIME TO LOOK AT THIS AND HAVE AN OPPORTUNITY TO RESPOND
4 TO THIS MOTION.

5 MR. BARENS: THIS IS SET FOR DECEMBER 11 AS REQUIRED
6 BY LAW. WE ARE GIVING YOU THE TIME TO RESPOND.

7 MR. WAPNER: AS FAR AS SERVICE ON THE PARTICULAR AGENCIES
8 INVOLVED, I WILL BE HAPPY TO SEE THAT THAT IS DONE IN A
9 CONFIDENTIAL MANNER SO THAT INFORMATION IS NOT DISCLOSED TO
10 ANY THIRD PARTIES.

11 AND AS FAR AS THE MOTION BEING FILED WITH THE
12 COURT, I THINK WE CAN MARK IT FILED AND HAVE THAT SEALED AND
13 PUT IN AN ENVELOPE SOMEWHERE SEPARATE FROM THE FILE BECAUSE
14 VARIOUS MEMBERS OF THE MEDIA HAVE BEEN GOING THROUGH THE
15 COURT FILE ON AN ALMOST DAILY BASIS.

16 THE COURT: IT WILL BE SEALED AND IT WILL NOT IN ANY
17 WAY BE AVAILABLE TO ANYBODY.

18 MR. BARENS: I THINK, YOUR HONOR --

19 THE COURT: -- LET ME TELL YOU ONE LITTLE DIFFICULTY
20 THAT OCCURS TO ME. SINCE YOU CLAIM THAT THERE IS THIS
21 PENDING CRIMINAL INVESTIGATION AND YOU ARE SEEKING A LOT OF
22 DOCUMENTS, AND SO FORTH, AND THESE STATEMENTS AND SO FORTH
23 THAT HE SUPPOSEDLY HAS MADE, IF A FUNDAMENTAL RIGHT OF KARNY
24 IS GOING TO BE AFFECTED BY IT, HE HAS A RIGHT TO HAVE AN
25 ATTORNEY ON THIS MATTER TO HAVE DISCOVERY TO HAVE HIS INPUT
26 AS TO WHETHER OR NOT THESE DOCUMENTS, WHICH YOU SUGGEST SHOULD
27 BE DISCLOSED, SINCE HE IS THE SUBJECT OF THE PARTICULAR
28 INQUIRY, I THINK THAT SINCE HIS RIGHTS ARE BEING AFFECTED,

1 ANY ORDER THAT I MAKE WILL EFFECT HIS RIGHTS AND ANYTHING
2 HE HAS DONE OR SAID OR STATEMENTS HE HAS MADE AND ANYTHING
3 ELSE WHICH MIGHT POINT TO HIM AND EFFECT HIM IN ANY WAY, HIS
4 LAWYER OUGHT TO BE PRESENT AND HAVE INPUT INTO THIS.

5 MR. BARENS: I HAVE TWO POINTS TO MAKE, YOUR HONOR.
6 ONE, I TRUST YOUR HONOR UNDERSTANDS THAT THE REASON I CAME
7 IN TO CHAMBERS THIS MORNING TO DO THIS WAS TO SOLICIT
8 MR. WAPNER'S COOPERATION, BECAUSE I WAS SENSITIVE TO THE PRESS
9 GOING THROUGH THIS AND WE APPRECIATE MR. WAPNER'S COOPERATION.

10 THE COURT: I AM NOT OBJECTING TO YOUR MAKING THE MOTION.
11 I AM NOT OBJECTING TO YOUR FILING THE MOTION AND I AGREE WITH
12 YOU THAT IT SHOULD BE SECRET AND SEALED AND SO FORTH BUT
13 BEFORE ANYTHING IS DONE WITH RESPECT TO DETERMINING THIS
14 MOTION OR GRANTING ANYTHING THAT YOU WANT TO HAVE GRANTED,
15 THE MAN WHO IS EFFECTED BY THIS SHOULD HAVE HIS REPRESENTATIVE
16 HERE.

17 MR. BARENS: YOUR HONOR, I DON'T BELIEVE BY ANY STRETCH
18 OF THE IMAGINATION THAT MR. KARNY HAS ANY PRIVILEGE OR RIGHTS
19 WHICH COULD BE EXPRESSED THROUGH COUNSEL AS TO ANY POLICE
20 REPORTS THAT WERE PREPARED TOTALLY INDEPENDENT OF HIM BY THIRD
21 PARTY POLICE OFFICERS.

22 THE COURT: WELL, I AM NOT REPRESENTING KARNY. WE SHOULD
23 HAVE SOMEBODY PRESENT WHO SHOULD REPRESENT HIM AND MAKE HIS
24 POSITION CLEARLY KNOWN.

25 MR. BARENS: YOUR HONOR, I BELIEVE MR. WAPNER IS EITHER
26 AWARE AS TO THE IDENTITY OF MR. KARNY'S COUNSEL OR COULD
27 IMMEDIATELY BECOME AWARE. I WILL PROVIDE HIM WITH AN EXTRA
28 COPY OF THE NOTICED MOTION FOR PURPOSE OF SERVING MR. KARNY'S

1 COUNSEL AND PROVIDING HIM WITH SAME.

2 THE COURT: VERY GOOD. YOU STUDY THIS MR. WAPNER, IF
3 YOU WILL, PLEASE.

4 WE WILL SET IT DOWN FOR A 9:30 TIME ON A DATE
5 SOMETIME BEFORE WE START WITH THE JURY.

6 MR. BARENS: WE HAVE ASKED FOR THE 11TH AT 9:30 A.M.
7 THAT IS WHAT IT SAYS ON THE CAPTION.

8 THE COURT: WHAT IS THAT DAY? IS THAT TUESDAY?

9 MR. BARENS: THAT IS THURSDAY, A WEEK FROM YESTERDAY,
10 YOUR HONOR. WE THOUGHT THAT WAS AMPLE TIME.

11 THE COURT: THAT IS FINE WITH ME.

12 MR. WAPNER: IT IS NOT THE TEN DAYS BUT I THINK PROBABLY
13 MR. BARENS IS RIGHT, WE COULD BE READY TO HEAR IT BY THAT
14 DATE.

15 MR. BARENS: THE DEFENSE WOULD ACTUALLY CONDONE A
16 BRIEF EXTENSION FOR THE PEOPLE TO RESPOND IF IT IS NECESSARY.

17 IN THAT REGARD, MR. WAPNER, I AM GOING TO GIVE
18 YOU -- I HAVE GIVEN YOU ONE -- I AM NOW TENDERING YOU AN
19 ADDITIONAL SIX COPIES OF THE MOTION, ALONG WITH MY DECLARATION
20 AND POINTS AND AUTHORITIES IN SUPPORT THEREOF.

21 THE COURT: WELL, TELL ME AS A MATTER OF INTEREST, HOW
22 YOU PROPOSE -- SUPPOSE YOU GET A LOT OF THIS MATERIAL THAT
23 YOU ARE SEEKING, HOW DO YOU PROPOSE TO USE THAT IN THIS CASE?

24 MR. BARENS: YOUR HONOR, UNTIL I SEE WHAT IT IS, I DON'T
25 KNOW.

26 I BELIEVE, YOUR HONOR, IF MR. KARNY WERE IN FACT
27 ARRESTED FOR THIS MURDER AND CHARGED WITH THIS MURDER --

28 THE COURT: YES.

1 MR. BARENS: -- I BELIEVE THAT WE COULD PROVIDE YOUR
2 HONOR WITH A BASIS IN LAW THAT WOULD PERMIT THE DEFENSE TO
3 INTRODUCE THIS TO IMPEACH MR. KARNY DURING HIS TESTIMONY.

4 THE COURT: WELL, SHOW ME AUTHORITY AT THAT TIME. MY
5 IMPRESSION HAS ALWAYS BEEN THROUGH ALL OF THE YEARS THAT
6 UNLESS THERE IS A CONVICTION, YOU CANNOT INTRODUCE ANYTHING
7 UNTIL HE HAS BEEN CONVICTED. SHOW ME THE AUTHORITIES, HOWEVER,
8 AND I WILL READ THEM.

9 MR. BARENS: YOUR HONOR, THAT IS WHY I AM SIMPLY
10 ASKING THE COURT TO GIVE US AN OPPORTUNITY TO DO SO.

11 THE COURT: I WILL DO THAT.

12 SO WE WILL HEAR THIS ON THURSDAY, NEXT THURSDAY
13 A WEEK FROM TODAY AT 9:30. WILL THAT BE ALL RIGHT?

14 MR. BARENS: THANK YOU, YOUR HONOR.

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1 (THE FOLLOWING PROCEEDINGS WERE RESUMED
2 IN CHAMBERS:)

3 THE COURT: ALL RIGHT, NOW WE HAVE TO GET THOSE JURORS
4 IN AND HAVE THEM QUALIFIED.

5 NOW IS IT NEXT TUESDAY THAT YOU WANT THEM TO COME
6 IN OR DO YOU THINK IT WILL BE BETTER FOR WEDNESDAY?

7 MR. BARENS: I THINK WEDNESDAY IS MORE REALISTIC,
8 YOUR HONOR.

9 MR. WAPNER?

10 MR. WAPNER: WELL, I THINK WEDNESDAY IS MORE REALISTIC.

11 ALSO, WE MAY GET TO THEM BY TUESDAY BUT SINCE
12 WE TOLD THEM THE 2ND AND THEN WE TOLD SOME OF THEM THE 3RD --

13 THE COURT: ALL RIGHT, FINE. I THINK IT IS THE BEST
14 THING TO DO, JUST GET THEM ALL IN NOW INSTEAD OF HAVING THEM
15 WAIT AROUND.

16 MR. WAPNER: I AGREE.

17 THE COURT: WE WILL TAKE ONE NOW AND THEN AT 10:30 WE
18 WILL HAVE THEM ALL COME IN AND I WILL TELL THEM IT IS TAKING
19 LONGER THAN ANTICIPATED. I APOLOGIZE. WE WILL DEFINITELY
20 BE READY A WEEK FROM WEDNESDAY, YESTERDAY. I THINK WE WILL
21 BE READY TO START WEDNESDAY.

22 HERE IS WHAT I INTEND TO DO ANYWAY, I DON'T KNOW
23 HOW MANY WE ARE GOING TO GET OUT OF THIS NEW BATCH BUT WE
24 WILL PLAY IT BY EAR, WE WILL START THE IMPANELMENT OF THE
25 JURY AND IF BY ANY CHANCE WE DON'T HAVE ENOUGH JURORS, THEN
26 WE WILL START THE PROCESS AGAIN AND JUST CONTINUE THE MATTER
27 FOR A DAY OR SO UNTIL WE GET MORE PEOPLE LIKE WE ALWAYS DO.
28 MANY TIMES WE START A TRIAL AND WE FIND THAT THERE ARE NOT

1 ENOUGH JURORS AND SO WE CALL IN ANOTHER NEW BUNCH AND TELL
2 THEM WHAT THE CASE IS ALL ABOUT AND GO THROUGH THE SAME PROCESS
3 WE ARE GOING THROUGH NOW UNTIL WE GET A SUFFICIENT NUMBER.

4 IT MAY VERY WELL BE, I DON'T KNOW, YOU MAY NOT
5 EXERCISE 26. YOU MAY NOT EXERCISE 26 AND YOU MIGHT HAVE JURORS
6 LEFT OVER.

7 I ASSUME THAT YOU WILL EXERCISE ALL 26.

8 MR. BARENS: I PRESUME SO.

9 THE COURT: I KNOW THAT. BUT YOU DON'T KNOW UNTIL YOU
10 START TO TALK TO THEM.

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1 MR. WAPNER: THAT'S RIGHT. I DON'T KNOW ANYTHING ABOUT
2 THESE PEOPLE.

3 THE COURT: LET'S SEE WHAT HAPPENS. WE WILL PLAY IT
4 BY EAR. HOW MANY HAVE WE GOT NOW?

5 MR. BARENS: WELL, WE HAD 56.

6 THE COURT: WELL, WE MIGHT GET 60 OR 65. THAT WILL BE
7 ENOUGH TO START WITH --

8 MR. BARENS: WELL, NO, YOUR HONOR. I BELIEVE THAT WE
9 DETERMINED YESTERDAY THAT WE NEEDED --

10 THE COURT: I KNOW. THERE IS 64 AND 8, WHICH IS 72.

11 MR. WAPNER: WELL, ACTUALLY IT IS 62 AND 12 BECAUSE IT
12 IS 4 ON EACH SIDE PLUS THE 4 THAT ARE REMAINING AND THERE ARE
13 8 CHALLENGES.

14 MR. BARENS: THEN YOU NEED AT LEAST TWO LEFT FOR A
15 DRAW. YOU NEED ACTUALLY 78, I BELIEVE.

16 MR. WAPNER: WELL, 77 OR 78.

17 THE COURT: LET'S SEE HOW FAR WE GET WITH THIS GROUP.
18 ALL RIGHT?

19 MR. WAPNER: YOUR HONOR, THERE IS ONE OTHER MATTER WHICH
20 THE BAILIFF BROUGHT TO OUR ATTENTION THIS MORNING ABOUT THE
21 YOUNG LADY.

22 THE COURT: YES, THE 19-YEAR-OLD GIRL?

23 MR. WAPNER: I CAN'T REMEMBER HER NAME RIGHT NOW. I
24 SUGGEST THAT SINCE MR. CHIER WAS INVOLVED IN THAT INTERROGATION
25 OF THAT JUROR ON BEHALF OF THE DEFENSE AND HE WON'T BE HERE
26 UNTIL THIS AFTERNOON, THAT INSTEAD OF EXCUSING HER TO COME
27 BACK ON WEDNESDAY, THAT WE ASK HER TO COME BACK THIS AFTERNOON
28 AT 1:30.

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1 THE COURT: MR. BARENS, I MAY AS WELL TELL YOU THIS,
2 SINCE I CALLED YOU, YOU ARE THE LEAD LAWYER IN THIS CASE.

3 I THINK HEREAFTER, YOU OUGHT TO BE PRESENT AT ALL
4 TIMES.

5 MR. BARENS: I AM GOING TO TRY TO --

6 THE COURT: I KNOW THAT YOU HAVE A BIG PRACTICE. BUT
7 THAT IS WHY WE ARE RESERVING FRIDAY FOR ANY OTHER BUSINESS
8 THAT YOU MAY HAVE TO TRANSACT.

9 MR. BARENS: I WILL DO MY BEST.

10 THE COURT: WELL, I WILL HAVE TO CHARGE YOU WITH THE
11 DUTY OF COMING BACK ALL OF THE TIME.

12 MR. BARENS: ALL RIGHT, YOUR HONOR.

13 THE COURT: BECAUSE IT WILL ONLY BE HEARSAY AS TO WHAT
14 IS HAPPENING. YOU GIVE HIM YOUR IMPRESSIONS AS TO WHAT
15 HAPPENED AND HE GIVES YOU HIS. BUT, IT IS BEST THAT BOTH BE
16 PRESENT.

17 MR. BARENS: I WILL DO THE VERY BEST I CAN TO CONFORM
18 WITH THAT.

19 THE COURT: SINCE YOU ARE THE LEAD LAWYER, CO-COUNSEL
20 IS NOT LIKELY TO CHARACTERIZE IT APTLY AND --

21 MR. BARENS: THANK YOU.

22 (RECESS.)

23 (THE FOLLOWING PROCEEDINGS WERE HELD IN

24 OPEN COURT:)

25 MR. WAPNER: JUST FOR THE RECORD OF WHAT WE WERE LAST
26 TALKING ABOUT IN CHAMBERS, THE JUROR TO WHOM WE WERE
27 REFERRING THAT WE WERE GOING TO ASK TO COME BACK THIS AFTER-
28 NOON AT 1:30 IS ANNETTE ERRIDGE.

1 THE COURT: YES.

2 THE BAILIFF: BY THE WAY, SHE IS OUT HERE RIGHT NOW.
3 IF YOU WANT TO DO THAT RIGHT NOW --

4 MR. BARENS: I DON'T MIND DOING HER NOW, YOUR HONOR.

5 THE COURT: ALL RIGHT.

6 MR. BARENS: I DON'T SEEK TO CAUSE ANY INCONVENIENCE.
7 WAS THAT JUROR ALREADY EXAMINED BY THE COURT?

8 THE COURT: YES.

9 MR. BARENS: PERHAPS AFTER THIS JUROR, WE WILL TAKE A
10 MOMENT TO DISCUSS THAT.

11 THE COURT: ALL RIGHT.

12 (PROSPECTIVE JUROR DEEG ENTERS THE
13 COURTROOM.)

14 THE COURT: IS THAT MISS OR MRS.?

15 MS. DEEG: MRS.

16 THE COURT: MRS. DEEG, WHERE DO YOU LIVE?

17 MS. DEEG: MARINA DEL REY.

18 THE COURT: HAVE YOU READ ANYTHING AT ALL ABOUT THIS
19 CASE OR DO YOU KNOW ANYTHING AT ALL ABOUT IT?

20 MS. DEEG: ONLY WHAT YOU SAID YESTERDAY.

21 THE COURT: ONLY WHAT I SAID YESTERDAY? ALL RIGHT. I
22 AM GOING TO SUMMARIZE IT AGAIN FOR YOU AS A PRELIMINARY TO
23 ASKING YOU CERTAIN QUESTIONS.

24 THESE QUESTIONS WOULD BE DIRECTED TO DETERMINE
25 WHAT YOUR STATE OF MIND IS, WHAT YOUR FEELINGS ARE ABOUT THE
26 DEATH PENALTY.

27 YOU KNOW THAT I TOLD YOU THAT THE CHARGE AGAINST
28 THE DEFENDANT IS THAT HE COMMITTED A MURDER AND THAT MURDER

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1 WAS IN THE FIRST DEGREE, HAVING BEEN COMMITTED DURING THE
2 COURSE OF A ROBBERY.

3 IN THE COURSE OF A ROBBERY IS SIGNIFICANT BECAUSE
4 THE LEGISLATURE HAS SAID AND IT IS THE LAW THAT IF CERTAIN
5 MURDERS -- WELL, FIRST OF ALL, MERELY BECAUSE A MURDER WAS
6 PLANNED AND EXECUTED DELIBERATELY AND WITH PREMEDITATION AND
7 EVERYTHING, DOESN'T QUALIFY IT FOR THE DEATH PENALTY.

8 IT HAS GOT TO BE COMMITTED WITH CERTAIN SPECIAL
9 CIRCUMSTANCES. THAT IS, CIRCUMSTANCES WHICH THE LEGISLATURE
10 SAYS QUALIFY IT FOR THE DEATH PENALTY. DO YOU UNDERSTAND?

11 MS. DEEG: YES.

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1 THE COURT: IT COULD BE A MURDER COMMITTED DURING THE
2 COURSE OF A ROBBERY, WHICH IS THIS CASE, OR A MURDER COMMITTED
3 DURING THE COURSE OF A BURGLARY, OR KIDNAPPING OR CHILD
4 MOLESTATION WHERE THE CHILD DIES AND TORTURE, MULTIPLE
5 MURDERS AND ALL OF THOSE QUALIFY FOR THE DEATH PENALTY.

6 AND THE LEGISLATURE HAS ENUMERATED 19 OF THEM.
7 THE ONLY ONE THAT YOU ARE CONCERNED ABOUT IS THAT AMONG THOSE,
8 IS THE CRIME OF MURDER IN THE FIRST DEGREE COMMITTED DURING
9 THE COURSE OF A ROBBERY.

10 THAT IS WHAT THE DEFENDANT IS CHARGED WITH. OKAY?

11 MS. DEEG: OKAY.

12 THE COURT: NOW, THE JURY WILL BE SELECTED IN THIS CASE
13 AND IT WILL FIRST HAVE TO DETERMINE THE GUILT OR INNOCENCE
14 OF THE DEFENDANT. THAT IS KNOWN AS THE GUILT PHASE OF THE
15 TRIAL.

16 WHAT THEY WILL HAVE TO DETERMINE IS WHETHER OR
17 NOT, IF HE IS GUILTY, WHETHER IT WAS GUILTY OF MURDER IN THE
18 FIRST DEGREE. THEN THE JURY ANSWERS A QUESTION, IS IT TRUE
19 OR FALSE THAT IT WAS COMMITTED DURING THE COURSE OF A ROBBERY.
20 THAT IS WHAT WE CALL THE SPECIAL CIRCUMSTANCES.

21 IF THEY SAY YES, THEY THEN ENTER INTO A SECOND
22 PHASE OF THE TRIAL THAT IS KNOWN AS THE PENALTY PHASE WHERE
23 THE SAME JURY HEARS EVIDENCE FROM BOTH SIDES, FAVORABLE AND
24 UNFAVORABLE ABOUT HIM, HIS PRIOR BACKGROUND, HIS AGE, WHETHER
25 OR NOT HE HAS EVER HAD ANY PREVIOUS CRIME RECORD, HIS
26 CHARACTER, HIS HISTORY AND EVERYTHING ABOUT HIM THAT WILL BE
27 BROUGHT OUT FAVORABLE AND UNFAVORABLE.

28 WE'LL HAVE WHAT THEY CALL MITIGATING CIRCUMSTANCES.

1 THE PEOPLE WILL SHOW THINGS ABOUT HIM WHICH ARE UNFAVORABLE,
2 KNOWN AS AGGRAVATING CIRCUMSTANCES.

3 NOW, THE JURY HEARS ALL OF THAT. THEY HAVE ALREADY
4 HEARD ALL OF THE TESTIMONY ON THE GUILT PHASE, WHETHER HE IS
5 GUILTY OR NOT GUILTY. THEY TAKE THAT INTO CONSIDERATION.

6 THEY TAKE INTO CONSIDERATION ALL OF THE FACTORS
7 WHICH I JUST INDICATED TO YOU AND THEN THEY MAKE UP THEIR
8 MINDS. ALL RIGHT?

9 THEY DECIDE SHOULD IT BE LIFE WITHOUT POSSIBILITY
10 OF PAROLE OR SHOULD IT BE DEATH. DO YOU UNDERSTAND?

11 MS. DEEG: YES.

12 THE COURT: OKAY. NOW, THE QUESTIONS I AM GOING TO ASK
13 YOU WILL BE ASKED OF YOU BY COUNSEL, TO DETERMINE WHAT YOUR
14 STATE OF MIND IS. WE ARE GOING TO TRY TO EXPLORE YOUR STATE
15 OF MIND WITH RESPECT TO YOUR FEELINGS ABOUT THE DEATH PENALTY.
16 AS I TOLD YOU, IT IS LIFE WITHOUT POSSIBILITY OF PAROLE OR
17 DEATH. DO YOU UNDERSTAND THAT?

18 MS. DEEG: YES.

19 THE COURT: NOW, ON THE GUILT PHASE, THE FIRST PART OF
20 THE TRIAL, THE QUESTION OF PENALTY DOESN'T ENTER INTO THE
21 CONSIDERATION OR SHOULDN'T BE CONSIDERED BY THE JURY IN ANY
22 WAY. THAT COMES LATER.

23 NOW, MY FIRST QUESTION IS -- THERE ARE TWO
24 QUESTIONS THAT I WILL FIRST ASK YOU. THEY HAVE TO DO WITH
25 THE GUILT PHASE OF IT. DO YOU HAVE ANY OPINION, WHATEVER IT
26 MAY BE, REGARDING THE DEATH PENALTY, THAT WOULD PREVENT YOU
27 FROM MAKING AN IMPARTIAL DECISION AS TO THE GUILT OR INNOCENCE
28 OF THE DEFENDANT?

1 MS. DEEG: I AM IMPARTIAL.

2 THE COURT: YES. SO WHATEVER YOUR OPINION IS ABOUT THE
3 DEATH PENALTY, IT WOULDN'T INTERFERE WITH YOUR FINDING THE
4 DEFENDANT GUILTY OR INNOCENT?

5 MS. DEEG: NO.

4B 6 THE COURT: THE NEXT QUESTION I TOLD YOU ABOUT IS IF
7 THEY FIND HIM GUILTY, THEN THEY HAVE TO DETERMINE WHETHER OR
8 NOT IT WAS TRUE OR FALSE THAT IT WAS IN THE COURSE OF A
9 ROBBERY. SO THE SECOND QUESTION IS THE SAME WAY. DO YOU HAVE
10 ANY OPINION WHATEVER IT IS, REGARDING THE DEATH PENALTY, THAT
11 WILL PREVENT YOU FROM MAKING AN IMPARTIAL DECISION CONCERNING
12 THE TRUTH OR FALSITY OF THE SPECIAL CIRCUMSTANCES?

13 MS. DEEG: NO.

14 THE COURT: THANK YOU. NOW, THE NEXT TWO QUESTIONS HAVE
15 TO DO WITH THE PENALTY PHASE, AFTER HE HAS BEEN FOUND GUILTY,
16 SUPPOSEDLY OF MURDER IN THE FIRST DEGREE IN THE COURSE OF A
17 ROBBERY. THE NEXT TWO QUESTIONS RELATE TO THE PENALTY.

18 DO YOU HAVE ANY OPINION CONCERNING THE DEATH
19 PENALTY THAT YOU WOULD AUTOMATICALLY VOTE TO IMPOSE THE DEATH
20 PENALTY, REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED AT
21 THE PENALTY PHASE OF THE TRIAL?

22 MS. DEEG: IT WOULD BE DEPENDING UPON THE EVIDENCE.

23 THE COURT: AUTOMATICALLY, WITHOUT THINKING OF ANYTHING,
24 WOULD YOU AUTOMATICALLY VOTE FOR THE DEATH PENALTY AND DISREGARD
25 ANY TESTIMONY?

26 MS. DEEG: NO. I WOULD TAKE EVERYTHING INTO CONSIDERATION.

27 THE COURT: IN OTHER WORDS, YOU WOULDN'T AUTOMATICALLY
28 VOTE FOR IT, THEN?

1 MS. DEEG: NO. I WOULDN'T AUTOMATICALLY VOTE FOR IT
2 UNLESS I HEAR IT.

3 THE COURT: YES. THAT IS RIGHT. AND ANOTHER ASPECT
4 OF THE SAME THING IS, DO YOU HAVE SUCH AN OPINION CONCERNING
5 THE DEATH PENALTY, THAT YOU WOULD AUTOMATICALLY VOTE FOR LIFE
6 WIHTOUT POSSIBILITY OF PAROLE, REGARDLESS OF ANY INCIDENT THAT
7 MAY BE PRESENTED IN THE PENALTY PHASE OF THE TRIAL?

8 MS. DEEG: IT ALL DEPENDS.

9 THE COURT: YES. IN OTHER WORDS, YOUR ANSWER WOULD BE
10 NO? IS THAT IT?

11 MS. DEEG: THAT'S CORRECT.

12 THE COURT: NOW, YOU UNDERSTAND THAT THE ISSUE OF THE
13 DEATH PENALTY MAY OR MAY NOT OCCUR IN THIS CASE AND IT IS ONLY
14 IN THE EVENT THAT YOU REACH THAT PHASE OF THE TRIAL.
15 INCIDENTALLY, TELL US WHAT YOUR ATTITUDE TOWARD THE DEATH
16 PENALTY IS. HOW DO YOU FEEL ABOUT IT? DO YOU BELIEVE IN IT
17 OR DON'T BELIEVE IN IT OR HAVE NO OPINION OF IT?

18 MS. DEEG: IT ALL DEPENDS ON THE CIRCUMSTANCES.

19 THE COURT: ALL RIGHT. THAT IS WHETHER OR NOT YOU WILL
20 IMPOSE THE DEATH PENALTY? IS THAT RIGHT?

21 MS. DEEG: YES.

22 THE COURT: ALL RIGHT. GO AHEAD.

23 MR. BARENS: THANK YOU. MISS DEEG, GOOD MORNING.

24 I AM ARTHUR BARENS. I REPRESENT THE DEFENDANT IN THIS MATTER,
25 JOE HUNT.

26 IT IS MY DUTY AT THIS TIME TO FURTHER INQUIRE AS
27 TO YOUR POINT OF VIEW ON THE DEATH PENALTY.

28 MS. DEEG, I WANT YOU TO UNDERSTAND THAT THERE ARE

1 NO RIGHT OR WRONG ANSWERS TO MY QUESTIONS. THERE ARE NO GOOD
2 OR BAD ANSWERS, JUST YOUR OPINION.

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1 MR. BARENS: HIS HONOR JUST ASKED YOU HOW DO YOU FEEL
2 ABOUT THE DEATH PENALTY AND I GUESS I AM ASKING YOU INITIALLY
3 THE SAME QUESTION, THAT AS A GENERAL PRINCIPLE IN OUR SOCIETY,
4 HOW DO YOU FEEL ABOUT THE DEATH PENALTY?

5 MS. DEEG: IT ALL DEPENDS UPON THE CIRCUMSTANCES.

6 MR. BARENS: WHEN YOU SAY "DEPENDS UPON THE CIRCUMSTANCES,"
7 WHAT DOES THAT MEAN IN YOUR MIND?

8 MS. DEEG: IF -- I GUESS IF IT WAS --

9 THE COURT: I CAN'T HEAR YOU. GET A LITTLE CLOSER TO
10 THE MICROPHONE.

11 MS. DEEG: SORRY.

12 IF -- I GUESS IF IT WAS DEFINITE PREMEDITATED
13 MURDER, I GUESS I WOULD BE IN FAVOR OF IT.

14 MR. BARENS: IF WE HAD A SITUATION, MA'AM, WHERE THERE
15 WAS AN INTENTIONAL MURDER, WHAT WE CALL PREMEDITATED, WHAT
16 WE CALL INTENTIONAL MURDER, IN THIS CASE THAT IS WHAT THE
17 PEOPLE ARE TALKING ABOUT, THEY ARE SAYING THAT THE DEFENDANT
18 COMMITTED A FIRST DEGREE MURDER OR INTENTIONAL MURDER AND
19 THAT IT WAS DURING THE COURSE OF A ROBBERY, WHEN WE GET
20 THROUGH WITH THAT PART OF THE TRIAL, IF YOU AND THE OTHER
21 JURORS BELIEVE BEYOND A REASONABLE DOUBT THAT AN INTENTIONAL
22 MURDER TOOK PLACE DURING THE COMMISSION OF A ROBBERY, WHAT
23 I AM TRYING TO FIND OUT IS THAT WHEN THEY GET TO THE PENALTY
24 PHASE --

25 MS. DEEG: OKAY.

26 MR. BARENS: -- IF YOU KNEW OR BELIEVE BEYOND A
27 REASONABLE DOUBT IN YOUR MIND THAT THE DEFENDANT COMMITTED
28 AN INTENTIONAL MURDER, WOULD YOUR MIND AUTOMATICALLY BE MADE

1 UP THAT THAT TYPE OF A DEFENDANT GETS THE DEATH PENALTY OR
2 WOULD YOU BE WILLING TO CONSIDER OTHER EVIDENCE DURING THE
3 PENALTY PHASE AS TO THE DEFENDANT'S AGE, FOR INSTANCE, OR
4 WHETHER HE HAD A PRIOR BACKGROUND OF CRIMINAL ACTIVITY OR
5 VIOLENT CRIMES?

6 MS. DEEG: I WOULD HAVE TO TAKE EVERYTHING INTO
7 CONSIDERATION, TO GIVE AN HONEST ANSWER.

8 MR. BARENS: WHAT YOU ARE TELLING ME THEN IS THAT YOUR
9 BELIEF SYSTEM IS NOT SUCH THAT IF A PERSON TAKES A LIFE
10 INTENTIONALLY THAT THE ONLY APPROPRIATE PENALTY IS THAT THEIR
11 LIFE BE TAKEN AS WELL?

12 MS. DEEG: SORT OF LIKE AN EYE FOR AN EYE, TOOTH FOR
13 A TOOTH, THAT KIND OF THING?

14 MR. BARENS: QUITE SO, MA'AM.

15 MS. DEEG: I GUESS WHEN YOU REALLY GET DOWN TO THE BOTTOM
16 LINE, SO TO SPEAK, AND WHEN YOU REALLY HEAR -- YOU HAVE TO
17 LISTEN TO EVERYTHING FIRST BEFORE -- BEFORE I COULD MAKE ANY
18 JUDGMENT.

19 MR. BARENS: DO YOU FEEL -- AND I GET AN IMPRESSION
20 AND THERE IS CERTAINLY NOTHING WRONG WITH IT THAT THE BOTTOM
21 LINE FOR YOU, MAYBE YOUR BELIEF SYSTEM IS THAT AN EYE FOR
22 AN EYE OR A LIFE FOR A LIFE IS PROBABLY THE APPROPRIATE
23 REMEDY OR THE APPROPRIATE THING TO DO?

24 MS. DEEG: PROBABLY, YES.

25 MR. BARENS: AND THE ANSWER I BELIEVE WAS "PROBABLY"
26 TO MY QUESTION.

27 IF THAT IS YOUR BELIEF SYSTEM, WOULD THAT
28 SUBSTANTIALLY IMPAIR YOUR ABILITY TO VOTE FOR LIFE WITHOUT

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POSSIBILITY OF PAROLE, EVEN THOUGH YOU WOULD CONSIDER THE REST OF THE EVIDENCE?

MS. DEEG: THAT WOULDN'T -- THAT IS FINE, I WOULD CONSIDER LIFE WITHOUT POSSIBLE PAROLE BUT AGAIN, DEPENDING UPON THE CIRCUMSTANCES.

MR. BARENS: DO YOU FEEL YOU WOULD HONESTLY BE AS EQUALLY ABLE TO VOTE FOR LIFE WITHOUT POSSIBILITY OF PAROLE AT THAT POINT AS YOU WOULD BE THE DEATH PENALTY, ONCE YOU HEARD THE EVIDENCE?

MS. DEEG: EITHER WAY. EITHER WAY.

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1 MR. BARENS: YOU UNDERSTAND WHAT WE ARE LOOKING FOR
2 AND WHAT HIS HONOR IS LOOKING FOR AND THE PEOPLE, TOO, IS AS
3 NEARLY POSSIBLE A NEUTRAL JUROR --

4 MS. DEEG: YES.

5 MR. BARENS: -- AS HUMAN BEINGS CAN BE UNDER THE
6 CIRCUMSTANCES.

7 MS. DEEG: SURE, SURE.

8 MR. BARENS: SO THAT BOTH SIDES HAVE A FAIR OPPORTUNITY
9 AND YOU WOULD BE OPENMINDED AND LISTEN TO THE EVIDENCE?

10 MS. DEEG: YES, I THINK THAT IS PROBABLY PART OF THE
11 JOB OF A JUROR.

12 MR. BARENS: I THINK SO.

13 DO YOU UNDERSTAND THAT ALTHOUGH I AM TALKING TO
14 YOU ABOUT THE DEATH PENALTY NOW, THAT WE MAY NEVER GET TO THAT
15 IN THIS CASE?

16 MS. DEEG: YES, SIR.

17 MR. BARENS: AND YOU DON'T HAVE ANY REASON TO BELIEVE
18 THAT MY CLIENT IS QUILTY OR DID ANYTHING BAD JUST BECAUSE WE
19 ARE TALKING ABOUT THIS QUESTION?

20 MS. DEEG: I DON'T KNOW WHAT HE DID.

21 MR. BARENS: DO YOU HAVE A BELIEF THAT HE DID SOMETHING?

22 MS. DEEG: I HAVEN'T HEARD ANYTHING ABOUT WHAT THE CASE
23 IS ABOUT.

24 MR. BARENS: RIGHT, YOU HAVEN'T HEARD ANY EVIDENCE AT
25 ALL AND YOU WOULD WAIT --

26 BY THE WAY, I AM NOT SURE HIS HONOR ASKED YOU AND
27 HE MAY WELL HAVE, HAVE YOU READ OR HEARD ANYTHING ABOUT THIS
28 CASE BEFORE COMING HERE?

1 MS. DEEG: ONLY WHAT HE SAID YESTERDAY.

2 MR. BARENS: ONLY WHAT HIS HONOR TOLD YOU?

3 THE COURT: WHAT I TOLD THEM YESTERDAY.

4 MR. BARENS: DO YOU UNDERSTAND THAT WHEN HIS HONOR SPEAKS
5 TO YOU ABOUT LIFE WITHOUT THE POSSIBILITY OF PAROLE, THAT IT
6 MEANS PRECISELY THAT; YOU DON'T --

7 (MS. DEEG NODS HER HEAD UP AND DOWN.)

8 MR. WAPNER: IS THAT A YES?

9 MS. DEEG: THAT IS A YES.

10 I AM SORRY.

11 MR. BARENS: YOU DON'T HAVE ANY KIND OF A RESERVED IDEA,
12 WELL, THAT EVEN THOUGH THE LAWYERS SAY THAT, WE DON'T REALLY
13 MEAN THAT?

14 MS. DEEG: I HAVE OFTEN WONDERED WHY -- FROM WHAT I HEAR
15 ANYWAYS, I HAVE OFTEN WONDERED WHY --

16 THE COURT: WELL, YOU HAVE HEARD STORIES ABOUT PEOPLE
17 GETTING OUT?

18 MS. DEEG: PEOPLE GETTING OUT AFTER SEVEN YEARS OR
19 SOMETHING LIKE THAT.

20 MR. BARENS: SURE.

21 THE COURT: IN THIS PARTICULAR CASE, IF THE JURY FINDS
22 THE DEFENDANT GUILTY AND THEY SAY IT SHOULD BE LIFE IMPRISON-
23 MENT WITHOUT THE POSSIBILITY OF PAROLE, IT MEANS EXACTLY THAT,
24 HE WILL NEVER GET OUT.

25 MS. DEEG: OKAY.

26 THE COURT: ALL RIGHT?

27 MS. DEEG: THANK YOU.

28 MR. BARENS: THANK YOU, MRS. DEEG. PASS FOR CAUSE, YOUR

1 HONOR.

2 MR. WAPNER: GOOD MORNING, MRS. DEEG.

3 MS. DEEG: HI.

4 MR. WAPNER: I AM FRED WAPNER, THE DEPUTY DISTRICT
5 ATTORNEY WHO IS PROSECUTING THIS CASE.

6 MS. DEEG: HI.

7 MR. WAPNER: DO YOU UNDERSTAND THAT IF YOU GET TO THE
8 PENALTY PHASE IN THIS CASE NO ONE IS GOING TO TELL YOU HOW
9 YOU HAVE TO VOTE ONE WAY OR THE OTHER?

10 MS. DEEG: IN MY CONSCIENCE.

11 MR. WAPNER: HAD YOU GIVEN ANY THOUGHT TO THE QUESTION
12 OF THE DEATH PENALTY OR LIFE IMPRISONMENT WITHOUT THE
13 POSSIBILITY OF PAROLE BEFORE YOU WERE ASKED TO COME INTO COURT
14 AND ANSWER THESE QUESTIONS?

15 MS. DEEG: I GUESS PROBABLY WHICH MEANS WHEN WE VOTED?

16 MR. WAPNER: WELL, FOR EXAMPLE, THAT WOULD BE ONE TIME,
17 RIGHT.

18 MS. DEEG: UH-HUH.

19 MR. WAPNER: DID YOU VOTE ON THE ISSUE?

20 MS. DEEG: YES, SIR.

21 MR. WAPNER: AND DO YOU REMEMBER HOW YOU VOTED?

22 MS. DEEG: YES.

23 MR. WAPNER: HOW WAS THAT?

24 MS. DEEG: AFFIRMATIVE. I VOTED FOR IT.

25 MR. WAPNER: OKAY. DO YOU HAVE ANY RELIGIOUS OR MORAL
26 OR PHILOSOPHICAL BELIEFS THAT CAUSED YOU TO VOTE IN FAVOR OF
27 HAVING THE DEATH PENALTY IN THE STATE OF CALIFORNIA OR WAS
28 IT A POLITICAL DECISION OR BOTH?

1 MS. DEEG: BOTH.

2 MR. WAPNER: DO YOU APPRECIATE THAT IF YOU GET TO THAT
3 POINT OF THE CASE WHERE YOU ARE DECIDING THE PENALTY, YOU HAVE
4 TO CAST YOUR OWN INDIVIDUAL --

5 MS. DEEG: YES.

6 MR. WAPNER: -- BALLOT ABOUT WHETHER THE DEFENDANT SHOULD
7 LIVE OR WHETHER HE SHOULD DIE?

8 MS. DEEG: YES.

9 MR. WAPNER: DO YOU THINK YOU COULD DO THAT?

10 MS. DEEG: YES, SIR.

11 MR. WAPNER: AS YOU SIT THERE NOW, DO YOU THINK YOU ARE
12 BIASED IN FAVOR OF LIFE OR DEATH ONE WAY OR THE OTHER?

13 MS. DEEG: I DON'T KNOW ANYTHING ABOUT THE CASE SO I
14 COULDN'T SAY. AS TIME PROGRESSES, YOU KNOW, AND I HEAR MORE
15 INFORMATION -- I DON'T KNOW.

16 MR. WAPNER: I AM NOT ASKING YOU --

17 OKAY, BUT JUST AS A GENERAL PROPOSITION, YOU ARE
18 NOT IN FAVOR OF ONE SIDE OR THE OTHER WITHOUT KNOWING WHAT
19 THE EVIDENCE IS?

20 MS. DEEG: THAT IS CORRECT.

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

22 THE COURT: ALL RIGHT, WE SAID NEXT WEDNESDAY?

23 MR. WAPNER: YES.

24 THE COURT: YOU HAVE PASSED MUSTER. YOU QUALIFY FOR
25 BEING A JUROR IN THIS CASE IF YOU ARE SELECTED, DO YOU UNDER-
26 STAND? SO WE ARE IN THE PROCESS NOW OF GOING THROUGH ALL OF
27 THESE NAMES TO DETERMINE EXACTLY WHAT WE ASKED YOU ABOUT,
28 WHETHER OR NOT THESE OTHER JURORS QUALIFY. IT IS EXPECTED

1 WE WON'T FINISH THIS PROCESS UNTIL PROBABLY NEXT WEEK.

2 MS. DEEG: I SEE.

3 THE COURT: SO I WILL ASK YOU TO COME BACK TO THE JURY
4 ASSEMBLY ROOM A WEEK FROM YESTERDAY.

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1 MS. DEEG: OKAY.

2 THE COURT: WHAT DATE IS THAT?

3 THE CLERK: THE 10TH, WEDNESDAY.

4 THE COURT: WEDNESDAY, THE 10TH, MAKE A NOTE OF IT.

5 WEDNESDAY, THE 10TH IN THE JURY ASSEMBLY ROOM AT 10:30

6 , WEDNESDAY THE 10TH.

7 IF THERE IS ANYTHING YOU MIGHT SEE IN THE NEWSPAPERS,

8 DON'T READ ANYTHING ABOUT THE CASE OR LISTEN TO IT ON THE

9 RADIO OR TELEVISION.

10 MS. DEEG: I DON'T EVEN KNOW WHICH CASE IT IS.

11 THE COURT: ALL RIGHT.

12 MS. DEEG: OKAY, WEDNESDAY AT WHAT TIME, SIR?

13 THE COURT: 10:30 .

14 MS. DEEG: 10:30?

15 THE COURT: OR SHALL WE MAKE IT 10:00 O'CLOCK.

16 WEDNESDAY AT 10:00 O'CLOCK.

17 MS. DEEG: 10:00 O'CLOCK.

18 THE COURT: WOULD YOU GET ERRIDGE IN?

19 MR. BARENS: BEFORE WE BRING HER IN, COULD I JUST HAVE

20 A MOMENT WITH MR. WAPNER ON THAT?

21 THE COURT: YES.

22 IS IT ALL RIGHT TO EXCUSE MS. DEEG?

23 MR. BARENS: QUITE SO.

24 MS. DEEG: THERE WAS ONE QUESTION, THE REASON I WAS

25 SUPPOSED TO COME BACK TODAY, WHETHER OR NOT MY COMPANY WOULD

26 PAY.

27 THE COURT: DID YOU TALK TO THEM?

28 MS. DEEG: YES, AND THEY WILL PAY.

1 THE COURT: VERY GOOD.

2 MS. DEEG: I WANTED TO GET IT IN WRITING.

3 THE COURT: FINE.

4 MS. DEEG: AND I WILL BRING THAT.

5 THE COURT: VERY GOOD.

6 MS. DEEG: LIKE PHILADELPHIA LAWYERS, I GUESS THEY ARE
7 IN FAVOR OF IT.

8 THE COURT: YOU SEE, WE WILL SELECT 12 AND 4 ALTERNATES.
9 SO MAYBE WE WILL HAVE 70 OR 80 OR THERE MIGHT BE A CHANCE THAT
10 YOU WON'T BE SELECTED, YOU SEE?

11 MS. DEEG: THANK YOU VERY MUCH.

12 THE COURT: ALL RIGHT, THANK YOU.

13 (UNREPORTED COLLOQUY.)

14 (PROSPECTIVE JUROR DEEG EXITS THE
15 COURTROOM.)

16 (PROSPECTIVE JUROR ARRIDGE ENTERS THE
17 COURTROOM.)

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1 (PROSPECTIVE JUROR ERRIDGE ENTERED THE
2 COURTROOM.)

3 THE COURT: MISS ERRIDGE, I WANT TO ASK YOU A COUPLE
4 OF MORE QUESTIONS. I UNDERSTAND THAT YOU TOLD THE BAILIFF
5 THAT UNDER NO CIRCUMSTANCES, WOULD YOU VOTE FOR THE DEATH
6 PENALTY. IS THAT WHAT YOU TOLD HIM?

7 MS. ERRIDGE: THAT I WOULD NOT VOTE FOR IT?

8 THE COURT: THAT YOU WOULD BE AGAINST IT, THE DEATH
9 PENALTY.

10 MS. ERRIDGE: I WOULDN'T BE AGAINST IT. IT WAS JUST
11 THAT I WOULD HAVE TO MAKE A DECISION.

12 THE COURT: GET THE BAILIFF.

13 MS. ERRIDGE: I WOULD HAVE TO MAKE A DECISION IF I WAS
14 IN THE JURY. I WOULD MAKE A DECISION YOU KNOW, TO THE BEST
15 OF MY KNOWLEDGE, HOW I FELT, YOU KNOW, IF IT WAS MORE GUILTY
16 OR NOT GUILTY.

17 AND I WAS JUST PERSONALLY -- I WOULD FEEL, YOU
18 KNOW, LIKE IF I DID VOTE FOR THE DEATH PENALTY, I WOULD
19 PERSONALLY FEEL -- I DON'T KNOW --

20 THE COURT: THIS IS WHAT YOU TOLD US YESTERDAY. BUT
21 I AM ASKING YOU, WHAT DID YOU TELL THE BAILIFF? WOULD YOU
22 FOR PURPOSES OF THE RECORD, TELL US WHAT SHE TOLD YOU?

23 THE BAILIFF: MISS ERRIDGE TOLD ME THAT SHE DIDN'T THINK
24 SHE COULD GIVE ANYBODY THE DEATH PENALTY.

25 THE COURT: IS THAT WHAT YOU TOLD HIM?

26 MS. ERRIDGE: YES.

27 THE COURT: ARE YOU STILL OF THAT MIND?

28 MS. ERRIDGE: YES.

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1 MR. BARENS: MISS ERRIDGE, GOOD MORNING. I AM ARTHUR
2 BARENS. I AM MR. HUNT'S OTHER LAWYER.

3 MISS ERRIDGE, THERE IS NOTHING WRONG WITH YOUR
4 BEING AGAINST THE DEATH PENALTY. THERE IS NOTHING RIGHT IF
5 YOU WERE IN FAVOR OF THE DEATH PENALTY.

6 BOTH THE PROSECUTION AND THE DEFENSE ARE ENTITLED
7 TO AS NEUTRAL A JUROR AS POSSIBLE.

8 IN THAT CONTEXT, WHAT WE MEAN IS, THAT WHEN YOU
9 CAME TO MAKING A CHOICE DURING THAT SECOND PHASE, HIS HONOR
10 TOLD YOU ABOUT THE PENALTY PHASE. YOU CAN CONSIDER THE DEATH
11 PENALTY AS AN ALTERNATIVE, AS WELL AS CONSIDERING LIFE WITHOUT
12 THE POSSIBILITY OF PAROLE AS AN ALTERNATIVE.

13 THAT IS NOT SAYING THAT YOU ARE TELLING US THAT
14 YOU ARE GOING TO VOTE ONE WAY OR ANOTHER. BUT IF YOU COULD
15 CONSIDER VOTING ONE WAY OR ANOTHER. COULD YOU DO THAT?

16 MS. ERRIDGE: YES.

17 MR. BARENS: WOULD YOU FEEL THAT IF YOU TRULY BELIEVED
18 THAT THE DEATH PENALTY WAS THE ONLY PROPER REMEDY FOR THAT
19 DEFENDANT, AFTER YOU HAD HEARD ALL OF THE EVIDENCE AGAINST
20 HIM DURING THE PENALTY PHASE, THAT YOU WOULD BE CAPABLE OF
21 VOTING FOR THE DEATH PENALTY IF YOU, IN YOUR HEART OF HEARTS,
22 BELIEVED THAT IT WAS THE ONLY PENALTY POSSIBLE? COULD YOU
23 DO THAT?

24 MS. ERRIDGE: NO.

25 MR. BARENS: I APPRECIATE THAT. WHAT I AM TRYING TO
26 DO IS, SEE IF THERE ARE ANY CIRCUMSTANCES UNDER WHICH YOU
27 COULD VOTE FOR THE DEATH PENALTY BECAUSE THE PEOPLE, THE
28 PROSECUTOR IS ENTITLED TO A JUROR WHO IS OPEN-MINDED AND

1 CAPABLE OF VOTING EITHER WAY.

2 THAT IS WHAT WE ARE LOOKING FOR AS A JUROR, A
3 JUROR WHO COULD VOTE DEATH OR LIFE, BASED ON THE EVIDENCE
4 THAT IS HEARD, NOT BASED ON A PREJUDGMENT OF WHAT IS RIGHT
5 AND WRONG.

6 IS IT POSSIBLE AT ALL IN YOUR MIND, UNDER ANY
7 CIRCUMSTANCES, THAT IF YOU HEARD THERE HAD BEEN AN INTENTIONAL
8 MURDER DURING A ROBBERY AND THAT THERE WERE JUST ALL KINDS
9 OF BAD OR AGGRAVATING CIRCUMSTANCES ABOUT THAT DEFENDANT,
10 WHEN GIVEN A CHOICE, YOU COULD CONSIDER VOTING FOR THE DEATH
11 PENALTY?

12 MS. ERRIDGE: IF EVERYTHING IS LEANING TOWARD HIS WAY,
13 YES.

14 MR. BARENS: DO YOU MEAN LEANING AGAINST HIM?

15 MS. ERRIDGE: YES. I DON'T REALLY THINK I COULD SAY
16 YES TO THE DEATH PENALTY BECAUSE I HAVE A PERSONAL FEELING
17 TOWARD IT, LIKE THAT PERSON IS GOING TO DIE.

18 I WILL FEEL RESPONSIBLE, EVEN THOUGH HE IS REALLY
19 GUILTY, MAYBE.

20 THE COURT: THAT'S WHAT --

21 MS. ERRIDGE: YOU KNOW, I DON'T KNOW IF YOU UNDERSTAND.

22 MR. BARENS: OF COURSE I UNDERSTAND WHAT YOU ARE SAYING.
23 I FELT THAT IN RESPONSE TO SOME OF THE QUESTIONS, THAT YOU
24 MAY HAVE BEEN INCONSISTENT. I ALSO WANTED TO MAKE SURE THAT
25 I UNDERSTOOD AND THAT YOU UNDERSTAND ME.

26 EARLIER ON, YOU TOLD ME THAT YOU COULD CONSIDER
27 THE DEATH PENALTY AS AN ALTERNATIVE.

28 IS THAT WHAT YOU ARE REALLY TELLING ME, THAT

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1 ALTHOUGH YOU CONSIDER -- COULD CONSIDER THE DEATH PENALTY
2 AS AN ALTERNATIVE, THAT YOU COULD NEVER MAKE THAT CHOICE BECAUSE
3 YOU HAVE A BELIEF SYSTEM THAT WOULD ABSOLUTELY PRECLUDE THAT
4 IN EVERY INSTANCE?

5 MS. ERRIDGE: YES.

6 MR. BARENS: I ACCEPT THAT, YOUR HONOR.

7 MR. WAPNER: BEFORE I ASK ANY QUESTIONS, LET ME JUST
8 ASK --

9 THE COURT: WELL, DO YOU WANT TO ASK QUESTIONS?

10 MR. WAPNER: WELL, WHAT I WANT TO KNOW IS WHETHER THE
11 DEFENSE POSITION HAS NOW CHANGED FROM YESTERDAY.

12 MR. BARENS: IT IS MY JUDGMENT FOR WHICH I TAKE
13 RESPONSIBILITY, THAT THAT JUROR DOES NOT QUALIFY.

14 THE COURT: THAT IS MY JUDGMENT, TOO. THANK YOU VERY
15 MUCH FOR YOUR FRANKNESS AND YOUR CANDOR.

16 I KNOW THAT YOU COULD BE IN EMOTIONAL TURMOIL,
17 IF NOT MENTAL TURMOIL IF YOU DID VOTE FOR THE DEATH PENALTY,
18 IN THE EVENT THAT THE DEFENDANT WAS FOUND GUILTY.

19 SO, TO SPARE YOU THAT, YOU ARE GOING TO BE EXCUSED
20 AS A JUROR. YOU CAN TELL THE JURY CLERK IN THE JURY ASSEMBLY
21 ROOM THAT YOU QUALIFY FOR SOME OTHER CASE BUT NOT THIS ONE.

22 MS. ERRIDGE: OKAY.

23 THE COURT: THANK YOU VERY MUCH.

24 (PROSPECTIVE JUROR ERRIDGE EXITED THE
25 COURTROOM.)

26 THE COURT: I THINK WE HAVE TO GET ALL OF THE OTHER
27 JURORS. WE WILL TELL THEM THE MATTER IS BEING CONTINUED.

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

4 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN. I HAVE
5 EITHER GOOD NEWS OR BAD NEWS FOR YOU. WE HAVEN'T COMPLETED
6 OUR VOIR DIRING OF THE PROSPECTIVE JURORS ON THE DEATH PENALTY
7 ASPECT. WE HAVEN'T GOT A SUFFICIENT NUMBER OF THEM SO WE
8 ARE IN THE PROCESS NOW OF QUESTIONING THEM, AS WE QUESTIONED
9 ALL OF YOU. WE ARE QUESTIONING THE ADDITIONAL PROSPECTIVE
10 JURORS WHICH, UNFORTUNATELY, WE WON'T COMPLETE UNTIL NEXT
11 WEDNESDAY SO YOU HAVE GOT A LITTLE HOLIDAY AHEAD OF YOU.

12 I KNOW SOME OF YOU ARE SHAKING YOUR HEADS, I SEE
13 SOME OF YOU DOING IT, BUT THIS IS THE PROCESS AND WE CAN'T
14 DO ANYTHING ELSE ABOUT IT. WE WILL TRY TO EXPEDITE IT AS
15 MUCH AS POSSIBLE.

16 SO I WILL ASK ALL OF YOU PLEASE TO COME BACK TO
17 THE JURY ASSEMBLY ROOM ON WEDNESDAY, A WEEK FROM YESTERDAY,
18 THAT WILL BE THE 10TH AT 10 O'CLOCK AND HOPEFULLY WE WILL
19 START THE TRIAL OF THIS CASE.

20 I AM TERRIBLY SORRY TO ASK YOU TO COME BACK AGAIN
21 AND FURTHER DELAY THE ACTUAL TRIAL ITSELF, BUT THIS IS BEYOND
22 OUR CONTROL. WE ARE TRYING TO EXPEDITE IT AS MUCH AS WE CAN.

23 SO ALL OF YOU PLEASE COME BACK NEXT WEDNESDAY
24 AT 10 A.M., WITH THE EXCEPTION OF MRS. LEEDS. I WOULD LIKE
25 TO HAVE HER STAY A MOMENT.

26 THANK YOU VERY MUCH. WE WILL SEE YOU A WEEK FROM
27 YESTERDAY.

28 ALL RIGHT, IS THERE A MRS. LEEDS HERE?

1 MS. LEEDS: YES.

2 (PROSPECTIVE JUROR LEEDS TAKES THE
3 WITNESS STAND.)

4 THE COURT: I HAVE SHOWN YOUR LETTER TO COUNSEL,
5 MRS. LEEDS.

6 MS. LEEDS: AM I SUPPOSED TO SIT HERE?

7 THE COURT: YES, YOU CAN COME UP HERE IF YOU WANT TO.

8 MS. LEEDS: OH.

9 THE COURT: COUNSEL HAVE READ THE LETTER AND IF THEY
10 HAVE ANY QUESTIONS OF YOU, THEY MIGHT ASK YOU SOME.

11 MS. LEEDS: SURE.

12 THE COURT: IF YOU HAVE ANY.

13 MR. BARENS: NONE FROM THE DEFENSE, YOUR HONOR.

14 THE COURT: THE PROSECUTION?

15 MR. WAPNER: MAY I HAVE JUST A MOMENT?

16 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

17 MR. WAPNER: YOUR HONOR, WE HAVE DISCUSSED THE MATTER
18 AND WE ARE WILLING TO STIPULATE THAT SHE MAY BE EXCUSED.

19 THE COURT: ALL RIGHT, WE ARE GOING TO EXCUSE YOU VERY
20 RELUCTANTLY, MRS. LEEDS.

21 MS. LEEDS: I AM VERY SORRY. I DIDN'T REALIZE --

22 THE COURT: SO MANY TIMES, THESE TRIALS ARE DELAYED
23 AND DELAYED ANYWAY. YOU WILL BE EXCUSED. BUT I PREDICT THAT
24 YOU WON'T GO TO TRIAL ON THAT DAY EITHER.

25 MS. LEEDS: YOU MEAN --

26 THE COURT: I MEAN ON YOUR OWN CASE.

27 MS. LEEDS: WELL, I HATE TO GET IN THE MIDDLE OF MINE.

28 THE COURT: I UNDERSTAND. JUST BECAUSE THERE IS A

1 POSSIBILITY YOU MIGHT GET TO TRIAL, WE WILL EXCUSE YOU.

2 MS. LEEDS: I AM SORRY.

3 THE COURT: I AM SORRY WE CAN'T HAVE YOU AS A PROSPECTIVE
4 JUROR.

5 MS. LEEDS: GOOD LUCK TO EVERYBODY.

6 (PROSPECTIVE JUROR LEED EXITED THE
7 COURTROOM.)

8 THE BAILIFF: JUDGE, WE HAVE ONE MORE LETTER THEY JUST
9 HIT ME WITH. IT IS MRS. GALSTON. SHE IS OUTSIDE OF THE
10 COURTROOM. ROSE GALSTON.

11 (PROSPECTIVE JUROR GALSTON ENTERED
12 THE COURTROOM.)

13 THE COURT: THEY ARE READING YOUR LETTER FIRST,
14 MRS. GALSTON.

15 MS. GALSTON: OH.

16 THE COURT: WHEN DOES THE SPRING TERM START?

17 MS. GALSTON: FEBRUARY 2ND.

18 MR. BARENS: THE DEFENSE STIPULATES THE JUROR BE EXCUSED.

19 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. THEY WILL
20 STIPULATE TO EXCUSE YOU AND THANK YOU VERY MUCH.

21 MS. GALSTON: OKAY.

22 THE COURT: AND A LOT OF GOOD LUCK TO YOU IN YOUR
23 SCHOOLING.

24 MS. GALSTON: THANK YOU.

25 MAY I HAVE THE LETTER?

26 MR. WAPNER: THE PEOPLE JOIN IN THAT STIPULATION.

27 MS. GALSTON: THANK YOU.

28 MR. WAPNER: YOU ARE WELCOME.

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1 (PROSPECTIVE JUROR GALSTON EXITED THE
2 COURTROOM.)

3 (PROSPECTIVE JUROR JOHN DENT ENTERED
4 THE COURTROOM.)

5 THE COURT: YOUR NAME IS JOHN DENT, IS IT?

6 MR. DENT: YES, IT IS.

7 THE COURT: MR. DENT, WHERE DO YOU LIVE?

8 MR. DENT: I LIVE IN MANHATTAN BEACH.

9 THE COURT: HAVE YOU HEARD ANYTHING AT ALL ABOUT THIS
10 CASE EXCEPT FOR THE FACT IT IS PENDING IN THIS COURT AT THIS
11 TIME?

12 MR. DENT: NO.

13 THE COURT: YOU NEVER READ ANYTHING ABOUT IT OR --

14 MR. DENT: I HAVE NOT.

15 THE COURT: -- OR TALKED TO ANYBODY ABOUT IT?

16 MR. DENT: I AM NOT AWARE OF WHAT THIS CASE IS, NO.

17 THE COURT: IF BY ANY CHANCE IT COMES BACK TO YOUR MIND
18 THAT YOU MIGHT HAVE READ SOMETHING ABOUT THE CASE, YOU WILL
19 TELL US ABOUT IT, WON'T YOU?

20 MR. DENT: CERTAINLY.

21 THE COURT: AS I TOLD THE JURORS WHEN YOU CAME IN
22 YESTERDAY, THE CHARGE AGAINST THE DEFENDANT IS ONE OF MURDER
23 IN THE FIRST DEGREE AND THAT IT WAS COMMITTED DURING THE COURSE
24 OF A ROBBERY.

25 IN THE COURSE OF A ROBBERY HAS SIGNIFICANCE BECAUSE
26 THE LAW IS THAT NOT EVERY MURDER, EVEN IF IT IS PREMEDITATED
27 AND INTENTIONAL AND PLANNED, CALLS FOR THE DEATH PENALTY.
28 IT IS ONLY WHERE THERE ARE CERTAIN SPECIAL CIRCUMSTANCES

1 CONNECTED WITH IT THAT IT QUALIFIES FOR THE DEATH PENALTY;
2 DO YOU UNDERSTAND THAT?

3 MR. DENT: UH-HUH.

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1 MURDER COMMITTED IN THE COURSE OF A ROBBERY IS
2 ONE OF THEM. COMMITTED IN THE COURSE OF A BURGLARY IS ANOTHER.
3 KIDNAPPING WITH MURDER, RAPE AND MURDER OR TORTURE WHERE --
4 OR, A CHILD MOLESTATION WHERE THE CHILD DIES AND MULTIPLE
5 MURDERS AND A NUMBER OF OTHERS OF WHICH THERE ARE 19. THE
6 LEGISLATURE SAYS THEY QUALIFY FOR THE DEATH PENALTY. THIS
7 IS ONE OF THEM.

8 NOW, THE JURORS WILL BE CALLED UPON IN THE FIRST
9 PHASE OF THE TRIAL THAT IS CALLED THE GUILT PHASE TO DETERMINE
10 THE GUILT OR THE INNOCENCE OF THE DEFENDANT. IF THEY FIND
11 HIM GUILTY OF MURDER IN THE FIRST DEGREE, THEN THEY HAVE TO
12 DETERMINE WHETHER OR NOT THAT MURDER WAS COMMITTED IN THE
13 COURSE OF A ROBBERY AND MAKE A FINDING TRUE OR FALSE, THAT
14 IT WAS COMMITTED IN THE OCURSE OF A ROBBERY.

15 IF THEY SAY IT IS TRUE, THAT IS A SPECIAL
16 CIRCUMSTANCE COMMITTED DURING THE COURSE OF A ROBBERY. THEN
17 WE HAVE A SECOND ASPECT OF THE TRIAL. THAT IS THE PENALTY
18 PHASE OF THE TRIAL WHERE BOTH SIDES WILL INTRODUCE ADDITIONAL
19 TESTIMONY WHICH YOU HAVE NOT HEARD BEFORE. AND THE PURPOSE
20 OF ALL OF THAT TESTIMONY IS FOR THE PURPOSE OF HAVING THE JURY
21 CONSIDER VARIOUS ADDITIONAL FACTORS. NOT ONLY WILL YOU
22 CONSIDER THE FACTS THAT YOU HEARD ON THE GUILT PHASE, BUT YOU
23 WILL HEAR TESTIMONY WHICH IS FAVORABLE TO THE DEFENDANT LIKE
24 HIS AGE AND HIS ABSENCE OF ANY CRIMINAL RECORD, HIS BACKGROUND
25 AND HIS CHARACTER, THAT HE LED AN EXEMPLARY LIFE AND ET CETERA
26 AND ET CETERA. THAT WILL BE FAVORABLE TO HIM. ALSO, HIS
27 PHYSICAL AND MENTAL CONDITION.

28 AND THE PROSECUTION -- THOSE WERE CALLED THE

1 MITIGATING CIRCUMSTANCES. THE PROSECUTION WILL ATTEMPT TO
2 SHOW AGGRAVATING CIRCUMSTANCES, TO SHOW THAT THE DEFENDANT
3 IS A BAD MAN AND DESERVES THE ULTIMATE PENALTY. DO YOU UNDER-
4 STAND THAT?

5 MR. DENT: UH-HUH.

6 THE COURT: THE JURY HEARS ALL OF THAT. AFTER THEY HAVE
7 HEARD ALL OF THAT, THEY READJOURN AND SEE IF THEY CAN REACH
8 A DECISION ON THE PENALTY PHASE, SHALL IT BE LIFE WITHOUT
9 POSSIBILITY OF PAROLE OR DEATH.

10 LIFE WITHOUT POSSIBILITY OF PAROLE MEANS EXACTLY
11 THAT, NO PAROLE. HE IS IN PRISON FOR THE REST OF HIS LIFE.
12 DO YOU UNDERSTAND THAT?

13 MR. DENT: YES.

14 MR. WAPNER: IS THAT YES OR NO?

15 THE COURT: PLEASE ANSWER YES OR NO.

16 MR. DENT: YES. I UNDERSTAND.

17 THE COURT: YES. AND YOU MUST FOLLOW ALL OF THE FACTORS
18 THAT THE COURT WILL TELL YOU. AND YOU MUST CONSIDER AND
19 TAKE INTO ACCOUNT AND BE GUIDED BY THOSE FACTORS THAT I HAVE
20 TOLD YOU ON THE PENALTY PHASE OF THE TRIAL.

21 ON THE GUILT PHASE OF THE TRIAL, YOU DON'T LISTEN
22 TO THAT. YOU DON'T PAY ANY ATTENTION OR CONSIDER AT ALL ANY-
23 THING ABOUT THE PENALTY. THAT COMES LATER. ARE YOU WILLING
24 TO ABIDE BY THAT?

25 MR. DENT: YES.

26 THE COURT: THE QUESTIONS THAT ARE GOING TO BE ASKED
27 OF YOU, THAT I WILL ASK YOU AND COUNSEL WILL ASK YOU ARE FOR
28 PURPOSES OF EXPLORING YOUR MIND, YOUR ATTITUDE AND YOUR FEELINGS

1 OR OPINIONS ABOUT THE DEATH PENALTY.

2 FIRST, HOW DO YOU FEEL ABOUT THE DEATH PENALTY?
3 DO YOU BELIEVE IN IT?

4 MR. DENT: NO, I DON'T.

5 THE COURT: DO YOU MEAN BY THAT THAT IF YOU HAD THE
6 CHOICE, YOU WOULD ALWAYS VOTE FOR LIFE WITHOUT POSSIBILITY
7 OF PAROLE IF IT WARRANTED IT?

8 MR. DENT: I WOULD VOTE THAT WAY ON A BALLOT.

9 THE COURT: WHAT DID YOU SAY?

10 MR. DENT: I WOULD VOTE FOR LIFE WITHOUT POSSIBILITY OF
11 PAROLE. I WOULD VOTE AGAINST THE DEATH PENALTY ON A BALLOT.

12 THE COURT: DO YOU REMEMBER WHEN IT WAS ON THE BALLOT?

13 MR. DENT: I WAS NOT REGISTERED TO VOTE YET.

14 THE COURT: YOU WEREN'T OLD ENOUGH?

15 MR. DENT: BUT I AM A FIRM BELIEVER IN THE WILL OF THE
16 PEOPLE. AND IT IS PRETTY OVERWHELMING IN THIS STATE THAT THEY
17 ARE FOR THE DEATH PENALTY. I RESPECT THAT.

18 THE COURT: YES, SURE. BUT YOU DON'T BELIEVE IN IT
19 PERSONALLY, DO YOU? YOU CATEGORICALLY WOULD, UNDER NO
20 CIRCUMSTANCES, VOTE THE DEATH PENALTY, IS THAT CORRECT?

21 MR. DENT: THAT'S CORRECT.

22 THE COURT: NO MATTER HOW HEINOUS THE OFFENSE, NO MATTER
23 HOW TERRIBLE IT IS?

24 MR. DENT: THAT'S CORRECT.

25 MR. BARENS: YOUR HONOR, I BELIEVE THE DEFENSE HAS A
26 RIGHT TO INQUIRE OF THE JUROR.

27 THE COURT: I WILL GIVE YOU THE RIGHT TO DO SO. GO
28 AHEAD.

1 MR. BARENS: BECAUSE I BELIEVE THERE ARE INSTANCES WHERE
2 HE --

3 THE COURT: WELL, ASK HIM.

4 MR. BARENS: WOULD YOUR HONOR FEEL IT UNNECESSARY TO
5 ASK THE QUESTIONS?

6 THE COURT: NO. YOU GO RIGHT AHEAD. I AM NOT RESTRICTING
7 YOU. ASK HIM ANY QUESTIONS YOU WOULD LIKE TO.

8 MR. BARENS: THANK YOU, YOUR HONOR. GOOD MORNING, MR.
9 DENT. I AM ARTHUR BARENS. I REPRESENT THE DEFENDANT, JOE
10 HUNT IN THIS MATTER.

11 MR. DENT, AS HIS HONOR DID, IT IS MY DUTY AT THIS
12 POINT IN THE PROCEEDINGS TO ASK YOU ABOUT YOUR VIEWS ON THE
13 DEATH PENALTY.

14 NOW, BOTH SIDES ARE ENTITLED TO A JUROR WHO IS
15 AS RELATIVELY NEUTRAL AS WE CAN BE. THAT DOESN'T DICTATE A
16 PERSON WHO BELIEVES OR DOES NOT BELIEVE IN THE DEATH PENALTY.

17 THE FACT THAT YOU DON'T BELIEVE IN THE DEATH PENALTY
18 DOES NOT AUTOMATICALLY DISQUALIFY YOU AS A JUROR ON THIS
19 CASE. WHAT WE NEED TO KNOW IS, IF THERE ARE CIRCUMSTANCES
20 UNDER WHICH YOU COULD CONSIDER THE DEATH PENALTY AS A REMEDY?

21 COULD YOU, UNDER SOME CIRCUMSTANCES, FIND THAT
22 THE ONLY APPROPRIATE PENALTY COULD BE THE DEATH PENALTY SO
23 THAT YOU COULD VOTE YOUR CONSCIENCE WITH THE OTHER JURORS,
24 IF THE EVIDENCE SHOWED YOU THAT?

25 MR. DENT: THAT IS A QUESTION I HAVE ASKED MYSELF AND
26 NO. I HAVE NOT -- I HAVE HEARD ALL OF THE ARGUEMNTS AND I
27 READ THE OP ED PAGE IN THE TIMES AND I HAVE NOT BEEN PERSUADED
28 BY ANY ARGUMENTS THAT I HAVE SEEN.

1 MR. BARENS: NOW, WHAT WE ARE TALKING ABOUT HERE IS NOT
2 A PHILOSOPHICAL ISSUE THAT WOULD BE BEFORE YOU. BUT RATHER,
3 IT IS A FACTUAL DECISION BEFORE YOU. BY THE TIME WE GOT TO
4 THIS DETERMINATION, YOU AND THE OTHER JURORS WOULD HAVE
5 CONCLUDED BEYOND A REASONABLE DOUBT THAT A MURDER IN THE FIRST
6 DEGREE, AN INTENTIONAL MURDER HAD OCCURRED AND THAT IT
7 OCCURRED DURING THE COMMISSION OF A ROBBERY.

8 YOU WOULD HAVE ALSO HEARD FACTS ABOUT THE DEFENDANT
9 IN THE PENALTY PHASE, IN AGGRAVATION THAT WOULD TELL YOU THAT
10 HE WAS BAD AND AN UNREDEEMED SOLE.

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1 GIVEN THAT TYPE OF A SITUATION WHICH WOULD INDICATE
2 THAT THE ONLY APPROPRIATE CONDUCT FOR SOCIETY AT THAT POINT
3 AND FOR THE JURY IN ITS DECISION WOULD BE THE DEATH PENALTY --
4 AND WE ARE NOT TALKING ABOUT AS A PHILOSOPHICALLY ACCEPTABLE
5 ITEM -- BUT RATHER AS ONE OF TWO CHOICES, COULD YOU UNDER
6 ANY OF THOSE CIRCUMSTANCES EVER ELECT THAT VOTE?

7 MR. DENT: YES I COULD. THE REASON BEING THAT IS, WELL,
8 LET ME CLARIFY. I COULD SEE MYSELF AS A MEMBER OF A JURY,
9 AS A REPRESENTATIVE OF MY COMMUNITY, KNOWING HOW THE PEOPLE
10 IN THE STATE FEEL ABOUT THE DEATH PENALTY, MAKING A FINDING
11 IN A SITUATION LIKE THAT, WHERE IT SATISFIED THE REQUIREMENTS
12 THAT HAVE BEEN VERY SPECIFICALLY SET OUT BY THE PEOPLE OF THE
13 STATE, AS A SITUATION WHERE SOMEBODY SHOULD BE PUT TO DEATH,
14 YES. I COULD.

15 MR. BARENS: YOU ARE CAPABLE OF THAT?

16 THE COURT: WELL, HAVE YOU FINISHED YOUR ANSWER?

17 MR. DENT: WELL, THE OTHER HALF, IF YOU TOOK THAT OUT
18 OF CONTEXT AND SAID TO ME IN A HYPOTHETICAL SITUATION, HERE
19 IS SOMEBODY WHO HAS DONE THIS, DO YOU THINK HE SHOULD BE
20 PUT TO DEATH, I WOULD SAY NO.

21 MY ARGUMENT FOR THAT IS THAT I SEE THE DEATH
22 PENALTY IN ITSELF AS A TOLERANCE FOR MURDER, WHICH CONTRADICTS
23 WHAT WE ARE PUNISHING SOMEONE FOR.

24 MR. BARENS: MR. DENT, PHILOSOPHICALLY, I QUITE WELL
25 SEE YOUR POINT. AGAIN, I AM EMPHASIZING TO YOU SIR, THE POINT
26 THAT YOU WERE MAKING IN THAT CONTEXT, IF YOU WOULD BE
27 OPERATING AS A JUROR, IS NOT A PHILOSOPHIC ONE. IT IS A
28 FACT ONE, BASED ON FACTS THAT ARE PRESENTING TO YOU BY BOTH

1 SIDES AND THE LAW AS PRESENTED TO YOU BY THE COURT.

2 THE LAW SAYS THAT TO BE A JUROR, TO BE A
3 REPRESENTATIVE OF YOUR COMMUNITY, YOU MUST BE CAPABLE OF VOTING
4 THE DEATH PENALTY IF FACTS INDICATE THAT TO YOU.

5 YOU ARE EQUALLY CAPABLE OF VOTING FOR LIFE WITHOUT
6 THE POSSIBILITY OF PAROLE, IF YOUR CONSCIENCE DEEMED THAT.
7 NOW, I BELIEVE YOU HAVE TOLD ME THAT YOU ARE IN TRUTH AND IN
8 FACT, CAPABLE AS A JUROR, IN THAT LIMITED SCOPE OF YOUR LIFE
9 EXISTENCE, OF VOTING FOR THE DEATH PENALTY AND THE FACTS ALL
10 POINT THAT WAY?

11 MR. DENT: YES I AM.

12 MR. BARENS: THAT IS YOUR CONVICTION, IS IT NOT, MR.
13 DENT?

14 MR. DENT: YES.

15 MR. BARENS: YOU ARE CAPABLE AS A JUROR, AS A MEMBER
16 OF OUR SOCIETY, IF SELECTED AS A JUROR, WITH THAT BEING YOUR
17 JOB, OF VOTING THE DEATH PENALTY IF EVERYTHING POINTED THAT
18 WAY?

19 MR. DENT: YES.

20 MR. BARENS: I THANK YOU FOR THAT.

21 THE COURT: LET ME ASK YOU THEN, SOME QUESTIONS WHICH
22 I HAVE NOT ASKED YOU.

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

26 MR. DENT: NO.

27 THE COURT: NOW, DO YOU REMEMBER I TOLD YOU THAT IF YOU
28 FIND THE DEFENDANT GUILTY OF MURDER IN THE FIRST DEGREE, THEN

1 YOU CAN CONSIDER WHETHER OR NOT IT WAS COMMITTED DURING THE
2 COURSE OF A ROBBERY? THAT IS KNOWN AS SPECIAL CIRCUMSTANCES,
3 THE TRUTH OR FALSITY OF IT. DO YOU HAVE ANY OPINION
4 REGARDING THE DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING
5 AN IMPARTIAL DECISION CONCERNING THE TRUTH OR FALSITY OF THE
6 SPECIAL CIRCUMSTANCES IN THE CASE?

7 MR. DENT: NO.

8 THE COURT: NOW, THESE TWO HAVE TO DO WITH THE PENALTY
9 PHASE OF IT. DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH
10 PENALTY THAT YOU WOULD AUTOMATICALLY VOTE TO IMPOSE THE DEATH
11 PENALTY, REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED IN
12 THE PENALTY PHASE OF THE TRIAL?

13 MR. DENT: NO.

14 THE COURT: THE NEXT QUESTION IS ANOTHER ASPECT OF IT.
15 DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH PENALTY THAT
16 YOU WOULD AUTOMATICALLY VOTE FOR LIFE WITHOUT THE POSSIBILITY
17 OF PAROLE, REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED
18 AT THE PENALTY PHASE OF THE TRIAL?

19 MR. DENT: NO.

20 THE COURT: NOW, YOUR UNDERSTAND OF COURSE, THAT THE
21 ISSUE OF THE DEATH PENALTY MAY OR MAY NOT TAKE PLACE IN THIS
22 CASE, MAY OR MAY NOT OCCUR. THESE QUESTIONS HAVE BEEN ASKED
23 ONLY IN THE EVENT THAT YOU REACH THE PENALTY PHASE OF IT.

24 MR. DENT: YES.

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

26 MR. BARENS: I AM QUITE SATISFIED WITH THE JUROR, YOUR
27 HONOR.

28 THE COURT: ALL RIGHT. MR. WAPNER?

1 MR. WAPNER: GOOD MORNING, MR. DENT. I AM FRED WAPNER,
2 THE DEPUTY DISTRICT ATTORNEY WHO IS PROSECUTING THIS CASE.

3 NOW, HAVING SAID THAT, LOOKING AT ME, DO YOU HAVE
4 ANY BIAS AGAINST ME AS A PROSECUTOR BECAUSE I AM THE ONE WHO
5 IS ASKING FOR THE DEATH PENALTY IN THIS CASE?

6 MR. DENT: NO. OF COURSE NOT.

7 MR. WAPNER: OKAY. THE JUDGE BEGAN TO EXPLAIN TO YOU
8 THAT THERE ARE DIFFERENT PHASES OF THIS TRIAL. DO YOU THINK
9 YOU UNDERSTOOD THAT PART OF IT?

10 MR. DENT: YES.

11 MR. WAPNER: DURING THE GUILT PHASE, YOU ARE NOT ALLOWED
12 TO CONSIDER WHAT THE PUNISHMENT MIGHT BE, IF ANY. DO YOU
13 UNDERSTAND THAT?

14 MR. DENT: YES.

15 MR. WAPNER: AND THAT IS ONLY REASONABLE, THAT A MAN
16 SHOULD BE CONVICTED OR NOT, DEPENDING ON THE FACTS AND THE
17 LAW AND NOT WHAT MIGHT HAPPEN TO HIM.

18 MR. DENT: ABSOLUTELY.

19 MR. WAPNER: OKAY. THEN IF HE IS FOUND GUILTY OF FIRST
20 DEGREE MURDER AND THE SPECIAL CIRCUMSTANCES ARE FOUND TRUE,
21 THAT IS WHEN YOU GET TO THE PENALTY PHASE. DO YOU UNDERSTAND
22 THAT?

23 MR. DENT: YES.

24 MR. WAPNER: WHEN YOU GET TO THE PENALTY PHASE, THE LAW
25 PERMITS CERTAIN DIFFERENT TYPES OF EVIDENCE TO BE INTRODUCED
26 AND THEY CAN BRING IN THE GUILT PHASE.

27 FOR EXAMPLE, YOU MIGHT HEAR IN THE PENALTY PHASE
28 WHETHER OR NOT A PERSON CHARGED WITH -- CONVICTED OF A CRIME,

1 HAS A PRIOR CRIMINAL HISTORY, WHETHER HE DOES OR WHETHER HE
2 DOES NOT.

3 YOU MIGHT HEAR GOOD THINGS ABOUT HIM OR BAD
4 THINGS ABOUT HIM THAT DON'T NECESSARILY BEAR ON HIS GUILT OR
5 INNOCENCE BUT THEY BEAR ON WHAT PUNISHMENT HE SHOULD GET.
6 DO YOU UNDERSTAND THAT?

7 MR. DENT: YES.

8 MR. WAPNER: BUT HAVING HEARD ALL OF THAT, THE JUDGE
9 WILL THEN GIVE YOU THE INSTRUCTIONS ON THE LAW. AND WHAT HE
10 WILL TELL YOU IN ESSENCE, IS THAT YOU CAN CONSIDER ALL OF
11 THE --

12 THE COURT: MUST CONSIDER.

13 MR. WAPNER: YOU MUST CONSIDER ALL OF THE THINGS THAT
14 YOU HAVE HEARD IN MAKING UP YOUR MIND. DO YOU UNDERSTAND?

15 MR. DENT: YES.

16 MR. WAPNER: BUT, HE WON'T GIVE SPECIFIC GUIDELINES AND
17 SAY IF A, B, C AND D ARE MET, THEN CHECK THIS BOX AND THAT
18 MEANS DEATH. AND IF E, F, G AND H ARE MET, CHECK THIS BOX
19 AND THAT MEANS LIFE. DO YOU UNDERSTAND THAT?

20 MR. DENT: YES.

21 MR. WAPNER: SO THAT YOUR JOB AS A JUROR WILL BE TO GO
22 INTO THE JURY ROOM AND DISCUSS THE CASE WITH 11 OTHER PEOPLE.
23 AND HAVING DISCUSSED IT WITH THEM, YOU WILL RENDER YOUR OWN,
24 INDIVIDUAL VERDICT TO WHAT THE PUNISHMENT SHOULD BE. DO YOU
25 UNDERSTAND THAT?

26 MR. DENT: YES.

27 MR. WAPNER: AND NO ONE IS GOING TO TELL YOU EXACTLY
28 HOW YOU HAVE TO DECIDE THE CASE. DO YOU UNDERSTAND THAT?

1 MR. DENT: YES.

2 MR. WAPNER: WHEN YOU GET TO THAT POINT IF YOU DO, THERE
3 WILL ONLY BE TWO CHOICES, LIFE WITHOUT POSSIBILITY OF PAROLE
4 AND DEATH. DO YOU UNDERSTAND?

5 MR. DENT: YES.

6 MR. WAPNER: IF YOU GET TO THAT POINT OF DECIDING WHETHER
7 THE PUNISHMENT IS LIFE OR DEATH, ARE YOU THE KIND OF A PERSON
8 WHO, IF YOU THINK THE EVIDENCE SHOWS THAT THAT IS THE APPROPRIATE
9 PUNISHMENT, THE DEATH PENALTY, CAN YOU VOTE FOR THAT VERDICT?

10 MR. DENT: CERTAINLY.

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1 MR. WAPNER: AND CAN YOU THEN COME INTO THE COURTROOM
2 AND SIT HERE AND RENDER THAT VERDICT?

3 MR. DENT: ABSOLUTELY.

4 MR. WAPNER: ON THE OTHER HAND, IF THE FACTS SHOW TO
5 YOU THAT THE PROPER VERDICT IS LIFE IMPRISONMENT WITHOUT THE
6 POSSIBILITY OF PAROLE, YOU CAN VOTE FOR THAT VERDICT?

7 MR. DENT: YES.

8 MR. WAPNER: BASED ON YOUR FEELINGS ABOUT THE DEATH
9 PENALTY, WITHOUT KNOWING THE FACTS RIGHT NOW, DO YOU THINK
10 YOU ARE BIASED IN FAVOR OF ONE SIDE OR THE OTHER?

11 MR. DENT: NO, I WOULDN'T SAY SO.

12 MR. WAPNER: YOUR FEELINGS ABOUT THE DEATH PENALTY --
13 STRIKE THAT.

14 LET ME ASK YOU WHAT YOU MEANT WHEN YOU MADE THE
15 STATEMENT THAT YOU COULD VOTE FOR THE DEATH PENALTY IF THE
16 CASE MET THE REQUIREMENTS SPECIFICALLY PUT OUT BY THE PEOPLE
17 OF THE STATE OF CALIFORNIA; CAN YOU TELL ME WHAT YOU MEANT
18 BY THAT?

19 MR. DENT: WELL, I GUESS WHAT I WAS MEANING BY THAT
20 IS WHAT YOU LATER ASKED ME ABOUT, DO I UNDERSTAND THE SEPARATION
21 BETWEEN THE GUILT PHASE AND THE PUNISHMENT PHASE? IF THE
22 DEFENDANT WASN'T GUILTY OF THOSE SPECIFIC REQUIREMENTS, IF
23 IT WASN'T A MURDER PERFORMED DURING A ROBBERY, THEN IT
24 WOULDN'T BE RELEVANT ANYWAY, SO I GUESS WHAT I WAS SAYING
25 IN THAT IS THAT THERE IS NO REASON TO WORRY ABOUT IT IF THE
26 FIRST STEP ISN'T TAKEN CARE OF.

27 MR. WAPNER: OKAY. CLEARLY, IN THIS PARTICULAR CASE,
28 THE FINDING OF A MURDER IN THE COURSE OF ROBBERY IS A

1 PREREQUISITE TO GETTING TO THE PENALTY PHASE, YOU UNDERSTAND
2 THAT?

3 MR. DENT: YES.

4 MR. WAPNER: WHAT I WAS TRYING TO EXPLAIN TO YOU BEFORE
5 IS THAT THERE ARE NO SPECIFIC REQUIREMENTS SET OUT BY THE
6 PEOPLE OF THE STATE, ONCE YOU PASS THAT, THE GUILT PHASE.
7 IN OTHER WORDS, NO ONE IS GOING TO TELL YOU THAT THERE ARE
8 CERTAIN CRITERIA THAT IF THESE ARE MET, YOU HAVE TO VOTE ONE
9 WAY --

10 MR. DENT: YES.

11 MR. WAPNER: -- AND IF OTHERS ARE MET, YOU HAVE TO VOTE
12 THE OTHER WAY; DO YOU UNDERSTAND THAT?

13 MR. DENT: YES.

14 PERHAPS I CAN ELABORATE ON WHAT I WAS SAYING BEFORE.

15 MR. WAPNER: OKAY, I WOULD APPRECIATE IT.

16 MR. DENT: ONCE WE GET TO THAT SECOND STAGE, I BELIEVE
17 THAT MITIGATING CIRCUMSTANCES WOULD ABSOLUTELY BE IMPORTANT.

18 WHEN I SAY THAT, AS A REPRESENTATIVE OF THE
19 COMMUNITY, I THINK THAT I NEED TO UPHOLD WHAT THE VOTERS HAVE
20 VOTED FOR. I HAVE TO TAKE WHAT I BELIEVE IS THEIR INTENT
21 AS WELL AS THE LETTER OF WHAT THEY DID, AND I DON'T THINK
22 THAT THE VOTERS OF THE STATE WANT THE DEATH PENALTY ENFORCED
23 ON A BLANKET CIRCUMSTANCE FOR ANYBODY THAT SATISFIED THOSE
24 ORIGINAL REQUIREMENTS.

25 SO THE MITIGATING CIRCUMSTANCES, THE MITIGATING
26 EVIDENCE WOULD BE MORE IMPORTANT THAN THE FIRST HALF.

27 THE FIRST HALF, THE GUILT PHASE IS REALLY JUST
28 A PRELIMINARY AS FAR AS THE DEATH PENALTY IS CONCERNED. IT

3
1 SAYS WHETHER OR NOT WE CAN EVEN CONSIDER IT.

2 THE SECOND HALF --

3 THAT IS WHY I SAY I DON'T REALLY HAVE A BIAS GOING
4 IN. I CAN'T SAY ONE WAY OR THE OTHER HOW I WOULD REACT IN
5 THAT SITUATION. I WOULD HAVE TO HEAR WHAT THOSE CIRCUMSTANCES
6 WERE AND I COULD SEE MYSELF AT THIS POINT GOING EITHER WAY
7 EQUALLY WELL.

8 MR. WAPNER: TWO THINGS: ONE, DO YOU UNDERSTAND THAT
9 IF YOU GET TO THE PENALTY PHASE, AMONG THE THINGS YOU CAN
10 CONSIDER, ARE THE CIRCUMSTANCES OF THE OFFENSE.

11 MR. DENT: YES.

12 MR. WAPNER: SO IN OTHER WORDS, YOU ARE NOT SUPPOSED
13 TO PUT OUT OF YOUR MIND HOW THE CRIME WAS COMMITTED OR UNDER
14 WHAT CIRCUMSTANCES; DO YOU UNDERSTAND THAT?

15 MR. DENT: YES.

16 MR. WAPNER: AND YOU HAVE TO CONSIDER IN THE PENALTY
17 PHASE BOTH MITIGATING AND AGGRAVATING CIRCUMSTANCES.

18 MR. DENT: YES.

19 MR. WAPNER: AND ARE YOU OPEN-MINDED TO LISTENING TO
20 THE AGGRAVATING CIRCUMSTANCES AS WELL AS THE MITIGATING
21 CIRCUMSTANCES?

22 MR. DENT: OH, ABSOLUTELY, ABSOLUTELY. THAT, I THINK,
23 IS PERHAPS THE MOST CRUCIAL THING AND WHY PEOPLE WANT THE
24 DEATH PENALTY IN THE FIRST PLACE. THEY ARE TIRED OF SEEING
25 PEOPLE THAT HAVE BEEN CONVICTED TIME AND TIME AND TIME AGAIN
26 AND ARE CONTINUALLY BACK OUT ON THE STREET AND IN THAT RESPECT,
27 THAT AS AN AGGRAVATING CIRCUMSTANCE, FOR EXAMPLE, WOULD BE
28 EXTREMELY IMPORTANT.

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1 MR. WAPNER: THE OTHER THING, CAN YOU PUT ASIDE YOUR
2 INDIVIDUAL FEELINGS ABOUT THE DEATH PENALTY -- AND I AM
3 SPECIFICALLY NOW TALKING ABOUT YOUR FEELING THAT THE DEATH
4 PENALTY IS ESSENTIALLY STATE SANCTIONED MURDER -- AND VOTE
5 FOR A VERDICT OF THE DEATH PENALTY IF YOU THINK IT IS
6 APPROPRIATE?

7 MR. DENT: YES, ABSOLUTELY.

8 MR. WAPNER: NOTWITHSTANDING YOUR PERSONAL VIEWS ABOUT
9 IT?

10 MR. DENT: NOTWITHSTANDING MY PERSONAL VIEWS.

11 MY JOB ON A JURY WOULD NOT BE TO EXPRESS MY PERSONAL
12 VIEWS. IT WOULD BE TO EXPRESS WHAT I FEEL ARE THE STANDARDS
13 OF THE PEOPLE THAT I LIVE WITH.

14 I AM IN A MINORITY, NOT ONLY WITHIN THE STATE
15 BUT WITHIN MY CIRCLE OF FRIENDS, A VERY SMALL MINORITY AT
16 THAT, AND I KNOW VERY WELL THEIR POSITION AND HOW THEY FEEL.

17 I ALSO KNOW MY OWN POSITION AND BOTH OF THOSE
18 WOULD WORK INTO ANY DECISION THAT I WOULD MAKE.

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1 THE COURT: YOU MEAN THAT DESPITE YOUR PERSONAL FEELINGS
2 ABOUT THE DEATH PENALTY, YOU AS A CITIZEN IF YOU ARE SELECTED
3 AS A JUROR WILL DECIDE THE CASE ON THE MERITS; IS THAT WHAT
4 YOU ARE TELLING US?

5 MR. DENT: YES.

6 MR. WAPNER: HOW LONG HAVE YOU HAD THESE VIEWS ABOUT
7 THE DEATH PENALTY?

8 MR. DENT: I GUESS IT WOULD ROUGHLY GO BACK TO AN
9 ETHICS CLASS THAT I TOOK IN MY JUNIOR YEAR OF HIGH SCHOOL,
10 WHICH WOULD BE ABOUT SEVEN YEARS AGO. IN THAT CLASS WE HAD
11 A WEEK LONG OR SO PROTRACTED DISCUSSION ON THE DEATH PENALTY
12 AND ON ALL OF THE PRO AND CONS. I CAME DOWN ON ONE SIDE.
13 MOST OF THE PEOPLE CAME DOWN ON THE OTHER. I FLIP-FLOPPED
14 ON IT A COUPLE OF TIMES SINCE THEN. BUT FOR THE MOST PART,
15 I HAVE REMAINED ON THE SAME SIDE.

16 MR. WAPNER: AND THE BASIS OF YOUR OPINION IS ESSENTIALLY
17 A MORAL BASIS?

18 MR. DENT: YES, IT IS -- WELL, I SHOULD SAY, THE BASIS
19 IS, BUT IT IS BACKED UP WITH LOTS OF FACTUAL EVIDENCE THAT
20 REINFORCES MY OPINION.

21 MR. WAPNER: SO IT IS MORAL AND POLITICAL, FOR LACK
22 OF A BETTER CATEGORY TO PUT IT IN?

23 MR. DENT: I SUPPOSE YOU COULD CALL IT POLITICAL, YES.

24 MR. WAPNER: LET ME JUST ASK YOU BRIEFLY ABOUT THE
25 PUBLICITY ASPECT OF THIS CASE BECAUSE YOU SAID YOU DIDN'T
26 REALLY KNOW WHAT THIS CASE WAS.

27 DOES THE NAME JOE HUNT OR SOMETHING CALLED THE
28 BILLIONAIRE BOYS CLUB RING A BELL WITH YOU?

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1 MR. DENT: JOE HUNT DOESN'T.

2 BILLIONAIRE BOYS CLUB, I HAVE HEARD SOMEWHERE.
3 I WASN'T AWARE THAT IT WAS CONNECTED WITH A MURDER. I DON'T
4 KNOW WHERE I HAVE HEARD IT.

5 MR. WAPNER: WOULD IT BE --

6 THE COURT: AT ANY RATE, IF IT COMES BACK TO YOU, FORGET
7 ABOUT ANYTHING YOU MIGHT HAVE HEARD AND YOU WILL JUST BE
8 GUIDED BY THE EVIDENCE IN THE CASE, WILL YOU?

9 MR. DENT: YES, I WOULD CERTAINLY SAY SO.

10 MR. WAPNER: CAN YOU DO US A FAVOR, WE HAVE SOME MORE
11 QUESTIONS FOR YOU ON THE STATE OF THE JURY SELECTION PROCESS
12 AND SOME OF THOSE QUESTIONS MIGHT HAVE TO DO WITH WHETHER
13 OR NOT YOU KNOW ANY OF THE PEOPLE INVOLVED IN THIS CASE OR
14 ABOUT ANY OF THE ORGANIZATIONS INVOLVED, SO IF BETWEEN NOW
15 AND THEN YOU COULD GIVE SOME THOUGHT TO WHETHER OR NOT THIS
16 BILLIONAIRE BOYS CLUB IS SOMETHING YOU READ ABOUT OR
17 SOMETHING YOU KNEW ABOUT FROM YOUR OWN LIFE, WE MAY HAVE SOME
18 MORE QUESTIONS ABOUT THAT LATER.

19 MR. DENT: CERTAINLY.

20 MR. WAPNER: THANK YOU.

21 THE COURT: PASS FOR CAUSE?

22 MR. WAPNER: YES.

23 THE COURT: ALL RIGHT, BOTH SIDES HAVE PASSED FOR CAUSE.
24 WHAT THAT MEANS IS YOU QUALIFY AS A PROSPECTIVE JUROR IN THIS
25 CASE. AS YOU KNOW, ALL OF THE JURORS WHO HAVE QUALIFIED AND
26 HAVE COME IN, I HAVE TOLD THEM TO COME BACK ON NEXT WEDNESDAY,
27 BY WHICH TIME WE WILL HAVE EXHAUSTED THIS NEW LIST OF JURORS,
28 WHOM WE ARE QUESTIONING THE SAME WAY WE ARE QUESTIONING YOU.

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1 WE WANT TO GET A SUFFICIENT NUMBER OF JURORS TOGETHER SO WE
2 CAN START THE TRIAL. I WILL ASK YOU TO COME BACK A WEEK FROM
3 NEXT WEDNESDAY, I THINK THAT IS THE 10TH OF DECEMBER AT 10:30
4 A.M. AND GO TO THE JURY ASSEMBLY ROOM AND WAIT THERE AND WE
5 WILL GET YOU BACK IN HERE.

6 MR. DENT: THANK YOU, YOUR HONOR.

7 THE COURT: HOPEFULLY. THANK YOU VERY MUCH.

8 MR. DENT: THANK YOU, YOUR HONOR.

9 (PROSPECTIVE JUROR DENT EXITED THE
10 COURTROOM.)

11 MR. BARENS: YOUR HONOR, COULD I BE HEARD BEFORE THE
12 NEXT JUROR COMES IN?

13 (PROSPECTIVE JUROR BRYANT-PURVEY ENTERS
14 COURTROOM.)

15 THE COURT: SHE IS NOT THE NEXT JUROR. SHE IS ANOTHER
16 ONE THAT WANTS TO BE EXCUSED. SHE IS ANOTHER ONE THAT WANTS
17 TO BE EXCUSED. SHE HAS ALREADY BEEN ACCEPTED.

18 MR. BARENS: IF I COULD BE HEARD PRIOR TO THE NEXT ONE.

19 THE COURT: YES, SURELY.

20 GOOD MORNING, MRS. BRYANT-PURVEY.

21 MS. BRYANT-PURVEY: GOOD MORNING.

22 THE COURT: I UNDERSTAND, UNFORTUNATELY, YOU HAVE SOME
23 PROBLEM WITH AN EYE; IS THAT RIGHT?

24 MS. BRYANT-PURVEY: YES. ABOUT SIX MONTHS AGO, I HAD
25 BELLS PALSY.

26 THE COURT: DID YOU REALLY?

27 MS. BRYANT-PURVEY: ON THE SIDE OF MY FACE AND I HAVEN'T
28 HAD ANY RECURRENCE UNTIL AFTER THE INTERVIEW AND MY EYE STARTED

1 TO CLOSE AND I STARTED HAVING REAL BAD HEADACHES ON THIS SIDE.

2 THE COURT: DID YOU SEE THE DOCTOR?

3 MS. BRYANT-PURVEY: I WENT TO THE DOCTOR YESTERDAY AND
4 THEY DON'T KNOW WHAT CAUSED IT.

5 THE COURT: WHAT DID THEY TELL YOU ABOUT?

6 MS. BRYANT-PURVEY: HE DIDN'T KNOW WHAT TO SAY. HE
7 SAID IT COULD BE FROM THE STRESS OF --

8 THE COURT: STRESS OF WHAT?

9 MS. BRYANT-PURVEY: OF THE CASE, BECAUSE I HADN'T HAD
10 ANY TROUBLE WITH IT UNTIL --

11 THE COURT: AND DO YOU THINK IT WILL AGGRAVATE THE
12 CONDITION IF YOU ARE A JUROR ON THIS CASE?

13 MS. BRYANT-PURVEY: I AM AFRAID OF IT RECURRING.

14 MR. BARENS: THE DEFENSE REGRETFULLY STIPULATES, YOUR
15 HONOR.

16 MR. WAPNER: I WILL STIPULATE SHE MAY BE EXCUSED.

17 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. YOU WILL
18 BE EXCUSED.

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1 MR. BARENS: YOUR HONOR, THE DEFENSE MOST RESPECTFULLY
2 REQUESTS THAT YOUR HONOR ASK THE QUESTIONS YOU HAVE BEEN ASKING
3 SINCE THE BEGINNING OF THE TRIAL AND NOT INQUIRE MORE
4 SPECIFICALLY THAN THAT INTO THE JUROR'S VIEWS ON THE DEATH
5 PENALTY.

6 THE COURT: DO YOU WANT ME TO BE A SPECTATOR OR A
7 BYSTANDER?

8 MR. BARENS: NOT AT ALL.

9 THE COURT: IT IS MY JOB TO FIND OUT ABOUT THE JUROR
10 AND ASK THEM QUESTIONS. I AM NOT LIMITED TO JUST THOSE
11 QUESTIONS.

12 MR. BARENS: I UNDERSTAND THAT.

13 THE COURT: I PERMITTED YOU AND YOUR COLLEAGUE ALMOST
14 COMPLETE DISCRETION AS TO WHAT TO SAY AND HOW TO QUESTION
15 THE JURORS. IF I HAVE A QUESTION TO ASK, I WILL ASK IT.

16 MR. BARENS: YOUR HONOR, QUITE SO. MY QUESTION REALLY
17 GOES TO THE SEQUENCING, HERE.

18 FOR INSTANCE YOUR HONOR, WHEN THAT OCCURRED WITH
19 THE LAST JUROR, I FELT AS THOUGH I WAS IN A HOLE TO BEGIN
20 WITH, WITH THAT JUROR BEFORE I HAD ASKED HIM ANY QUESTIONS.

21 NOW, IF YOUR HONOR FEELS THAT THAT IS APPROPRIATE,
22 I WILL DEFER TO YOUR JUDGMENT. I AM NOT LOOKING TO RESTRICT
23 THE COURT.

24 THE COURT: YOU WANT ME TO ASK THE OTHER QUESTIONS?
25 ALL RIGHT. I THOUGHT I WOULD JUST BE SAVING TIME.

26 MR. BARENS: I APPRECIATE THAT. BUT I TOTALLY UNDERSTAND
27 AND AGREE WITH YOUR HONOR'S ABSOLUTE RIGHT TO ASK THOSE
28 QUESTIONS.

1 THE COURT: I WILL GO WITH THE WAY WE HAVE BEEN DOING
2 IT. I THOUGHT WE COULD SHORT CUT IT.

3 MR. BARENS: THANK YOU.

4 THE COURT: GET THE NEXT ONE IN.

5 (PROSPECTIVE JUROR DIPAOLA ENTERED THE
6 COURTROOM.)

7 THE COURT: GOOD MORNING, MR. DIPAOLA.

8 MR. DIPAOLA: GOOD MORNING.

9 THE COURT: WHERE DO YOU LIVE?

10 MR. DIPAOLA: WOODLAND HILLS.

11 THE COURT: AND HAVE YOU EVER READ OR HEARD ANYTHING
12 ABOUT THIS CASE OR DO YOU KNOW ANYTHING ABOUT IT EXCEPT WHAT
13 I TOLD YOU THE OTHER DAY?

14 MR. DIPAOLA: I DON'T KNOW WHAT THE CASE IS, SHORT OF
15 WHAT YOU TOLD ME THE OTHER DAY.

16 THE COURT: IF BY ANY CHANCE AS TIME GOES ON, IF YOU
17 KNOW ANYTHING ABOUT IT, JUST CALL IT TO OUR ATTENTION. WILL
18 YOU, AT ANY TIME?

19 MR. DIPAOLA: YES.

20 THE COURT: ALL RIGHT. I DID TELL YOU THAT THE
21 DEFENDANT IS CHARGED WITH THE CRIME OF MURDER AND THE MURDER
22 IS IN THE FIRST DEGREE AND IT WAS COMMITTED IN THE COURSE
23 OF A ROBBERY.

24 IN THE COURSE OF A ROBBERY HAS SOME SPECIAL
25 SIGNIFICANCE BECAUSE THAT WOULD QUALIFY THIS CASE FOR A POSSIBLE
26 DEATH PENALTY. DO YOU UNDERSTAND THAT? BY DEATH PENALTY,
27 IT CONSISTS OF ONE OF TWO THINGS.

28 IN THE DEATH PENALTY PHASE, THE JURY DECIDES

1 WHETHER IT SHOULD BE LIFE WITHOUT POSSIBILITY OF PAROLE OR
2 DEATH. DO YOU UNDERSTAND THAT?

3 NOW, THE LEGISLATURE HAS SAID AND THE LAW IS THAT
4 THERE ARE CERTAIN TYPES OF MURDER IN THE FIRST DEGREE WHERE
5 IT IS PERMITTED -- WHERE IT IS DELIBERATE AND PLANNED AND
6 JUST BY ITSELF IT DOESN'T CALL FOR THE DEATH PENALTY.

7 ONLY THOSE MURDERS OF THAT KIND WHICH ARE
8 ACCOMPANIED -- WHERE THERE ARE SPECIAL CIRCUMSTANCES ATTENDING
9 IT, LIKE IN THIS CASE, A MURDER COMMITTED DURING THE COURSE
10 OF A ROBBERY, A MURDER COMMITTED DURING THE COURSE OF A
11 BURGLARY OR A RAPE OR A KIDNAPPING OR WHERE A CHILD IS
12 INVOLVED, A MOLESTATION AND THE CHILD DIES, MULTIPLE MURDERS,
13 TORTURE AND THERE ARE 19 OF THEM WHERE THE LEGISLATURE HAS
14 SAID THAT IN THOSE PARTICULAR CASES, THERE ARE SPECIAL
15 CIRCUMSTANCES. THOSE QUALIFY FOR A POSSIBLE DEATH PENALTY.
16 RIGHT?

17 NOW, SO THE FIRST JOB THAT THE JUROR HAS TO
18 DETERMINE IF THE JURY IS SELECTED IN THE CASE, IS TO DETERMINE
19 THE GUILT OR INNOCENCE OF THE DEFENDANT. IF THEY FIND THE
20 DEFENDANT GUILTY OF MURDER IN THE FIRST DEGREE, YOU HAVE TO
21 THEN ANSWER THE FOLLOWING QUESTIONS, IS IT TRUE OR IS IT FALSE
22 THAT THE MURDER WAS COMMITTED IN THE COURSE OF A ROBBERY?

23 IF THEY ANSWER THAT YES, THEN THAT SAME JURY HEARS
24 ADDITIONAL TESTIMONY. THEY CALL THAT THE PENALTY PHASE. THE
25 FIRST ONE WAS THE GUILT PHASE. THE NEXT ONE IS THE PENALTY
26 PHASE WHERE THE DEFENSE AND THE PROSECUTION WILL OFFER AND
27 INTRODUCE EVIDENCE.

28 THE PURPOSE OF THAT EVIDENCE ON BEHALF OF THE

1 DEFENDANT IS TO SHOW FAVORABLE THINGS ABOUT HIM, HIS BACKGROUND,
2 HIS AGE, HIS CHARACTER, WHETHER OR NOT HE HAS ANY PRIOR
3 CRIMINAL RECORD AND THINGS OF THAT KIND.

4 THE PROSECUTION WILL OFFER AGGRAVATING
5 CIRCUMSTANCES TO SHOW THAT HE IS A BAD MAN AND THE THINGS
6 HE HAS DONE IN THE PAST WHICH MERIT NO CONSIDERATION OR
7 MITIGATION OF THE OFFENSE WHICH HE COMMITTED, OF WHICH THE
8 JURY FOUND HIM GUILTY.

9 IT IS ONLY WHEN YOU HEAR ON THE PENALTY PHASE,
10 ALL OF THE TESTIMONY, THAT THE JURY RETIRES TO THE JURY ROOM
11 AND THEY CONSIDER WHETHER OR NOT IT WARRANTS LIFE WITHOUT
12 THE POSSIBILITY OF PAROLE OR THE DEATH PENALTY. DO YOU
13 UNDERSTAND THAT?

14 MR. DIPAOLA: YES.

15 THE COURT: GOOD. NOW, ON THE GUILT PHASE OF THE TRIAL,
16 THE JURY DOESN'T CONSIDER THE QUESTION OF PENALTY. THEY ARE
17 COMPLETELY HAVING IT OUT OF THEIR MINDS AND ARE NOT ALLOWED
18 TO CONSIDER THAT. ALL THEY CONSIDER IS WHETHER OR NOT THE
19 DEFENDANT DID OR DID NOT COMMIT THAT PARTICULAR MURDER. DO
20 YOU UNDERSTAND THOSE CIRCUMSTANCES?

21 AND WHEN WE TALK ABOUT LIFE WITHOUT POSSIBILITY
22 OF PAROLE, WE MEAN EXACTLY THAT. THERE IS NO POSSIBILITY
23 OF PAROLE. HE SERVES HIS LIFE, HIS WHOLE LIFE. ALL RIGHT?

24 NOW, WITH THAT INTRODUCTION, I AM GOING TO ASK
25 YOU A NUMBER OF QUESTIONS WHICH ARE DESIGNED TO EXPLORE YOUR
26 STATE OF MIND AND YOUR FEELINGS OR OPINION WITH RESPECT TO
27 THE DEATH PENALTY.

28 NOW, ON THE FIRST PHASE WHICH IS THE GUILT PHASE,

1 THERE ARE TWO QUESTIONS I WILL ASK YOU. THEY ARE AS FOLLOWS:

2 DO YOU HAVE ANY OPINION ABOUT THE DEATH PENALTY
3 OF ANY KIND WHATEVER IT MAY BE, THAT WOULD CAUSE YOU IN ANY
4 WAY NOT TO BE IMPARTIAL IN DETERMINING THE GUILT OR INNOCENCE
5 OF THE DEFENDANT?

6 MR. DIPAOLA: I CAN THINK OF NOTHING THAT WOULD MAKE
7 ME PARTICULARLY PARTIAL ONE WAY OR THE OTHER.

8 THE COURT: SO YOUR ANSWER IS NO, THAT YOUR IDEAS
9 WHATEVER THEY ARE, YOUR FEELINGS ABOUT THE DEATH PENALTY,
10 WON'T PREVENT YOU FROM DETERMINING THE MERITS OF THE GUILT
11 OR INNOCENCE OF THE DEFENDANT? IS THAT CORRECT?

12 MR. DIPAOLA: THAT'S RIGHT.

13 THE COURT: NOW, THE SECOND QUESTION IS ALSO ON THAT
14 PHASE. I TOLD YOU THAT THE JURY, IF THEY FIND THE DEFENDANT
15 GUILTY OF MURDER IN THE FIRST DEGREE, THEY HAVE TO DECIDE
16 WHETHER OR NOT IT WAS COMMITTED UNDER SPECIAL CIRCUMSTANCES,
17 IN OTHER WORDS, THAT IT WAS IN THE COURSE OF A ROBBERY.

18 SO, YOU ANSWER TRUE OR FALSE, WHEN THE QUESTION
19 IS ASKED OF YOU. NOW, DO YOU HAVE ANY OPINION WHATEVER IT
20 MAY BE REGARDING THE DEATH PENALTY, WHICH WILL PREVENT YOU
21 FROM MAKING AN IMPARTIAL DECISION CONCERNING THE TRUTH OR
22 FALSITY OF THE SPECIAL CIRCUMSTANCES?

23 MR. DIPAOLA: NO.

24 THE COURT: OKAY. NOW, THE NEXT TWO QUESTIONS HAVE
25 TO DO WITH THE PENALTY ASPECTS. DO YOU HAVE SUCH AN OPINION
26 CONCERNING THE DEATH PENALTY THAT YOU WOULD AUTOMATICALLY
27 VOTE TO IMPOSE THE DEATH PENALTY, REGARDLESS OF ANY EVIDENCE
28 THAT MAY BE PRESENTED IN THE PENALTY PHASE OF THE TRIAL?

29 MR. DIPAOLA: NO.

1 THE COURT: THE NEXT ONE IS ABOUT THE SAME ONLY IT
2 APPLIES TO LIFE WITHOUT POSSIBILITY OF PAROLE. DO YOU HAVE
3 SUCH AN OPINION CONCERNING THE DEATH PENALTY THAT YOU WOULD
4 AUTOMATICALLY VOTE FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE
5 REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY
6 PHASE OF THE TRIAL?

7 MR. DIPAOLO: NO.

8 THE COURT: NOW, THE LAST QUESTION IS: DO YOU UNDER-
9 STAND THAT THE ISSUE OF THE DEATH PENALTY MAY OR MAY NOT
10 OCCUR IN THIS CASE AND THAT THESE QUESTIONS HAVE BEEN ASKED
11 ONLY IN THE EVENT THAT YOU REACH THAT PHASE OF THE TRIAL?

12 MR. DIPAOLO: YES. I UNDERSTAND.

13 THE COURT: ALL RIGHT.

14 MR. BARENS: THANK YOU, YOUR HONOR. GOOD MORNING, SIR.
15 I AM ARTHUR BARENS. I REPRESENT THE DEFENDANT, JOE HUNT. AS
16 HIS HONOR DID, I AM GOING TO ASK YOU SOME QUESTIONS BECAUSE
17 IT IS MY DUTY TO, ABOUT YOUR POINT OF VIEW ON THE DEATH
18 PENALTY, TO SEE IF YOU QUALIFY AS A JUROR ON THIS CASE.

19 THERE ARE NO RIGHT OR WRONG ANSWERS TO MY QUESTIONS.
20 THERE ARE NO GOOD OR BAD ANSWERS, JUST YOUR OPINION, SIR.

21 AS A GENERAL PRINCIPLE, HOW DO YOU FEEL ABOUT THE
22 CONCEPT OF THE DEATH PENALTY IN OUR SOCIETY?

23 MR. DIPAOLO: I THINK GENERALLY THAT CERTAINLY, THERE
24 HAS BEEN TALK FOR SEVERAL YEARS. BUT THAT THERE ARE ONLY VERY
25 RARE CIRCUMSTANCES THAT IT MAY BE APPROPRIATE FOR. THAT IS
26 MY GENERAL FEELING.

27 MR. BARENS: RARE BUT NECESSARY ON SOME OCCASIONS?

28 MR. DIPAOLO: YES.

1 MR. BARENS: AFTER HEARING ALL OF THE EVIDENCE -- STRIKE
2 THAT.

3 BOTH THE PEOPLE AND THE DEFENSE ARE ENTITLED TO
4 AS NEARLY NEUTRAL A JUROR AS WE CAN. BY THAT, WE MEAN A
5 JUROR WHO COULD, AFTER HEARING THE EVIDENCE, VOTE GUILTY OR
6 NOT GUILTY AND A JUROR WHO COULD VOTE FOR THE DEATH PENALTY
7 OR VOTE FOR LIFE WITHOUT POSSIBILITY OF PAROLE, DEPENDING UPON
8 WHAT THEIR CONSCIENCE TOLD THEM AFTER HEARING ALL OF THE
9 EVIDENCE DURING THE PENALTY PHASE.

10 DO YOU FEEL THAT YOU WOULD BE CAPABLE OF VOTING
11 EITHER DEATH OR LIFE WITHOUT POSSIBILITY OF PAROLE, DEPENDING
12 UPON ALL OF THE EVIDENCE AFTER YOU HAVE HEARD IT?

13 MR. DIPAOLA: YES.

14 MR. BARENS: AND COULD YOU BE FAIR TO BOTH SIDES IN
15 LISTENING TO ALL OF THAT EVIDENCE?

16 MR. DIPAOLA: I BELIEVE SO.

17 MR. BARENS: NOW, YOU UNDERSTAND THAT LIFE WITHOUT
18 POSSIBILITY OF PAROLE MEANS PRECISELY THAT? I DON'T RECALL
19 YOUR --

20 THE COURT: I ASKED HIM THAT. I TOLD HIM THAT. DIDN'T
21 I?

22 MR. DIPAOLA: YES.

23 MR. BARENS: IN THAT LITERAL SENSE SIR, IT MEANS THAT
24 THERE WILL NEVER BE A POSSIBILITY OF PAROLE. IT IS NOT
25 SOMETHING WHICH I JUST TELL YOU AND WHICH HIS HONOR TELLS YOU.
26 IT IS ABSOLUTELY THE CASE.

27 MR. DIPAOLA: I UNDERSTAND THAT.

28 MR. BARENS: DO YOU BELIEVE IN A PHILOSOPHY OF AN EYE

1 FOR AN EYE OR A LIFE FOR A LIFE OR WOULD IT DEPEND UPON THE
2 FACTS YOU HEARD IN THE CASE?

3 MR. DIPAOLA: I THINK IT DEPENDS MORE ON THE FACTS.
4 I THINK PEOPLE CAN CHANGE UNDER CERTAIN CIRCUMSTANCES.

5 MR. BARENS: AND YOU WON'T AUTOMATICALLY VOTE FOR THE
6 DEATH PENALTY ON ANYONE? IT WOULD DEPEND ON THE FACTS THAT
7 WERE PRESENTED?

8 MR. DIPAOLA: IT WOULD DEPEND ON THE OVERALL FACTS, YES.

9 MR. BARENS: THANK YOU.

10 THE COURT: ALL RIGHT. DO YOU PASS FOR CAUSE?

11 MR. BARENS: I PASS FOR CAUSE.

12 MR. WAPNER: GOOD MORNING, MR. DIPAOLA. I AM FRED
13 WAPNER, THE DEPUTY DISTRICT ATTORNEY PROSECUTING THIS CASE.

14 MR. DIPAOLA: GOOD MORNING.

15 MR. WAPNER: CAN YOU EXPLAIN TO ME YOUR STATEMENT THAT
16 THE DEATH PENALTY IS APPROPRIATE ONLY IN VERY RARE CIRCUMSTANCES?

17 MR. DIPAOLA: I DON'T BELIEVE IT IS A THING YOU CAN JUST
18 DO CASUALLY. I BELIEVE THAT WHEN IT IS VERY CLEAR THAT THE
19 THINGS THE PERSON HAS DONE -- WAS PROVED TO HAVE DONE, BEGIN
20 TO ROB SOCIETY OF ITS BASIC VALUE SET, THAT PERHAPS THAT PERSON
21 HAS NO VALUE TO SOCIETY ANY LONGER AND POSSIBLY SHOULD NO
22 LONGER BE A PART OF IT.

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1 MR. WAPNER: DO YOU HAVE ANYTHING IN MIND SPECIFICALLY
2 WHEN YOU SAY THAT?

3 MR. DIPAOLO: WELL, AS I LISTENED TO THE JUDGE WHEN
4 HE TALKED ABOUT THE SPECIAL CIRCUMSTANCES, SOME OF THOSE
5 PARTICULARLY I CAN UNDERSTAND WHY THEY WERE SET UP AS SPECIAL
6 CIRCUMSTANCES: CHILDREN, FOR EXAMPLE, MULTIPLE BRUTALITY,
7 ET CETERA, I CAN UNDERSTAND WHY THOSE PARTICULAR SITUATIONS
8 WERE ESTABLISHED SO I CAN SEE THAT CIRCUMSTANCES LIKE THAT,
9 I FEEL VERY STRONGLY THAT IT MIGHT BE THE APPROPRIATE RESULT.

10 MR. WAPNER: WHAT ABOUT IN A CASE SUCH AS LIKE THIS
11 WHERE THE SPECIAL CIRCUMSTANCE IS MURDER IN THE COURSE OF
12 A ROBBERY, DO YOU THINK THAT THAT IS APPROPRIATELY IN THE
13 CATEGORY WITH THE OTHERS THE JUDGE READ OR DO YOU THINK THAT
14 IN YOUR OWN MIND IF YOU HAD TO MAKE UP THE CATEGORIES, YOU
15 WOULDN'T HAVE PUT IT IN THAT GROUP?

16 MR. BARENS: I AM GOING TO OBJECT TO THAT AS NOT BEING
17 A RELEVANT QUESTION, YOUR HONOR.

18 THE FACT OF THE MATTER IS THE STATE LEGISLATURE
19 SAID IT IS IN THE GROUP. THE LAW IS IMPOSED ON THE JURY BY
20 THE JUDGE.

21 THE COURT: YES.

22 MR. WAPNER: WHAT I AM TRYING TO FIND OUT IS WHAT HIS
23 PERSONAL FEELING IS ABOUT IT.

24 THE COURT: DO I UNDERSTAND YOU TO SAY THAT YOU WOULD
25 BE INCLINED TO VOTE A DEATH PENALTY IF THE CIRCUMSTANCES WERE
26 EXISTING IN THESE OTHER CASES, MURDER DURING THE COURSE OF
27 CHILD MOLESTATION OR IN THE CASE OF A RAPE OR A KIDNAPPING,
28 MORE THAN IN THE CASE OF A MURDER COMMITTED DURING THE COURSE

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1 OF A ROBBERY OR WOULD YOU CONSIDER ALL OF THE CIRCUMSTANCES?

2 MR. DIPAOLA: IT SEEMS TO ME, YOU KNOW, I AM NOT RULING
3 OUT IN THE CASE OF -- THOSE ARE JUST ONES THAT WOULD BE MORE
4 PERSONALLY AFFECTING, I THINK.

5 ROBBERY CERTAINLY COULD BE, YOU KNOW, A SITUATION
6 WHERE IT WOULD BE APPROPRIATE BUT THE OTHER ONES JUST ARE
7 CLOSER TO ME.

8 I MEAN I CAN PICTURE MY CHILD, FOR EXAMPLE, BUT
9 I DON'T SEE ROBBERIES VERY OFTEN SO I AM NOT REALLY CLOSE
10 TO IT, IF YOU WILL.

11 MR. WAPNER: I THINK WHAT THE JUDGE WAS GETTING AT,
12 ARE YOU RULING OUT THE POSSIBILITY OF IMPOSING THE DEATH PENALTY
13 IN A CASE THAT INVOLVES A MURDER IN THE COURSE OF ROBBERY?

14 MR. DIPAOLA: NO. IT JUST DEPENDS ON THE CIRCUMSTANCES.

15 MR. WAPNER: YOU UNDERSTAND THAT THERE CAN BE ALL KINDS
16 OF DIFFERENT FACTUAL SETTINGS THAT COULD INVOLVE MURDERS IN
17 THE COURSE OF A ROBBERY.

18 MR. DIPAOLA: IF IT IS THE THIRD TIME THAT THEY SHOT
19 PEOPLE ON PREVIOUS OCCASIONS, I MEAN IF IT SEEMED CLEAR --

20 I DON'T KNOW ANYTHING ABOUT THE CASE SO I DON'T
21 KNOW ANYTHING.

22 MR. WAPNER: I UNDERSTAND.

23 MR. DIPAOLA: I DON'T KNOW ANYTHING ABOUT WHAT THE
24 SITUATION WOULD BE.

25 BUT THERE WOULD BE SITUATIONS THAT IT WOULD BE
26 CLEAR THAT HERE IS A PERSON THAT ISN'T BENEFITING SOCIETY
27 IN THE LONG RUN, HAS HURT A LOT OF OTHER PEOPLE AND MEANS
28 TO HURT PEOPLE AGAIN.

1 MR. WAPNER: DO YOU UNDERSTAND THAT IF YOU ARE SELECTED
2 AS A JUROR IN THIS CASE THAT ULTIMATELY WHAT YOUR JOB MAY
3 COME DOWN TO IS MAKING A DECISION AS TO WHETHER THIS DEFENDANT
4 SHOULD LIVE OR WHETHER HE SHOULD DIE?

5 MR. DIPAOLA: YES.

6 MR. WAPNER: DO YOU THINK YOU ARE CAPABLE OF MAKING
7 THAT DECISION?

8 MR. DIPAOLA: YES.

9 MR. WAPNER: DO YOU HAVE ANY RESERVATIONS ABOUT IT?

10 MR. DIPAOLA: NO.

11 MR. WAPNER: AS YOU SIT THERE NOW, WITHOUT KNOWING THE
12 FACTS, JUST EXAMINING YOURSELF, ARE THERE ANY BIASES OR
13 PREJUDICES YOU MAY HAVE THAT YOU TEND TO FAVOR ONE SIDE OR
14 THE OTHER IN THIS CASE?

15 MR. DIPAOLA: I DON'T HAVE A SENSE AT ALL OF ANY BIAS
16 RIGHT NOW.

17 MR. WAPNER: OKAY. I JUST WANT TO EXPAND A LITTLE BIT
18 ON WHAT THE JUDGE SAID ABOUT THE PUBLICITY.

19 DOES THE NAME JOE HUNT OR THE NAME BILLIONAIRE
20 BOYS CLUB RING A BELL WITH YOU?

21 MR. DIPAOLA: IF IT IS THERE, IT IS REALLY FAR AWAY.
22 I HAVE VERY LITTLE KNOWLEDGE, IF ANY. IN FACT, I HAD HEARD
23 THE NAME AND THAT IS IT.

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1 MR. WAPNER: WHICH NAME WAS THAT?

2 MR. DIPAOLO: SOMETHING ABOUT BILLIONAIRES BOY CLUB AND
3 THAT IS --

4 IF YOU ASKED ME ON THE STREET, WHAT WAS MY
5 PERSPECTIVE ON IT, I WOULD SAY I DON'T KNOW AND THAT IS PRETTY
6 MUCH WHERE IT IS AT.

7 MR. WAPNER: OKAY. DO YOU RECALL WHERE YOU MIGHT HAVE
8 HEARD THAT?

9 MR. DIPAOLO: I THINK I DID HEAR SOMEONE IN THE JURY
10 ROOM SAYING, "I THINK THEY ARE INTERVIEWING PEOPLE FOR A
11 COUPLE OF DIFFERENT CASES" AND THIS WAS SOMEBODY'S SPECULATION
12 AND I DIDN'T ASK ANY FURTHER.

13 AND I CAN'T EVEN REMEMBER EVEN HEARING ABOUT IT
14 PRIOR TO THAT EVEN.

15 MR. WAPNER: WOULD THAT BE THIS MORNING IN THE JURY
16 ROOM?

17 MR. DIPAOLO: NO.

18 THIS WAS MONDAY, I BELIEVE.

19 MR. WAPNER: THANK YOU. PASS FOR CAUSE, YOUR HONOR.

20 THE COURT: ALL RIGHT, MR. DIPAOLO, YOU QUALIFY AS A
21 PROSPECTIVE JUROR IN THIS CASE.

22 NOW WHAT I WILL ASK YOU TO DO IS TO COME BACK NEXT
23 WEDNESDAY, THAT WILL BE THE 10TH, NEXT WEDNESDAY, THE 10TH
24 AND GO TO THE JURY ASSEMBLY ROOM AT 10:30 IN THE MORNING AND
25 THEN BY THAT TIME, WE WILL HAVE GONE THROUGH ALL OF THIS
26 PROCESS AND WE WILL BE READY TO START THE TRIAL, ALL RIGHT?

27 MR. DIPAOLO: THANK YOU.

28 THE COURT: THANK YOU VERY MUCH.

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(PROSPECTIVE JUROR DIPAOLA EXITS THE
COURTROOM.)
(PROCEEDINGS REPORTED BUT NOT TRANSCRIBED
AT THE ORDER OF THE COURT. NOTES SEALED.)

1 (THE PRIOR GAG ORDER HAVING BEEN RESCINDED
2 THE FOLLOWING PROCEEDINGS ARE NOW INCLUDED
3 IN THE RECORD:)

4 (THE FOLLOWING IN CAMERA HEARING WAS HELD
5 IN OPEN COURT WITH COUNSEL AND BARRY
6 GREENHALGH, ESQ., BEING PRESENT:)

7 THE COURT: GOOD MORNING.

8 MR. GREENHALGH: GOOD MORNING, YOUR HONOR. BARRY
9 GREENHALGH APPEARING IN THE COURT AT THE REQUEST OF MR. WAPNER.

10 THE COURT: ALL RIGHT, HOLD IT A MINUTE, WILL YOU PLEASE.

11 WHAT IS HE HERE FOR?

12 MR. BARENS: THE INFORMATION THAT WAS SUBJECT TO
13 THE GAG ORDER, YOUR HONOR.

14 THE COURT: YES, YES.

15 MR. BARENS: HE REPRESENTS MR. PITTMAN, IF YOU UNDERSTAND.

16 THE COURT: YES, I UNDERSTAND.

17 MR. WAPNER: I THINK PROBABLY WE SHOULD DO THIS IN
18 CHAMBERS ALSO.

19 THE COURT: ALL RIGHT, WE WILL DO THAT AFTER WE DO THE
20 NEXT JUROR.

21 MR. BARENS: YES, YOUR HONOR.

22 THE COURT: DO YOU MIND WAITING A FEW MINUTES?

23 THE CLERK: THE BAILIFF AND I CAN LEAVE, IF THAT IS
24 WHAT YOU WANT.

25 MR. BARENS: IT DOESN'T MATTER TO ME, YOUR HONOR.

26 THE COURT: SHE IS PART OF THE SYSTEM.

27 MR. BARENS: I DON'T MIND IF SHE STAYS, TO BE CANDID,
28 YOUR HONOR.

1 THE COURT: GO AHEAD.

2 MR. GREENHALGH: I WILL BE HAPPY WITH THE COURT'S
3 DISCRETION, AS FAR AS THE SECURITY PROBLEM.

4 THE COURT: WHAT DO YOU WANT TO DISCUSS?

5 MR. WAPNER: EXCUSE ME FOR BEING PARANOID BUT I WOULD
6 PREFER WE LIMIT IT TO AS FEW PEOPLE AS POSSIBLE.

7 THE COURT: WELL, YOU HAVE THE REPORTER AND THEY HAVE
8 TRANSCRIBERS AND OTHER PEOPLE.

9 MR. WAPNER: THEY HAVEN'T DONE A TRANSCRIPT. THEY HAVEN'T
10 BEEN TRANSCRIBING IT.

11 THE COURT: OH, THAT IS RIGHT, IT IS NOT TRANSCRIBED.

12 (WHEREUPON, THE BAILIFF AND CLERK EXITED
13 THE COURTROOM.)

14 THE COURT: GO AHEAD, PROCEED.

15 MR. WAPNER: I NEED TO DISCLOSE TO MR. GREENHALGH ON
16 BEHALF OF MR. PITTMAN THAT THERE WAS A MURDER IN HOLLYWOOD
17 SOMETIME IN OCTOBER; THAT DURING THE INVESTIGATION OF THAT
18 MURDER, THE NAME OF DEAN KARNY SURFACED AS A POSSIBLE SUSPECT.
19 AND THAT THAT MURDER IS CURRENTLY UNDER INVESTIGATION. THAT
20 I HAVE NOT BEEN PROVIDED WITH ANY REPORTS AS YET AND THAT
21 AS I GET THEM, THEY WILL BE FORWARDED TO COUNSEL.

22 AND SO MR. GREENHALGH IS AWARE, MR. BARENS FILED
23 A DISCOVERY MOTION THAT IS NOW SET IN THIS COURT ON DECEMBER 11
24 REGARDING OBTAINING REPORTS OF THAT MATTER.

1 THE COURT: THIS MOTION IS DESIGNED FOR THE PARTICULAR
2 PURPOSE OF FINDING OUT ALL ABOUT THE CASE.

3 MR. GREENHALGH: WELL, CERTAINLY, THERE SHOULDN'T BE
4 A PROBLEM. HE IS ALREADY AWARE OF THE INVESTIGATING OFFICER.
5 WHY SHOULD WE HAVE TO WAIT FOR A WRITTEN -- IT IS JUST AS
6 CONVENIENT NOW FOR THE COURT, AS WELL AS THE PROSECUTION.

7 THE COURT: WELL, THE MOTION HAS NOT BEEN HEARD AS TO
8 WHETHER OR NOT ANYTHING SHOULD BE DISCLOSED --

9 MR. GREENHALGH: WELL, IS THERE ANY QUESTION ON THE --

10 THE COURT: YES THERE IS AND --

11 MR. GREENHALGH: WELL, YOUR HONOR, I --

12 THE COURT REPORTER: MR. GREENHALGH, PLEASE DON'T SPEAK
13 OVER THE COURT.

14 THE COURT: WAIT UNTIL I MAKE MY STATEMENT, WILL YOU?
15 THE VERY QUESTION IS GOING TO BE DETERMINED ON THE 11TH,
16 WHETHER OR NOT THIS DISTRICT ATTORNEY SHOULD DISCLOSE ANYTHING
17 AT ALL ABOUT THAT PARTICULAR INVESTIGATION. THE COURT HAS
18 A QUESTION ABOUT THAT AND --

19 MR. GREENHALGH: THE COURT HAS A QUESTION ABOUT --

20 THE COURT: YES. I HAVE A QUESTION ABOUT IT AND --

21 MR. GREENHALGH: VERY WELL. DO WE KNOW THE LOCATION
22 OF THE HOMICIDE?

23 THE COURT: ALL OF THAT?

24 MR. WAPNER: COUNSEL, I AM NOT PREPARED TO PROVIDE YOU
25 ANY INFORMATION.

26 THE COURT: ALL OF THAT DISCOVERY WILL BE HEARD IN THE
27 MOTION FOR DISCOVERY. IT WILL BE HEARD AND YOU CAN ATTEND
28 THE HEARING ON NEXT TUESDAY IS IT?

1 MR. BARENS: THURSDAY.

2 MR. GREENHALGH: THURSDAY? VERY WELL.

3 THE COURT: ALL RIGHT.

4 MR. GREENHALGH: ALL RIGHT.

5 MR. BARENS: COULD I HAVE JUST ONE MOMENT WITH COUNSEL?

6 MR. WAPNER: YOUR HONOR, BEFORE WE CONCLUDE, I WOULD
7 REQUEST THAT THE COURT ISSUE AN ORDER THAT THE INFORMATION
8 THAT HAS NOW BEEN DISCLOSED TO COUNSEL, NOT BE DISCLOSED TO
9 ANY THIRD PARTIES UNTIL SUCH TIME AS IT MAY COME OUT IN THE
10 COURSE OF THE TESTIMONY IN THE CASE.

11 MR. GREENHALGH: WITH THE EXCEPTION OF MY CO-COUNSEL
12 AND MY CLIENT, I PRESUME?

13 MR. WAPNER: OF COURSE. YOU CAN DISCLOSE IT TO THEM
14 AND TALK TO THEM ABOUT IT. THAT IS WITH THE UNDERSTANDING OF
15 COURSE, THAT MR. BRODEY WHO IS NOT BEFORE THE COURT, IS
16 BOUND BY THE ORDER ALSO.

17 MR. GREENHALGH: I HAVE ALREADY SPOKEN WITH HIM. HE
18 IS AWARE OF THAT AND UNDER THE COURT'S ORDER.

19 MR. BARENS: I BELIEVE YOUR HONOR, THAT NEITHER MYSELF
20 NOR MR. CHIER WOULD BE RESTRICTED IN ANY DISCUSSIONS THAT
21 WE WOULD HAVE WITH EITHER MR. GREENHALGH OR MR. BRODEY
22 CONCERNING INFORMATION WE HAVE ON THE SUBJECT?

23 THE COURT: YES. YOU CAN TALK.

24 MR. BARENS: THANK YOU, YOUR HONOR.

25 THE COURT: OKAY. THANK YOU.

26 MR. BARENS: COULD I HAVE JUST 60 SECONDS WITH
27 MR. GREENHALGH?

28 (END OF IN CAMERA HEARING.)

1 (PROSPECTIVE JUROR FARKAS ENTERS THE
2 COURTROOM.)

3 MR. WAPNER: YOUR HONOR, MAY THE RECORD OF THE
4 PROCEEDINGS THAT WE JUST HAD BE SEALED?

5 THE COURT: YES.

6 MR. WAPNER: AS WELL AS THOSE IN CHAMBERS THIS MORNING
7 THAT WE DISCUSSED WITH MR. BARENS?

8 THE COURT: YES. SO STIPULATED?

9 MR. BARENS: SO STIPULATED FOR THE DEFENDANT.

10 THE COURT: ALL RIGHT.

11 MISS FARKAS, WHERE DO YOU LIVE?

12 MS. FARKAS: IN WEST LOS ANGELES.

13 THE COURT: AND HAVE YOU EVER HEARD ANYTHING AT ALL ABOUT
14 THIS CASE, EXCEPT WHAT I TOLD YOU ABOUT IN OPEN COURT?

15 MS. FARKAS: NO, I HAVE NOT.

16 THE COURT: HAVE YOU READ OR HEARD ANYTHING OR TALKED
17 TO ANY JURORS?

18 MS. FARKAS: I DON'T KNOW WHO YOU ARE TALKING ABOUT.

19 THE COURT: ABOUT THIS CASE?

20 MS. FARKAS: YES.

21 THE COURT: I TOLD YOU ABOUT THE CASE BEFORE, DIDN'T
22 I?

23 MS. FARKAS: YES.

24 THE COURT: NOW, THEN I WILL REFRESH YOUR MEMORY AGAIN.
25 THE CHARGE AGAINST THE DEFENDANT IS THAT HE COMMITTED MURDER
26 AND IT WAS A MURDER IN THE FIRST DEGREE AND IT WAS COMMITTED
27 IN THE COURSE OF A ROBBERY.

28 NOW, IN THE COURSE OF A ROBBERY HAS SPECIAL

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1 SIGNIFICANCE BECAUSE THERE ARE CERTAIN CRIMES WHICH, IF
2 COMMITTED UNDER CERTAIN CIRCUMSTANCES, CERTAIN SPECIAL
3 CIRCUMSTANCES, QUALIFY FOR THE DEATH PENALTY.

4 AND A MURDER COMMITTED IN THE COURSE OF A ROBBERY
5 IS ONE OF THEM. DO YOU UNDERSTAND THAT OF COURSE, THAT NOT
6 EVERY MURDER, EVEN IF IT IS IN THE FIRST DEGREE AND IF IT IS
7 DELIBERATE OR EVEN IF IT IS PREMEDITATED AND EVEN IF IT IS
8 PLANNED, CALLS FOR THE DEATH PENALTY.

9 IT IS ONLY WHERE IT IS UNDER CERTAIN SPECIAL
10 CIRCUMSTANCES, AS WE CALL IT. ONE OF THOSE FOR EXAMPLE, IS
11 A MURDER COMMITTED IN THE COURSE OF A ROBBERY LIKE THIS ONE.

12 THIS COULD BE A MURDER COMMITTED IN THE COURSE
13 OF A BURGLARY OR RAPE OR KIDNAPPING OR A CHILD MOLESTATION
14 AND THE CHILD DIES OR MULTIPLE MURDERS OR A MURDER WHERE THERE
15 IS TORTURE AND A PERSON DIES BECAUSE OF TORTURE.

16 THOSE ARE INSTANCES AND THERE ARE A NUMBER OF OTHERS
17 WHERE THE LEGISLATURE HAS SAID THAT THESE CASES CALL FOR A
18 POSSIBLE IMPOSITION OF THE DEATH PENALTY. DO YOU UNDERSTAND
19 THAT?

20 MS. FARKAS: YES.

21 THE COURT: SO, THE JURY WILL BE IMPANELED TO TRY THIS
22 CASE AND WILL DECIDE FIRST, WHAT WE CALL THE GUILT PHASE.
23 THEY WILL DECIDE FIRST, WHETHER OR NOT THE DEFENDANT HAS
24 COMMITTED THE CRIME OF MURDER IN THE FIRST DEGREE. AND IF
25 THEY DECIDE HE DID COMMIT MURDER IN THE FIRST DEGREE, THEN
26 THEY HAVE TO ASK THE QUESTION, WAS IT COMMITTED DURING THE
27 COURSE OF A ROBBERY, IS IT TRUE OR IS IT FALSE THAT IT WAS
28 COMMITTED IN THE COURSE OF A ROBBERY.

1 IF THEY SAY YES TO THAT QUESTION, THEN EVERYTHING
2 HAS TO BE BEYOND A REASONABLE DOUBT ON THAT PHASE OF THE
3 TRIAL. THEN, THE SAME JURY LISTENS TO ADDITIONAL TESTIMONY.

4 THE PURPOSE OF THE ADDITIONAL TESTIMONY WOULD BE
5 TO SHOW FACTS OR CIRCUMSTANCES FAVORABLE TO THE DEFENDANT,
6 HIS YOUTH, HIS AGE, HIS LACK OF ANY CRIMINAL RECORD, HIS
7 CHARACTER, HIS BACKGROUND, THE KIND OF LIFE HE LED DURING HIS
8 YEARS UP UNTIL NOW AND THE THINGS THAT ARE FAVORABLE TO HIM.

9 THE DEFENSE WILL TRY TO SHOW THAT TO THE JURY.
10 ANYTHING THAT IS UNFAVORABLE TO HIM, THE PROSECUTION WILL
11 ENDEAVOR TO SHOW. THEY WILL SHOW THAT HE IS BAD AND THAT HE
12 DID CERTAIN THINGS AND SO ON AND SO FORTH. THE JURY WILL THEN
13 CONSIDER ALL OF THAT BEFORE THEY MAKE UP THEIR MINDS. DO YOU
14 UNDERSTAND THAT?

15 MS. FARKAS: YES.

16 THE COURT: THEN THEY DECIDE ONE OF TWO THINGS. ALTHOUGH
17 IT IS A DEATH PENALTY CASE, IT IS NOT JUST A DEATH PENALTY.
18 IT MAY BE ONE OF TWO THINGS, EITHER LIFE WITHOUT POSSIBILITY
19 OF PAROLE OR DEATH.

20 NOW, LIFE WITHOUT POSSIBILITY OF PAROLE MEANS
21 EXACTLY THAT. THERE IS NO POSSIBILITY OF PAROLE IF HE IS
22 CONVICTED OF THAT OR A FINDING IS MADE OF THAT. DO YOU
23 UNDERSTAND?

24 MS. FARKAS: YES.

25 THE COURT: ALL RIGHT. NOW, WITH THAT AS A PRELIMINARY
26 I WILL ASK YOU SOME QUESTIONS TO EXPLORE YOUR STATE OF MIND
27 AND YOUR OPINIONS CONCERNING THE DEATH PENALTY.

28 NOW, THE FIRST TWO QUESTIONS HAVE TO DO WITH THE

1 GUILT PHASE OF THE TRIAL, GUILT OR INNOCENCE PHASE OF THE
2 TRIAL.

3 DO YOU HAVE ANY OPINION, NO MATTER WHAT IT MAY
4 BE, REGARDING THE DEATH PENALTY, THAT WOULD CAUSE YOU TO VOTE
5 FOR FIRST DEGREE MURDER -- NO. SORRY. WITHDRAW THAT.

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

9 MS. FARKAS: NO, SIR.

10 THE COURT: ALL RIGHT. NOW THE SECOND QUESTION IS ON
11 THE SPECIAL CIRCUMSTANCE STAGE OF IT, I TOLD YOU THAT YOU WILL
12 HAVE TO VOTE FOR THE TRUTH OR FALSITY, WAS IT COMMITTED DURING
13 THE COURSE OF A ROBBERY. DO YOU HAVE ANY OPINION REGARDING
14 THE DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING AN
15 IMPARTIAL DECISION CONCERNING THE TRUTH OR FALSITY OF THE
16 SPECIAL CIRCUMSTANCES?

17 MS. FARKAS: NO.

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1 NOW, THE NEXT HAVE TO DO WITH THE PENALTY PHASE
2 OF THE TRIAL.

3 MS. FARKAS: UH-HUH.

4 THE COURT: DO YOU HAVE ANY OPINION CONCERNING THE DEATH
5 PENALTY THAT WOULD CAUSE YOU TO AUTOMATICALLY VOTE TO IMPOSE
6 THE DEATH PENALTY, REGARDLESS OF ANY EVIDENCE THAT MAY BE
7 PRESENTED AT THE PENALTY PHASE OF THE TRIAL?

8 MS. FARKAS: NO.

9 THE COURT: NOW, THIS NEXT QUESTION IS SIMILAR TO THAT,
10 ONLY IT RELATES TO LIFE IMPRISONMENT WITHOUT THE POSSIBILITY
11 OF PAROLE: DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH
12 PENALTY THAT YOU WOULD AUTOMATICALLY VOTE FOR LIFE IMPRISONMENT
13 WITHOUT THE POSSIBILITY OF PAROLE, REGARDLESS OF ANY EVIDENCE
14 THAT MAY BE PRESENTED AT THE PENALTY PHASE OF THE TRIAL?

15 MS. FARKAS: NO.

16 THE COURT: ALL RIGHT, NOW YOU UNDERSTAND THAT THE ISSUE
17 OF THE DEATH PENALTY MAY OR MAY NOT TAKE PLACE IN THIS CASE
18 AND THAT THESE QUESTIONS HAVE BEEN ASKED ONLY IN THE EVENT
19 THAT YOU REACH THAT PHASE OF THE TRIAL?

20 MS. FARKAS: I UNDERSTAND.

21 THE COURT: ALL RIGHT, VERY WELL.

22 MR. BARENS: YOUR HONOR, THE DEFENSE ACCEPTS THIS JUROR
23 AND WILL NOT CHALLENGE FOR CAUSE.

24 THE COURT: ALL RIGHT.

25 MR. WAPNER: GOOD MORNING, MRS. FARKAS. MY NAME IS
26 FRED WAPNER. I AM THE DEPUTY DISTRICT ATTORNEY WHO IS
27 PROSECUTING THIS CASE.

28 CAN YOU TELL ME A LITTLE BIT ABOUT HOW YOU FEEL

1 ABOUT THE DEATH PENALTY GENERALLY?

2 MS. FARKAS: IN SOME CASES, I FEEL IT IS VERY -- IT
3 IS JUSTIFIED.

4 MR. WAPNER: OKAY. DO YOU THINK THAT IN THOSE CASES
5 THAT YOU MIGHT HAVE IN MIND WHERE IT IS JUSTIFIED THAT YOU
6 PERSONALLY WOULD CAST A VOTE TO OPPOSE THE DEATH PENALTY ON
7 A PARTICULAR DEFENDANT?

8 MS. FARKAS: YES, I DO.

9 MR. WAPNER: OKAY, AND DO YOU UNDERSTAND THAT THAT MIGHT
10 BE YOUR JOB IF YOU ARE A JUROR IN THIS CASE AND IT GETS DOWN
11 TO THAT PART OF THE CASE?

12 MS. FARKAS: I THINK I UNDERSTAND THAT PERFECTLY.

13 MR. WAPNER: OKAY. SO THAT IF YOU HAVE HEARD ALL OF
14 THE FACTS ON THE GUILT PHASE AND ON THE PENALTY PHASE AND
15 YOU ARE IN THE JURY ROOM AND YOU ARE DELIBERATING, YOU
16 HAVE TO CAST YOUR OWN INDIVIDUAL BALLOT ON WHETHER THE
17 PUNISHMENT SHOULD BE LIFE IMPRISONMENT WITHOUT THE POSSIBILITY
18 OF PAROLE OR WHETHER THE PUNISHMENT SHOULD BE DEATH; DO YOU
19 UNDERSTAND THAT?

20 MS. FARKAS: YES, I DO.

21 MR. WAPNER: YOU THINK YOU WOULDN'T HAVE ANY TROUBLE
22 MAKING THAT DECISION ONE WAY OR THE OTHER?

23 MS. FARKAS: I DON'T THINK SO.

24 MR. WAPNER: DO YOU HAVE ANY RELIGIOUS, MORAL OR
25 PHILOSOPHICAL FEELINGS ABOUT THE DEATH PENALTY?

26 MS. FARKAS: WELL, PHILOSOPHICAL PERHAPS, NOT MORAL
27 OR RELIGIOUS.

28 MR. WAPNER: CAN YOU TELL ME ABOUT THE PHILOSOPHICAL

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1 FEELINGS ABOUT IT?

2 MS. FARKAS: WELL, IF SOMEBODY HAS IMPOSED A HORRIBLE
3 CRIME AGAINST ANOTHER PERSON THAT RESULTS IN DEATH, I THINK
4 THAT PERSON MAY BE -- IT MAY BE JUSTIFIED TO PUT THAT PERSON
5 TO DEATH.

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1 MR. WAPNER: DO YOU HAVE IN MIND ANYTHING IN GENERAL
2 IN YOUR MIND WHEN YOU SAY A HORRIBLE CRIME, THE TYPES OF THINGS
3 YOU ARE TALKING ABOUT?

4 MS. FARKAS: WELL, AS WAS MENTIONED, IN RAPING, DOING
5 HORRIBLE THINGS TO CHILDREN.

6 MR. WAPNER: WHAT ABOUT IN THIS CASE WHERE IT IS A MURDER
7 IN THE COURSE OF A ROBBERY, WITHOUT KNOWING MORE OR EVEN HOW
8 THE MURDER HAPPENED OR HOW THE ROBBERY HAPPENED.

9 MR. BARENS: I AM GOING TO OBJECT TO THE FORM OF THAT
10 QUESTION, YOUR HONOR.

11 THE COURT: I WILL SUSTAIN THE OBJECTION.

12 MR. BARENS: TTHANK YOU, YOUR HONOR.

13 MR. WAPNER: DO YOU THINK THAT MURDERS IN THE COURSE
14 OF ROBBERY ARE THE TYPES OF CRIMES THAT GENERALLY FIT INTO
15 A CATEGORY WHERE YOU WOULD FEEL YOU COULD IMPOSE THE DEATH
16 PENALTY?

17 MS. FARKAS: I THINK I WOULD HAVE TO KNOW MORE ABOUT
18 IT.

19 I DON'T KNOW THAT JUST SAYING IT THAT WAY THAT
20 I WOULD IMPOSE IT.

21 I THINK I WOULD HAVE TO KNOW A LITTLE MORE ABOUT
22 THE CASE.

23 MR. WAPNER: OKAY, I GUESS THE OTHER SIDE OF THAT COIN
24 IS, IF ALL YOU KNOW IS THAT IT IS A MURDER IN THE COURSE OF
25 A ROBBERY, WOULD YOU BE PRECLUDED FROM IMPOSING THE DEATH
26 PENALTY IN THAT KIND OF A CASE?

27 DO YOU UNDERSTAND THAT QUESTION?

28 MS. FARKAS: NOT COMPLETELY.

1 MR. WAPNER: IF YOU KNOW THAT THE CHARGE IS A MURDER
2 IN THE COURSE OF ROBBERY --

3 MS. FARKAS: YES.

4 MR. WAPNER: -- ARE YOU GOING TO SAY IN EVERY CASE WHERE
5 THERE IS --

6 MS. FARKAS: NO.

7 MR. WAPNER: -- THERE WAS MURDER AND ROBBERY, THAT "I
8 WON'T GIVE THE DEATH PENALTY REGARDLESS OF THE FACTS"?

9 MS. FARKAS: I THINK I WOULD HAVE TO THINK ABOUT IT
10 SERIOUSLY.

11 MR. WAPNER: THINK ABOUT WHAT?

12 MS. FARKAS: WHETHER IT COULD BE ACCIDENTAL OR --

13 THE COURT: NO, NO. THERE IS NO ACCIDENT. HE HAS
14 ALREADY BEEN CONVICTED OF MURDER IN THE FIRST DEGREE, IT WAS
15 DELIBERATE AND INTENTIONAL.

16 MS. FARKAS: OH, I SEE.

17 THE COURT: YOU START FROM THERE.

18 MS. FARKAS: OH, I SEE. I AM SORRY.

19 NO. I THINK IN A CASE OF THAT KIND, I COULD IMPOSE
20 THAT SENTENCE.

21 THE COURT: IF THE FACTS WARRANTED IT?

22 MS. FARKAS: YES.

23 MR. WAPNER: THAT WAS MY NEXT QUESTION.

24 ON THE OTHER HAND, IN THAT KIND OF A CASE, IF
25 THE FACTS SUGGESTED TO YOU THAT THERE WAS A REASON TO SPARE
26 THE PERSON'S LIFE, YOU COULD VOTE FOR LIFE IMPRISONMENT?

27 MS. FARKAS: I THINK I COULD.

28 MR. WAPNER: DOES THE NAME JOE HUNT OR THE NAME

1 BILLIONAIRE BOYS CLUB RING A BELL WITH YOU?

2 MS. FARKAS: I DON'T THINK SO.

3 MR. WAPNER: DO YOU REMEMBER VOTING ON THE QUESTION
4 OF THE DEATH PENALTY WHEN IT WAS ON THE BALLOT A FEW YEARS
5 AGO?

6 MS. FARKAS: I -- I AM SORRY. I DON'T RECALL THAT.

7 MR. WAPNER: DO YOU THINK THAT IT IS APPROPRIATE THAT
8 THE STATE HAS THE DEATH PENALTY FOR CERTAIN CRIMES?

9 MS. FARKAS: YES.

10 MR. WAPNER: THANK YOU.

11 PASS FOR CAUSE, YOUR HONOR.

12 THE COURT: ALL RIGHT, MRS. FARKAS, BOTH SIDES HAVE
13 PASSED FOR CAUSE. THAT MEANS THAT YOU COULD QUALIFY AS A
14 TRIAL JUROR IN THIS CASE, SO WHAT I WILL ASK YOU TO DO, AS
15 I HAVE TOLD ALL OF THE OTHERS JURORS WHO HAVE QUALIFIED, IS
16 TO COME BACK HERE ON NEXT WEDNESDAY, A WEEK FROM YESTERDAY,
17 THAT IS DECEMBER THE 10TH.

18 MS. FARKAS: ALL RIGHT.

19 THE COURT: AT 10:30 IN THE MORNING. 10:30 IN THE JURY
20 ASSEMBLY ROOM.

21 MS. FARKAS: OKAY.

22 THE COURT: THAT IS 10:30, DECEMBER 10TH AND THAT IS
23 A WEEK FROM YESTERDAY, ALL RIGHT?

24 MS. FARKAS: BUT I AM EXCUSED UNTIL THEN?

25 THE COURT: YOU ARE EXCUSED UNTIL THEN.

26 MS. FARKAS: ALL RIGHT, VERY GOOD.

27 THE COURT: YOU COME BACK. NICE TO SEE YOU.

28 MS. FARKAS: THANK YOU, JUDGE.

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THE COURT: SEE YOU AGAIN ON WEDNESDAY, THE 10TH.

MS. FARKAS: THANK YOU.

MR. BARENS: WHAT TIME, YOUR HONOR?

THE COURT: 1:30.

MR. BARENS: THANK YOU, YOUR HONOR.

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

1 SANTA MONICA, CALIFORNIA; THURSDAY, DECEMBER 4, 1986; 1:37 P.M.
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE
3 (APPEARANCES AS NOTED ON TITLE PAGE.)

4
5 (PROSPECTIVE JUROR BEATRICE FLOYD
6 ENTERED THE COURTROOM.)

7 THE COURT: IS IT MISS OR MRS.?

8 MS. FLOYD: MRS.

9 THE COURT: MRS. FLOYD, WHERE DO YOU LIVE?

10 MS. FLOYD: REDONDO BEACH.

11 THE COURT: ALL RIGHT. HAVE YOU READ ANYTHING OR DO
12 YOU KNOW ANYTHING AT ALL ABOUT THE CASE, EXCEPT THAT IT IS
13 PENDING HERE?

14 MS. FLOYD: NO.

15 THE COURT: YOU HAVE NOT READ ANYTHING ABOUT IT?

16 MS. FLOYD: THE NAMES -- SOMEONE REFRESHED MY MEMORY.
17 BUT IT DIDN'T MEAN ANYTHING TO ME.

18 THE COURT: WHAT DID THEY TELL YOU?

19 MS. FLOYD: HE HAD BEEN A BILLIONAIRE.

20 THE COURT: YOU SEE HOW REPORTS OF THAT KIND CAN BE
21 EXAGGERATED?

22 IN ANY EVENT, I WILL BRIEFLY DESCRIBE TO YOU THE
23 NATURE OF THE CASE. I WILL REPEAT IT HERE BRIEFLY SO YOU
24 CAN USE THIS AS A BACKGROUND TO THE QUESTIONS I AM GOING TO
25 ASK YOU ABOUT YOUR ATTITUDE TOWARD THE DEATH PENALTY.

26 AS YOU KNOW, THE CHARGE AGAINST THE DEFENDANT
27 IS THAT HE COMMITTED A MURDER AND IT WAS A MURDER IN THE FIRST
28 DEGREE AND THAT IT WAS COMMITTED IN THE COURSE OF A ROBBERY.

1 IN THE COURSE OF A ROBBERY HAS THIS SIGNIFICANCE,
2 THAT IF THE MURDER WAS COMMITTED DURING THE COURSE OF A ROBBERY,
3 IT QUALIFIES THE CASE FOR CONSIDERATION OF THE DEATH PENALTY.
4 DO YOU UNDERSTAND?

5 MS. FLOYD: UH-HUH.

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1 THE COURT: THE LEGISLATURE HAS SAID THAT IN CASES OF
2 FIRST DEGREE MURDER COMMITTED IN THE COURSE OF A ROBBERY OR
3 BURGLARY OR RAPE OR KIDNAPPING OR MOLESTATION OF A CHILD WHO
4 DIES OR TORTURE, OFFENSES OF THAT KIND, THERE ARE 19 OF THEM,
5 THAT THESE CASES QUALIFY FOR THE IMPOSITION OF THE DEATH
6 PENALTY.

7 SO IN THIS CASE, THE JURY SELECTED IN THE CASE
8 WILL HAVE TO CONSIDER FIRST WHETHER OR NOT THE DEFENDANT IS
9 GUILTY OF MURDER IN THE FIRST DEGREE AND IF THEY FIND THAT
10 HE IS GUILTY, THEN THE NEXT QUESTION THEY HAVE TO DECIDE IS
11 AS TO WHETHER OR NOT THAT MURDER WAS COMMITTED IN THE COURSE
12 OF A ROBBERY, WHETHER IT IS TRUE OR FALSE THAT HE COMMITTED
13 MURDER IN THE COURSE OF A ROBBERY AND THAT IS KNOWN AS A
14 SPECIAL CIRCUMSTANCE; DO YOU UNDERSTAND?

15 MS. FLOYD: OKAY.

16 THE COURT: OKAY, AND IN THE FIRST PART OF THE TRIAL,
17 THAT IS WHERE YOU DETERMINE THE GUILT OR INNOCENCE AND THE
18 QUESTION OF PENALTY OR PUNISHMENT IS NOT TO BE DISCUSSED OR
19 CONSIDERED BY THE JURY IN ANY RESPECT; DO YOU UNDERSTAND THAT?

20 MS. FLOYD: UH-HUH.

21 THE COURT: IT IS ONLY WHEN THEY FIND THE MURDER WAS
22 COMMITTED IN THE FIRST DEGREE AND COMMITTED DURING THE COURSE
23 OF A ROBBERY, THEN WE HAVE THE SECOND PART OF THE TRIAL WHICH
24 IS KNOWN AS THE PENALTY PHASE OF THE TRIAL.

25 DURING THE PENALTY PHASE, BOTH SIDES WILL INTRODUCE
26 ADDITIONAL TESTIMONY BEFORE THE JURY IN ADDITION TO WHAT THEY
27 ALREADY HEARD ON THE GUILT PHASE AND THE PURPOSE OF THAT FOR
28 THE DEFENSE WOULD BE THAT THERE ARE A NUMBER OF FACTORS TO

1 BE CONSIDERED FAVORABLE TO THE DEFENDANT THAT WILL BEAR ON
2 THE QUESTION OF WHAT PENALTY THE JURY WILL IMPOSE, IF ANY.
3 THE PROSECUTION, ON THE OTHER HAND, WILL SHOW AGGRAVATING
4 CIRCUMSTANCES, THINGS ABOUT THE DEFENDANT WHICH ARE NOT
5 FAVORABLE, UNFAVORABLE. AND AFTER THE JURY HEARS ALL OF THAT,
6 THEY THEN WILL CONSIDER WHETHER OR NOT THERE SHOULD BE LIFE
7 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE OR DEATH.

8 LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE
9 MEANS EXACTLY THAT, THERE IS NO CHANCE OF ANY PAROLE BEING
10 GRANTED. HE WILL STAY IN PRISON FOR THE REST OF HIS LIFE;
11 DO YOU UNDERSTAND?

12 MS. FLOYD: I UNDERSTAND.

13 THE COURT: ALL RIGHT, SO AFTER THEY HEAR ALL OF THOSE
14 FACTORS FOR AND AGAINST, AND AS I SAY, THEY WILL HAVE TO MAKE
15 THEIR DECISION, THEY WILL BRING BACK ONE OF THOSE TWO VERDICTS,
16 IF THEY DO.

17 I AM GOING TO ASK YOU A SERIES OF QUESTIONS TO
18 EXPLORE YOUR MIND AND YOUR ATTITUDES TOWARDS THE IMPOSITION
19 OF THE DEATH PENALTY.

20 AND WHEN I SAY DEATH PENALTY, I MEAN LIFE
21 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE OR ACTUAL DEATH
22 IN THE GAS CHAMBER.

23 MS. FLOYD: UH-HUH.

24 THE COURT: MY FIRST QUESTION TO YOU IS: DO YOU HAVE
25 ANY OPINION, WHATEVER IT MAY BE, REGARDING THE DEATH PENALTY
26 THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION AS
27 TO THE GUILT OR INNOCENCE OF THE DEFENDANT?

28 MS. FLOYD: I THINK I DO.

1 THE COURT: IN WHAT RESPECT?

2 MS. FLOYD: WELL, MY CONSCIENCE IS AGAINST IT BUT MY
3 COMMON SENSE IS IN FAVOR OF IT.

4 THE COURT: YES, BUT NOW WE AREN'T TALKING ABOUT THE
5 DEATH PENALTY.

6 MS. FLOYD: YES.

7 THE COURT: NOW WE ARE TALKING ABOUT THE GUILT OR
8 INNOCENCE OF THE DEFENDANT.

9 MS. FLOYD: OH, I SEE.

10 THE COURT: IT HAS NOTHING TO DO WITH GUILT OR INNOCENCE.

11 MS. FLOYD: I DON'T THINK I WILL HAVE ANY PROBLEM WITH
12 THAT.

13 THE COURT: WOULD YOUR OPINION ON THE DEATH PENALTY
14 PREVENT YOU FROM MAKING AN IMPARTIAL DECISION AS TO THE GUILT
15 OR INNOCENCE OF THE DEFENDANT?

16 MS. FLOYD: NO, I DON'T THINK SO.

17 THE COURT: ALL RIGHT, THE SECOND QUESTION THE JURY HAS
18 TO CONSIDER IS WHETHER OR NOT THERE ARE ANY SPECIAL
19 CIRCUMSTANCES, WHETHER IT IS TRUE OR FALSE WAS COMMITTED DURING
20 THE COURSE OF A ROBBERY; DO YOU UNDERSTAND?

21 MS. FLOYD: YES.
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1 THE COURT: NOW, SIMILARLY, DO YOU HAVE ANY OPINION
2 WHATEVER IT MAY BE, WITH REGARD TO THE DEATH PENALTY THAT
3 WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION CONCERNING
4 THE TRUTH OR FALSITY OF THE SPECIAL CIRCUMSTANCES?

5 MS. FLOYD: I THINK I DO.

6 THE COURT: WHAT IS THAT? DO YOU MEAN, HAVING BEEN
7 FOUND GUILTY -- I SEE WHAT YOU MEAN.

8 YOU MEAN, HAVING BEEN FOUND GUILTY OF MURDER IN
9 THE FIRST DEGREE, THEN IF YOU FIND THAT IT WAS COMMITTED
10 DURING A ROBBERY, THAT SPECIAL CIRCUMSTANCE WOULD QUALIFY
11 THE JURY TO DECIDE DEATH?

12 MS. FLOYD: YES.

13 THE COURT: FOR THAT REASON, YOU COULD NOT CONSCIENTIOUSLY
14 MAKE UP YOUR MIND -- YOU WOULD VOTE AGAINST THE SPECIAL
15 CIRCUMSTANCES? IS THAT WHAT YOU ARE SAYING?

16 MS. FLOYD: HAVING NEVER HAD THE EXPERIENCE, I THINK
17 I WOULD FIND IT DIFFICULT.

18 THE COURT: WELL, I KNOW IT WOULD BE DIFFICULT FOR YOU.
19 BUT THAT WILL BE YOUR DUTY THAT YOU WILL HAVE.

20 MS. FLOYD: YES. I UNDERSTAND.

21 THE COURT: IN YOUR PRESENT FRAME OF MIND, WHAT DO YOU
22 THINK YOUR ATTITUDE IS TOWARDS THAT PARTICULAR QUESTION I
23 ASKED YOU?

24 WELL, LET ME GO ON TO TWO OTHER QUESTIONS. YOU
25 WILL BE ASKED QUESTIONS ABOUT THAT BY COUNSEL.

26 NOW, ASSUMING THAT WE REACH THE PENALTY PHASE
27 WHERE THE JURORS HAVE DECIDED THE GUILT OF MURDER IN THE FIRST
28 DEGREE AND SPECIAL CIRCUMSTANCES WERE TRUE, NAMELY THAT IT

1 WAS COMMITTED DURING THE COURSE OF A ROBBERY, MY NEXT QUESTION
2 IS: DO YOU HAVE AN OPINION CONCERNING THE DEATH PENALTY THAT
3 YOU WOULD AUTOMATICALLY VOTE FOR THE DEATH PENALTY, REGARDLESS
4 OF ANY EVIDENCE THAT MAY BE PRESENTED IN THE PENALTY PHASE
5 OF THE TRIAL?

6 MS. FLOYD: I DON'T THINK I WOULD VOTE FOR THE DEATH
7 PENALTY.

8 THE COURT: ALL RIGHT. DO YOU MEAN AUTOMATICALLY?

9 MS. FLOYD: NO, NOT AUTOMATICALLY.

10 THE COURT: MY NEXT QUESTION IS ALSO AUTOMATICALLY BUT
11 IT RELATES TO LIFE WITHOUT POSSIBILITY OF PAROLE.

12 DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH
13 PENALTY, THAT YOU WOULD AUTOMATICALLY VOTE FOR LIFE WITHOUT
14 POSSIBILITY OF PAROLE, REGARDLESS OF ANY EVIDENCE THAT MAY
15 BE PRESENTED IN THE PENALTY PHASE OF THE TRIAL? WOULD YOU
16 AUTOMATICALLY VOTE FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE?

17 MS. FLOYD: YES.

18 THE COURT: IRRESPECTIVE OF WHAT THE EVIDENCE WAS ON
19 THE SECOND PHASE OF THE TRIAL? YOU WOULD DISREGARD THAT?

20 MS. FLOYD: DISREGARD THAT? I DON'T THINK I WOULD
21 DISREGARD IT.

22 THE COURT: SO YOUR ANSWER IS NO, YOU WOULD NOT
23 AUTOMATICALLY VOTE FOR LIFE WITHOUT POSSIBILITY OF PAROLE?

24 MS. FLOYD: NO.

25 THE COURT: ALL RIGHT. DO YOU UNDERSTAND THAT THE ISSUE
26 OF THE DEATH PENALTY MAY OR MAY NOT OCCUR IN THIS CASE?
27 THESE QUESTIONS ARE BEING ASKED ONLY IN THE EVENT THAT YOU
28 REACH THAT PHASE OF THE TRIAL.

1 MS. FLOYD: YES.

2 THE COURT: ALL RIGHT.

3 MR. BARENS: THANK YOU. GOOD AFTERNOON, MS. FLOYD.
4 I AM ARTHUR BARENS. I REPRESENT MR. HUNT, THE DEFENDANT IN
5 THIS MATTER.

6 AND HIS HONOR DID, IT IS MY DUTY NOW TO INQUIRE
7 AS TO YOUR POINT OF VIEW ON THE DEATH PENALTY. PARENTHETICALLY,
8 LET ME INDICATE TO YOU THAT THERE ARE NO RIGHT OR WRONG
9 ANSWERS TO MY QUESTIONS OR GOOD OR BAD ANSWERS. IT IS JUST
10 YOUR OPINION.

11 YOU MENTIONED BEFORE, THAT ALTHOUGH YOUR
12 CONSCIENCE MIGHT OBJECT TO THE DEATH PENALTY, YOUR COMMON
13 SENSE MIGHT BE IN FAVOR OF IT. AND I THINK YOU ALSO TOLD
14 HIS HONOR IF I AM CORRECT, THAT YOU WOULD CONSIDER ALL OF
15 THE EVIDENCE IN MAKING THE LIFE OR DEATH DECISION. IS THAT
16 TRUE?

17 MS. FLOYD: CORRECT.

18 MR. BARENS: AND IS IT TRUE THAT YOU COULD SUBORDINATE
19 YOUR PHILOSOPHICAL IDEAS OR YOUR INTELLECTUAL IDEAS ABOUT
20 THE DEATH PENALTY AND PERFORM YOUR DUTY AS A JUROR IN
21 CONSIDERING THE DEATH PENALTY AS ONE OF THE OPTIONS, IF WE
22 GOT TO THAT PART OF THE TRIAL?

23 MS. FLOYD: I WOULD TRY.

24 THE COURT: YOU WOULD?

25 MS. FLOYD: I WOULD TRY.

26 MR. BARENS: NOW, I AM NOT SAYING -- AND NOBODY CAN
27 SAY TO YOU THAT YOU HAVE GOT TO COMMIT THAT YOU WOULD VOTE
28 FOR THE DEATH PENALTY.

1 MS. FLOYD: RIGHT.

2 MR. BARENS: IT IS SIMPLY THAT YOU WOULD HAVE TO BE
3 WILLING TO CONSIDER THAT AND THAT YOU WOULD BE CAPABLE, IF
4 ALL OF THE EVIDENCE SHOWED THAT THERE HAD BEEN AN INTENTIONAL
5 MURDER DURING A ROBBERY AND THAT THE AGGRAVATING CIRCUMSTANCES
6 OR THE THINGS AGAINST MY CLIENT -- THAT YOU WOULD BE CAPABLE
7 OF CONSIDERING THE DEATH PENALTY AS ONE OF THE TWO PENALTIES
8 AVAILABLE IN THE CASE, BEING LIFE WITHOUT POSSIBILITY OF PAROLE
9 OR DEATH.

10 MS. FLOYD: I DON'T KNOW. I DON'T KNOW IF I COULD DO
11 THAT OR NOT.

12 MR. BARENS: I AM NOT ASKING YOU TO TELL ME, MS. FLOYD,
13 THAT YOU WOULD VOTE ONE WAY OR ANOTHER. I AM SIMPLY ASKING
14 YOU IF YOU WOULD BE CAPABLE OF CONSIDERING BOTH OF THOSE
15 PENALTIES BEFORE YOU MADE A DECISION.

16 MS. FLOYD: CONSIDERING THEM? YES.

17 MR. BARENS: NOW --

18 THE COURT: CONSIDER WHAT?

19 MS. FLOYD: CONSIDERING THE TWO QUESTIONS, YES. I COULD
20 CONSIDER THEM.

21 MR. BARENS: WOULD YOU LISTEN TO ALL OF THE EVIDENCE
22 PRESENTED BY BOTH SIDES AT THE PENALTY PHASE BEFORE YOU MADE
23 A DECISION, WOULDN'T YOU?

24 MS. FLOYD: YES.

25 MR. BARENS: NOW, YOU UNDERSTAND -- I WANT YOU TO
26 UNDERSTAND THAT IF YOU WERE TO TELL ME THAT YOU WOULD
27 AUTOMATICALLY VOTE AGAINST THE DEATH PENALTY OR THAT YOU WOULD
28 NEVER CONSIDER THE DEATH PENALTY, THAT YOU WOULD BE EXCUSED

1 ON THIS CASE AS A JUROR BECAUSE BOTH SIDES ARE ENTITLED TO
2 HAVE JURORS THAT COULD VOTE EITHER WAY, NOT THAT THEY WOULD,
3 BUT THAT THEY COULD.

4 MS. FLOYD: UH-HUH.

5 MS. WAPNER: IS THAT YES?

6 MS. FLOYD: YES. YOU CAN'T RECORD NODS?

7 MR. BARENS: ACTUALLY, THEY DON'T, MS. FLOYD.

8 THEREFORE, IF I UNDERSTAND YOU, ALTHOUGH YOU WOULD
9 BE RELUCTANT TO EVER VOTE THE DEATH PENALTY AND ALTHOUGH IT
10 MIGHT BE CONTRARY TO YOUR INTELLECTUAL OR PHILOSOPHICAL VIEWS,
11 YOU WOULD IN FACT, PERFORM YOUR DUTY AS A JUROR AND ABIDE
12 BY YOUR OATH AS A JUROR TO CONSIDER BOTH OF THOSE PENALTIES
13 BEFORE MAKING A DECISION?

14 MS. FLOYD: YES.

15 MR. BARENS: THANK YOU. THE DEFENSE PASSES FOR CAUSE.

16 THE COURT: ALL RIGHT.

17 MR. WAPNER: GOOD AFTERNOON, MS. FLOYD. MY NAME IS
18 FRED WAPNER. I AM THE DEPUTY DISTRICT ATTORNEY WHO IS
19 PROSECUTING THIS CASE.

20 FIRST OF ALL, LET'S GO BACK TO THIS SEPARATION
21 BETWEEN THE GUILT PHASE AND THE PENALTY PHASE. DO YOU ACCEPT
22 THE FACT THAT WHEN YOU ARE MAKING A DECISION ON THE GUILT
23 PHASE OF THE TRIAL WHETHER SOMEBODY COMMITTED A CRIME OR NOT,
24 THAT YOU CAN'T THINK ABOUT THE PUNISHMENT?

25 MS. FLOYD: I THINK THE PUNISHMENT WOULD BE UPPERMOST
26 IN MY MIND.

27 MR. WAPNER: WELL, WHEN YOU ARE DECIDING THE GUILT OR
28 INNOCENCE?

1 MS. FLOYD: I THINK IT WOULD BE.

2 MR. WAPNER: WHAT IF THE JUDGE TOLD YOU THAT YOU COULDN'T
3 THINK ABOUT IT? WOULD YOU STILL HAVE THAT IN MIND?

4 MS. FLOYD: I THINK I WOULD.

5 MR. WAPNER: ARE YOU SAYING THAT EVEN IF THE JUDGE TOLD
6 YOU NOT TO THINK ABOUT THE PUNISHMENT WHEN YOU WERE DECIDING
7 GUILT OR INNOCENCE, THAT YOU COULDN'T FOLLOW THAT INSTRUCTION?

8 MS. FLOYD: I WOULD FIND THAT DIFFICULT.

9 MR. WAPNER: IF YOU WERE TRYING TO DECIDE THE ISSUE
10 OF GUILT OR INNOCENCE AND YOU WERE ALL OF THE TIME WORRIED
11 ABOUT WHAT THE PUNISHMENT MIGHT BE, IS THE PROSECUTION GETTING
12 A FAIR TRIAL FROM YOU?

13 MS. FLOYD: NO, PROBABLY NOT.

14 MR. WAPNER: WHAT WOULD YOU BE THINKING OF IN TERMS
15 OF THE PUNISHMENT AND HOW WOULD THAT AFFECT YOU?

16 MS. FLOYD: I THINK THAT I WOULD BE CONCERNED ABOUT
17 THE DEATH PENALTY AND THAT IT WOULD INVOLVE AN INDIVIDUAL.

18 MR. WAPNER: AND IF YOU KNEW, YOU HAD HEARD THE JUDGE
19 EXPLAIN TO YOU THAT YOU WILL NEVER GET TO THE PENALTY PHASE
20 UNLESS THE DEFENDANT IS FOUND GUILTY OF FIRST DEGREE MURDER --

21 MS. FLOYD: RIGHT.

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1 MR. WAPNER: AND KNOWING THAT, WOULD IT PREVENT YOU FROM
2 VOTING FOR A VERDICT OF FIRST DEGREE MURDER SO YOU WOULD NEVER
3 HAVE TO GET TO THE QUESTION OF THE DEATH PENALTY?

4 MS. FLOYD: NO.

5 MR. WAPNER: HOW WOULD IT AFFECT YOU IN MAKING A DECISION
6 ON WHETHER OR NOT THE DEFENDANT IS GUILTY OF FIRST DEGREE
7 MURDER?

8 MS. FLOYD: I DON'T THINK I UNDERSTAND WHAT YOU MEAN.

9 MR. WAPNER: WHEN YOU ARE MAKING A DECISION AS TO
10 WHETHER OR NOT THE MURDER HAS BEEN COMMITTED AND IF SO, WHETHER
11 IT IS MURDER IN THE FIRST DEGREE OR IN THE SECOND DEGREE,
12 WOULD YOU BE THINKING ABOUT THE QUESTION OF THE PENALTY?

13 MS. FLOYD: PROBABLY.

14 MR. WAPNER: KNOWING THAT IF YOU FOUND HIM GUILTY OF
15 MURDER IN THE FIRST DEGREE, YOU MIGHT NEED TO DECIDE THE
16 QUESTION OF THE DEATH PENALTY, WOULD YOU AUTOMATICALLY VOTE
17 FOR MURDER IN THE SECOND DEGREE OR SOMETHING LESS?

18 MS. FLOYD: I --

19 THE COURT: I WILL EXPLAIN TO YOU THAT MURDER OF THE
20 SECOND DEGREE DOES NOT INVOLVE ANY CONSIDERATION OF THE DEATH
21 PENALTY; DO YOU UNDERSTAND THAT?

22 MS. FLOYD: I WOULD TRY TO BE FAIR.

23 MR. WAPNER: WELL, I AM NOT ASKING THAT. OBVIOUSLY,
24 EVERYONE WILL TRY TO BE FAIR, THERE IS NO QUESTION ABOUT THAT.

25 MS. FLOYD: RIGHT.

26 MR. WAPNER: AND I HAVE NO DOUBT THAT YOU WOULD TRY YOUR
27 BEST TO BE FAIR.

28 MS. FLOYD: UH-HUH.

1 MR. WAPNER: BUT WHAT I WANT TO KNOW IS, ARE YOU GOING
2 TO BE THINKING A PERSON MIGHT GET THE DEATH PENALTY, SO IT
3 IS GOING TO AFFECT YOUR ABILITY TO REALLY CONSIDER WHETHER
4 OR NOT THE PERSON IS GUILTY OR NOT GUILTY OF FIRST DEGREE
5 MURDER?

6 MS. FLOYD: I JUST -- I JUST DON'T KNOW. I HAVE NEVER
7 BEEN IN THAT POSITION.

8 THE COURT: WELL, NOW YOU ARE GOING TO BE IN THAT
9 POSITION. WE WANT TO KNOW.

10 MS. FLOYD: I KNOW.

11 THE COURT: WE WANT TO KNOW IF YOU ARE IN THAT POSITION,
12 WHAT WOULD YOU DO?

13 (PAUSE IN PROCEEDINGS.)

14 MS. FLOYD: I WOULD TRY VERY HARD NOT TO LET IT INFLUENCE
15 ME. THAT IS ABOUT THE BEST I COULD SAY.

16 MR. WAPNER: THE NEXT PART OF THE TRIAL THAT YOU WOULD
17 GET TO IS TO DETERMINE WHETHER OR NOT, IF YOU DECIDED THAT
18 A MURDER OCCURRED, THEN YOU WOULD HAVE TO DECIDE WHETHER OR
19 NOT IT HAPPENED DURING A ROBBERY; DO YOU UNDERSTAND THAT?

20 MS. FLOYD: YES.

21 MR. WAPNER: AND IT IS ONLY IF YOU DECIDE IT HAPPENED
22 DURING A ROBBERY THAT YOU WOULD THEN GET TO THE QUESTION OF
23 THE DEATH PENALTY.

24 MS. FLOYD: RIGHT.

25 MR. WAPNER: KNOWING HOW YOU FEEL ABOUT THE DEATH PENALTY,
26 WOULD IT MAKE IT DIFFICULT FOR YOU TO FIND THAT IT HAPPENED
27 DURING THE COURSE OF A ROBBERY?

28 MS. FLOYD: NO.

1 MR. WAPNER: NOW LET'S SAY THAT YOU FOUND THAT IT WAS
2 MURDER AND IT WAS IN THE COURSE OF A ROBBERY AND YOU HAVE HEARD
3 ALL THE EVIDENCE ON THE GUILT PHASE AND ON THE PENALTY PHASE
4 AND NOW YOU ARE IN THE JURY ROOM DELIBERATING AND THE JUDGE
5 TELLS YOU THAT ALTHOUGH YOU HAVE TO DISCUSS THE CASE WITH
6 11 OTHER PEOPLE, YOU ARE REQUIRED TO RENDER YOUR OWN INDIVIDUAL
7 VERDICT; IF YOU FELT THAT THE EVIDENCE JUSTIFIED IT, COULD
8 YOU VOTE FOR A VERDICT OF DEATH?

9 (PAUSE IN PROCEEDINGS.)

10 MS. FLOYD: AT THAT MOMENT I WOULD HAVE TO SAY NO.

11 MR. WAPNER: AND WHAT IS THE BASIS FOR YOUR SAYING THAT?

12 MS. FLOYD: MY UPBRINGING IN THE CHRISTIAN CHURCH.

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

14 I AM NOT TRYING TO PRY INTO YOUR RELIGIOUS BACK-
15 GROUND BUT I AM TRYING TO FIND OUT THE DEPTH OF YOUR BELIEF.
16 IN OTHER WORDS, SOME PEOPLE WE ARE PRESENTING THIS TO FOR THE
17 FIRST TIME AND THEY HAVEN'T THOUGHT ABOUT IT UNTIL YESTERDAY
18 AND SOME PEOPLE HAVE VERY DEEPLY HELD AND LONG HELD BELIEFS,
19 SO IF YOU WILL BEAR WITH ME, IF YOU WILL JUST EXPLAIN TO ME
20 A LITTLE BIT ABOUT THE BASIS OF THIS, PLEASE. IT IS IMPORTANT.

21 MS. FLOYD: WELL, IT IS BASED ON THE TEN COMMANDMENTS,
22 "THOU SHALT NOT KILL" AND I WOULD FEEL I WAS RESPONSIBLE FOR
23 SOMEONE'S DEATH IF I VOTED FOR THE DEATH PENALTY.

24 MR. WAPNER: AND IF FEELING THAT WAY, IF FEELING LIKE
25 YOU WOULD HAVE TO BE BOUND BY -- EXCUSE ME IF I AM NOT STATING
26 IT THE WAY YOU MIGHT -- WOULD YOU BE BOUND BY GOD'S COMMANDMENTS
27 AS OPPOSED TO THE INSTRUCTIONS THE JUDGE GIVES YOU?

28 MS. FLOYD: CORRECT.

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1 MR. WAPNER: SO EVEN THOUGH THE JUDGE TOLD YOU THAT YOU
2 HAD TO THINK ABOUT WHETHER HE SHOULD GET LIFE OR WHETHER HE
3 SHOULD GET DEATH, WHEN IT CAME RIGHT DOWN TO IT YOU WOULD BE
4 GUIDED BY THE TEN COMMANDMENTS?

5 MS. FLOYD: I THINK SO.
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1 MR. WAPNER: DO YOU HAVE ANY QUESTION ABOUT THAT?

2 MS. FLOYD: NO.

3 MR. WAPNER: I HAVE A CHALLENGE OF MRS. FLOYD FOR CAUSE,
4 YOUR HONOR.

5 THE COURT: DO YOU WANT TO ASK SOME MORE QUESTIONS?

6 MR. BARENS: QUITE SO, YOUR HONOR.

7 THE COURT: GO AHEAD.

8 MR. BARENS: MRS. FLOYD, AND I WANT TO UNDERSTAND YOU
9 AND I DON'T WANT TO PUT ANY WORDS IN YOUR MOUTH AND I DON'T
10 WANT TO TRICK YOU.

11 AND IF YOU DON'T UNDERSTAND SOMETHING I AM ASKING,
12 PLEASE LET ME KNOW.

13 MS. FLOYD: UH-HUH.

14 MR. BARENS: EARLY ON, YOU TOLD ME THAT YOU FELT THAT
15 IF YOU TOOK AN OATH AS A JUROR IN THIS CASE THAT YOU COULD
16 SUBORDINATE YOUR PHILOSOPHICAL POINT OF VIEW TO CARRYING OUT
17 YOUR DUTY AS A JUROR AND WOULD BE WILLING TO CONSIDER THE
18 DEATH PENALTY AS ONE OF THE TWO ALTERNATIVES.

19 WOULD YOU BE ABLE TO CONSIDER THE DEATH PENALTY
20 AS ONE OF THE TWO ALTERNATIVE PUNISHMENTS IF WE GOT TO THAT
21 PHASE AND SUBORDINATE YOUR RELIGIOUS BELIEF TO YOUR OBLIGATIONS
22 AS A JUROR?

23 MS. FLOYD: I SEEM TO BE CONTRADICTING MYSELF BUT I
24 JUST -- I JUST DON'T THINK I COULD COMMIT TO THAT.

25 MR. BARENS: NOW I AM NOT ASKING YOU TO COMMIT YOURSELF
26 THAT YOU WOULD IN FACT VOTE FOR THE DEATH PENALTY, NO ONE IS
27 ASKING YOU THAT.

28 MS. FLOYD: UH-HUH.

1 MR. BARENS: WHAT WE ARE TRYING TO FIND OUT IS, WOULD
2 YOU CONSIDER THE DEATH PENALTY AS A POSSIBLE ALTERNATIVE
3 SENTENCE AS OPPOSED TO LIFE WITHOUT POSSIBILITY OF PAROLE?

4 MS. FLOYD: NO.

5 MR. BARENS: ARE YOU TELLING ME THEN THAT NO MATTER WHAT
6 FACTS WERE ESTABLISHED THAT YOU WOULD NEVER UNDER ANY
7 CIRCUMSTANCES, IRRESPECTIVE OF THE EVIDENCE IN THIS CASE, VOTE
8 FOR THE DEATH PENALTY?

9 MS. FLOYD: I DON'T THINK SO.

10 MR. BARENS: THEREFORE, EVEN IF THERE WAS AN INTENTIONAL
11 MURDER DURING A ROBBERY AND THE FACTORS IN AGGRAVATION THAT
12 WERE SHOWN DURING THE PENALTY PHASE WERE SO SEVERE THAT THE
13 DEFENDANT APPEARED WITHOUT REDEMPTION IN YOUR EYES AND THAT
14 THE DEFENDANT HIMSELF VIOLATED THE DECALOGUE, HAD VIOLATED
15 THE COMMANDMENT THAT YOU SHALL NOT KILL, THAT UNDER NO
16 CIRCUMSTANCES COULD YOU VOTE IN FAVOR OF THE DEATH PENALTY
17 EVEN FOR THAT DEFENDANT?

18 MS. FLOYD: NO.

19 MR. BARENS: THANK YOU. THE MATTER IS SUBMITTED.

20 MR. WAPNER: THERE WILL BE A CHALLENGE OF MRS. FLOYD
21 FOR CAUSE, YOUR HONOR.

22 THE COURT: ALL RIGHT.

23 YOU STRIKE US ALL AS BEING A VERY FINE JUROR. WE
24 NEED JURORS LIKE YOU IN OUR JUDICIAL SYSTEM. BUT THE
25 UNFORTUNATE THING IS THAT YOU QUALIFY IN EVERY OTHER CASE, BUT
26 THIS ONE BECAUSE OF YOUR ATTITUDE, AND NOBODY IS QUARRELING
27 WITH YOU ABOUT IT. WE ADMIRE YOUR FRANKNESS AND YOUR CANDOR
28 IN TELLING US HOW YOU FEEL ABOUT IT. BUT YOU JUST DON'T

1 QUALIFY AS A TRIAL JUROR IN THIS CASE BECAUSE OF THE DEATH
2 PENALTY, ALL RIGHT?

3 MS. FLOYD: ALL RIGHT.

4 THE COURT: YOU WILL BE EXCUSED AND GO BACK TO THE JURY
5 ASSEMBLY ROOM. YOU TELL THEM THERE THE JUDGE SAYS YOU QUALIFY
6 EMINENTLY IN SOME OTHER CASE BUT NOT ON THIS ONE, ALL RIGHT?

7 MS. FLOYD: THANK YOU.

8 (PROSPECTIVE JUROR FLOYDS EXITS THE
9 COURTROOM.)

10 (PROSPECTIVE JUROR GARVIN ENTERS THE
11 COURTROOM.)

12 THE COURT: MR. GARVIN?

13 MR. GARVIN: YOUR HONOR, COULD I ASK A QUESTION?

14 THE COURT: YES.

15 MR. GARVIN: WOULD IT BE POSSIBLE FOR ME TO COME BACK
16 AND BE QUESTIONED LATER? I JUST HAD SORT OF A MINOR PERSONAL
17 TRAGEDY. I FOUND MY PET DEAD ON THE STREET JUST AS I WAS
18 COMING BACK.

19 THE COURT: I AM SORRY. WOULD YOU WANT TO COME BACK
20 TOMORROW MORNING?

21 MR. GARVIN: THAT WOULD BE A GOOD TIME. ANY TIME.

22 MR. BARENS: MONDAY, YOUR HONOR.

23 THE COURT: CAN YOU COME BACK ON MONDAY MORNING?

24 MR. GARVIN: OH, YES.

25 THE COURT: AT 10:00 O'CLOCK?

26 MR. GARVIN: YES.

27 THE COURT: YOU COME BACK MONDAY MORNING AT 10:00 O'CLOCK.

28 MR. GARVIN: THANK YOU, YOUR HONOR.

1 THE COURT: MONDAY MORNING.

2 (PROSPECTIVE JUROR GARVIN EXITS THE
3 COURTROOM.)

4 (PROSPECTIVE JUROR GHAEMMAGHAMI ENTERS
5 THE COURTROOM.)

6 THE COURT: MS. GHAEMMAGHAMI?

7 MS. GHAEMMAGHAMI: RIGHT.

8 THE COURT: LET ME GET THE PHONETICS DOWN.

9 THAT IS MRS. GHAEMMAGHAMI?

10 MS. GHAEMMAGHAMI: YES.

11 THE COURT: MS. GHAEMMAGHAMI, WHERE DO YOU LIVE?

12 MS. GHAEMMAGHAMI: RESEDA.

13 THE COURT: HAVE YOU HEARD ANYTHING AT ALL ABOUT THIS
14 CASE EXCEPT WHAT I TOLD YOU YESTERDAY IN COURT?

15 MS. GHAEMMAGHAMI: NO, NOTHING.

16 THE COURT: NEVER READ ANYTHING ABOUT IT AT ALL?

17 MS. GHAEMMAGHAMI: I DON'T KNOW OTHER THAN WHAT YOU
18 TOLD ME, I DON'T KNOW ANYTHING.

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1 THE COURT: ALL RIGHT. YOU HAVE NOT TALKED TO ANY OF
2 THE JURORS ABOUT IT?

3 MS. GHAEMMAGHAMI: NO.

4 THE COURT: ALL RIGHT. MISS GHAEMMAGHAMI, I WILL TELL
5 YOU BRIEFLY AGAIN WHAT THE CASE IS ABOUT AND THEN I WILL ASK
6 YOU A SERIES OF QUESTIONS WHICH HAVE TO DO WITH YOUR
7 ATTITUDE TOWARD THE DEATH PENALTY BECAUSE THE DEATH PENALTY
8 IS REQUESTED IN THIS CASE.

9 FIRST, YOU KNOW THAT THE DEFENDANT HAS BEEN
10 ACCUSED OF THE CRIME OF MURDER, IT BEING MURDER IN THE FIRST
11 DEGREE AND THAT IT WAS COMMITTED IN THE COURSE OF A ROBBERY.

12 IN THE COURSE OF A ROBBERY HAS SPECIAL
13 SIGNIFICANCE BECAUSE NOT EVERY MURDER IS PUNISHABLE BY THE
14 DEATH PENALTY, YOU UNDERSTAND, EVEN IF IT IS DELIBERATE AND
15 PREMEDITATED AND UGLY.

16 IT IS ONLY THOSE MURDERS WHICH ARE COMMITTED UNDER
17 CERTAIN SPECIAL CIRCUMSTANCES, THAT THE LEGISLATURE HAS SAID
18 THAT THOSE PARTICULAR CASES QUALIFY FOR A CONSIDERATION OF
19 THE DEATH PENALTY.

20 NOW, A MURDER COMMITTED IN THE FIRST DEGREE,
21 COMMITTED IN THE COURSE OF A ROBBERY SUCH AS IN THIS CASE
22 OR IN THE COURSE OF A BURGLARY OR IN THE COURSE OF A KIDNAPPING
23 OR A RAPE OR THE MOLESTATION OF A CHILD AND THE CHILD DIES
24 OR TORTURE OR MULTIPLE MURDER AND SO ON -- THERE ARE ABOUT
25 19 OF THEM -- WHERE THE LEGISLATURE HAS SAID THOSE CASES HAVE
26 SPECIAL CIRCUMSTANCES AND THEY QUALIFY FOR THE IMPOSITION
27 OF THE DEATH PENALTY. DO YOU UNDERSTAND THAT?

28 MS. GHAEMMAGHAMI: UH-HUH.

1 THE COURT: ALL RIGHT. THE DEATH PENALTY INCLUDES ONE
2 OF TWO THINGS, EITHER LIFE WITHOUT POSSIBILITY OF PAROLE OR
3 DEATH. LIFE WITHOUT POSSIBILITY OF PAROLE MEANS EXACTLY WHAT
4 IT SAYS, LIFE WITHOUT POSSIBILITY OF PAROLE. THAT IS, NO
5 POSSIBILITY OF PAROLE. DO YOU UNDERSTAND THAT, TOO?

6 MS. GHAEMMAGHAMI: UH-HUH.

7 THE COURT: ALL RIGHT. NOW, THE JURY WHICH WOULD BE
8 CHOSEN TO TRY THIS CASE, WILL FIRST HAVE TO DETERMINE WHETHER
9 OR NOT THE DEFENDANT IS GUILTY OR NOT GUILTY OF MURDER. IF
10 THEY FIND THAT HE IS GUILTY AND IT IS MURDER IN THE FIRST
11 DEGREE, THEN THEY ARE TO ANSWER THE QUESTION, IS IT TRUE OR
12 IS IT FALSE THAT THIS MURDER WAS COMMITTED DURING THE COURSE
13 OF A ROBBERY. THAT IS THE SPECIAL CIRCUMSTANCE, WAS IT
14 COMMITTED DURING THE COURSE OF A ROBBERY.

15 BECAUSE IF IT WAS COMMITTED DURING THE COURSE
16 OF A ROBBERY, IT QUALIFIES THE CASE FOR THE DEATH PENALTY.
17 DO YOU UNDERSTAND THAT?

18 SO, THAT IS WHAT THE JURY WOULD HAVE TO CONSIDER
19 ON THE FIRST PHASE OR GUILT PHASE OF THE TRIAL. IF THEY FIND
20 THAT HE IS GUILTY OF MURDER IN THE FIRST DEGREE AND IT WAS
21 COMMITTED DURING THE COURSE OF A ROBBERY, THEN THAT SAME JURY
22 WILL HEAR OTHER EVIDENCE PRESENTED BY THE DEFENSE AND BY THE
23 PEOPLE.

24 THE DEFENDANT'S EVIDENCE WILL BE FOR THE PURPOSE
25 OF SHOWING FAVORABLE THINGS ABOUT THE DEFENDANT, THINGS THAT
26 ARE FAVORABLE. YOU ARE UNDER A DUTY TO CONSIDER HIS AGE,
27 HIS LACK OF ANY PRIOR CONVICTIONS OR CRIMINAL ACTIVITY, HIS
28 BACKGROUND, HIS EDUCATION, HIS MENTAL AND PHYSICAL CONDITION

1 AND ANYTHING THAT MAY HAVE SOME FAVORABLE ASPECTS TO IT. THOSE
2 ARE CALLED MITIGATING CIRCUMSTANCES.

3 THE PEOPLE WILL HAVE A RIGHT TO INTRODUCE EVIDENCE
4 AS TO AGGRAVATING CIRCUMSTANCES, THINGS WHICH ARE UNFAVORABLE
5 OR BAD ABOUT THE DEFENDANT.

6 SO THE JURY HAS ALL OF THOSE THINGS TO CONSIDER
7 AT THE TIME THAT THEY GO INTO THE JURY ROOM AND DELIBERATE
8 AS TO WHETHER OR NOT THE PENALTY SHOULD BE LIFE WITHOUT
9 POSSIBILITY OF PAROLE OR DEATH. DO YOU UNDERSTAND THAT?

10 THE FIRST PHASE OF THE TRIAL, THE QUESTION OF
11 THE PENALTY OR PUNISHMENT MUST NOT BE CONSIDERED IN ANY WAY
12 BY THE JURY. THAT IS THE GUILT PHASE.

13 IT IS ONLY ON THE SECOND PHASE OR THE PENALTY
14 PHASE WHERE THE DEFENDANT, IF HE HAS BEEN CONVICTED OF THE
15 CRIME OF MURDER IN THE FIRST DEGREE, THAT THE SPECIAL
16 CIRCUMSTANCE THAT IT WAS COMMITTED DURING THE COURSE OF A
17 ROBBERY IS TRUE, THEN THE JURY CONSIDERS FOR THE FIRST TIME,
18 WHAT THE PENALTY SHOULD BE.

19 SO WE HAVE A GUILT PHASE AND A PENALTY PHASE.
20 ALL RIGHT?

21 NOW, I WILL ASK A SERIES OF QUESTIONS. THE PURPOSE
22 OF THE QUESTIONS WILL BE TO DETERMINE OR ASCERTAIN OR EXPLORE
23 YOUR STATE OF MIND ON THE QUESTION OF THE DEATH PENALTY, HOW
24 IT MIGHT RELATE TO YOUR ABILITY TO ACT AS A TRIAL JUROR IN
25 THIS CASE.

26 THE FIRST AND SECOND QUESTIONS HAVE TO DO WITH
27 THE GUILT PHASE OF THE TRIAL, FORGET ABOUT THE PENALTY PHASE.

28 DO YOU HAVE ANY OPINION WHATEVER IT MAY BE, REGARDING

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

4 MS. GHAEMMAGHAMI: I DON'T QUITE KNOW WHAT YOU WANT
5 ME TO SAY.

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1 THE COURT: I DON'T WANT YOU TO SAY ANYTHING. I JUST
2 WANT YOU TO ANSWER THE QUESTION.

3 THE QUESTION IS, DO YOU HAVE ANY OPINION ON THE
4 DEATH PENALTY, WHATEVER THAT OPINION MAY BE, WHICH WILL IN
5 ANY WAY, PREVENT YOU FROM MAKING AN IMPARTIAL DECISION ON
6 THE FIRST PHASE, WHETHER OR NOT HE IS GUILTY OR NOT GUILTY
7 OF THE OFFENSE?

8 MS. GHAEMMAGHAMI: NO.

9 THE COURT: ALL RIGHT. NOW, THE SECOND QUESTION IS
10 THE SAME KIND EXCEPT THAT IT RELATES TO THE GUILT PHASE.

11 DO YOU HAVE ANY OPINION WHATEVER IT MAY BE REGARDING
12 THE DEATH PENALTY, THAT WOULD PREVENT YOU FROM MAKING AN
13 IMPARTIAL DECISION CONCERNING THE TRUTH OR FALSITY AS TO THE
14 SPECIAL CIRCUMSTANCE?

15 DO YOU REMEMBER THAT I TOLD YOU THAT IF YOU FOUND
16 THE DEFENDANT GUILTY OF MURDER IN THE FIRST DEGREE, THEN THE
17 JURY HAS TO DECIDE WAS IT COMMITTED IN THE COURSE OF A ROBBERY.
18 THOSE ARE THE SPECIAL CIRCUMSTANCES.

19 DO YOU HAVE AN OPINION ON THE DEATH PENALTY THAT
20 WILL PREVENT YOU FROM MAKING AN IMPARTIAL DECISION ON THAT
21 QUESTION?

22 MS. GHAEMMAGHAMI: NO.

23 THE COURT: ALL RIGHT. NOW, THE NEXT TWO QUESTIONS
24 HAVE TO DO WITH THE PENALTY ASPECT. THE JURY HAS THEN FOUND
25 THE DEFENDANT GULTY OF MURDER IN THE FIRST DEGREE IN THE COURSE
26 OF A ROBBERY. NOW THEN, WE APPROACH THE PENALTY PHASE.

27 THESE TWO QUESTIONS HAVE REFERENCE TO THE PENALTY
28 PHASE. DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH

1 PENALTY, THAT YOU WOULD AUTOMATICALLY VOTE TO IMPOSE THE DEATH
2 PENALTY, REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED
3 AT THE PENALTY PHASE OF THE TRIAL?

4 MS. GHAEMMAGHAMI: NO.

5 THE COURT: ALL RIGHT. NOW, THE NEXT QUESTION IS ALMOST
6 LIKE IT BUT IT RELATES TO LIFE WITHOUT POSSIBILITY OF PAROLE.
7 DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH PENALTY,
8 THAT YOU WOULD AUTOMATICALLY VOTE FOR LIFE WITHOUT POSSIBILITY
9 OF PAROLE, REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED
10 IN THE PENALTY PHASE OF THE TRIAL?

11 MS. GHAEMMAGHAMI: NO.

12 THE COURT: GOOD. THE NEXT AND LAST QUESTION IS, DO
13 YOU UNDERSTAND THAT THE ISSUE OF THE DEATH PENALTY MAY OR
14 MAY NOT OCCUR IN THIS CASE AND THESE QUESTIONS HAVE BEEN ASKED
15 ONLY IN THE EVENT THAT YOU REACH THAT PHASE OF THE TRIAL?

16 MS. GHAEMMAGHAMI: YES.

17 THE COURT: ALL RIGHT.

18 MR. BARENS: MR. CHIER WILL PROCEED, YOUR HONOR.

19 MR. CHIER: YES. MS. GHAEMMAGHAMI, GOOD AFTERNOON.
20 I AM RICHARD CHIER. I AM ONE OF THE ATTORNEYS FOR MR. HUNT.

21 PRELIMINARILY, I WOULD LIKE YOU TO KNOW THAT THIS
22 IS AS AWKWARD FOR ME AS IT IS FOR YOU, NOT HAVING MET ONE
23 ANOTHER BEFORE, TO LAUNCH INTO A CONVERSATION ABOUT ONE OF
24 THE MOST IMPORTANT ISSUES IN OUR SOCIETY.

25 AND THE WAY THIS TYPE OF CASE IS PROSECUTED, IT
26 REQUIRES THIS FILTERING TAKE PLACE AT THIS END, RATHER THAN
27 AT THE OTHER END WHEN IT WOULD BE TOO LATE.

28 I WILL ASK YOU SOME QUESTIONS WHICH ARE ALONG

1 THE SAME LINES AS THE QUESTIONS ASKED BY THE JUDGE BUT A LITTLE
2 MORE PROBING, PERHAPS.

3 I WANT YOU TO UNDERSTAND THAT THERE ISN'T ANY
4 RIGHT OR WRONG ANSWER TO THESE QUESTIONS. THE QUESTIONS ARE
5 NOT BEING ASKED SO THAT WE CAN JUDGE YOU AS A PERSON OR EVEN
6 JUDGE YOUR ATTITUDES. THEY ARE STRICTLY INFORMATIONAL.

7 IT MAY BE THAT YOUR VIEWS ABOUT THE DEATH PENALTY
8 ARE SUCH THAT YOU ARE APPROPRIATE TO BE A JUROR IN THIS CASE.
9 IT MAY NOT BE.

10 BUT IT DOES NOT MEAN THAT YOU ARE NOT A GOOD PERSON
11 OR YOU DON'T HAVE GOOD IDEAS OR YOU WOULD NOT BE A GOOD JUROR
12 FOR SOME OTHER CASE.

13 SO, WITH THAT IN MIND, THE QUESTION I WILL ASK
14 YOU SHOULD BE ANSWERED WITH YOUR UTMOST CANDOR, OTHERWISE
15 THE SYSTEM DOES NOT WORK.

16 IF YOU HAVE ANY HIDDEN AGENDAS OR SECRET
17 INTENTIONS ABOUT THESE THINGS, IT WON'T WORK. LET'S START
18 OFF BY HAVING YOU ANSWER THIS QUESTION: I AM A PERSON WHO
19 IS A, VERY MUCH IN FAVOR OF THE DEATH PENALTY; B, SOMEWHAT
20 IN FAVOR OF THE DEATH PENALTY; C, OPPOSED TO THE DEATH PENALTY;
21 D, HAVE NOT REALLY CONSIDERED IT BEFORE TODAY; OR E, OTHER.

22 MS. GHAEMMAGHAMI: SOMEWHAT IN FAVOR OF THE DEATH PENALTY.

23 MR. CHIER: COULD YOU IN YOUR OWN WORDS, TELL US WHAT
24 YOU MEAN BY THAT? HOW DO YOU SEE YOURSELF ON THE ISSUE?

25 MS. GHAEMMAGHAMI: YES. I DON'T FEEL THAT WE SHOULD
26 JUST ARBITRARILY PUT ANYONE TO DEATH. I DON'T FEEL WE HAVE
27 THAT RIGHT. I FEEL THAT IT SHOULD BE UNDER VERY SPECIAL
28 CIRCUMSTANCES WHERE THE DANGER TO SOCIETY MAY BE SO GREAT

1 THAT -- AND THE RISKS FOR EVERYONE INVOLVED WOULD BE SO MUCH
2 THAT THEN, THE DEATH PENALTY SHOULD BE CONSIDERED.

3 MR. CHIER: LET ME SEE IF CAN TAKE A LITTLE CLOSER LOOK
4 AT THAT. YOU BELIEVE THAT THE DEATH PENALTY SHOULD BE USED
5 SPARINGLY. IS THAT ONE OF THE ATTITUDES YOU HAVE EXPRESSED?

6 MS. GHAEMMAGHAMI: RIGHT.

7 MR. CHIER: SECOND OF ALL, YOU BELIEVE THAT THE DEATH
8 PENALTY SHOULD ONLY BE INFLICTED AFTER A PERSON HAS HAD WHAT
9 WE CAN CALL METICULOUS DUE PROCESS?

10 MS. GHAEMMAGHAMI: DEFINITELY.

11 MR. CHIER: OKAY. AND THIRD, THAT THE DEATH PENALTY
12 IS SOMETHING WHICH IS SOCIALLY NECESSARY IN ORDER TO PREVENT
13 THE PERSON FROM DOING IT OVER AGAIN? DID YOU EXPRESS THAT?
14 I WAS NOT TOO SURE ABOUT THAT ASPECT.

15 MS. GHAEMMAGHAMI: WELL, IT IS VERY DIFFICULT. BECAUSE
16 OF THE NATURE OF THE QUESTIONS YOU ARE ASKING ME, IT IS
17 DIFFICULT TO JUST TELL YOU EXACTLY SOMETHING THAT I NEVER
18 HAD TO REALLY THOROUGHLY QUESTION MYSELF ON.

19 NUMBER ONE, I HAVE SEEN SO MUCH HAPPEN LATELY
20 THAT MAKES ME TO CONSIDER THAT POSSIBLY YOU KNOW, MAYBE FOR
21 THE BENEFIT OF SOCIETY AS A WHOLE, THE DEATH PENALTY WOULD
22 BE RIGHT AND ONLY IN SOME CASES.

23 IN OTHER CASES, I COULD SEE NO GAIN FROM THE DEATH
24 PENALTY AT ALL AND NO -- WHAT IS THE WORD? NOT GAIN, BUT --

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1 MR. CHIER: NO BENEFIT.

2 MS. GHAEMMAGHAMI: NO BENEFIT OR NO FEELING.

3 MR. CHIER: OKAY, LET ME KIND OF TRY TO WORK ALONG WITH
4 YOU TO THINK THIS OUT TOGETHER SO WE SEE WHERE WE ARE HERE.

5 DO YOU THINK THAT -- WELL, OBVIOUSLY, THE DEATH
6 PENALTY IS ONLY APPROPRIATE IN CASES OF FIRST DEGREE MURDER,
7 YOU UNDERSTAND THAT?

8 MS. GHAEMMAGHAMI: YES.

9 MR. CHIER: YOU DON'T BELIEVE THAT THE DEATH PENALTY
10 SHOULD BE USED IN CASES OTHER THAN MURDER CASES?

11 MS. GHAEMMAGHAMI: WHEN -- NO, NO.

12 MR. CHIER: OKAY, NOW DO YOU THINK THAT -- WELL, YOU
13 DON'T THINK THAT ALL PERSONS, EVEN THOUGH THEY HAVE BEEN
14 CONVICTED OF INTENTIONALLY MURDERING ANOTHER PERSON IN THE
15 COURSE OF ANOTHER CRIME, ROBBERY, FOR EXAMPLE, YOU DON'T
16 BELIEVE THAT ALL OF THOSE PERSONS SHOULD AUTOMATICALLY BE
17 EXECUTED?

18 MS. GHAEMMAGHAMI: NO.

19 MR. CHIER: OKAY, DO YOU BELIEVE THAT THE DECISION --
20 WHAT DO YOU THINK THE DECISION AS TO WHAT TO DO WITH THE
21 PERSON AFTER THEY HAVE BEEN CONVICTED REALLY COMES DOWN TO
22 IN TERMS OF THE CONSIDERATIONS?

23 THE COURT: WHAT DO YOU MEAN? I DON'T UNDERSTAND THAT
24 QUESTION.

25 MR. CHIER: DO YOU UNDERSTAND MY QUESTION?

26 MS. GHAEMMAGHAMI: HUH-UH.

27 THE COURT: I TOLD YOU THE FACTORS THAT YOU HAVE TO
28 CONSIDER ON THE PENALTY PHASE OF IT.

1 MS. GHAEMMAGHAMI: RIGHT.

2 THE COURT: THE AGE AND PRIOR CRIMINAL BACKGROUND, IF
3 ANY, CHARACTER, THE BACKGROUND OF THE DEFENDANT, HIS AGE AND
4 FACTORS OF THAT KIND. ALL OF THOSE FACTORS MUST BE CONSIDERED.
5 YOU WILL CONSIDER ALL OF THEM?

6 MS. GHAEMMAGHAMI: RIGHT. BUT I STILL DON'T QUITE
7 UNDERSTAND WHAT HE MEANT BY THAT.

8 THE COURT: I DON'T KNOW WHAT HE MEANS EITHER. THAT
9 IS WHY I TOLD YOU.

10 MR. CHIER: WHAT I MEAN IS, WHAT CONSIDERATIONS SEEM
11 IMPORTANT TO YOU IN MAKING THE DETERMINATION ABOUT WHETHER
12 A CONVICTED PERSON SHOULD LIVE OR DIE FOR HIS CRIME?

13 MS. GHAEMMAGHAMI: NUMBER ONE, AGE.

14 MR. CHIER: OKAY.

15 MS. GHAEMMAGHAMI: NUMBER 2, ARE THEY CAPABLE OF BEING --
16 THE COURT: REHABILITATED?

17 MS. GHAEMMAGHAMI: THANK YOU.

18 REHABILITATED.

19 ARE WE DO GAIN ANYTHING FROM THIS BY TAKING A
20 PERSON'S LIFE OR CAN WE, AS A SOCIETY, HAVE A RESPONSIBILITY
21 TO TURN SOMETHING AROUND FOR THE GOOD OF SOCIETY?

22 MR. CHIER: OKAY, I AM WITH YOU.

23 LET ME ASK YOU ONE OTHER QUESTION ON THE SUBJECT
24 OF AGE.

25 WHEN YOU SAY "AGE," DO YOU MEAN WHETHER THEY ARE
26 ADULT OR MINOR OR WHETHER THEY ARE YOUNG AND INEXPERIENCED
27 OR OLDER AND PRESUMABLY MORE EXPERIENCED IN LIFE, IS THAT WHAT
28 YOU MEAN?

1 MS. GHAEMMAGHAMI: THAT IS A VERY BROAD QUESTION.

2 WHAT I REALLY HAVE TO SAY IS BY FEEL INSTEAD OF
3 ANYTHING ELSE, I HAVE TO GO BY MY FEELINGS.

4 MR. CHIER: THAT IS WHAT WE ARE LOOKING FOR, REALLY.

5 MS. GHAEMMAGHAMI: YES. A PERSON MAY REACH THE AGE OF
6 ADULTHOOD AND NOT REALLY BE AN ADULT YET.

7 IF I HAD TO THINK OF IT LIKE THAT, THEN I WOULD
8 HOPE THAT I WOULD BE ABLE TO SEE MITIGATING CIRCUMSTANCES TO
9 TELL ME WHETHER THIS PERSON HAD ACTUALLY MATURED OR NOT AND
10 WERE THEY REALLY KNOWING WHAT THEY WERE DOING.

11 MR. CHIER: OKAY, SO --

12 THE COURT: YOUR IDEA OF AGE MEANS MATURITY; IS THAT
13 RIGHT?

14 MS. GHAEMMAGHAMI: MATURITY, RIGHT.

15 MR. CHIER: OKAY, NOW I AM GOING TO PASS FOR CAUSE, YOUR
16 HONOR.

17 THE COURT: ALL RIGHT. ANY QUESTIONS?

18 MR. CHIER: THANK YOU, MS. GHAEMMAGHAMI.

19 MR. WAPNER: YES, I DO. THANK YOU, YOUR HONOR.

20 GOOD AFTERNOON, MS. GHAEMMAGHAMI. I AM FRED
21 WAPNER, THE DEPUTY D.A. WHO IS PROSECUTING THIS CASE.

22 YOU SAID THAT YOU HAVE SEEN SO MUCH HAPPEN LATELY
23 AND IT HAS AFFECTED THE WAY YOU THINK ABOUT THIS. CAN YOU
24 TELL ME WHAT YOU WERE THINKING ABOUT SPECIFICALLY WHEN YOU
25 MADE THAT STATEMENT?

26 MS. GHAEMMAGHAMI: TERRORISTS' ACTIVITIES, THE DEATH
27 OF CHILDREN BY MOLESTATION, AS THE JUDGE SAID, SENSELESS DEATH.
28 I MEAN REALLY SENSELESS. THESE THINGS MAKE ME TO RECONSIDER

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1 THE DEATH PENALTY.

2 BEFORE, I WAS COMPLETELY AGAINST THE DEATH PENALTY

3 BUT I HAVE SINCE CHANGED.

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1 MR. WAPNER: I WANT TO TRY AND BRING THOSE THINGS DOWN
2 TO THE VERY IMMEDIATE SITUATION THAT WE ARE TALKING ABOUT HERE,
3 WHICH IS IN THIS PARTICULAR CASE YOU ARE GOING TO HAVE TO JUDGE,
4 OBVIOUSLY, THE FACTS OF THIS CASE WITHOUT REGARD TO COMPARING
5 IT TO TERRORISTS OR SOMETHING LIKE THAT.

6 BUT YOUR JOB, IF YOU ARE CHOSEN AS A JUROR IN THIS
7 CASE, WILL BE TO LISTEN TO THE GUILT PHASE AND THE PENALTY
8 PHASE AND IF YOU GET TO THAT POINT, TO GO INTO THE JURY ROOM
9 AND TO MAKE A DECISION AS TO WHETHER OR NOT THE DEFENDANT
10 SHOULD GET LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE
11 OR WHETHER HE SHOULD DIE; DO YOU UNDERSTAND THAT THAT ULTIMATELY
12 WOULD BE YOUR JOB?

13 MS. GHAEMMAGHAMI: YES.

14 MR. WAPNER: DO YOU THINK THAT THAT IS A DECISION THAT
15 YOU ARE CAPABLE OF MAKING?

16 MS. GHAEMMAGHAMI: THAT IS SUCH A TOUGH THING TO SAY.

17 MR. WAPNER: IT IS A VERY, VERY DIFFICULT QUESTION AND
18 AS --

19 MS. GHAEMMAGHAMI: HOW DOES ANYBODY KNOW UNTIL THEY ARE
20 THERE?

21 MR. WAPNER: WELL, I DON'T KNOW IF YOU CAN KNOW.

22 I AM NOT ASKING YOU WHICH WAY YOU WOULD VOTE.

23 MS. GHAEMMAGHAMI: THAT IS WHAT I MEAN, HOW DO YOU KNOW?
24 I MEAN, YOU THINK YOU KNOW EVERYTHING AND YOU ARE SO ADAMANT
25 IN HOW YOU FEEL AND YOU GET TO THAT POINT AND YOU SUDDENLY
26 FIND OUT YOU COULDN'T DO IT, SO I CAN'T REALLY ANSWER THAT
27 EXACTLY STRAIGHT OUT THE WAY YOU WANT ME.

28 MR. WAPNER: AS MR. CHIER TOLD YOU, THE REASON WE ASK

1 YOU THESE QUESTIONS NOW IS BECAUSE THE WAY THE SYSTEM WORKS,
2 ONCE YOU ARE SWORN AS A JUROR, THERE IS LIKE AN INVISIBLE
3 SHIELD BETWEEN YOU AND EVERYONE ELSE IN THE COURTROOM AND WE
4 CAN'T ASK YOU THESE QUESTIONS LATER.

5 MS. GHAEMMAGHAMI: RIGHT. AS IT UNDERSTAND IT, OKAY,
6 AS A JUROR I AM GOING TO BE SO INSTRUCTED ON EACH ASPECT OF
7 HOW YOU ARE SUPPOSED TO DO THINGS. YOU KNOW, YOU JUST CAN'T
8 TAKE SOMETHING AND SAY THIS IS IT. YOU MUST FIRST DECIDE
9 THE GUILT AND THEN HOW -- WHAT -- IS THAT THE PENALTY?

10 THE COURT: THE PENALTY PHASE.

11 MS. GHAEMMAGHAMI: THE PENALTY PHASE, IT IS SUPPOSED
12 TO BE DONE.

13 I FEEL THAT I COULD WORK WITHIN THOSE GUIDELINES
14 BUT --

15 MR. WAPNER: THE ONE THING THAT I THINK IS IMPORTANT,
16 SO THAT YOU KNOW, IS THAT THE JUDGE WILL GIVE YOU ON THE PENALTY
17 PHASE SOME GENERAL GUIDELINES ALONG THE LINES OF WHAT HE HAS
18 TOLD YOU ALREADY, AND WHAT HE IS GOING TO TELL YOU IS THAT
19 YOU MUST CONSIDER CERTAIN THINGS AND THOSE ARE THE THINGS
20 ABOUT WHICH YOU WILL HEAR EVIDENCE IN THE PENALTY PHASE, THE
21 AGE, WHETHER OR NOT THE PERSON HAS A PRIOR RECORD, ANY GOOD
22 THINGS ABOUT HIM, ANY BAD THINGS ABOUT HIM, AND THE JUDGE WILL
23 GIVE YOU THE GUIDELINES THAT YOU MUST CONSIDER THOSE THINGS;
24 DO YOU UNDERSTAND THAT?

25 MS. GHAEMMAGHAMI: YES.

26 MR. WAPNER: BUT HE IS NOT GOING TO TELL YOU THAT IF
27 YOU HEAR A, B, C AND D, THEREFORE, YOU JUST ADD IT UP AND YOU
28 GET TO A CERTAIN RESULT, YOU UNDERSTAND THAT?

1 MS. GHAEMMAGHAMI: RIGHT.

2 MR. WAPNER: ALL HE IS GOING TO SAY IS, THESE ARE THE
3 GUIDELINES, THESE ARE THE THINGS YOU HAVE TO CONSIDER AND YOU
4 HAVE TO THINK ABOUT, BUT HE IS NOT GOING TO TELL YOU HOW MUCH
5 SIGNIFICANCE YOU HAVE TO ATTACH TO ANY ONE OF THEM; DO YOU
6 UNDERSTAND THIS?

7 MS. GHAEMMAGHAMI: RIGHT.

8 MR. WAPNER: AND HOW MUCH SIGNIFICANCE YOU ATTACH TO
9 THEM, AND MOST IMPORTANTLY, HOW YOU VOTE IS NOT UP TO THE JUDGE
10 AND HE IS NOT GOING TO TELL YOU, HE IS NOT GOING TO GIVE YOU
11 A FORMULA FOR THAT. YOU HAVE TO MAKE UP YOUR OWN MIND; DO
12 YOU UNDERSTAND THAT?

13 MS. GHAEMMAGHAMI: YES.

14 MR. WAPNER: WHAT I AM SAYING IS, THAT ALTHOUGH HE GIVES
15 YOU GUIDELINES, THEY ARE NOT SO SPECIFIC THAT IT IS GOING TO
16 TAKE THE DECISION OUT OF YOUR HANDS, OTHERWISE, WE COULD JUST
17 USE COMPUTERS FOR THIS; DO YOU UNDERSTAND?

18 MS. GHAEMMAGHAMI: YES.

19 MR. WAPNER: SO UNDERSTANDING THAT YOU HAVE THESE
20 GENERAL GUIDELINES BUT THAT THE CHOICE IS REALLY GOING TO BE
21 UP TO YOU AND THAT WHEN IT COMES DOWN TO IT, IT IS A LIFE OR
22 DEATH CHOICE, IS IT POSSIBLE FOR YOU NOW TO SEARCH YOUR SOUL
23 AND BE ABLE TO KNOW WHETHER THAT IS A DECISION YOU ARE
24 CAPABLE OF MAKING?

25 MR. CHIER: YOUR HONOR, I OBJECT TO THE FORM OF THE
26 QUESTION. THE TEST IS WHETHER SHE IS WILLING TO CONSIDER IT
27 OR, ON THE OTHER HAND, WHETHER SHE IS IRREVOCABLY COMMITTED
28 BEFORE THE TRIAL EVEN HAS BEGUN.

1 THE COURT: COULD YOU ANSWER THAT QUESTION? OR DO YOU
2 WANT TO HAVE IT REPEATED?

3 MS. GHAEMMAGHAMI: I WOULD LIKE FOR HIM TO REPEAT IT.

4 MR. WAPNER: OKAY, MS. GHAEMMAGHAMI, I THINK WHAT I AM
5 SAYING IS, WE CAN USE THE WORD CONSIDER, BUT I AM NOT JUST
6 ASKING YOU WHETHER AS AN INTELLECTUAL EXERCISE YOU CAN THINK
7 ABOUT THINGS, BECAUSE WE CAN ALL CONSIDER THINGS IN THE
8 SENSE OF THINKING ABOUT THEM ONE WAY OR THE OTHER, BUT WHEN
9 IT COMES DOWN TO IT, IF YOU DON'T HAVE THE ABILITY TO ACTUALLY
10 RENDER A VERDICT EITHER WAY, THEN OBVIOUSLY YOU ARE NOT BEING
11 FAIR TO BOTH SIDES.

12 MS. GHAEMMAGHAMI: THAT'S RIGHT.

13 MR. WAPNER: SO WHAT I AM TRYING TO FIND OUT, THE
14 QUESTION I AM GOING TO ASK YOU NOW IS: AFTER YOU HAVE LISTENED
15 TO ALL OF THE EVIDENCE AND YOU ARE IN THE JURY ROOM AND YOU
16 ARE DELIBERATING IF YOU THINK THAT DEATH IS THE APPROPRIATE
17 VERDICT BASED ON THE EVIDENCE, ARE YOU SO CONSTITUTED AS A
18 PERSON THAT YOU ARE CAPABLE OF RENDERING THAT VERDICT?

19 MR. CHIER: YOUR HONOR, I OBJECT TO THE FORM OF THE
20 QUESTION, YOUR HONOR.

21 THE COURT: OVERRULED.

22 DO YOU --

23 MS. GHAEMMAGHAMI: I THINK I COULD.

24 THE COURT: -- YOU THINK YOU COULD OR COULD NOT?

25 MS. GHAEMMAGHAMI: COULD.

26 THE COURT: ALL RIGHT, GO AHEAD.

27 MR. WAPNER: I REALIZE WE ARE PUTTING YOU IN A SOMEWHAT
28 DIFFICULT POSITION NOW.

1 BUT COULD YOU, IF THE FACTS WARRANTED IT, WITH
2 THOSE SAME FACTS, ARE YOU CAPABLE OF COMING IN WITH A VERDICT
3 OF LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE?

4 MS. GHAEMMAGHAMI: YES.

5 MR. WAPNER: WIHTOUT KNOWING THE EVIDENCE NOW AT ALL,
6 I AM NOT ASKING YOU HOW YOU WOULD VOTE ON THE EVIDENCE BECAUSE
7 YOU DON'T HAVE IT, BUT AS A PHILOSOPHICAL QUESTION, SITTING
8 THERE NOW, DO YOU THINK IT WOULD BE EASIER FOR YOU TO VOTE
9 FOR ONE VERDICT OR THE OTHER? WOULD IT BE EASIER FOR YOU TO
10 VOTE LIFE OR DEATH?

11 THE COURT: SHE WOULD HAVE TO HEAR ALL THE FACTS. SHE
12 CAN'T MAKE UP HER MIND AT THIS TIME.

13 I AM GOING TO SUSTAIN THE OBJECTION TO THAT.
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1 MR. WAPNER: DO YOU THINK AS YOU SIT THERE NOW, BECAUSE
2 OF YOUR FEELINGS ABOUT THE DEATH PENALTY, THAT ONE SIDE OR
3 THE OTHER STARTS OFF WITH AN ADVANTAGE DURING THE PENALTY
4 PHASE OF THE TRIAL, JUST BECAUSE OF YOUR PERSONAL VIEWS, WITHOUT
5 HAVING HEARD THE EVIDENCE?

6 MS. GHAEMMAGHAMI: DO I THINK ONE SIDE STARTS OFF WITH
7 AN ADVANTAGE?

8 MR. WAPNER: RIGHT. IN OTHER WORDS, ON THE ISSUE OF
9 WHAT PENALTY SHOULD BE IMPOSED, IT IS AN OPEN QUESTION. DO
10 BOTH SIDES START OFF AT THE SAME STARTING LINE OR DOES
11 SOMEBODY HAVE A HEAD START?

12 MS. GHAEMMAGHAMI: I FEEL THAT THE STATE HAS A HEAD
13 START.

14 MR. WAPNER: TELL ME WHY.

15 THE COURT: THE STATE WHAT?

16 MS. GHAEMMAGHAMI: THE STATE.

17 THE COURT: THE STATE HAS WHAT?

18 MS. GHAEMMAGHAMI: A HEAD START.

19 THE COURT: WHY IS THAT?

20 MS. GHAEMMAGHAMI: BECAUSE FIRST OF ALL, THEY HAVE THE
21 POWER, OKAY? POWER GIVES THEM A HEAD START. CONTROL GIVES
22 THEM A HEAD START --

23 MR. WAPNER: CAN I INTERRUPT YOU FOR ONE SECOND? YOU
24 CAN GET BACK TO THAT IN A MOMENT.

25 WHAT I WAS TRYING TO ASK YOU, WAS A HEAD START
26 IN YOUR MIND.

27 MS. GHAEMMAGHAMI: NO, NOT IN MY MIND. NO. I THOUGHT
28 YOU MEANT OTHERWISE.

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1 MR. WAPNER: NO, IN YOUR MIND.

2 THE COURT: HE WANTS TO KNOW IF YOU ARE FAIR AND
3 IMPARTIAL AT THIS STAGE, BEFORE ANY EVIDENCE IS PRESENTED
4 ON THE PENALTY PHASE. ARE YOU IMPARTIAL?

5 MS. GHAEMMAGHAMI: NO. I WOULD THINK THAT I WOULD GO
6 BY WHAT WAS PRESENTED.

7 MR. WAPNER: OKAY. TELL ME A LITTLE BIT ABOUT YOUR
8 VIEWS ON THE DEATH PENALTY BEFORE YOU CHANGED YOUR MIND.

9 MS. GHAEMMAGHAMI: I FELT THAT NO ONE PERSON OR GOVERNMENT
10 HAD THE RIGHT TO TAKE ANOTHER PERSON'S LIFE. HOW CAN WE AS
11 INDIVIDUALS OR AS A STATE, KNOW WHAT WILL HAPPEN TO THAT PERSON
12 LATER IN LIFE? WHAT MAY MAKE THEM CHANGE? WHAT MAY CHANGE
13 THE COURSE OF THEIR LIVES THAT THEY MAY ULTIMATELY BE A
14 BENEFIT TO SOCIETY OR EVEN TO THEMSELVES.

15 MR. WAPNER: GO AHEAD. ARE YOU FINISHED?

16 MS. GHAEMMAGHAMI: YES.

17 MR. WAPNER: HOW LONG HAVE YOU HELD THAT BELIEF?

18 MS. GHAEMMAGHAMI: HOW LONG DID I HOLD THAT BELIEF?

19 MR. WAPNER: RIGHT.

20 MS. GHAEMMAGHAMI: PROBABLY THE MAJORITY OF MY LIFE,
21 PROBABLY 30 YEARS.

22 MR. WAPNER: AND WHAT WAS THE BASIS FOR THAT? WAS IT
23 A RELIGIOUS OR A MORAL OR A PHILOSOPHICAL BASIS OR A POLITICAL
24 BASIS?

25 MS. GHAEMMAGHAMI: I SUPPOSE THE BASIS OF THAT IS THAT
26 MORALLY, I JUST DIDN'T THINK ANYONE HAD THE RIGHT TO DO THAT
27 SORT OF THING. GOD GIVES LIFE. GOD SHOULD TAKE LIFE AND
28 NOT MYSELF. HOW COULD I DO ANYTHING LIKE THAT?

2003 1 MR. WAPNER: HOW MANY YEARS AGO WAS IT THAT THAT BEGAN
2 TO CHANGE?

3 MS. GHAEMMAGHAMI: I AM 43 NOW. WHEN DID IT BEGIN TO
4 CHANGE? HOW DO YOU EVER KNOW WHEN YOU ACTUALLY BEGIN TO CHANGE?
5 IT JUST --

6 THE COURT: THAT IS A GOOD ANSWER. ALL RIGHT. WHAT
7 IS THE NEXT QUESTION?

8 MR. WAPNER: THE DEPTH OF -- CONSIDERING THE LENGTH
9 OF TIME THAT YOU HELD THAT -- STRIKE THAT.

10 DID YOUR OPINION CHANGE, BASED ON THINGS LIKE
11 SITTING AND THINKING ABOUT TERRORIST ACTIVITIES?

12 MS. GHAEMMAGHAMI: NO, NOT NECESSARILY.

13 MR. WAPNER: COULD YOU TELL US A LITTLE BIT ABOUT WHAT
14 IT WAS THAT CAUSED IT TO CHANGE?

15 MS. GHAEMMAGHAMI: I WAS IN A REVOLUTION.

16 MR. WAPNER: YOU WERE IN A REVOLUTION?

17 MS. GHAEMMAGHAMI: YES.

18 MR. WAPNER: WHAT KIND OF A REVOLUTION?

19 MS. GHAEMMAGHAMI: I WAS IN THE IRANIAN REVOLUTION.

20 MR. WAPNER: YOU WERE IN WHAT?

21 MS. GHAEMMAGHAMI: I WAS CAUGHT UP IN THE IRANIAN
22 REVOLUTION.

23 MR. WAPNER: WERE YOU LIVING IN IRAN AT THE TIME?

24 MS. GHAEMMAGHAMI: YES.

25 MR. WAPNER: AND AS A RESULT -- WELL, I DON'T KNOW WHERE
26 TO START ON THAT.

27 MS. GHAEMMAGHAMI: OKAY. IT IS VERY BROAD. I HAD MANY
28 MEMBERS OF MY FAMILY TO BE EXECUTED FOR NO REASON.

2004
1 AND I FEEL THAT IT MADE ME TO TAKE A HARD LOOK
2 AT HOW GOVERNMENTS DO THINGS AND WHY GOVERNMENTS DO THINGS.

3 AND GOVERNMENTS ARE ACTUALLY PEOPLE, WHEN IT BOILS
4 DOWN. IT IS JUST LEFT TO PEOPLE. AND IT MADE ME TO SEE THAT
5 THERE ARE TIMES THAT THE DEATH PENALTY IS WISE AND IT MADE
6 ME TO CHANGE MY FEELINGS. THIS WAS NOT AN EASY CHANGE. THIS
7 WAS A VERY HARD CHANGE TO COME BY.

8 MR. WAPNER: ARE YOU SAYING THAT THE DEATH PENALTY WAS
9 WISE BECAUSE YOU COULD SEE IMPOSING IT ON THE PEOPLE THAT
10 DID THIS TO YOUR FAMILY?

11 MS. GHAEMMAGHAMI: NOT ON MY FAMILY. I DO NOT SEE IT
12 AS TO MY FAMILY.

13 I KNOW THAT THAT IS WHAT HELPED ME TO CHANGE.
14 BUT I SEE SO MANY PEOPLE NOW AS A RESULT OF THESE THINGS --
15 LET'S JUST SAY THAT IT BROADENED MY HORIZONS AND MADE ME TO
16 VIEW THE WORLD MORE AS A WHOLE AND HOW MAYBE IF THE DEATH
17 PENALTY HAS BEEN IMPOSED A FEW TIMES, THERE WOULD NOT HAVE
18 BEEN QUITE SO MUCH SUFFERING FOR SO MANY PEOPLE.

19 MR. WAPNER: AND WHEN YOU BRING IT DOWN TO THE PERSONAL
20 LEVEL, HOW IS THAT GOING TO AFFECT YOU IF YOU GET INTO THE
21 JURY ROOM AND ARE CALLED UPON TO MAKE THIS LIFE WITHOUT
22 POSSIBILITY OF PAROLE CHOICE IN THIS CASE?

23 MR. CHIER: YOUR HONOR, THE QUESTION IS INAPPROPRIATE.
24 HE HAS ASKED FOR HER GLOBAL VIEWS.

25 NOW HE IS ASKING HER TO COMMIT. THAT IS NOT THE
26 TEST FOR A QUALIFICATION OF THE JUROR.

27 MR. WAPNER: NOT TO COMMIT, JUST ASKING WHAT EFFECT
28 THESE THINGS ARE GOING TO HAVE ON THE DECISION SHE IS GOING

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1 TO BE CALLED UPON TO MAKE.

2 MR. CHIER: THERE IS NO WAY --

3 THE COURT: THE ULTIMATE QUESTION IS, IS YOUR STATE
4 OF MIND SUCH WITH RESPECT TO THE DEATH PENALTY, THAT YOU COULD
5 ACT IMPARTIALLY IN DECIDING GUILT OR INNOCENCE OF THE
6 DEFENDANT OR IF HE IS FOUND GUILTY, ACT IMPARTIALLY TO DECIDE
7 WHETHER OR NOT HE SHOULD SUFFER LIFE WITHOUT POSSIBILITY OF
8 PAROLE OR DEATH?

9 MS. GHAEMMAGHAMI: I THINK I HAVE HAD TO THINK ABOUT
10 THIS SINCE YOU SPOKE TO ME THE OTHER DAY. ULTIMATELY, BECAUSE
11 OF THESE THINGS, I FEEL THAT I WOULD MAKE A BETTER DECISION.
12 I WOULD BE ABLE TO MAKE THE DECISION FAIRLY.

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1 THE COURT: HE ASKED YOU WHETHER YOU WOULD BE FAIR AND
2 IMPARTIAL FIRST IN DECIDING THE GUILT OR INNOCENCE.

3 MS. GHAEMMAGHAMI: YES. I MEAN IMPARTIAL.

4 THE COURT: IN DECIDING WHETHER IT SHOULD BE LIFE WITHOUT
5 POSSIBILITY OF PAROLE OR DEATH, WOULD YOU BE IMPARTIAL AND
6 HEAR ALL OF THE EVIDENCE FIRST?

7 MS. GHAEMMAGHAMI: YES.

8 THE COURT: AND CONSIDER ALL OF THAT?

9 MS. GHAEMMAGHAMI: YES.

10 THE COURT: I THINK THAT WE HAVE EXHAUSTED THE
11 POSSIBILITIES HERE.

12 MR. WAPNER: YOUR HONOR, CAN I JUST ASK A COUPLE OF
13 MORE QUESTIONS?

14 ARE YOU SAYING THAT BECAUSE OF THESE RECENT
15 EXPERIENCES, AS OPPOSED TO THE VIEWS THAT YOU PREVIOUSLY HELD,
16 THAT YOU ARE KIND OF BALANCED OUT, BASICALLY?

17 MS. GHAEMMAGHAMI: YES. I THINK IT MADE ME A BETTER
18 PERSON AND AS YOU SAY, BALANCED OUT. YES.

19 MR. WAPNER: YOU HEARD THE JUDGE SAY THAT THE CHARGE
20 IN THIS CASE IS A MURDER IN THE COURSE OF A ROBBERY?

21 MS. GHAEMMAGHAMI: RIGHT.

22 MR. WAPNER: DID THAT STRIKE ANY CHORDS IN YOU, ONE
23 WAY OR ANOTHER? DID YOU HAVE ANY VISCERAL REACTION TO THAT,
24 TO THE EXTENT THAT THIS IS THE KIND OF CASE THAT -- DID YOU
25 THINK IT WAS THE KIND OF CASE THAT MAYBE IT WAS APPROPRIATE?

26 MS. GHAEMMAGHAMI: NO. I HAVE HEARD NO EVIDENCE. I
27 DON'T KNOW ANYTHING.

28 IT IS LIKE ASKING ME TO DECIDE THE GUILT OR

1 INNOCECE OF THAT WALL. I DON'T KNOW ANYTHING ABOUT THAT
2 WALL.

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

4 THE COURT: MISS GHAEMMAGHAMI, YOU QUALIFY TO BECOME
5 A JUROR IN THIS CASE. AND YOU AND A NUMBER OF OTHERS WILL
6 BE COMING BACK ON THE 10TH, WHICH IS A WEEK FROM WEDNESDAY.
7 THAT IS NEXT WEDNESDAY AT 10:30 IN THE MORNING. YOU COME
8 BACK AND GO TO THE JURY ASSEMBLY ROOM WITH ALL OF THE OTHER
9 JURORS. COME BACK HERE AND WE'LL START THE TRIAL.

10 MS. GHAEMMAGHAMI: OKAY. SO I COME BACK ON WEDNESDAY
11 AND I CHECK IN?

12 THE COURT: YES.

13 MS. GHAEMMAGHAMI: I HAVE TO BE HERE AT 9:45?

14 THE COURT: NO, 10:30. NO, MAKE IT 10 O'CLOCK. IS
15 THAT WHAT I TOLD THE OTHER JURORS?

16 MR. BARENS: I THOUGHT YOU SAID 10:30.

17 THE CLERK: I HEARD 10:00 SOMETIMES.

18 THE COURT: YES, 10 O'CLOCK. THAT WILL BE 10 O'CLOCK
19 ON NEXT WEDNESDAY.

20 MS. GHAEMMAGHAMI: THAT'S THE ACTUAL TRIAL?

21 THE COURT: WE START THE ACTUAL TRIAL. ALL RIGHT?

22 MS. GHAEMMAGHAMI: OKAY. SO I WANT TO UNDERSTAND
23 EVERYTHING. I COME BACK HERE NEXT WEDNESDAY ON THE 10TH,
24 DECEMBER THE 10TH?

25 THE COURT: THAT'S CORRECT, TO THE JURY ASSEMBLY ROOM.
26 WE WILL GET YOU ALL HERE AND WE WILL START THE TRIAL. THANK
27 YOU.

28 (PROSPECTIVE JUROR GHAEMMAGHAMI EXITED COURTROOM.)

1 (PROSPECTIVE JUROR AUSTIN GHIRARDI
2 ENTERED THE COURTROOM.)

3 THE COURT: GOOD AFTERNOON. IT IS GHIRARDI?

4 MR. GHIRARDI: GHIRARDI.

5 THE COURT: MR. GHIRARDI, WHERE DO YOU LIVE?

6 MR. GHIRARDI: IN LOS ANGELES, NEAR MAC ARTHUR PARK.

7 THE COURT: HAVE YOU EVER READ OR HEARD ANYTHING AT
8 ALL ABOUT THIS CASE THAT WE ARE ABOUT TO TRY?

9 MR. GHIRARDI: I READ THE PAPER ALL OF THE TIME. BUT
10 I DON'T KNOW ANYTHING ABOUT THIS.

11 THE COURT: HAVE YOU EVER HEARD THE NAME JOE HUNT? DOES
12 THAT STRIKE A CHORD?

13 MR. GHIRARDI: NO. I NEVER HEARD OF JOE HUNT.

14 THE COURT: THE BILLIONAIRE BOYS CLUB?

15 MR. GHIRARDI: WHO?

16 THE COURT: THE BILLIONAIRE BOYS CLUB?

17 MR. GHIRARDI: NO, SIR.

18 THE COURT: YOU HAVE NOT TALKED TO ANY OF THE JURORS
19 ABOUT THE CASE OR ANYBODY ELSE?

20 MR. GHIRARDI: NO.

21 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

22 YOU WERE HERE OF COURSE, WHEN I TOLD THE JURORS
23 GENERALLY WHAT THIS CASE WAS ABOUT?

24 MR. GHIRARDI: YES, SIR.

25 THE COURT: THE DEFENDANT IS CHARGED WITH MURDER, IT
26 BEING MURDER IN THE FIRST DEGREE AND IT IS ALLEGED THAT HE
27 COMMITTED A MURDER IN THE COURSE OF A ROBBERY.

28 IN THE COURSE OF A ROBBERY HAS SOME SIGNIFICANCE.

1 YOU SEE, A MURDER, NO MATTER HOW BAD IT IS, WHETHER IT IS
2 PREMEDITATED AND PLANNED AND EVERYTHING ELSE, DOESN'T QUALIFY
3 JUST BY ITSELF FOR THE IMPOSITION OF THE DEATH PENALTY OR
4 A CONSIDERATION OF IT.

5 IT IS ONLY WHERE IT IS ACCOMPANIED BY CERTAIN
6 SPECIAL CIRCUMSTANCES LIKE IF IT WAS COMMITTED IN THE COURSE
7 OF A ROBBERY AS IN THIS CASE OR IN THE CASE OF A BURGLARY
8 OR IN THE CASE OF A KIDNAPPING OR CHILD MOLESTATION WHERE
9 THE CHILD DIES OR A RAPE OR MULTIPLE MURDERS.

10 THEY ALL QUALIFY FOR THE IMPOSITION OF THE DEATH
11 PENALTY.

12 WHEN I SAY THE IMPOSITION OF THE DEATH PENALTY,
13 IT CONSISTS OF TWO ASPECTS, THE TRIAL WHERE THE JURY DETERMINES
14 WHETHER THE DEFENDANT SHOULD GET LIFE WITHOUT POSSIBILITY
15 OF PAROLE OR DEATH IN THE GAS CHAMBER. DO YOU UNDERSTAND?

16 MR. GHIRARDI: YES.

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1 THE COURT: WHEN WE REFER TO THE DEATH PENALTY, THIS
2 IS WHAT WE REFER TO.

3 MR. GHIRARDI: EITHER ONE.

4 THE COURT: EITHER ONE, THAT IS RIGHT.

5 THAT IS, IF THE JURY EVER GETS TO THAT, IT WILL
6 HAVE TO MAKE THAT DECISION.

7 NOW, THE JURY WHICH WILL BE IMPANELED TO TRY THIS
8 CASE WILL FIRST HAVE TO DETERMINE THE GUILT OR INNOCENCE OF
9 THE DEFENDANT.

10 IF THEY FIND HIM GUILTY OF MURDER IN THE FIRST
11 DEGREE, THEN THEY HAVE TO DECIDE ANOTHER QUESTION. THAT
12 QUESTION IS: IS IT TRUE OR IS IT FALSE THAT IT WAS COMMITTED
13 DURING THE COURSE OF A ROBBERY?

14 AND IF THE ANSWER IS TRUE, THEN IT QUALIFIES THE
15 CASE FOR A CONSIDERATION OF THE DEATH PENALTY, WHICH WE CALL
16 THE PENALTY PHASE OF THE TRIAL.

17 DURING THE PENALTY PHASE OF THE TRIAL, BOTH SIDES
18 INTRODUCE EVIDENCE. THE DEFENSE INTRODUCES EVIDENCE TO SHOW
19 FAVORABLE THINGS ABOUT THE DEFENDANT, HIS BACKGROUND, HIS
20 LIFE, HIS AGE, HIS LACK OF ANY PRIOR CRIMINAL ACTIVITY AND
21 HIS HISTORY, PHYSICAL OR MENTAL CONDITION, ALL OF THOSE FACTORS
22 WHICH THE JURY MUST TAKE INTO CONSIDERATION.

23 SIMILARLY, THEY WILL TAKE INTO CONSIDERATION ALL
24 OF THE UNFAVORABLE FACTORS THAT THE PROSECUTION WILL SHOW,
25 CALLED AGGRAVATING CIRCUMSTANCES.

26 SO AFTER THE JURY HAS HEARD ALL OF THAT, TOGETHER
27 WITH WHAT THEY RECALL AND WHAT THEY KNOW OF THE CRIME ITSELF
28 AND THE FACTS OF THE CRIME ITSELF, THEY THEN GO TO THE JURY

1 ROOM AND THEN THEY DELIBERATE UPON WHETHER OR NOT IT SHOULD
2 BE LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE OR DEATH
3 IN THE GAS CHAMBER, DO YOU SEE?

4 MR. GHIRARDI: YES, SIR.

5 THE COURT: NOW, I AM GOING TO ASK YOU A SERIES OF
6 QUESTIONS TO FIND OUT, PROBE AND EXPLORE YOUR MIND AS TO YOUR
7 POSITION AND YOUR OPINIONS AS OF THE DEATH PENALTY, TO SEE
8 WHETHER OR NOT THAT IN ANY WAY WOULD AFFECT YOU IN BEING A
9 FAIR JUROR IN THIS CASE.

10 MR. GHIRARDI: YES, SIR.

11 THE COURT: FIRST, THIS IS RELATED TO THE GUILT PHASE,
12 THE FIRST QUESTION YOU HAVE TO DECIDE FIRST IS GUILTY OR
13 NOT GUILTY: DO YOU HAVE ANY OPINION AS TO THE DEATH PENALTY,
14 WHATEVER IT MAY BE, WHICH WOULD IN ANY WAY PREVENT YOU FROM
15 MAKING AN IMPARTIAL DECISION AS TO THE GUILT OR INNOCENCE OF
16 THE DEFENDANT?

17 MR. GHIRARDI: NO.

18 THE COURT: ALL RIGHT, NOW ALSO ON THE GUILT PHASE: DO
19 YOU HAVE ANY OPINION WITH RESPECT TO THE DEATH PENALTY WHICH
20 WILL PREVENT YOU FROM ANSWERING THE QUESTION, NAMELY, MAKING
21 AN IMPARTIAL DECISION CONCERNING THE TRUTH OR FALSITY OF THE
22 SPECIAL CIRCUMSTANCE, WHETHER IT WAS COMMITTED DURING THE
23 COURSE OF A ROBBERY?

24 MR. GHIRARDI: I DON'T UNDERSTAND. IT SOUNDS LIKE THE
25 SAME QUESTION.

26 THE COURT: NO, EXCEPT THE FIRST PART OF IT HAD TO DO
27 WITH GUILT OR INNOCENCE.

28 MR. GHIRARDI: I SEE.

1 THE COURT: THAT YOU DECIDE, IS HE GUILTY OR INNOCENT
2 OF FIRST DEGREE MURDER.

3 MR. GHIRARDI: I SEE.

4 THE COURT: NOW THE SECOND PART OF IT YOU HAVE TO
5 DECIDE IS THE TRUTH OR FALSITY, WAS IT COMMITTED DURING THE
6 COURSE OF A ROBBERY.

7 MR. GHIRARDI: I SEE.

8 THE COURT: SO THAT IS A SEPARATE FINDING, WHICH IS
9 DIFFERENT.

10 MR. GHIRARDI: I SEE. I UNDERSTAND NOW.

11 THE COURT: IT IS SEPARATE.

12 IF IT WAS COMMITTED IN THE COURSE OF A ROBBERY,
13 THEN THAT QUALIFIES IT FOR THE DEATH PENALTY; DO YOU UNDER-
14 STAND THAT?

15 MR. GHIRARDI: I SEE. I UNDERSTAND.

16 THE COURT: DO YOU HAVE ANY OPINION, WHATEVER IT MAY
17 BE, REGARDING THE DEATH PENALTY THAT WOULD PREVENT YOU FROM
18 MAKING AN IMPARTIAL DECISION CONCERNING THE TRUTH OR FALSITY
19 OF THE SPECIAL CIRCUMSTANCE?

20 MR. GHIRARDI: NOT AT ALL.

21 THE COURT: NOW, THE NEXT TWO QUESTIONS RELATE TO THE
22 PENALTY PHASE. ASSUMING THE DEFENDANT IS FOUND GUILTY OF
23 MURDER IN THE FIRST DEGREE IN THE COURSE OF A ROBBERY, THE
24 FIRST QUESTION ON THE PENALTY PHASE IS: DO YOU HAVE SUCH AN
25 OPINION CONCERNING THE DEATH PENALTY THAT YOU WOULD
26 AUTOMATICALLY VOTE TO IMPOSE THE DEATH PENALTY, REGARDLESS
27 OF ANY EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY PHASE
28 OF THE TRIAL?

1 MR. GHIRARDI: NO.

2 THE COURT: AND THE NEXT QUESTION IS THE SAME, EXCEPT
3 IT APPLIES TO LIFE IMPRISONMENT: DO YOU HAVE SUCH AN OPINION
4 CONCERNING THE DEATH PENALTY THAT YOU WOULD AUTOMATICALLY
5 VOTE FOR LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE,
6 REGARDLESS OF THE EVIDENCE THAT MAY BE PRESENTED AT THE
7 PENALTY PHASE OF THE TRIAL?

8 MR. GHIRARDI: NONE THERE EITHER.

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

5 MR. GHIRARDI: YES, I UNDERSTAND.

6 MR. BARENS: THANK YOU. GOOD AFTERNOON, MR. GHIRARDI.
7 I AM ARTHUR BARENS. I AM ONE OF THE LAWYERS THAT REPRESENT
8 THE DEFENDANT, JOE HUNT.

9 AS HIS HONOR DID, IT IS MY DUTY AS PART OF THESE
10 PROCEEDINGS TO ASK YOU ABOUT YOUR VIEWS ON THE DEATH PENALTY.

11 NOW JUST BECAUSE I AM DOING THAT DOESN'T MEAN WE
12 WILL EVER GET TO IT.

13 MR. GHIRARDI: I UNDERSTAND.

14 MR. BARENS: AND IT IS JUST THAT PROCEDURALLY IT IS ONE
15 OF THE THINGS WE HAVE TO DO NOW UNDER THE SYSTEM WE HAVE.

16 AND THERE ARE NO RIGHT OR WRONG ANSWERS TO MY
17 QUESTIONS, NO GOOD OR BAD ANSWERS. JUST YOUR OPINION.

18 MR. GHIRARDI, HOW DO YOU FEEL ABOUT THE DEATH
19 PENALTY AS A GENERAL PROPOSITION IN OUR SOCIETY?

20 MR. GHIRARDI: WELL, THE WAY I FEEL, IF IT IS DESERVED,
21 IMPOSE IT.

22 MR. BARENS: NOW, WHAT I NEED TO KNOW, MR. GHIRARDI,
23 IS YOUR POINT OF VIEW ON WHEN IT IS DESERVED. IN OTHER WORDS,
24 YOU HAVE TOLD HIS HONOR THAT YOU WOULDN'T AUTOMATICALLY
25 IMPOSE IT ON EVERY FIRST DEGREE MURDERER, OR WOULD YOU?

26 MR. GHIRARDI: NO. IT WOULD DEPEND UPON THE CIRCUMSTANCES
27 THAT IT WAS COMMITTED UNDER.

28 MR. BARENS: OKAY, NOW WHAT WE ARE TALKING ABOUT HERE,

1 YOU WOULD NEVER BE CALLED UPON WITH THE OTHER JURORS TO MAKE
2 THIS DECISION UNTIL YOU HAD FIRST DECIDED THAT THERE HAD BEEN
3 A FIRST DEGREE, INTENTIONAL MURDER COMMITTED AND THAT IT WAS
4 COMMITTED DURING THE COURSE OF A ROBBERY, YOU GOT TO THAT
5 POINT.

6 MR. GHIRARDI: I UNDERSTAND THAT.

7 MR. BARENS: YOU ALREADY BELIEVE BEYOND A REASONABLE
8 DOUBT AND NOW WE ARE AT THE PENALTY PHASE. DURING THAT
9 PENALTY PHASE, EVIDENCE ABOUT THE DEFENDANT'S BACKGROUND OR
10 AGE OR LACK OF CRIMINAL RECORD WOULD BE PRESENTED TO YOU;
11 WOULD YOU CONSIDER THAT IN MAKING A DECISION OR WOULD YOU FEEL
12 THAT SINCE A LIFE HAD BEEN TAKEN, HE SHOULD AUTOMATICALLY BE
13 GIVEN THE DEATH PENALTY NO MATTER WHAT?

14 MR. GHIRARDI: AGAIN, IT WOULD DEPEND UPON THE
15 CIRCUMSTANCES.

16 MR. BARENS: OKAY, WHEN YOU SAY "CIRCUMSTANCES,"
17 MR. GHIRARDI, ARE YOU REFERRING JUST TO THE CIRCUMSTANCES OF
18 THE CRIME THAT WAS COMMITTED OR ARE YOU LOOKING AT THE TOTALITY
19 OF THE CIRCUMSTANCES SURROUNDING THE DEFENDANT?

20 MR. GHIRARDI: WELL, HIS MENTAL STATE AT THE TIME, I
21 SUPPOSE, WOULD HAVE TO BE TAKEN INTO CONSIDERATION.

22 MR. BARENS: OKAY. WOULD YOU CONSIDER HIS AGE?

23 MR. GHIRARDI: NO, NOT REALLY.

24 THE COURT: WELL, SUPPOSE THE JUDGE INSTRUCTS YOU THAT
25 YOU ARE TO CONSIDER HIS AGE AS ONE OF THE FACTORS YOU ARE TO
26 CONSIDER, YOU WILL CONSIDER IT, WON'T YOU?

27 MR. GHIRARDI: I WOULD, I SUPPOSE, IF THE PERSON WAS
28 A JUVENILE IT WOULD BE DIFFERENT BUT I DON'T IMAGINE WE EXECUTE

1 JUVENILES IN THIS STATE.

2 MR. BARENS: NOT LATELY.

3 HOWEVER, ASSUMING WE HAD AN ADULT.

4 THE COURT: WELL, MAYBE HIS MATURITY INSTEAD OF YOUTH,
5 WOULD YOU CONSIDER THAT?

6 MR. GHIRARDI: YOU MEAN SOMEONE WHO HAS HAD MORE
7 EXPERIENCE IN LIFE?

8 THE COURT: YES.

9 MR. GHIRARDI: I DON'T KNOW HOW I COULD CONSIDER THAT.
10 IT DOESN'T SEEM TO MAKE -- I DON'T KNOW, THE OLDER A PERSON
11 GETS, I SUPPOSE THE MORE JUDGMENT HE HAS IN LIFE.

12 MR. BARENS: SURE.

13 HOW ABOUT WHETHER OR NOT THE DEFENDANT, THAT YOU
14 HAD ALREADY FOUND GUILTY OF COMMITTING A MURDER, HOW ABOUT
15 WHETHER OR NOT HE HAD A PRIOR CRIMINAL RECORD PRIOR TO THE
16 EVENT THAT YOU HAVE ALREADY DECIDED HE IS GUILTY OF DOING,
17 WOULD THAT BE SOMETHING YOU WOULD CONSIDER IN DECIDING WHETHER
18 OR NOT HE SHOULD LIVE OR DIE?

19 MR. GHIRARDI: I DON'T THINK THAT WOULD BE ANY
20 CONSIDERATION AT ALL UNLESS THEY WERE AGGRAVATED CRIMES.

21 MR. BARENS: NOW THE JUDGE WOULD INSTRUCT YOU THAT ONE
22 OF THE THINGS YOU WERE TO CONSIDER IN MAKING THE LIFE AND
23 DEATH DECISION IS WHETHER OR NOT THE DEFENDANT HAD A PRIOR
24 CRIMINAL RECORD. MR. GHIRARDI, I THINK WHAT YOU ARE TELLING
25 ME IS THAT EVEN THOUGH YOU ARE TOLD TO CONSIDER THAT, IF THE
26 MAN YOU CONVICTED OF COMMITTING A FIRST DEGREE MURDER DURING
27 A ROBBERY, IF YOU BELIEVE IN YOUR OWN MIND THAT THAT IS TRUE,
28 THAT GUY IS GOING TO GET THE DEATH PENALTY BECAUSE THAT IS

1 JUST THE WAY YOU FEEL, NO MATTER WHAT YOU ARE TOLD TO CONSIDER?

2 MR. GHIRARDI: NO, THAT ISN'T WHAT I SAID, SIR.

3 WHAT I SAID WAS IT DEPENDS UPON THE TYPE OF CRIME.

4 IF IT WAS A NON-VIOLENT CRIME, THAT IS ONE THING. BUT IF IT

5 IS LIKE A HISTORY OF VIOLENT CRIMES, WHY THEN --

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1 THE COURT: MR. GHIRARDI, HE DIDN'T ASK YOU THAT.

2 HE ASKED YOU -- WE ARE NOW AT THE PENALTY PHASE,
3 HE HAS BEEN CONVICTED OF MURDER IN THE FIRST DEGREE AND
4 IN MITIGATION THERE WILL BE FAVORABLE ASPECTS PRESENTED AND
5 HE IS ASKING IF THE EVIDENCE SHOWED THAT HE HAD NOT BEEN
6 PREVIOUSLY CONVICTED OF ANY KIND OF A CRIME, THAT HE HAD A
7 LIFE FREE OF CRIME, WOULD THAT BE A CONSIDERATION, WILL YOU
8 CONSIDER THAT IF I INSTRUCTED YOU TO DO SO?

9 MR. GHIRARDI: OH, I UNDERSTAND. YES.

10 THE COURT: WOULD YOU CONSIDER THAT IN DECIDING WHAT
11 THE PENALTY SHOULD BE?

12 MR. GHIRARDI: YES, THAT WOULD BE A CONSIDERATION.

13 MR. BARENS: I APOLOGIZE FOR NOT HAVING MADE MYSELF
14 CLEARER, MR. GHIRARDI.

15 MR. GHIRARDI: I AM SORRY. I DIDN'T UNDERSTAND YOU.

16 MR. BARENS: QUITE SO. THANK YOU.

17 MR. GHIRARDI, THE DEFENSE AND THE PROSECUTION ARE
18 BOTH ENTITLED TO AS NEUTRAL A JUROR AS POSSIBLE FOR THESE
19 SERIOUS DECISIONS, NEUTRAL ON BOTH THE GUILT PHASE AND THE
20 PENALTY PHASE. DO YOU FEEL THAT YOU COULD BE TRULY NEUTRAL
21 IN DECIDING WHETHER THE DEFENDANT LIVED OR DIED IF YOU BELIEVED
22 THAT HE HAD COMMITTED AN INTENTIONAL MURDER, LIKE SHOT SOMEBODY
23 AND KILLED HIM DURING THE COMMISSION OF A ROBBERY, COULD YOU
24 STILL BE NEUTRAL IN YOUR OWN MIND WHEN IT CAME TIME TO MAKE
25 THE DECISION, AND LISTEN TO THE EVIDENCE, ON WHETHER HE SHOULD
26 LIVE OR DIE?

27 MR. GHIRARDI: YES.

28 MR. BARENS: NOW LASTLY, JUST ABOUT LASTLY, MR. GHIRARDI,

1 DO YOU SUBSCRIBE TO THE BELIEF OF AN EYE FOR AN EYE OR LIFE
2 FOR A LIFE?

3 MR. GHIRARDI: NOT ALWAYS.

4 MR. BARENS: NOT ALWAYS?

5 IT WOULD DEPEND UPON THE TOTALITY OF THE EVIDENCE?

6 MR. GHIRARDI: YES, SIR.

7 MR. BARENS: NOW, MR. GHIRARDI, YOU UNDERSTAND THAT
8 ALTHOUGH I HAVE DISCUSSED THESE TOPICS WITH YOU NOW AND THE
9 DEATH PENALTY, YOU HAVE NO REASON TO BELIEVE THAT MY CLIENT
10 HAS DONE ANYTHING WRONG OR IS GUILTY OF ANYTHING, DO YOU?

11 MR. GHIRARDI: I DON'T EVEN KNOW YOUR CLIENT.

12 MR. BARENS: YOU HAVEN'T HEARD ANY EVIDENCE HERE EITHER,
13 HAVE YOU?

14 MR. GHIRARDI: NO.

15 MR. BARENS: THANK YOU FOR YOUR HONESTY, SIR.

16 PASS FOR CAUSE.

17 MR. WAPNER: MR. GHIRARDI, GOOD AFTERNOON. I AM FRED
18 WAPNER. I AM THE DEPUTY DISTRICT ATTORNEY WHO IS PROSECUTING
19 THIS CASE.

20 MR. GHIRARDI: GOOD AFTERNOON.

21 MR. WAPNER: WHAT DID YOU MEAN WHEN YOU SAID "IF IT IS
22 DESERVED, IMPOSE IT?" CAN YOU ELABORATE ON THAT FOR ME A LITTLE
23 BIT?

24 MR. GHIRARDI: WELL, MAYBE I READ TOO MUCH BUT IF A PERSON
25 COMMITS A CRIME AND HE INTENTIONALLY MURDERS A PERSON AND HE
26 DOESN'T HAVE TO, THAT WOULD BE ONE THING. IF IT IS LIKE HE
27 IS HOLDING UP A BANK OR A STORE AND THE GUY LUNGES AT HIM AND
28 HE PULLS THE TRIGGER, I THINK THAT I WOULD HAVE A DIFFERENT

1 OPINION THEN UNDER THOSE CONDITIONS. BUT IF THE GUY IS JUST
2 STANDING THERE AND NOT DOING ANYTHING AND HE BLOWS HIM AWAY
3 ANYWAY, THAT WOULD BE MORE AGGRAVATION AS FAR AS I AM CONCERNED.

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1 THE COURT: ALL RIGHT. IF YOU CONVICTED HIM OF MURDER
2 IN THE FIRST DEGREE WITH SPECIAL CIRCUMSTANCES, AFTER THAT
3 COMES THE PENALTY PHASE. YOU HEAR OTHER THINGS, GOOD THINGS
4 AND BAD THINGS ABOUT THE DEFENDANT. ARE YOU WILLING TO WAIT
5 UNTIL YOU HEAR ALL OF THAT BEFORE YOU MAKE UP YOUR MIND AS
6 TO WHAT THE PENALTY SHOULD BE THAT IS INFLICTED?

7 MR. GHIRARDI: YES.

8 MR. WAPNER: SO JUST THE FACTS OF THE CASE, JUST THE
9 FACTS OF THE MURDER, THAT WOULDN'T END IT FOR YOU, ONCE AND
10 FOR ALL?

11 MR. GHIRARDI: NO.

12 MR. WAPNER: PASS FOR CAUSE.

13 THE COURT: ALL RIGHT. MR. GHIRARDI, BOTH SIDES HAVE
14 PASSED FOR CAUSE. WHAT THAT MEANS IS THAT YOU ARE ACCEPTABLE
15 AS A POSSIBLE JUROR IN THIS CASE.

16 YOU, TOGETHER WITH 60 OR 70 OTHERS THAT MAY
17 CONSTITUTE THE ENTIRE PANEL WILL COME BACK NEXT WEDNESDAY
18 THE 10TH.

19 MR. GHIRARDI: WHAT TIME DO I COME BACK?

20 THE COURT: 10 O'CLOCK. HERE, YOU CAN WRITE IT DOWN.

21 MR. GHIRARDI: I LEFT MY PENCIL OUTSIDE, TOO.

22 THE COURT: THAT IS DECEMBER 10TH WHICH IS WEDNESDAY
23 AT 10 O'CLOCK.

24 WE'LL TAKE A 10-MINUTE RECESS.

25 MR. BARENS: WITH MR. HUNT'S PERMISSION, I MUST DEPART
26 FOR THE AFTERNOON.

27 THE COURT: ALL RIGHT.

28 MR. BARENS: THANK YOU, YOUR HONOR. SEE YOU MONDAY.

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(MR. BARENS EXITED THE COURTROOM.)

(PROSPECTIVE JUROR GHIRARDI EXITED THE
COURTROOM.)

(RECESS.)

22B-1

1 (PROSPECTIVE JUROR DIANA JONSSON ENTERED
2 THE COURTROOM.)

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

4 MS. JONSSON: PACIFIC PALISADES.

5 THE COURT: HAVE YOU READ OR HEARD ANYTHING AT ALL ABOUT
6 THIS CASE, EXCEPT THAT IT IS PENDING HERE IN THIS COURT?

7 MS. JONSSON: NO.

8 THE COURT: EXCEPT WHAT I TOLD YOU WHEN YOU WERE ALL
9 HERE TOGETHER?

10 MS. JONSSON: NO. I DON'T KNOW ANYTHING ABOUT IT.

11 THE COURT: AND YOU HAVE NOT TALKED TO ANY PROSPECTIVE
12 JURORS OR HEARD ANYTHING ABOUT IT?

13 MS. JONSSON: NO.

14 THE COURT: WHAT I WILL DO, IS TO SUMMARIZE WHAT I TOLD
15 YOU WHEN YOU WERE ALL PRESENT AND SOME OTHER FACTS AND THEN
16 ASK YOU SOME QUESTIONS.

17 THOSE QUESTIONS WILL BE TO DETERMINE WHAT YOUR
18 STATE OF MIND IS TOWARDS THE DEATH PENALTY AND SEE WHETHER
19 OR NOT YOU CAN QUALIFY AS A JUROR IN THIS CASE. ALL RIGHT?

20 MS. JONSSON: ALL RIGHT.

21 THE COURT: THE THING THAT I TOLD YOU, WAS THAT THE
22 CHARGE AGAINST THE DEFENDANT IS THAT HE COMMITTED A MURDER
23 IN THE FIRST DEGREE DURING THE COURSE OF A ROBBERY.

24 NOW, DURING THE COURSE OF A ROBBERY HAS SIGNIFICANCE
25 BECAUSE THE LEGISLATURE HAS SAID THAT IN CERTAIN MURDERS WHERE
26 THERE ARE SPECIAL CIRCUMSTANCES, THOSE CASES QUALIFY FOR THE
27 IMPOSITION OF THE DEATH PENALTY IF IT IS WARRANTED. DO YOU
28 UNDERSTAND?

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1 MS. JONSSON: UH-HUH.

2 THE COURT: NOW, WHEN I TALK ABOUT THE DEATH PENALTY,
3 THERE ARE TWO ASPECTS OF THE DEATH PENALTY. WHEN A CASE IS
4 SUBMITTED TO A JURY IN THE DEATH PENALTY PHASE, THEY ARE TO
5 CONSIDER ONE OF TWO THINGS, EITHER LIFE WITHOUT POSSIBILITY
6 OF PAROLE OR DEATH. DO YOU UNDERSTAND THAT?

7 MS. JONSSON: YES.

8 THE COURT: OKAY. NOW, THE LEGISLATURE HAS SAID THAT
9 ANY TIME THERE IS MURDER IN THE FIRST DEGREE COMMITTED IN
10 THE COURSE OF A ROBBERY, BURGLARY, RAPE, KIDNAPPING, CHILD
11 MOLESTATION WHERE THE CHILD DIES AS A RESULT OF THIS, MULTIPLE
12 MURDERS, TORTURE AND CRIMES OF THAT KIND WHICH ARE SPECIAL
13 CIRCUMSTANCES, THE LEGISLATURE HAS SAID IN THOSE KINDS OF
14 CASES, THEY CALL FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE
15 OR DEATH AS A PROPER PENALTY. DO YOU UNDERSTAND?

16 MS. JONSSON: YES.

17 THE COURT: WHICH IS TO BE DECIDED BY THE JURY,
18 DEPENDING UPON ALL OF THE FACTS WHICH WILL BE PRESENTED TO
19 YOU.

20 ALL RIGHT. NOW, THE JURY THAT IS SELECTED TO
21 TRY THIS CASE WILL FIRST DETERMINE WHETHER OR NOT THE DEFENDANT
22 IS GUILTY OR NOT GUILTY. AND IF HE IS FOUND GUILTY, THEY
23 MUST FIND IT TO BE MURDER IN THE FIRST DEGREE AND THEN THEY
24 HAVE A SEPARATE QUESTION TO DETERMINE THAT WE CALL THE
25 SPECIAL CIRCUMSTANCE, WAS IT COMMITTED IN THE COURSE OF A
26 ROBBERY. IS IT TRUE OR FALSE IT WAS COMMITTED IN THE COURSE
27 OF A ROBBERY?

28 IF THEY DECIDE YES, HE IS GUILTY OF MURDER IN

22B-3

1 FIRST DEGREE AND IT WAS COMMITTED IN THE COURSE OF A ROBBERY,
2 THEN THAT SAME JURY THEN LISTENS TO OTHER EVIDENCE, NEW
3 EVIDENCE BY THE DEFENDANT AND BY THE PROSECUTION.

4 THE DEFENDANT'S EVIDENCE WILL TEND TO SHOW THAT
5 THERE ARE FAVORABLE THINGS ABOUT HIM, THAT HE IS A PERSON
6 OF GOOD CHARACTER AND HIS AGE MIGHT BE A FACTOR AND WHETHER
7 OR NOT HE EVER HAD ANY CRIMINAL CONVICTIONS OF ANY KIND AND
8 LED GENERALLY AN EXEMPLARY LIFE. THOSE ARE CALLED MITIGATING
9 CIRCUMSTANCES.

10 ON THE OTHER HAND, THE PROSECUTION WILL TRY TO
11 SHOW AGGRAVATING CIRCUMSTANCES, THE THINGS ABOUT HIM WHICH
12 ARE UNFAVORABLE SO THAT THE JURY MAY CONSIDER THAT ALSO IN
13 DETERMINING WHICH ONE OF THE TWO PENALTIES THAT I TOLD YOU
14 ABOUT SHOULD BE IMPOSED UPON HIM.

15 THE JURY OF COURSE, WILL CONSIDER THE DEFENDANT'S
16 BACKGROUND, MENTAL AND PHYSICAL CONDITION AND A NUMBER OF
17 OTHER FACTORS WHICH THE COURT WILL TELL YOU THAT YOU MUST
18 CONSIDER AND BE GUIDED BY. YOU WILL FOLLOW THAT, WILL YOU
19 NOT?

20 MS. JONSSON: YES.

21 THE COURT: WHEN IT COMES TO THAT POINT?

22 MS. JONSSON: YES.

23 THE COURT: WHEN I TALK ABOUT LIFE WITHOUT POSSIBILITY
24 OF PAROLE, I MEAN EXACTLY THAT. THE LAW IS THAT IF A MAN
25 IS SENTENCED TO PRISON FOR LIFE WITHOUT POSSIBILITY OF PAROLE,
26 THAT MEANS HE WILL NEVER GET OUT. DO YOU UNDERSTAND THAT?

27 MS. JONSSON: UH-HUH.

28 THE COURT: OKAY. NOW, WITH THAT AS A PRELIMINARY,

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1 I AM GOING TO ASK YOU SOME QUESTIONS. THE PURPOSE OF THE
2 QUESTIONS WILL BE -- AND COUNSEL WILL ASK YOU SOME QUESTIONS.
3 THE PURPOSE OF THE QUESTIONS WILL BE TO DETERMINE WHAT YOUR
4 STATE OF MIND IS, WHAT YOUR OPINION IS AND YOUR FEELINGS ABOUT
5 THE DEATH PENALTY ARE. OKAY?

6 NOW, MY FIRST QUESTION TO YOU IS -- AND THIS RELATES
7 NOW TO THE GUILT PHASE OF THE TRIAL. THE GUILT PHASE IS WHERE
8 YOU DETERMINE WHETHER OR NOT HE IS GUILTY OR NOT GUILTY. THEN
9 IF YOU DO FIND THAT, THERE IS A PENALTY PHASE.

10 NOW, THE FIRST QUESTION IS, DO YOU HAVE ANY
11 OPINION REGARDING THE DEATH PENALTY, WHATEVER IT MAY BE, THAT
12 WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION AS TO
13 THE GUILT OR INNOCENCE OF THE DEFENDANT?

14 MS. JONSSON: NO. I DON'T THINK I DO.

15 THE COURT: ALL RIGHT. THE NEXT ONE ALSO HAS REFERENCE
16 TO THE GUILT PHASE OF IT. DO YOU REMEMBER THAT I TOLD YOU
17 THAT IF HE IS FOUND GUILTY OF MURDER IN THE FIRST DEGREE,
18 THEN YOU DETERMINE WHETHER IT IS TRUE OR FALSE THAT IT WAS
19 COMMITTED DURING THE COURSE OF A ROBBERY. CORRECT?

20 MS. JONSSON: RIGHT.

21 THE COURT: THAT IS THE SPECIAL CIRCUMSTANCE PART OF
22 IT. DO YOU HAVE ANY OPINION REGARDING THE DEATH PENALTY,
23 WHATEVER IT MAY BE, THAT WOULD PREVENT YOU FROM MAKING AN
24 IMPARTIAL DECISION CONCERNING THE TRUTH OR FALSITY OF THE
25 SPECIAL CIRCUMSTANCES?

26 MS. JONSSON: NO.

27 THE COURT: OKAY. THE NEXT TWO QUESTIONS ARE ASKED
28 ON THE ASSUMPTION THAT THE DEFENDANT HAS BEEN FOUND GUILTY

22R-5

1 OF MURDER IN THE FIRST DEGREE AND IT HAS BEEN IN THE COURSE
2 OF A ROBBERY.

3 NOW, WE ARE ON THE PENALTY PHASE OF THE CASE.
4 ALL RIGHT? NOW, DO YOU HAVE ANY OPINION CONCERNING THE DEATH
5 PENALTY THAT YOU WOULD AUTOMATICALLY VOTE TO IMPOSE THE DEATH
6 PENALTY, REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED
7 IN THE PENALTY PHASE OF THE TRIAL?

8 MS. JONSSON: NO.

9 THE COURT: AND THE NEXT QUESTION IS EXACTLY THE SAME
10 EXCEPT THAT IT RELATES TO LIFE WITHOUT POSSIBILITY OF PAROLE.

11 DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH
12 PENALTY, THAT YOU WOULD AUTOMATICALLY VOTE FOR LIFE WITHOUT
13 THE POSSIBILITY OF PAROLE, REGARDLESS OF ANY EVIDENCE THAT
14 MAY BE PRESENTED IN THE PENALTY PHASE OF THE TRIAL?

15 MS. JONSSON: NO.

16 THE COURT: ALL RIGHT. NOW, I HAVE A LAST QUESTION.
17 DO YOU UNDERSTAND OF COURSE, THAT THE ISSUE OF THE DEATH PENALTY
18 MAY OR MAY NOT OCCUR IN THIS CASE AND THAT THESE QUESTIONS
19 HAVE BEEN ASKED ONLY IN THE EVENT THAT YOU REACH THAT PHASE
20 OF THE TRIAL?

21 MS. JONSSON: YES.

22 THE COURT: OKAY.

23 MR. CHIER: THANK YOU, YOUR HONOR.

24 GOOD AFTERNOON, MISS JONSSON. MY NAME IS RICHARD
25 CHIER. AS I AM STUMBLING OVER THESE CHAIRS, I WILL ASK YOU
26 SOME QUESTIONS ALONG THE LINES OF WHAT THE JUDGE HAS ASKED
27 YOU.

28 MINE MIGHT BE A LITTLE MORE PROBING IN SOME AREAS

222-6
1 BUT MAYBE NOT. BUT I WANT TO SAY PRELIMINARILY SO THAT WE
2 CAN UNDERSTAND EACH OTHER, HAVING NEVER MET BEFORE OR TALKED,
3 THAT IT IS AS AWKWARD FOR ME AS IT IS FOR YOU TO SUDDENLY
4 BE TALKING TO A PERFECT STRANGER ABOUT MATTERS AS SERIOUS
5 AS LIFE AND DEATH.

6 I WANT YOU TO KNOW THAT THE QUESTIONS I AM GOING
7 TO ASK YOU ARE INFORMATIONAL ONLY. THEY ARE NOT FOR THE PURPOSE
8 OF JUDGING YOU AS A PERSON OR JUDGING YOU AS A JUROR.

9 THEY ARE JUST INFORMATIONAL SO THAT WE CAN
10 DETERMINE WHETHER YOU ARE SUFFICIENTLY FREE OF BIAS ONE WAY
11 OR THE OTHER TO BE APPROPRIATE TO GO INTO THE GENERAL PANEL
12 TO BE CONSIDERED AS A JUROR WHEN THIS CASE GETS UNDERWAY.

13 AND THIS PROCEDURE ONLY WORKS AND CAN ONLY WORK
14 AND THE SYSTEM CAN ONLY WORK IF YOUR ANSWERS ARE CANDID, AS
15 CANDID AS YOU CAN MAKE THEM. I DON'T WANT TO TRICK YOU.
16 THERE IS NO TRICK QUESTION HERE.

17 IF YOU DON'T UNDERSTAND A QUESTION AND WHAT I
18 AM DRIVING AT, PLEASE HAVE ME REPEAT IT BECAUSE I WANT TO
19 BE UNDERSTOOD. I WANT TO UNDERSTAND YOU.

20 WITH ALL OF THAT IN MIND, LET ME START OUT BY
21 HAVING YOU ANSWER THIS QUESTION, WHICH IS AS GOOD A PLACE
22 TO START AS ANY.

1 I AM A PERSON WHO IS: A, STRONGLY IN FAVOR OF
2 THE DEATH PENALTY.

3 B, SOMEWHAT IN FAVOR OF THE DEATH PENALTY.

4 C, OPPOSED TO THE DEATH PENALTY.

5 D, I HAVEN'T REALLY THOUGHT MUCH ABOUT IT BEFORE
6 NOW.

7 OR E, OTHER.

8 DO YOU HAVE THOSE IN MIND?

9 MS. JOHNSON: UH-HUH. I WOULD SAY A.

10 BUT I DON'T WANT TO SAY THAT WITHOUT QUALIFYING
11 IT WITH MERCY OR SOMETHING LIKE THAT.

12 I AM NOT OUT FOR PEOPLE'S BLOOD OR ANYTHING LIKE
13 THAT, BUT IT IS THE LAW AND I APPROVE OF THAT LAW IN SOME
14 INSTANCES.

15 MR. CHIER: IN YOUR OWN WORDS, COULD YOU TELL US WHERE
16 YOU ARE WITH RESPECT TO THE DEATH PENALTY?

17 MS. JOHNSON: I THINK THE SITUATIONS THAT THE JUDGE WAS
18 OUTLINING, I THINK WHEN IT IS A VERY HEINOUS CRIME, TORTURE
19 OR SOMETHING LIKE THAT, I WOULD BE -- WELL, I WOULD BE IN
20 FAVOR OF THE DEATH PENALTY IF IT IS THE LAW.

21 I WOULD CERTAINLY UPHOLD THE LAW AND IT IS THE
22 LAW.

23 MR. CHIER: WELL, LET ME EXPLAIN TO YOU, MS. JOHNSON,
24 THAT THERE IS NO CRIME IN CALIFORNIA FOR WHICH THE DEATH
25 PENALTY IS MANDATORY.

26 MS. JOHNSON: THAT IS TRUE.

27 MR. CHIER: OKAY?

28 MS. JOHNSON: I KNOW THAT, YES.

1 MR. CHIER: THE LAW SIMPLY SAYS THAT FOR A NUMBER OF
2 DIFFERENT TYPES OF CRIMES, WHICH I THINK ARE SOME 19 BY
3 DESCRIPTION, THE PENALTY MAY BE DEATH OR IT MAY BE LIFE
4 WITHOUT POSSIBILITY OF PAROLE, IT HAS TO BE ONE OR THE OTHER,
5 THERE IS NO MIDDLE GROUND.

6 MS. JOHNSON: UH-HUH.

7 MR. CHIER: AND HOW LONG, TO THE BEST OF YOUR ABILITY
8 TO REFLECT ON THIS, HOW LONG WOULD YOU SAY THAT YOU HAVE BEEN
9 IN FAVOR OF THE DEATH PENALTY SUCH AS YOU ARE?

10 MS. JOHNSON: WELL, I HAVE BEEN IN FAVOR OF IT SINCE --
11 SINCE WE VOTED ON IT, SINCE THE PEOPLE HAVE VOTED ON IT,
12 SINCE I HAVE BEEN THINKING ABOUT IT.

13 MR. CHIER: WOULD YOU SAY ABOUT AT THAT PARTICULAR
14 JUNCTURE OR THAT PARTICULAR TIME WHEN IT WAS ON THE BALLOT
15 WAS THE FIRST TIME YOU BEGAN REFLECTING ON IT SERIOUSLY, ON
16 THE SUBJECT?

17 MS. JOHNSON: POSSIBLY, BECAUSE ALL OF A SUDDEN AS A
18 VOTER, YOU HAVE TO COME TO THE SAME THINGS AS YOU DO AS A JUROR
19 IN A WAY.

20 MR. CHIER: RIGHT, YOU ARE BOMBARDED WITH A LOT OF --

21 MS. JOHNSON: YOU HAVE TO REALLY START THINKING HOW YOU
22 FEEL ABOUT IT.

23 MR. CHIER: RIGHT.

24 MS. JOHNSON: RIGHT.

25 MR. CHIER: AND THERE WAS A LOT OF INFORMATION THAT WAS
26 BEING DELIVERED, I GUESS, PRO AND CON WHICH YOU HAD TO SIFT
27 THROUGH.

28 ALL RIGHT, I WANT YOU TO UNDERSTAND, HAVING NOW

1 ANNOUNCED YOURSELF AS SOMEBODY WHO BELIEVES VERY MUCH IN HAVING
2 A DEATH PENALTY REQUIRES THAT I PROBE AROUND A LITTLE BIT TO
3 SEE IF YOU ARE BIASED IN A WAY THAT WOULD MAKE YOU NOT
4 APPROPRIATE FOR A JUROR IN THIS CASE.

5 MS. JOHNSON: UH-HUH.

6 MR. CHIER: THE PEOPLE WOULD DO SIMILARLY IF YOU FELT
7 THAT YOU WERE, YOU KNOW, A CONSCIENTIOUS OBJECTOR TO THE
8 DEATH PENALTY. IT IS JUST ONE OF THOSE THINGS THAT WE DO.

9 DO YOU THINK THAT -- WELL, YOU KNOW, THE JUDGE
10 CAN TELL YOU A NUMBER OF THINGS TO THINK ABOUT, TO CONSIDER,
11 BUT HE CAN'T FORCE YOU TO CARE ABOUT THOSE THINGS. SO MY QUES-
12 TION IS: ASSUMING THAT YOU DO AS THE JUDGE INSTRUCTS YOU TO,
13 THAT YOU LISTEN TO ALL OF THE EVIDENCE, LET'S ASSUME THAT YOU
14 ARE A JUROR ON THIS CASE AND THAT YOU FIND THE DEFENDANT GUILTY,
15 THAT WOULD MEAN THAT THERE WAS NO SELF-DEFENSE, IT MEANS
16 THAT THERE WAS NO MENTAL CONDITION, YOU KNOW, IT MEANT HE DID
17 HAVE INTENT, IF YOU FOUND THE DEFENDANT GUILTY, IT WOULD MEAN
18 THAT THE CRIME WAS INTENTIONAL, GUILTY AS CHARGED, THE CRIME
19 WAS INTENTIONAL, IT WAS DELIBERATE AND IT WAS COMMITTED IN THE
20 COURSE OF A ROBBERY AND THAT THERE MAY BE EVIDENCE THAT IT WAS
21 PLANNED, AT THAT POINT IN TIME, THE SECOND SEGMENT OF THE
22 TRIAL STARTS, WHICH IS THE PENALTY PHASE. HE HAS BEEN
23 DETERMINED GUILTY AND THE QUESTION BECOMES: WHAT DO WE DO WITH
24 THIS PERSON?

25 IN ORDER TO KNOW WHAT TO DO WITH HIM, YOU HAVE TO
26 LOOK AT THE PERSON AND YOU LOOK AT HIS LIFE, HOW OLD HE IS,
27 HOW YOUNG HE IS, HAS HE DONE THIS BEFORE, HAS HE NOT DONE IT
28 BEFORE, AND THE JUDGE SAYS YOU CONSIDER THESE THINGS.

1 NOW, AT THAT POINT, KNOWING HOW YOU FEEL ABOUT THE
2 DEATH PENALTY, WOULD YOU BE TILTED IN FAVOR OF THE PROSECUTION
3 OR IN FAVOR OF DEATH AS OPPOSED TO LIFE WITHOUT THE POSSIBILITY
4 OF PAROLE?

5 MS. JOHNSON: NO, NOT AT ALL.

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1 MR. CHIER: WOULD THOSE THINGS THAT THE JUDGE HAS
2 ENUMERATED FOR YOU, WOULD THEY MAKE A DIFFERENCE TO YOU, I
3 MEAN IN ONE WAY OR THE OTHER, OR ARE YOU NOT SO DOCTRINAIRE --

4 THE COURT: YOU MEAN THAT SHE WOULD DISREGARD THESE
5 FACTORS?

6 MR. CHIER: NOT DISREGARD. YOU CAN --

7 THE COURT: THAT IS WHAT YOU ARE SAYING, "WOULD IT MAKE
8 ANY DIFFERENCE TO YOU?"

9 MR. CHIER: WELL, TO GIVE THEM LITTLE OR NO -- I MEAN
10 OBVIOUSLY EVERYTHING IN LIFE HAS ITS OWN VALUE. SOME THINGS
11 HAVE MORE VALUE THAN OTHERS.

12 DO YOU FEEL THAT AT THIS POINT, HAVING NOT HEARD
13 ANYTHING, THAT CERTAIN OF THOSE THINGS REALLY DON'T MAKE ANY
14 DIFFERENCE IN DETERMINING WHETHER SOMEONE SHOULD LIVE OR DIE
15 SUCH AS THINGS LIKE AGE, PRIOR HISTORY OR CHILDHOOD OR ANY
16 OF THOSE THINGS, DO YOU THINK THESE THINGS HAVE NO VALUE?

17 MS. JONSSON: NO. I FEEL THEY HAVE VALUE.

18 MR. CHIER: THEY HAVE VALUE AND THEY SHOULD BE CONSIDERED
19 AND THEY ADD UP TO ANYTHING YOU WANT THEM TO ULTIMATELY, RIGHT?

20 MS. JONSSON: UH-HUH, YES.

21 MR. CHIER: MY ONLY INQUIRY IS WHETHER YOU THINK THEY
22 HAVE SOME VALUE.

23 DO YOU THINK YOU WOULD LIKE TO BE A JUROR IN A
24 CASE WHERE THE PEOPLE WERE REQUESTING THE DEATH PENALTY?

25 MS. JONSSON: NO, I DON'T THINK I WOULD LIKE TO DO THAT.

26 MR. CHIER: NEVERTHELESS, DO YOU FEEL THAT OUT OF A
27 SENSE OF CIVIC OBLIGATION AND INTESTINAL FORTITUDE THAT IT
28 IS SOMETHING YOU COULD DEAL WITH IF REQUIRED TO?

23A-2

1 MS. JONSSON: I WOULD HOPE SO.

2 I THINK I COULD.

3 MR. CHIER: ALL RIGHT. YOU KNOW, WE CAN'T ASK YOU HOW
4 YOU WOULD VOTE.

5 MS. JONSSON: RIGHT.

6 MR. CHIER: I MEAN NOBODY KNOWS.

7 ONLY WHETHER YOU WOULD CONSIDER ALL OF THE
8 EVIDENCE AND WHETHER YOU WOULD CONSIDER BOTH PENALTIES WHEN
9 IT CAME TIME TO VOTE IN THE EVENT THAT WE EVER GOT THAT FAR.

10 MS. JONSSON: UH-HUH, I WOULD.

11 MR. CHIER: ALL RIGHT, THANK YOU.

12 PASS FOR CAUSE, YOUR HONOR.

13 THE COURT: ANY QUESTION?

14 MR. WAPNER: I JUST HAVE A COUPLE OF QUESTIONS.

15 THE COURT: ALL RIGHT.

16 MR. WAPNER: MRS. JONSSON, I AM FRED WAPNER, THE DEPUTY
17 DISTRICT ATTORNEY WHO IS PROSECUTING THIS CASE.

18 IN RESPONSE TO ONE OF MR. CHIER'S LAST QUESTIONS,
19 YOU SAID THAT YOU THINK YOU COULD CONSIDER BOTH PENALTIES;
20 IS THAT WHAT YOU SAID?

21 MS. JONSSON: UH-HUH.

22 MR. WAPNER: YOU HAVE TO SAY YES OR NO.

23 MS. JONSSON: OH, EXCUSE ME.

24 YES.

25 MR. WAPNER: IF YOU LISTEN TO ALL OF THE EVIDENCE AND
26 YOU DECIDE THAT LIFE IMPRISONMENT WITHOUT THE POSSIBILITY
27 OF PAROLE IS THE PROPER PUNISHMENT, COULD YOU VOTE FOR THAT
28 PUNISHMENT?

23A-5

1 MS. JONSSON: YES.

2 MR. WAPNER: IF YOU DECIDED, AFTER LISTENING TO ALL
3 OF THE EVIDENCE, THAT DEATH WAS THE APPROPRIATE PUNISHMENT,
4 COULD YOU RENDER THAT VERDICT?

5 MS. JONSSON: YES.

6 MR. WAPNER: DO YOU HAVE ANY RESERVATIONS ABOUT IT?

7 MS. JONSSON: NO.

8 I THINK IT WOULD BE DIFFICULT FOR ANY HUMAN BEING
9 TO DO THIS BUT I THINK I COULD. I WOULD.

10 MR. WAPNER: THERE IS NO QUESTION THAT THIS IS A VERY
11 SERIOUS AND VERY DIFFICULT DECISION AND PROBABLY ONE UNLIKE
12 ANY OTHER THAT YOU HAVE BEEN CALLED UPON TO MAKE.

13 DO YOU HAVE ANY DEEPLY HELD RELIGIOUS, MORAL OR
14 PHILOSOPHICAL OPINIONS THAT WOULD MAKE IT DIFFICULT FOR YOU
15 TO CAST A DECISION ONE WAY OR THE OTHER ON THE QUESTION OF
16 THE DEATH PENALTY?

17 MS. JONSSON: NO.

18 MR. WAPNER: DO YOU HAVE ANY DOUBT, AS YOU SIT THERE
19 NOW, ABOUT YOUR ABILITY TO MAKE THAT DECISION? BECAUSE
20 UNFORTUNATELY, WE CAN'T ASK YOU ABOUT IT LATER. ONCE YOU
21 ARE ON THE JURY, IT IS TOO LATE.

22 MS. JONSSON: NO, I DON'T HAVE ANY RESERVATIONS.

23 MR. WAPNER: DO YOU UNDERSTAND THAT IF YOU ARE ON THE
24 JURY AT THE PENALTY PHASE OF THE TRIAL, YOUR RESPONSIBILITY
25 WILL BE TO CAST YOUR OWN INDIVIDUAL BALLOT AS TO WHAT THE
26 PUNISHMENT SHOULD BE?

27 MS. JONSSON: YES.

28 MR. WAPNER: NO ONE IS GOING TO TELL YOU WHICH WAY YOU

23A-4

1 SHOULD VOTE, YOU UNDERSTAND THAT?

2 MS. JONSSON: YES.

3 MR. WAPNER: DO YOU HAVE A PROBLEM WITH THAT?

4 MS. JONSSON: NO.

5 MR. WAPNER: THANK YOU. PASS FOR CAUSE, YOUR HONOR.

6 THE COURT: BOTH SIDES HAVE PASSED FOR CAUSE. WHAT
7 THAT MEANS IS THAT THEY FIND AND THE COURT FINDS THAT YOU
8 ARE A QUALIFIED PERSON TO SIT AS A TRIAL JUROR IN THIS CASE.
9 WE ARE GOING THROUGH THE REST OF THE LIST AND WHEN WE FINISH
10 WITH THAT, WHICH HOPEFULLY WILL BE BY NEXT WEEK, WE WILL START
11 THE TRIAL OF THE CASE. SO WHAT I WILL ASK YOU TO DO IS TO
12 COME BACK TO THE JURY ASSEMBLY ROOM AT 10 O'CLOCK ON NEXT
13 WEDNESDAY, THAT IS A WEEK FROM YESTERDAY AT 10 O'CLOCK. WILL
14 YOU DO THAT, PLEASE?

15 MS. JONSSON: YES, I WILL.

16 THE COURT: ALL RIGHT. GOOD NIGHT AND THANK YOU.

17 MS. JONSSON: THANK YOU.

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1 (PROSPECTIVE JUROR LINDA KING ENTERED
2 THE COURTROOM.)

3 THE COURT: MISS KING?

4 MS. KING: YES.

5 THE COURT: MISS KING, WHERE DO YOU LIVE?

6 MS. KING: SHERMAN OAKS.

7 THE COURT: HAVE YOU HEARD ANYTHING AT ALL ABOUT THIS
8 CASE EXCEPT FOR THE FACT THAT IT IS PENDING HERE?

9 MS. KING: NO.

10 THE COURT: WHEN I TOLD YOU WHAT IT WAS ABOUT --

11 MS. KING: NOTHING AT ALL.

12 THE COURT: YOU HAVE NOT SPOKEN TO ANY OF THE OTHER
13 JURORS WHO TOLD YOU ANYTHING ABOUT THIS?

14 MS. KING: NO.

15 THE COURT: ALL RIGHT. I AM GOING TO BRIEFLY SUMMARIZE
16 THE CASE. I WILL ASK YOU SOME QUESTIONS WHICH WILL RELATE
17 TO YOUR STATE OF MIND AND YOUR BELIEFS OR OPINIONS RESPECTING
18 THE DEATH PENALTY.

19 NOW, WHEN I TALK ABOUT THE DEATH PENALTY AND THE
20 DEATH PENALTY HERE IN CALIFORNIA, IT IS ONE OF TWO THINGS
21 THAT HAPPENS IN THE DEATH PENALTY CASE, EITHER THE JURORS
22 FIND THE DEFENDANT -- IF THEY FIND HIM GUILTY OF MURDER IN
23 THE FIRST DEGREE AND WE WILL COME TO THAT LATER, IT WOULD
24 BE EITHER LIFE IN PRISON WITHOUT POSSIBILITY OF PAROLE OR
25 DEATH IN THE GAS CHAMBER, ONE OF THOSE TWO.

26 NOW, WHEN I TALK ABOUT LIFE IN PRISON WITHOUT
27 POSSIBILITY OF PAROLE, I MEAN EXACTLY THAT. THERE IS NEVER
28 ANY POSSIBILITY OF PAROLE. IF SOMEBODY IS SENTENCED TO LIFE

1 WITHOUT POSSIBILITY OF PAROLE FOR THIS PARTICULAR OFFENSE,
2 THAT IS IT. DO YOU UNDERSTAND THAT?

3 MS. KING: UH-HUH.

4 THE COURT: ALL RIGHT. NOW, THE JURY WHICH IS SELECTED
5 IN THIS CASE, FIRST AS TO DETERMINE THE GUILT OR INNOCENCE
6 OF THE DEFENDANT. THAT IS KNOWN AS THE GUILT PHASE OF THE
7 TRIAL.

8 NOW, IF THEY FIND HIM GUILTY AND THEY FIND HIM
9 GUILTY OF MURDER IN THE FIRST DEGREE, THEN THE JURY HAS TO
10 ANSWER THE QUESTION, THAT SAME JURY, IS IT TRUE OR IS IT FALSE,
11 DID HE OR DIDN'T HE COMMIT THAT MURDER IN THE COURSE OF A
12 ROBBERY.

13 NOW, IN THE COURSE OF A ROBBERY HAS SOME
14 SIGNIFICANCE IN THIS CASE. MURDER NEED NOT NECESSARILY MEAN
15 THERE IS A PENALTY INVOLVED OF LIFE WITHOUT POSSIBILITY OF
16 PAROLE OR DEATH.

17 YOU CAN HAVE A MURDER WHICH IS DELIBERATE AND
18 PLANNED AND EXECUTED AND STILL NOT BE SUSCEPTIBLE OF A POSSIBLE
19 LIFE IN PRISON WITHOUT POSSIBILITY OF PAROLE OR DEATH PENALTY.
20 DO YOU UNDERSTAND THAT?

21 MS. KING: UH-HUH.

22 THE COURT: THE LEGISLATURE HAS SAID THAT ONLY IN
23 CERTAIN SPECIAL CIRCUMSTANCES WHERE A MURDER HAS BEEN COMMITTED,
24 WILL THE DEATH PENALTY BE APPLICABLE. THOSE ARE AS FOLLOWS
25 AND I WILL GIVE YOU SOME EXAMPLES: A MURDER WHICH IS COMMITTED
26 IN THE FIRST DEGREE IN THE COURSE OF A ROBBERY, AS CLAIMED
27 IN THIS CASE; OR IN THE CASE OF A BURGLARY; OR IN THE CASE
28 OF A KIDNAPPING; OR IN THE CASE OF A RAPE; OR IN THE CASE

1 OF A TORTURE; OR IN THE CASE OF A CHILD MOLESTATION WHERE
2 THE CHILD DIES OR MULTIPLE MURDERS. THERE ARE ANY NUMBER
3 OF THEM, 19 AS A MATTER OF FACT.

4 ONLY IN THESE SPECIAL CIRCUMSTANCES DOES THE DEATH
5 PENALTY APPLY AS A POSSIBLE PENALTY. IT IS CLEAR, ISN'T IT?

6 MS. KING: UH-HUH.

7 THE COURT: NOW, IN THIS CASE, THE FIRST THING THE
8 JURORS WOULD HAVE TO DETERMINE IS THE GUILT OR INNOCENCE OF
9 THE DEFENDANT, WAS HE OR WAS HE NOT GUILTY OF MURDER IN THE
10 FIRST DEGREE.

11 IF THEY SAY NO, THAT IS THE END OF IT. IF THEY
12 SAY YES, IT IS MURDER IN THE FIRST DEGREE, THEN THEY HAVE
13 A COLLATERAL -- ANOTHER QUESTION TO ANSWER, IS IT TRUE OR
14 IS IT FALSE, DID HE OR DIDN'T HE COMMIT THAT MURDER IN THE
15 COURSE OF A ROBBERY.

16 IF HE DID COMMIT IT IN THE COURSE OF A ROBBERY
17 AND IT IS SO FOUND UNANIMOUSLY BY THE JURY, THEN WE COME TO
18 ANOTHER ASPECT OF THE TRIAL. WE START NEW, WHAT WE CALL THE
19 PENALTY PHASE OF THE TRIAL.

20 DURING THE PENALTY PHASE OF THE TRIAL, THE SAME
21 JURORS LISTEN TO EVIDENCE FROM THE DEFENDANT AND FROM THE
22 PROSECUTION. THE EVIDENCE FROM THE DEFENDANT WILL OBVIOUSLY
23 BE TO SHOW YOU FACTS WHICH ARE FAVORABLE TO HIM, THE FACT
24 THAT HE LIVED AN EXEMPLARY LIFE, WAS A GOOD MAN DURING THE
25 COURSE OF HIS LIFE AND EVERYTHING ABOUT HIM WHICH WILL BE
26 FAVORABLE, WHICH WOULD EXTENUATE OR MITIGATE OR LESSEN THE
27 OFFENSE WHICH HE COMMITTED, DO YOU SEE, BEARING UPON WHAT
28 PENALTY YOU ARE GOING TO ASSESS.

1 THE PROSECUTION ON THE OTHER HAND, WILL ATTEMPT
2 TO PRODUCE FACTS ABOUT THE DEFENDANT WHICH ARE UNFAVORABLE,
3 THAT HE IS A REALLY BAD MAN AND THEREFORE, IT IS AGGRAVATING
4 THE OFFENSE AND NO CONSIDERATION SHOULD BE GIVEN TO HIM.

5 THE JURORS LISTEN VERY ATTENTIVELY AS THEY DO
6 TO EVERYTHING ELSE, IN THE COURSE OF A TRIAL. AND THEN THEY
7 ARE CALLED UPON TO MAKE THEIR DETERMINATION, SHOULD IT BE
8 LIFE WITHOUT POSSIBILITY OF PAROLE OR SHOULD IT BE DEATH.

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1 NOW THE FACT IS, THE JURORS MUST CONSIDER AND
2 TAKE INTO ACCOUNT AND BE GUIDED BY THE THINGS THAT I HAVE
3 MENTIONED TO YOU. FIRST, THEY HAVE ALREADY HEARD EVIDENCE
4 OF THE COMMISSION OF THE CRIME ITSELF, OF WHICH THEY FOUND
5 HIM GUILTY. YOU CONSIDER ALL OF THOSE FACTS AND CIRCUMSTANCES
6 OF THE CRIME.

7 YOU WILL CONSIDER THE AGE OF THE DEFENDANT, HIS
8 MATURITY, WHETHER OR NOT HE HAS NOT COMMITTED ANY -- HIS
9 PREVIOUS BACKGROUND OF CRIMINAL ACTIVITY AND SO FORTH.

10 YOU WILL CONSIDER HIS BACKGROUND, AS I SAY, AND
11 HIS MENTAL AND PHYSICAL STATE AND ANYTHING WHICH MIGHT HAVE
12 A BEARING ON HIM AS A PERSON, WILL BE CONSIDERED AND THAT
13 IS CONSIDERED BY THE JURY.

14 ALSO, THERE WILL BE OTHER THINGS AS I TOLD YOU,
15 THAT ARE UNFAVORABLE ABOUT HIM. ARE YOU WILLING TO DO THIS?
16 ARE YOU?

17 MS. KING: UH-HUH.

18 MR. WAPNER: IS THAT YES?

19 MS. KING: YES.

20 THE COURT: NOW, THE QUESTIONS THAT I AM ABOUT TO ASK
21 YOU ARE INTENDED TO EXPLORE YOUR ATTITUDE, YOUR FEELINGS AND
22 YOUR STATE OF MIND RESPECTING THE DEATH PENALTY, WHETHER OR
23 NOT IT WOULD QUALIFY YOU TO ACT AS A JUROR IN THIS CASE.
24 RIGHT?

25 AND NATURALLY, YOU WILL BE FRANK AND CANDID AND
26 YOU WILL TELL US EXACTLY HOW YOU FEEL ABOUT IT. NOW, THE
27 FIRST QUESTION HAS TO DO WITH THE GUILT PHASE OF THE TRIAL.
28 DO YOU HAVE AN OPINION, WHATEVER THAT OPINION MAY BE,

1 RESPECTING THE DEATH PENALTY, WHICH WOULD PREVENT YOU FROM
2 MAKING AN IMPARTIAL DECISION ON THE GUILT OR INNOCENCE OF
3 THE DEFENDANT?

4 MS. KING: NO. I DON'T AS FAR AS THE GUILT, NO.

5 THE COURT: ALL RIGHT. NOW, IF YOU FIND THE DEFENDANT
6 GUILTY OF MURDER IN THE FIRST DEGREE, THEN YOU ARE TO
7 DETERMINE THE SPECIAL CIRCUMSTANCES, DID HE OR DID HE NOT --
8 WAS IT TRUE OR WAS IT FALSE THAT HE COMMITTED IT DURING THE
9 COURSE OF A ROBBERY, WHICH IS THE SPECIAL CIRCUMSTANCE IN
10 THE CASE. DO YOU UNDERSTAND?

11 MS. KING: YES.

12 THE COURT: SO THE SECOND QUESTION APPLIES TO THAT.
13 IF AND ONLY IF YOU SHOULD FIND THE -- DO YOU HAVE ANY OPINION
14 REGARDING THE DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING
15 AN IMPARTIAL DECISION CONCERNING THE TRUTH OR FALSITY OF THE
16 SPECIAL CIRCUMSTANCES?

17 MS. KING: I HAVE AN OPINION THAT I WOULD LIKE TO --

18 THE COURT: IS THAT OPINION SUCH -- I AM NOT ASKING
19 YOU ABOUT IT YET. IS IT SUCH THAT IT WOULD PREVENT YOU FROM
20 MAKING AN IMPARTIAL DECISION CONCERNING THE TRUTH OR FALSITY
21 OF THE SPECIAL CIRCUMSTANCES?

22 MS. KING: NO.

23 THE COURT: ALL RIGHT. NOW, WE WILL COME TO THE PENALTY
24 PHASE OF THE TRIAL. HE IS FOUND GUILTY IF HE IS, BEYOND A
25 REASONABLE DOUBT OF MURDER IN THE FIRST DEGREE AND IT WAS
26 FOUND TO BE IN THE COURSE OF A ROBBERY.

27 NOW THE NEXT QUESTION IS -- THE NEXT TWO QUESTIONS
28 RELATE TO THE PENALTY. DO YOU HAVE SUCH AN OPINION CONCERNING

1 THE DEATH PENALTY, THAT YOU WOULD AUTOMATICALLY VOTE TO IMPOSE
2 THE DEATH PENALTY, REGARDLESS OF ANY EVIDENCE THAT MAY BE
3 PRESENTED IN THE PENALTY PHASE OF THE TRIAL?

4 MS. KING: NO.

5 THE COURT: AND THE NEXT ONE IS THE SAME EXCEPT THAT
6 IT APPLIES TO LIFE WITHOUT POSSIBILITY OF PAROLE.

7 DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH
8 PENALTY, THAT YOU WOULD AUTOMATICALLY VOTE FOR LIFE WITHOUT
9 POSSIBILITY OF PAROLE, REGARDLESS OF ANY EVIDENCE THAT MAY
10 BE PRESENTED IN THE PENALTY PHASE OF THE TRIAL?

11 MS. KING: NO.

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

16 MS. KING: YES.

17 THE COURT: GO AHEAD.

18 MR. CHIER: THANK YOU, YOUR HONOR. IS IT MISS KING?

19 MS. KING: YES.

20 MR. CHIER: MY NAME IS RICHARD CHIER. I REPRESENT
21 MR. HUNT. AND WHEN I AM NOT MOVING FURNITURE, I AM PRACTICING
22 LAW. THIS IS AS AWKWARD FOR ME AS IT PROBABLY IS FOR YOU,
23 TO BE SUDDENLY TALKING TO SOMEBODY YOU NEVER MET BEFORE ABOUT
24 A MATTER AS SERIOUS AS THIS.

25 AND IN ORDER FOR THIS PROCEDURE TO MOVE ALONG,
26 I WILL JUST TELL YOU A FEW THINGS SO THAT YOU UNDERSTAND WHAT
27 I AM DOING AND WHAT I AM LOOKING FOR.

28 I AM NOT TRYING TO TRICK YOU. I AM GOING TO

1 ASK YOU A NUMBER OF QUESTIONS WHICH ARE INFORMATIONAL ONLY.
2 THERE IS NO GOOD OR BAD ANSWER. WE ARE NOT TRYING TO JUDGE
3 YOU AS A PERSON. WE JUST WANT TO KNOW CERTAIN THINGS WITH
4 RESPECT TO YOUR ATTITUDES TOWARD THE DEATH PENALTY WHICH WILL
5 HELP US DECIDE WHETHER YOU ARE A PERSON WHO SHOULD OR SHOULD
6 NOT QUALIFY TO BE ON THIS JURY.

7 SO, WE DON'T KNOW WHAT IS IN YOUR MIND OR WHAT
8 IS IN YOUR HEART. THE ONLY WAY WE CAN KNOW THESE THINGS IS
9 FOR YOU TO SPEAK UP AND ANSWER THE QUESTIONS TRUTHFULLY. THAT
10 IS REALLY THE ONLY GOOD ANSWER TO THESE QUESTIONS, THE TRUTHFUL
11 ANSWER.

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1 ONE WAY OF STARTING THIS OFF IS -- THERE IS NO GOOD
2 WAY -- BUT LET ME HAVE YOU ANSWER THIS QUESTION, IF YOU WILL:

3 I AM A PERSON WHO IS:

4 A, STRONGLY IN FAVOR OF THE DEATH PENALTY.

5 B, SOMEWHAT IN FAVOR OF THE DEATH PENALTY.

6 C, OPPOSED TO THE DEATH PENALTY.

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

8 OR E, SOME OTHER STATE OF MIND.

9 MS. KING: I WOULD SAY B, SOMEWHAT.

10 MR. CHIER: SOMEWHAT?

11 MS. KING: IN FAVOR.

12 MR. CHIER: OKAY, COULD YOU TELL IN YOUR OWN WORDS WHAT
13 YOU MEAN WHEN YOU SAY "SOMEWHAT IN FAVOR OF THE DEATH
14 PENALTY"?

15 MS. KING: WELL, I REALLY BELIEVE THAT I AM NOT IN FAVOR
16 OF IT AND I AM NOT OPPOSED TO IT.

17 I THINK THAT IT REALLY DEPENDS ON THE FACTS AND
18 EVERY CASE IS DIFFERENT. I DON'T THINK THAT -- IT IS NOT BLACK
19 AND WHITE.

20 MR. CHIER: OKAY, SO YOU ARE SAYING YOU ARE NOT REALLY
21 DOCTRINAIRE ABOUT IT. YOU ARE NOT RIGID UNTIL YOU THINK EVERY
22 TIME A CERTAIN TYPE OF THING HAPPENS, IT SHOULD GET AN AUTOMATIC
23 RESPONSE?

24 MS. KING: RIGHT.

25 MR. CHIER: RIGHT?

26 MS. KING: UH-HUH.

27 MR. CHIER: I TAKE IT, YOU CONSIDER YOURSELF OPENMINDED?

28 MS. KING: VERY.

1 MR. CHIER: OKAY, SO THAT IF YOU WERE A JUROR IN THIS
2 CASE, YOU WOULD LISTEN TO ALL OF THE EVIDENCE BEFORE COMING
3 TO ANY CONCLUSIONS?

4 MS. KING: DEFINITELY, UH-HUH.

5 THE COURT: DOES THAT MEAN YES?

6 MS. KING: YES.

7 THE COURT: SHE CAN'T TAKE THAT DOWN. SO SAY YES OR NO.

8 MS. KING: OKAY.

9 MR. CHIER: DO YOU THINK GENERALLY THAT IF A PERSON IS
10 CONVICTED OF FIRST DEGREE MURDER, HE OUGHT TO BE EXECUTED, OR
11 DO YOU HAVE ANY OPINION ABOUT THAT?

12 MS. KING: I DON'T THINK THEY SHOULD BE EXECUTED AS A
13 SET RULE.

14 MR. CHIER: OKAY, SO YOU CAN'T MAKE A GENERAL STATEMENT
15 ABOUT THAT, RIGHT; I MEAN IS THAT WHAT YOU ARE SAYING?

16 MS. KING: RIGHT.

17 MR. CHIER: OKAY, GOOD.

18 WHEN YOU SAY IT WOULD DEPEND UPON THE CIRCUMSTANCES
19 IN EACH CASE, COULD YOU TELL US WHAT YOU HAVE IN MIND WHEN YOU
20 SAY "THE CIRCUMSTANCES IN EACH CASE"?

21 MS. KING: WELL, FOR INSTANCE, IF SOMEONE HAS BEEN
22 CONVICTED OF A CRIME IN THE PAST AND HAS GONE TO JAIL AND BEEN
23 IN PRISON FOR 20, 30 YEARS AND HE IS SET FREE AND HE COMMITS
24 THE SAME CRIME, I DON'T THINK THAT, YOU KNOW -- I THINK THAT
25 THE DEATH PENALTY IS DEFINITELY A GOOD DETERRENT -- I THINK THAT
26 THE DEATH PENALTY IS DEFINITELY A GOOD DETERRENT.

27 IT WOULD CERTAINLY BE A DETERRENT FOR ANYBODY.
28 BUT I DON'T THINK ANY CRIMINAL REALLY THINKS ABOUT WHAT THEY

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1 ARE GOING -- IT IS THE OLD SAYING "IT CAN'T HAPPEN TO ME".

2 MR. CHIER: YEAH.

3 MS. KING: AND I THINK THEY PROBABLY FEEL IT CAN'T HAPPEN
4 TO THEM BUT --

5 MR. CHIER: ALL RIGHT, SO THERE ARE A WHOLE CATALOG OF
6 THINGS WHICH ALL HAVE TO BE CONSIDERED FOR DETERMINING WHETHER
7 THE PERSON SHOULD LIVE OR DIE, RIGHT?

8 MS. KING: UH-HUH.

9 THE COURT: DOES THAT MEAN YES?

10 MS. KING: YES, YES.

11 MR. CHIER: AND DID THE JUDGE MENTION TO YOU THE AGE AND
12 PRIOR BACKGROUND?

13 MS. KING: YES.

14 MR. CHIER: OKAY, DID ALL OF THOSE SEEM TO YOU TO BE
15 APPROPRIATE TYPES OF THINGS TO CONSIDER IN DETERMINING WHAT
16 TO DO WITH SOMEBODY WHO HAS BEEN CONVICTED?

17 MS. KING: YES.

18 MR. CHIER: DID ANY OF THEM SEEM KIND OF INSIGNIFICANT
19 TO YOU OR TRIVIAL?

20 MR. KING: NO, I WOULDN'T SAY SO, NO.

21 MR. CHIER: NO?

22 I SENSED THAT YOU WERE TRYING TO TELL THE JUDGE
23 SOMETHING WHEN HE WAS QUESTIONING YOU AND I AM WONDERING IF
24 THIS WOULD BE THE APPROPRIATE TIME FOR YOU TO SAY WHATEVER IT
25 WAS THAT WAS ON YOUR MIND.

26 MS. KING: WELL, WHAT I WANTED IS -- WHEN HE ASKED ME
27 HOW I FELT ABOUT THE DEATH PENALTY, AS I SAID, I AM NOT
28 OPPOSED TO IT AND I AM NOT FOR IT EITHER.

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1 I THINK THAT ANYONE WHO COMITS A CRIME IS PUT IN
2 A POSITION WHERE, YOU KNOW, SOMEBODY IS GOING TO MAKE A CHOICE
3 AS TO WHETHER THEY ARE GOING TO LIVE OR DIE --

4 THE COURT: DO YOU MEAN FOR ANY CRIME?

5 MS. KING: NO.

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1 THE COURT: YOU MEAN ANY CRIME?

2 OR DO YOU MEAN A MURDER, A CRIME WHICH CALLS FOR
3 THE DEATH PENALTY?

4 MS. KING: RIGHT.

5 AND THEY REALLY HAVE, THE JURORS OR ANYBODY, REALLY
6 HAS A BIG DECISION TO MAKE BUT I THINK THAT IN ANY CRIME THAT
7 IS COMMITTED IN THAT ASPECT OF RELATING TO THE DEATH PENALTY,
8 IT IS A TWO-WAY THING. I MEAN I DON'T FEEL THAT EVERY CRIME
9 DESERVES THE DEATH PENALTY, EVEN IF IT IS MURDER OR WHATEVER.
10 I THINK IT DEPENDS UPON THE CIRCUMSTANCES.

11 IT DEPENDS ON EVERYTHING CONCERNED WITH THE CASE.
12 IT ISN'T JUST A MATTER OF, LIKE I SAID, BLACK AND WHITE, YOU
13 KNOW.

14 THE COURT: AND THE PERSON WHO COMMITS IT, TOO, THINGS
15 ABOUT HIM, WOULD YOU CONSIDER, TOO?

16 MS. KING: RIGHT, UH-HUH, YES.

17 MR. CHIER: HAVING HEARD NO EVIDENCE IN THIS CASE, OTHER
18 THAN HAVING HEARD THAT THE CHARGE IS FIRST DEGREE MURDER IN
19 THE COURSE OF A ROBBERY, DO YOU HAVE ANY LEANINGS AT THIS POINT
20 IN TIME AS YOU SIT THERE RIGHT NOW?

21 MS. KING: WELL, I WOULD BE INTERESTED TO KNOW WHY HE
22 DID IT BUT I AM SURE, YOU KNOW, I THINK ANYBODY WHO COMMITS
23 A CRIME HAS A REASON BEHIND IT, BUT WHATEVER REASON IT COULD
24 BE --

25 MR. CHIER: WELL, LET ME ASK YOU THIS: DID I FURTHER
26 READ BETWEEN THE LINES AND UNDERSTAND YOU TO SAY IF A PERSON
27 COMMITS A MURDER, A FIRST DEGREE MURDER, HE MORE OR LESS
28 ASSUMES THE RISK OF BEING EXECUTED IF THAT IS THE PUNISHMENT

1 FOR THAT CRIME?

2 MS. KING: NO, I DON'T REALLY THINK THAT EVEN ENTERS A
3 CRIMINAL'S MIND AT THE TIME IT IS COMMITTED. I COULD BE
4 WRONG, I AM NOT A CRIMINAL AND I DON'T KNOW. YOU KNOW, I
5 CAN'T SPEAK FOR THEM.

6 BUT I JUST THINK THAT ANYBODY IS CAPABLE OF
7 COMMITTING A CRIME. IT IS JUST A MATTER OF, YOU KNOW, WHAT
8 IS GOING TO HAPPEN AFTERWARDS.

9 MR. CHIER: OKAY, NOW THE LAST THING YOU SAID BEFORE I
10 INTERRUPTED YOU WAS THAT YOU WOULD BE INTERESTED IN HEARING
11 ABOUT THE PERSON'S MOTIVE IF IT EVER GOT DOWN TO A SITUATION
12 WHERE YOU WERE ON THE PENALTY PHASE, RIGHT?

13 MS. KING: YES.

14 MR. CHIER: WOULD YOU WANT TO KNOW, "NOW THAT I HAVE
15 CONVICTED THIS PERSON, WHY DID HE DO THIS THING"?

16 MS. KING: YES.

17 MR. CHIER: ARE THERE SOME TYPES OF MOTIVES THAT --

18 WELL, LET'S ASSUME THAT THE MOTIVE WAS GREED,
19 WOULD THAT CAUSE YOU TO FEEL MORE AUTOMATICALLY IN FAVOR OF
20 A DEATH PENALTY THAN NOT?

21 MS. KING: NO.

22 MR. CHIER: OKAY, I MEAN YOU UNDERSTAND THAT GREED CAN
23 BE AS POWERFUL A THING AS SEX OR WHATEVER --

24 MS. KING: YES, YES.

25 MR. CHIER: OR POWER OR WHATEVER.

26 DO YOU THINK AS YOU SIT THERE NOW THAT YOUR STATE
27 OF MIND, INSOFAR AS YOUR NEUTRALITY AS A JUROR, IS SUCH THAT
28 YOU WOULD BE COMFORTABLE IF THE SITUATION WERE REVERSED AND

1 YOU WERE THERE AND HE WAS THERE AND 12 PEOPLE IN YOUR PRESENT
2 STATE OF MIND WERE GOING TO BE JURORS IN YOUR CASE, WOULD YOU
3 FEEL COMFORTABLE?

4 MS. KING: YES, I WOULD.

5 MR. CHIER: OKAY, I AM GOING TO PASS FOR CAUSE.

6 THANK YOU.

7 THE COURT: YES.

8 MR. WAPNER: GOOD AFTERNOON, MRS. KING. I AM FRED
9 WAPNER. I AM THE DEPUTY DISTRICT ATTORNEY WHO IS PROSECUTING
10 THIS CASE.

11 DO YOUR VIEWS ABOUT THE DEATH PENALTY HAVE THEIR
12 ROOT IN ANY RELIGIOUS, MORAL OR PHILOSOPHICAL BASIS?

13 MS. KING: NO.

14 MR. WAPNER: HAVE YOU SPENT MUCH TIME THINKING ABOUT
15 THE DEATH PENALTY BEFORE YOU WERE CALLED TO SERVE AS A JUROR
16 ON THIS CASE?

17 MS. KING: YES, I DID AT -- WHEN THE ISSUE CAME UP, IN
18 DIFFERENT CONVERSATIONS AND THINGS LIKE THAT, JUST IN TALKING
19 TO PEOPLE.

20 MR. WAPNER: OKAY, IN THIS CASE THE QUESTION IS
21 OBVIOUSLY GOING TO BE SLIGHTLY DIFFERENT BECAUSE IF YOU ARE
22 ON THE JURY AND IF IT GETS TO THAT POINT, YOU ARE GOING TO BE
23 CALLED ON TO GO INTO THE JURY ROOM AND DISCUSS THE CASE WITH
24 11 OTHER PEOPLE BUT RENDER YOUR OWN INDIVIDUAL DECISIONS AS
25 TO WHETHER THIS DEFENDANT SHOULD LIVE OR WHETHER HE SHOULD
26 SPEND THE REST OF HIS LIFE IN PRISON OR WHETHER HE SHOULD GET
27 THE DEATH PENALTY. IF IT COMES TO THAT, DO YOU THINK THAT YOU
28 ARE CAPABLE OF MAKING THAT KIND OF A DECISION?

1 MS. KING: YES.

2 MR. WAPNER: DO YOU HAVE ANY RESERVATIONS ABOUT IT?

3 MS. KING: NO.

4 MR. WAPNER: DOES THE NAME JOE HUNT OR BILLIONAIRES BOYS
5 CLUB RING ANY BELLS WITH YOU?

6 MS. KING: NO.

7 MR. WAPNER: PASS FOR CAUSE, YOUR HONOR. THANK YOU.

8 THE COURT: ALL RIGHT, BOTH SIDES HAVE PASSED FOR CAUSE.
9 WHAT THAT MEANS IS YOU ARE QUALIFIED, MISS KING, TO BE A TRIAL
10 JUROR IN THIS CASE.

11 MS. KING: OH, OKAY.

12 THE COURT: WE HAVE TO FINISH WITH THE OTHER JURORS WHICH
13 WILL TAKE SOME TIME. WE DON'T SIT ON FRIDAYS IN DEATH PENALTY
14 CASES. THE LAWYERS HAVE TO HAVE A CHANCE TO PREPARE THEIR CASES
15 AND TALK WITH THEIR WITNESSES SO I HAVE INSTRUCTED ALL OF THE
16 OTHERS WHO HAVE QUALIFIED AS YOU HAVE TO COME BACK TO THE JURY
17 ASSEMBLY ROOM NEXT WEDNESDAY, WHICH IS DECEMBER THE 10TH.

18 MS. KING: OKAY, UH-HUH.

19 THE COURT: ALL RIGHT, NEXT WEDNESDAY, DECEMBER 10TH AT
20 10:00 O'CLOCK IN THE MORNING. SO IF YOU WILL REPORT, PLEASE,
21 TO THE JURY ASSEMBLY ROOM AT 10:00 O'CLOCK NEXT WEDNESDAY, A
22 WEEK FROM YESTERDAY AT 10:00 O'CLOCK. YOU MAKE A MENTAL NOTE
23 OF THAT, ALL RIGHT?

24 MS. KING: IT IS RIGHT THERE.

25 THE COURT: I WILL SEE YOU BACK THERE. THANK YOU FOR
26 BEING HERE AND GOOD NIGHT.

27 MS. KING: OKAY, GOOD NIGHT.

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1 (PROSPECTIVE JUROR KAYLYN KRAMER
2 ENTERED THE COURTROOM.)
3 THE COURT: IS THAT KAYLYN?
4 MS. KRAMER: YES, TWO SIMPLE NAMES TOGETHER.
5 THE COURT: I SEE. ALL RIGHT. IS THAT MISS KRAMER?
6 MS. KRAMER: YES, IT IS.
7 THE COURT: ALL RIGHT. MISS KRAMER, WHERE DO YOU LIVE?
8 MS. KRAMER: I LIVE AT 1502 SOUTH BEDFORD STREET IN
9 LOS ANGELES.
10 THE COURT: WHAT PART OF THE CITY IS THAT?
11 MS. KRAMER: IT IS LIKE THE SOUTHEAST CORNER OF BEVERLY
12 HILLS.
13 THE COURT: YES. HAVE YOU READ ANYTHING OR DO YOU KNOW
14 ANYTHING AT ALL ABOUT THE CASE WE ARE ABOUT TO TRY?
15 MS. KRAMER: I DON'T BELIEVE SO. ALTHOUGH, I HAVE NOT
16 BEEN TOLD ANYTHING ABOUT IT --
17 THE COURT: EXCEPT WHAT I TOLD YOU WHEN YOU WERE ALL
18 HERE?
19 MS. KRAMER: RIGHT. THAT IS THE ONLY THING I KNOW.
20 THE COURT: YOU HAVE NOT TALKED WITH ANY JURORS?
21 MS. KRAMER: NO.
22 THE COURT: THE NAME BILLIONAIRE BOYS CLUB DOESN'T MEAN
23 ANYTHING TO YOU?
24 MS. KRAMER: NO.
25 THE COURT: OR JOE HUNT?
26 MS. KRAMER: NO.
27 THE COURT: ALL RIGHT. WHAT I AM GOING TO DO IS TO
28 ASK YOU SOME QUESTIONS WHICH WILL REVEAL HOPEFULLY, YOUR STATE

1 OF MIND AND YOUR FEELINGS ABOUT THE DEATH PENALTY. ALL RIGHT?

2 MS. KRAMER: ALL RIGHT.

3 THE COURT: FIRST, BRIEFLY I WILL TELL YOU THAT IN THIS
4 CASE, THE DEFENDANT IS CHARGED WITH COMMITTING MURDER IN THE
5 FIRST DEGREE IN THE COURSE OF A ROBBERY. NOW, IN THE COURSE
6 OF A ROBBERY HAS SIGNIFICANCE BECAUSE THE LAW IS THAT IF A
7 PERSON COMMITS A ROBBERY UNDER CERTAIN CIRCUMSTANCES, UNDER
8 CERTAIN SPECIAL CIRCUMSTANCES, THAT THAT QUALIFIES THAT CASE
9 FOR THE DEATH PENALTY.

10 MERELY BECAUSE A MAN COMMITS A MURDER IN THE FIRST
11 DEGREE AND IT IS PLANNED AND PREMEDITATED AND INTENTIONAL,
12 DOESN'T MEAN AUTOMATICALLY THAT IT QUALIFIES FOR THE DEATH
13 PENALTY. IT HAS GOT TO BE CERTAIN SPECIAL CIRCUMSTANCES
14 CONNECTED WITH IT BEFORE IT QUALIFIES FOR THE DEATH PENALTY.

15 ONE OF THOSE SPECIAL CIRCUMSTANCES THAT I TOLD
16 YOU, IS IF IT IS COMMITTED IN THE COURSE OF A ROBBERY. THAT
17 IS THIS CASE.

18 OR IT COULD BE A BURGLARY OR A RAPE OR A
19 KIDNAPPING OR A MOLESTATION OF A CHILD WHO DIES IN CONNECTION
20 WITH IT OR AS A RESULT OF IT OR MULTIPLE MURDERS AND THOSE
21 TOGETHER WITH A NUMBER OF OTHERS QUALIFY IT FOR THE IMPOSITION
22 OF THE DEATH PENALTY.

23 BY DEATH PENALTY, I MEAN THAT THE JURORS DECIDE,
24 IF THEY DECIDE HE IS GUILTY OF FIRST DEGREE MURDER WITH SPECIAL
25 CIRCUMSTANCES, THAT IT WAS COMMITTED DURING THE COURSE OF
26 A ROBBERY, THEN THEY ARE TO CONSIDER THE QUESTION OF PENALTY.
27 RIGHT?

28 SO, THE JURORS FIRST DETERMINE -- BY THE WAY,

1 WHEN I SAY LIFE WITHOUT POSSIBILITY OF PAROLE, I MEAN EXACTLY
2 THAT. THERE IS NEVER ANY POSSIBILITY OF PAROLE. HE STAYS
3 IN PRISON FOR THE REST OF HIS LIFE. DO YOU UNDERSTAND THAT?

4 MS. KRAMER: YES.

5 THE COURT: SOMETIMES THE PEOPLE THINK THAT HE WILL GET
6 OUT IN A YEAR OR TWO. BUT, THAT IS NOT TRUE IN A CASE WHERE
7 THE MURDER WAS COMMITTED AND THE PENALTY IMPOSED BY THE JURY
8 IS LIFE WITHOUT POSSIBILITY OF PAROLE.

9 NOW, THE JURORS FIRST DETERMINE THE GUILT OR
10 INNOCENCE OF THE DEFENDANT. OBVIOUSLY, IF HE IS NOT GUILTY,
11 THAT IS THE END OF IT. IF THEY FIND HIM GUILTY OF MURDER IN
12 THE FIRST DEGREE, THAT IS NOT THE END OF IT, THOUGH.

13 THEY FIRST HAVE TO DETERMINE WHETHER THAT MURDER
14 WAS COMMITTED IN THE COURSE OF A ROBBERY. IN OTHER WORDS,
15 THEY WILL HAVE TO SAY TRUE OR FALSE, DID HE OR DIDN'T HE COMMIT
16 IT IN THE COURSE OF A ROBBERY.

17 AND IF THEY FIND HIM GUILTY OF MURDER IN THE FIRST
18 DEGREE AND IT WAS COMMITTED DURING THE COURSE OF A ROBBERY,
19 THEN WE ENTER THE SECOND PHASE OF THE TRIAL. THE CASE IS
20 NOT OVER YET.

21 WE HAVE THE SAME JURY HEAR EVIDENCE PRESENTED
22 BY THE PEOPLE AND PRESENTED BY THE DEFENDANT.

23 THE DEFENDANT WILL PRESENT EVIDENCE TO SHOW THAT
24 HE IS A NICE PERSON, THINGS WHICH ARE FAVORABLE ABOUT HIM,
25 HIS BACKGROUND, EDUCATION, TRAINING AND CHARACTER AND ALL
26 OF THE THINGS ABOUT HIM THAT HE WILL INTRODUCE IN EVIDENCE
27 BEFORE THE JURY.

28 NOW, THE JURORS MUST CONSIDER THAT. THEY MUST

1 CONSIDER HIS AGE, HIS BACKGROUND, HIS HISTORY AND EVERYTHING
2 ELSE. THEY MUST CONSIDER IT.

3 ALSO, THEY MUST CONSIDER, HAVING HEARD THE EVIDENCE
4 ON THE GUILT PHASE, THE NATURE OF THE CRIME WHICH HE COMMITTED
5 YOU SEE, AND THE CIRCUMSTANCES OF THAT.

6 THE PEOPLE ON THE OTHER HAND, WILL PRESENT
7 EVIDENCE WHICH IS UNFAVORABLE TO THE DEFENDANT. WE CALL IT
8 AGGRAVATING CIRCUMSTANCES, YOU SEE, TO COUNTERBALANCE THE
9 EVIDENCE INTRODUCED BY THE DEFENDANT. YOU WILL HEAR ALL OF
10 THAT. YOU WILL CONSIDER ALL OF THAT.

11 THE FACTORS MUST BE TAKEN INTO CONSIDERATION BY
12 THE JURORS BEFORE THEY DETERMINE THE PENALTY, SHOULD IT BE
13 LIFE WITHOUT POSSIBILITY OF PAROLE OR SHOULD IT BE DEATH.

14 ARE YOU WILLING TO, IF YOU ARE ACCEPTED AS A JUROR
15 ON THIS CASE, DO THAT?

16 MS. KRAMER: YES.

17 THE COURT: NOW, I WANT TO EXPLORE YOUR STATE OF MIND
18 WITH RESPECT TO THE DEATH PENALTY, AS WILL THE LAWYERS. THEY
19 MIGHT BE SEARCHING QUESTIONS BUT WE HAVE TO DO IT SO WE CAN
20 SEE WHETHER OR NOT YOU QUALIFY AS A TRIAL JUROR IN A DEATH
21 PENALTY CASE.

22 NOW, THE FIRST TWO QUESTIONS ARE REFERABLE TO
23 THE GUILT PHASE, IS HE GUILTY OR NOT GUILTY. NOW, DO YOU
24 HAVE ANY OPINION, WHATEVER IT MAY BE REGARDING THE DEATH PENALTY,
25 THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION AS
26 TO THE GUILT OR INNOCENCE OF THE DEFENDANT?

27 MR. KRAMER: I DON'T THINK SO.

28 THE COURT: ALL RIGHT. THE SECOND QUESTION ALSO ON

1 THE GUILT PHASE IS, DO YOU HAVE ANY OPINION WHATEVER IT MAY
2 BE REGARDING THE DEATH PENALTY, WHICH WOULD PREVENT YOU FROM
3 MAKING AN IMPARTIAL DECISION AS TO THE TRUTH OR FALSITY OF
4 THE SPECIAL CIRCUMSTANCES ALLEGED. THE SPECIAL CIRCUMSTANCE
5 IS DID HE OR DID HE NOT COMMIT THIS MURDER IN THE COURSE OF
6 A ROBBERY.

7 MS. KRAMER: I THINK --

8 THE COURT: YOUR ANSWER IS NO, THAT YOU WOULDN'T --
9 YOUR ATTITUDE TOWARD THE DEATH PENALTY WOULDN'T IN ANY WAY
10 INTERFERE WITH YOUR MAKING AN IMPARTIAL DECISION ON THE
11 QUESTION?

12 MS. KRAMER: CORRECT, YES.

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1 THE COURT: NOW, THE NEXT TWO QUESTIONS HAVE TO DO WITH
2 THE PENALTY PHASE OF THE TRIAL. THE JURY HAS ALREADY REACHED
3 A VERDICT ON THE GUILT PHASE AND THE SPECIAL CIRCUMSTANCES
4 THAT IT WAS COMMITTED DURING THE COURSE OF A ROBBERY. NOW
5 THEY ARE GOING INTO THE PENALTY, RIGHT?

6 THESE HAVE TO DO WITH THE ATTITUDES ON THE PENALTY
7 PHASE OF IT. DO YOU HAVE SUCH AN OPINION CONCERNING THE DEATH
8 PENALTY, THAT YOU WOULD AUTOMATICALLY VOTE TO IMPOSE THE DEATH
9 PENALTY, REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED
10 AT THE PENALTY PHASE OF THE TRIAL?

11 MS. KRAMER: NO.

12 THE COURT: AND THE SAME QUESTION, BUT IT RELATES TO
13 LIFE WITHOUT POSSIBILITY OF PAROLE. DO YOU HAVE SUCH AN
14 OPINION CONCERNING THE DEATH PENALTY, THAT YOU WOULD
15 AUTOMATICALLY VOTE FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE,
16 REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED IN THE PENALTY
17 PHASE OF THE TRIAL?

18 MS. KRAMER: NO.

19 THE COURT: ALL RIGHT. YOU UNDERSTAND OF COURSE, THAT
20 THE ISSUE OF THE DEATH PENALTY MAY OR MAY NOT BE INVOLVED
21 IN THIS CASE, IT MAY NOT COME UP? THESE QUESTIONS HAVE BEEN
22 ASKED ONLY IN THE EVENT THAT YOU REACH THAT PHASE OF THE TRIAL.

23 MS. KRAMER: YES.

24 THE COURT: ALL RIGHT.

25 MR. CHIER: THANK YOU.

26 GOOD AFTERNOON, MISS KRAMER.

27 MS. KRAMER: GOOD AFTERNOON.

28 MR. CHIER: I AM RICHARD CHIER. I REPRESENT MR. HUNT,

1 THE DEFENDANT IN THIS CASE. AND NOW THAT THE JUDGE HAS
2 OUTLINED THE PROCEDURE AND TESTED YOU FOR KNEE-JERK RESPONSES,
3 I WOULD LIKE TO KIND OF PROBE A LITTLE BIT MORE AND I WOULD
4 LIKE TO PREFACE THAT BY SAYING THAT IT IS AWKWARD TO START
5 TO TALK TO A PERSON, A STRANGER, ABOUT MATTERS AS SERIOUS
6 AS THIS. BUT THERE IS NO OTHER WAY TO DO IT, THOUGH.

7 AND I AM GOING TO ASK YOU SOME QUESTIONS WHICH
8 ARE INFORMATIONAL, ONLY. THEY ARE NOT TO JUDGE YOU. THERE
9 IS NO RIGHT ANSWER. THERE IS NO WRONG ANSWER. THERE IS NO
10 FAIR ANSWER. THERE IS NO UNFAIR ANSWER.

11 I AM NOT TRYING TO TRICK YOU. I CAN TELL YOU
12 RIGHT NOW WHAT I AM WANTING TO KNOW IS WHETHER YOU ARE DEATH
13 PRONE OR NOT DEATH PRONE AND IF YOU HAVE ANY BIASES THAT WOULD
14 PREVENT YOU FROM ACTING IN A KIND OF NEUTRAL WAY AS A JUROR.

15 AND THE BEST WAY I HAVE FOUND TO GET STARTED IN
16 THIS INQUIRY, IS BY ASKING YOU TO ANSWER THE FOLLOWING
17 QUESTION. I AM A PERSON WHO IS: A, STRONGLY IN FAVOR OF
18 THE DEATH PENALTY; B, SOMEWHAT IN FAVOR OF THE DEATH PENALTY;
19 C, OPPOSED TO THE DEATH PENALTY; D, HAVE NOT REALLY DECIDED
20 OR THOUGHT ABOUT IT; OR E, OTHER.

21 MS. KRAMER: I WOULD SAY THAT I AM BETWEEN A AND B.

22 MR. CHIER: BETWEEN A AND B?

23 MS. KRAMER: YES.

24 MR. CHIER: CAN YOU TELL US IN YOUR OWN WORDS --

25 THE COURT: THAT MAKES IT A MINUS?

26 MS. KRAMER: OR B PLUS.

27 MR. CHIER: CAN YOU TELL US IN YOUR OWN WORDS HOW YOU
28 SEE YOURSELF ON THE ISSUE?

1 MS. KRAMER: WELL, I MEAN, I BELIEVE IN THE DEATH PENALTY.
2 I DON'T THINK THAT IT IS PROBABLY PERTINENT TO EVERY SITUATION.
3 I AM SURE THAT IT IS ABSOLUTELY SOMETHING YOU HAVE TO BE
4 INVOLVED IN. YOU WOULD HAVE TO KNOW WHY IT WAS USED OR NOT
5 USED.

6 MR. CHIER: YOU MEAN IF SOMEBODY IS MURDERED OR NOT?

7 MS. KRAMER: NO, SOMEONE WHO WOULD BE GIVEN THE DEATH
8 PENALTY.

9 MR. CHIER: OKAY. SO, ARE YOU SAYING IT IS PROBABLY
10 A GOOD THING THAT WE HAVE THE DEATH PENALTY IN CERTAIN
11 CIRCUMSTANCES?

12 MS. KRAMER: YES.

13 MR. CHIER: IS THAT KIND OF HOW YOU FEEL ABOUT IT?

14 MS. KRAMER: UH-HUH.

15 MR. CHIER: WHY DO YOU FEEL IT IS A GOOD IDEA TO HAVE
16 THE DEATH PENALTY?

17 MS. KRAMER: IT GIVES US ANOTHER CHOICE, I GUESS.

18 MR. CHIER: WHAT?

19 MS. KRAMER: IT GIVES US ANOTHER CHOICE.

20 MR. CHIER: DO YOU THINK IT IS GOOD TO HAVE A DEATH
21 PENALTY BECAUSE THERE ARE SOME CRIMES OR SOME CRIMINALS THAT
22 ARE SO OFFENSIVE, THAT IT IS THE ONLY APPROPRIATE PUNISHMENT?

23 MS. KRAMER: YES.

24 MR. CHIER: DO YOU THINK THAT IT IS GOOD TO HAVE A DEATH
25 PENALTY -- THAT THE DEATH PENALTY IS A DETERRENT?

26 MS. KRAMER: NO.

27 MR. CHIER: NO? OKAY. SO, IT BASICALLY ELIMINATES
28 FROM SOCIETY, REAL UNDESIRABLE TYPES OF PEOPLE WHO ARE MURDERERS?

1 MS. KRAMER: IT WOULD, YES.

2 MR. CHIER: VICIOUS MURDERERS?

3 MS. KRAMER: I GUESS YOU COULD SAY THAT, YES.

4 MR. CHIER: OKAY. IS THERE ANY WAY THAT YOU CAN
5 GENERALIZE ABOUT YOUR FEELINGS CONCERNING THE CIRCUMSTANCES
6 WHEN IT WOULD BE AND WOULDN'T BE APPROPRIATE TO EXECUTE
7 SOMEBODY, WITHOUT REGARDING THE INSTRUCTIONS THAT THE COURT
8 IS GOING TO GIVE YOU ON THE ISSUE, IF IT EVER GETS THAT FAR?
9 I AM LOOKING FOR A GENERALIZED FEELING.

10 MS. KRAMER: I WOULDN'T KNOW HOW TO DO THAT.

11 MR. CHIER: OKAY. OKAY, LET ME SEE. THE JUDGE IS GOING
12 TO INSTRUCT YOU IF IT EVER GETS TO THE DEATH PENALTY PHASE,
13 THAT YOU COULD CONSIDER A WHOLE BUNCH OF THINGS IN DETERMINING
14 WHAT TO DO WITH THE DEFENDANT, IF YOU FIND HIM GUILTY.

15 AND YOU UNDERSTAND THAT YOU DON'T GET TO THE PENALTY
16 PHASE UNLESS YOU HAVE FIRST FOUND THAT HE IS GUILTY AS CHARGED
17 BEYOND A REASONABLE DOUBT, OKAY?

18 MS. KRAMER: UH-HUH.

19 MR. CHIER: SO THERE IS NO LINGERING QUESTION ABOUT
20 SELF-DEFENSE OR ANYTHING LIKE THAT. YOU HAVE DETERMINED THAT
21 IT WAS A MURDER AND IT WAS INTENTIONAL AND IT WAS COMMITTED
22 IN THE COURSE OF A ROBBERY. OKAY?

23 ALL OF THOSE THINGS HAVE BEEN ABSOLUTELY
24 ADJUDICATED, SO THEY ARE FIXED.

1 MR. CHIER: THE ONLY QUESTION REMAINING AT THIS POINT
2 IS: WHAT DO WE DO WITH THIS PERSON?

3 MS. KRAMER: UH-HUH.

4 MR. CHIER: THE ONLY CHOICE IS: SHALL WE EXECUTE HIM
5 OR SHOULD WE GIVE HIM LIFE WITHOUT THE POSSIBILITY OF PAROLE?
6 AT THAT POINT IN TIME, WOULD YOU AS A JUROR IN THIS CASE BE,
7 LIKE, TILTING IN FAVOR OF DEATH AS OPPOSED TO LIFE WITHOUT THE
8 POSSIBILITY OF PAROLE WITHOUT HEARING ANY EVIDENCE?

9 MS. KRAMER: NO, NO.

10 MR. CHIER: THE THINGS THAT THE JUDGE WOULD INSTRUCT YOU,
11 SUCH AS THE AGE OF THE DEFENDANT AT THE TIME OF THE OFFENSE,
12 PRIOR BACKGROUND, MENTAL CONDITION, GOOD OR BAD CHILDHOOD, ALL
13 THOSE THINGS THAT BEAR UPON AND GO INTO THE MAKEUP OF US AS
14 INDIVIDUALS, HIS HISTORY, GOOD DEEDS, BAD DEEDS, ALL OF THESE
15 THINGS OF THIS LIST, OF THIS CATALOG, DO YOU THINK THAT SOME
16 OF THEM ARE KIND OF TRIVIAL OR UNIMPORTANT, LIKE AGE OR WHETHER
17 OR NOT HE HAS A CLEAN BACKGROUND OR A DIRTY BACKGROUND?

18 MS. KRAMER: I WOULDN'T -- NO, I WOULDN'T SAY IT WOULD
19 BE TRIVIAL.

20 I THINK PROBABLY IT IS ALL IMPORTANT.

21 MR. CHIER: OKAY. DO I UNDERSTAND THEN THAT YOU WOULD
22 CONSIDER, BEFORE MAKING ANY KIND OF DECISION, YOU WOULD
23 CONSIDER EVERYTHING THERE WAS, YOU WOULD WANT TO KNOW AS MUCH
24 AS YOU COULD ABOUT THE PERSON AND THAT YOU WOULD CONSIDER BOTH
25 PENALTIES BEFORE COMING TO ANY DECISION ABOUT WHAT ONE WAS
26 APPROPRIATE?

27 MS. KRAMER: YES.

28 MR. CHIER: ALL RIGHT. I PASS FOR CAUSE, YOUR HONOR.

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1 THE COURT: ANY QUESTIONS?

2 MR. WAPNER: JUST BRIEFLY. THANK YOU.

3 GOOD AFTERNOON, MS. KRAMER. I AM FRED WAPNER. I
4 AM THE DEPUTY DISTRICT ATTORNEY WHO IS PROSECUTING THIS CASE.

5 DO YOUR FEELINGS ABOUT THE DEATH PENALTY HAVE SOME
6 RELIGIOUS, MORAL OR PHILOSOPHICAL BASIS?

7 MS. KRAMER: NO.

8 MR. WAPNER: DO YOU REALIZE THAT IF YOU ARE ON THIS
9 JURY AND IT GETS TO THAT POINT IN THE CASE, THAT THE DECISION
10 YOU WILL BE CALLED UPON TO MAKE IS AN INDIVIDUAL ONE IN TERMS
11 OF WHAT THE PUNISHMENT SHOULD BE, IN OTHER WORDS, YOU WILL BE
12 DISCUSSING IT WITH 11 OTHER PEOPLE--

13 MS. KRAMER: YES.

14 MR. WAPNER:--BUT YOU HAVE TO CAST YOUR OWN INDIVIDUAL
15 BALLOT ABOUT WHAT THE APPROPRIATE PUNISHMENT IS; DO YOU UNDER-
16 STAND THAT?

17 MS. KRAMER: YES, I DO NOW.

18 THANK YOU.

19 MR. WAPNER: AND KEEPING THAT IN MIND, DO YOU THINK THAT
20 YOU ARE THE KIND OF PERSON WHO IS CAPABLE OF MAKING THAT
21 ESSENTIALLY LIFE OR DEATH DECISION?

22 MS. KRAMER: YES.

23 MR. WAPNER: DO YOU HAVE ANY RESERVATIONS ABOUT IT?

24 MS. KRAMER: NO.

25 MR. WAPNER: THANK YOU.

26 PASS FOR CAUSE, YOUR HONOR.

27 THE COURT: ALL RIGHT, BOTH ATTORNEYS HAVE PASSED FOR
28 CAUSE. WHAT THAT MEANS IS THAT YOU QUALIFY, YOU ARE ACCEPTABLE

1 AS A JUROR IN THIS CASE.

2 MS. KRAMER: OKAY.

3 THE COURT: YOU, TOGETHER WITH A NUMBER OF OTHER JURORS,
4 HAVE BEEN QUALIFIED AND ARE EXPECTED TO REPORT BACK TO THE JURY
5 ASSEMBLY ROOM A WEEK FROM YESTERDAY.

6 MS. KRAMER: A WEEK FROM NEXT WEDNESDAY?

7 THE COURT: NEXT WEDNESDAY AT 10:00 O'CLOCK IN THE
8 MORNING.

9 MS. KRAMER: OKAY.

10 THE COURT: THAT IS 10:00 O'CLOCK IN THE MORNING IN THE
11 JURY ASSEMBLY ROOM. 10:00 O'CLOCK NEXT WEDNESDAY, YOU WILL
12 BE BACK HERE THEN.

13 MS. KRAMER: I HATE THAT ROOM BUT I WILL BE BACK THERE,
14 I GUESS.

15 THE COURT: YOU HATE THE ROOM, I DON'T BLAME YOU. WE
16 WILL GET YOU IN HERE SOON AFTER.

17 MS. KRAMER: OKAY, GREAT.

18 MR. CHIER: ARE THEY ALLOWED TO SMOKE IN THAT ROOM?

19 MS. KRAMER: YES, BY THE WINDOWS.

20 THE COURT: THEY SHOULDN'T.

21 MS. KRAMER: IT DOESN'T CHANGE THE ATMOSPHERE IN THERE.

22 (PROSPECTIVE JUROR KRAMER EXITS THE
23 COURTROOM.)

24 (PROSPECTIVE JUROR HARRIS ENTERS THE
25 COURTROOM.)

26 THE CLERK: THIS IS JUDITH HARRIS.

27 THE COURT: IS EVERYTHING TAKEN CARE OF, MS. HARRIS?

28 MS. HARRIS: YES.

27--

1 PLEASE EXCUSE MY ATTIRE BUT I HAD TO GO TO WORK
2 UNEXPECTEDLY AND I APPRECIATE YOUR MAKING SPECIAL ARRANGEMENTS.

3 THE COURT: IS THAT MISS HARRIS?

4 MS. HARRIS: MRS. HARRIS.

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

6 MS. HARRIS: I LIVE IN WOODLAND HILLS, CALIFORNIA.

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1 THE COURT: MRS. HARRIS, HAVE YOU READ OR HEARD ANYTHING
2 AT ALL ABOUT THIS CASE?

3 MS. HARRIS: I DON'T EVEN KNOW WHAT THE CASE IS ABOUT.

4 THE COURT: EXCEPT WHAT I TOLD YOU?

5 MS. HARRIS: THAT IS ABSOLUTELY RIGHT.

6 THE COURT: LET ME REPEAT AGAIN AND GIVE YOU A GENERAL
7 IDEA.

8 THE DEFENDANT IS CHARGED WITH THE CRIME OF MURDER,
9 MURDER IN THE FIRST DEGREE, AND IT IS ALLEGED ALSO THAT THAT
10 MURDER WAS COMMITTED DURING THE COURSE OF A ROBBERY.

11 NOW, THE FACT THAT IT WAS COMMITTED DURING THE
12 COURSE OF A ROBBERY QUALIFIES THIS CASE FOR THE DEATH PENALTY.

13 WHEN I TALK ABOUT THE DEATH PENALTY, IN CALIFORNIA
14 JURIES ON DEATH PENALTY CASES, IF -- SUPPOSING THE
15 DEFENDANT IS FOUND GUILTY OF MURDER IN THE FIRST DEGREE AND
16 HAS COMMITTED IT UNDER CERTAIN SPECIAL CIRCUMSTANCES, WHICH
17 I WILL DESCRIBE TO YOU, THEN THEY HAVE TO CONSIDER WHAT THE
18 PENALTY IS GOING TO BE.

19 NOW WHEN I USE THE WORDS, AS I TOLD YOU, COMMITTED
20 IN THE COURSE OF A ROBBERY, THAT MEANS THAT IN THIS PARTICULAR
21 CASE -- IT MEANS THIS PARTICULAR CASE QUALIFIES FOR A POSSIBLE
22 DEATH PENALTY; DO YOU UNDERSTAND THAT?

23 MS. HARRIS: YES.

24 THE COURT: IF HE IS FOUND GUILTY.

25 MS. HARRIS: YES, I DO.

26 THE COURT: THE LAW IS THAT MERELY BECAUSE A MURDER HAS
27 BEEN COMMITTED AND IT IS PREMEDITATED AND PLANNED AND DELIBERATE,
28 IT DOESN'T QUALIFY THAT CASE AUTOMATICALLY FOR THE DEATH

1 PENALTY.

2 MS. HARRIS: YES.

3 THE COURT: THERE HAVE TO BE CERTAIN CIRCUMSTANCES
4 CONNECTED WITH IT, WHAT WE CALL SPECIAL CIRCUMSTANCES.

5 THE SPECIAL CIRCUMSTANCE IN THIS CASE, IT IS
6 ALLEGED IT WAS COMMITTED IN THE COURSE OF A ROBBERY. THE LAW
7 ALSO IS THAT IF A MURDER WAS COMMITTED IN THE COURSE OF A
8 BURGLARY OR A KIDNAPPING OR A RAPE OR CHILD MOLESTATION WHERE
9 A CHILD WAS KILLED OR MULTIPLE MURDERS OR WHERE A MURDER IS
10 COMMITTED THROUGH TORTURE OF A PERSON AND A PERSON MURDERED,
11 THEN THAT IS CALLED A SPECIAL CIRCUMSTANCE AND THERE ARE A
12 NUMBER OF OTHERS, WE HAVE 19 IN ALL WHICH THE LEGISLATURE HAS
13 LISTED, THE LAW IS IN CALIFORNIA THAT IN ALL OF THOSE CASES,
14 THOSE BEING SPECIAL CIRCUMSTANCE CASES, THE DEATH PENALTY THEN
15 MAY BE INFLICTED; DO YOU UNDERSTAND THAT?

16 MS. HARRIS: YES, I DO.

17 THE COURT: SO THE JURY SELECTED IN THIS PARTICULAR CASE --

18 AND WHEN I TALK ABOUT LIFE IMPRISONMENT WITHOUT
19 THE POSSIBILITY OF PAROLE, I MEAN EXACTLY THAT.

20 MS. HARRIS: YES.

21 THE COURT: HE WILL NEVER GET OUT.

22 MS. HARRIS: RIGHT.

23 THE COURT: HE IS IN THERE FOR LIFE; DO YOU UNDERSTAND
24 THAT?

25 MS. HARRIS: YES, YES.

26 THE COURT: WITHOUT THE POSSIBILITY OF PAROLE.

27 MS. HARRIS: RIGHT.

28 THE COURT: NOW, THE JURY SELECTED IN THIS CASE WILL

1 HAVE THE FIRST DUTY OF DETERMINING WHETHER OR NOT THE DEFENDANT
2 IS GUILTY OR NOT GUILTY. OBVIOUSLY, IF HE IS NOT GUILTY, THAT
3 IS THE END OF IT.

4 IF THEY FIND HIM GUILTY AND GUILTY OF MURDER IN
5 THE FIRST DEGREE, THEN THEY HAVE A COLLATERAL QUESTION TO
6 ANSWER WHICH MAKES IT A SPECIAL CIRCUMSTANCE: WAS THAT MURDER
7 COMMITTED DURING THE COURSE OF A ROBBERY?

8 AND IF THEY SAY IT IS TRUE -- THE QUESTION IS TRUE
9 OR FALSE AND IF THEY SAY IT IS TRUE -- IF IT IS FALSE, THEN
10 THAT IS THE END OF THE CASE AS FAR AS THE JURY IS CONCERNED --
11 BUT IF THEY FIND IT TO BE TRUE, THEN THEY HAVE ANOTHER FUNCTION
12 TO PERFORM, THE SAME JURY, AND THEY HAVE TO COME BACK INTO THE
13 JURY BOX AND THERE WILL BE ADDITIONAL TESTIMONY ADDUCED BOTH
14 BY THE DEFENDANT AND BY THE PROSECUTION AND THAT ADDITIONAL
15 TESTIMONY WILL RELATE TO VARIOUS FACTORS WHICH THE JURY MUST
16 CONSIDER IN DECIDING THE PENALTY.

17 THOSE FACTORS ARE THE AGE OF THE DEFENDANT, WHETHER
18 OR NOT HE HAS ANY PRIOR CRIMINAL HISTORY, HIS CHARACTER, HIS
19 BACKGROUND, HIS MENTAL STATE, HIS PHYSICAL STATE, THEY ALSO
20 HAVE THE RIGHT TO CONSIDER THE FACTS THAT THEY HEARD ON THE --

21 MS. HARRIS: ON THE KILLING.

22 THE COURT: -- ON THE GUILT PHASE OF IT.

23 MS. HARRIS: I UNDERSTAND.

24 THE COURT: AND ANYTHING AT ALL WHICH HAS TO DO WITH THE
25 DEFENDANT AS A PERSON, GOOD AND BAD, FAVORABLE AND UNFAVORABLE
26 MAY BE ADDUCED AT THAT PARTICULAR STAGE OF THE PROCEEDING.

27 AND AFTER ALL OF THAT HAS BEEN COMPLETED, THE
28 ATTORNEYS ARGUE ABOUT THE SIGNIFICANCE OF ALL OF THAT AND I

1 INSTRUCT YOU AS TO WHAT THE LAW IS ON THE SUBJECT AND THEN THE
2 JURY RETIRES AND DETERMINES ONE OF TWO THINGS: LIFE
3 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE OR DEATH.
4 THAT IS KNOWN AS THE PENALTY PHASE OF THE CASE.

5 THE OTHER ONE, I HAVE ALREADY TOLD YOU, IS THE GUILT
6 PHASE OF THE TRIAL.

7 MS. HARRIS: OKAY.

8 THE COURT: ALL RIGHT, YOU MUST LISTEN VERY CAREFULLY
9 AND YOU MUST CONSIDER ALL OF THESE FACTS WHICH COME OUT IN THE
10 COURSE OF THE TRIAL, AND YOU ARE WILLING TO DO THAT?

11 MS. HARRIS: YES, I AM.

12 THE COURT: ALL RIGHT, NOW WHAT I AM GOING TO DO -- THE
13 QUESTIONS I AM GOING TO ASK YOU NOW RELATE TO WHAT YOUR
14 STATE OF MIND IS AS TO THE DEATH PENALTY AND TO SEE WHETHER
15 OR NOT THAT WILL QUALIFY YOU OR DISQUALIFY YOU AS A POSSIBLE
16 JUROR IN THIS CASE.

17 NOW, THE FIRST TWO QUESTIONS RELATE TO THE GUILT
18 PHASE OF THE TRIAL.

19 FIRST: DO YOU HAVE AN OPINION, WHATEVER THE
20 OPINION MAY BE, AS TO THE DEATH PENALTY WHICH WOULD PREVENT
21 YOU FROM MAKING AN IMPARTIAL DECISION AS TO THE GUILT OR
22 INNOCENCE OF THE DEFENDANT?

23 MS. HARRIS: NO, I DON'T.

24 THE COURT: ALL RIGHT, THE NEXT ONE, IF THE JURY FINDS
25 HIM GUILTY OF MURDER IN THE FIRST DEGREE, THEN THE JURY
26 DECIDES WHETHER IT IS TRUE OR FALSE IF IT WAS COMMITTED DURING
27 THE COURSE OF A ROBBERY AND THAT IS STILL ON THE GUILT PHASE:
28 DO YOU HAVE ANY OPINION AS TO THE DEATH PENALTY WHICH WOULD

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PREVENT YOU FROM MAKING A FINDING AS TO THE TRUTH OR FALSITY
 OF THE SPECIAL CIRCUMSTANCE?

MS. HARRIS: NO.

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1 THE COURT: ALL RIGHT. NOW, THE NEXT TWO QUESTIONS
2 RELATE TO THE PENALTY PHASE. SUPPOSEDLY, THE DEFENDANT HAS
3 ALREADY BEEN CONVICTED OF MURDER IN THE FIRST DEGREE AND IT
4 IS TRUE THAT HE COMMITTED IT DURING THE COURSE OF A ROBBERY.
5 NOW, THESE ARE THE TWO QUESTIONS: DO YOU HAVE SUCH AN OPINION
6 CONCERNING THE DEATH PENALTY THAT YOU WOULD AUTOMATICALLY
7 VOTE TO IMPOSE THE DEATH PENALTY, REGARDLESS OF ANY EVIDENCE
8 THAT MAY BE PRESENTED AT THE PENALTY PHASE OF THE TRIAL?

9 MS. HARRIS: I WOULDN'T DO ANYTHING AUTOMATICALLY.

10 THE COURT: VERY GOOD. AND THE OTHER ONE IS ALSO ABOUT
11 AUTOMATICALLY. BUT, IT APPLIES TO LIFE WITHOUT POSSIBILITY
12 OF PAROLE.

13 MS. HARRIS: NO.

14 THE COURT: DO YOU HAVE SUCH AN OPINION CONCERNING THE
15 DEATH PENALTY, THAT YOU WOULD AUTOMATICALLY VOTE FOR LIFE
16 WITHOUT POSSIBILITY OF PAROLE, REGARDLESS OF ANY EVIDENCE
17 THAT MAY BE PRESENTED ON THE PENALTY PHASE?

18 MS. HARRIS: NO. IT WOULD HAVE TO BE ON THE EVIDENCE.

19 THE COURT: OKAY. NOW YOU UNDERSTAND OF COURSE, THAT
20 THE ISSUE OF THE DEATH PENALTY MAY OR MAY NOT OCCUR IN THIS
21 CASE AND THAT THESE QUESTIONS HAVE BEEN ASKED ONLY IN THE
22 EVENT THAT YOU REACH THAT PHASE OF THE TRIAL?

23 MS. HARRIS: YES. I UNDERSTAND THAT.

24 THE COURT: OKAY.

25 MR. CHIER: THANK YOU, YOUR HONOR. GOOD AFTERNOON,
26 MISS HARRIS.

27 MS. HARRIS: GOOD AFTERNOON.

28 MR. CHIER: MY NAME IS RICHARD CHIER. I REPRESENT

28A-2

1 MR. HUNT. WE HAVE A FEW MINUTES HERE TO TALK TO YOU ABOUT
2 SOME VERY SERIOUS MATTERS.

3 IT IS KIND OF UNCOMFORTABLE FOR BOTH OF US TO
4 BE TALKING TO STRANGERS ABOUT SOME VERY, VERY SERIOUS ISSUES
5 IN OUR SOCIETY. BUT THIS IS HOW IT HAS TO BE DONE.

6 I WOULD LIKE YOU TO KNOW THAT THE QUESTIONS I
7 AM ABOUT TO ASK YOU, ARE INFORMATIONAL ONLY. THERE IS NO
8 RIGHT ANSWER. THERE IS NO WRONG ANSWER. THEY ARE NOT TO
9 JUDGE YOU AS A PERSON. THEY ARE NOT TO JUDGE YOUR ATTITUDES.
10 THEY ARE JUST TO DETERMINE WHETHER OR NOT YOU HAVE STRONG
11 BIASES IN FAVOR OF THE DEATH PENALTY, AGAINST THE DEATH PENALTY
12 OR STRONG BIASES AGAINST THE TYPE OF CRIME THAT WOULD CAUSE
13 YOU TO FAVOR THE DEATH PENALTY OR OTHERWISE.

14 AND SINCE WE DON'T KNOW YOU, WE DON'T KNOW ANYTHING
15 ABOUT YOU. THE SYSTEM MUST DEPEND ON YOU FOR CANDID ANSWERS
16 IN ORDER FOR THE SYSTEM TO CONTINUE WORKING, IN ORDER FOR
17 THE DEFENDANT TO HAVE A FAIR TRIAL.

18 SO WHEN I ASK THESE QUESTIONS, PLEASE, YOU KNOW,
19 JUST GIVE US YOUR -- AND IF YOU DON'T UNDERSTAND WHAT I AM
20 SAYING, PLEASE ASK ME BECAUSE IT IS VERY IMPORTANT THAT WE
21 ALL UNDERSTAND EACH OTHER AND NOT HAVE ANY MISCOMMUNICATION,
22 HERE.

23 I AM NOT TRYING TO TRICK YOU, YOU KNOW. I MAY
24 LEAD YOU SOMETIMES, IN ORDER TO SAVE TIME BUT IT IS NOT TO
25 TRICK YOU. OKAY?

26 MS. HARRIS: YES.

27 MR. CHIER: SO WITH THAT, HOW WOULD YOU ANSWER THIS
28 QUESTION: I AM A PERSON WHO IS A, STRONGLY IN FAVOR OF THE

1 DEATH PENALTY; B, SOMEWHAT IN FAVOR OF THE DEATH PENALTY;
2 C, OPPOSED TO THE DEATH PENALTY; D, HAVE NOT REALLY HAD TO
3 DECIDE BEFORE TODAY; OR E, OTHER?

4 MS. HARRIS: WELL, I SUPPOSE IT WOULD BE PROBABLY B
5 OR D. I HAVE NEVER HAD TO DECIDE ANYTHING LIKE THAT. BUT
6 I DON'T HAVE ANY STRONG CONVICTIONS ONE WAY OR THE OTHER.

7 MR. CHIER: SO IT IS KIND OF AN OPEN MATTER FOR YOU?

8 MS. HARRIS: YES IT IS.

9 MR. CHIER: WOULD YOU SAY THAT YOU ARE SOMEWHAT IN FAVOR
10 OF THE DEATH PENALTY? IT SEEMS LIKE IT WOULD BE A GOOD IDEA
11 BUT YOU ARE NOT QUITE SURE OR WHAT?

12 THE COURT: I THINK SHE GAVE IT THE OTHER, DIDN'T SHE?

13 MR. CHIER: SHE SAID BETWEEN B OR D.

14 MS. HARRIS: BETWEEN B AND --

15 THE COURT: I DIDN'T HEAR YOU.

16 MS. HARRIS: WELL, I THINK IT WOULD JUST DEPEND UPON
17 WHAT I HEARD, THE EVIDENCE THAT I HEARD.

18 MR. CHIER: SO, IT WOULD DEPEND UPON THE CIRCUMSTANCES
19 OF THE CRIME, FIRST OF ALL?

20 MS. HARRIS: NO. I THINK IT WOULD DEPEND UPON THE
21 EVIDENCE OF WHAT I HEARD.

22 MR. CHIER: ALL RIGHT. BUT, I MEAN THE CIRCUMSTANCES
23 OF THE CRIME WOULD BE HEARD IN THE FORM OF EVIDENCE?

24 MS. HARRIS: YES.

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1 MR. CHIER: OKAY. AND IT WOULD ALSO DEPEND ON THE
2 CIRCUMSTANCES ABOUT THE PERSON, I TAKE IT?

3 MS. HARRIS: I DON'T KNOW IF I COULD DO THAT. I DON'T
4 KNOW IF IT HAS ANYTHING TO DO WITH THE PERSON, WHAT HE WAS
5 LIKE.

6 THE COURT: WELL, I TOLD YOU THE FACTORS YOU ARE GOING
7 TO CONSIDER ON THE PENALTY PHASE OF THE TRIAL.

8 MS. HARRIS: ON THE PENALTY PHASE? YES. I DIDN'T KNOW
9 HE MEANT THAT.

10 THE COURT: WELL, HE MEANT THAT. HE DIDN'T MAKE IT
11 CLEAR.

12 MR. CHIER: I DIDN'T MAKE IT CLEAR.

13 MS. HARRIS: I THOUGHT YOU WERE TALKING ABOUT THE GUILT
14 PHASE. ON THE PENALTY PHASE, IT WOULD HAVE TO BE BASED ON
15 THAT.

16 MR. CHIER: I HAVE BEEN DOING THIS FOR SO LONG THAT
17 A LOT OF THESE QUESTIONS -- SOMETIMES WE ARE ASSUMING FOR
18 THE PURPOSE OF THIS DISCUSSION THAT THE DEFENDANT HAS BEEN
19 GUILTY AND --

20 MS. HARRIS: I SEE.

21 MR. CHIER: AS CHARGED, OKAY?

22 MS. HARRIS: ALL RIGHT.

23 MR. CHIER: IF IT SEEMS LIKE THAT IS WHAT HAPPENED, FOR
24 MY QUESTIONS, THAT IS WHAT I AM ASKING YOU TO ASSUME.

25 MS. HARRIS: I SEE.

26 MR. CHIER: OKAY?

27 MS. HARRIS: ALL RIGHT.

28 MR. CHIER: SO, WHAT I AM TRYING TO FIND OUT IS, IF

1 IN THIS CASE WHEN THE DEFENDANT IS CHARGED WITH FIRST DEGREE
2 INTENTIONAL MURDER IN THE COURSE OF A ROBBERY, AND IF YOU
3 FOUND THAT WERE TRUE AS A JUROR, WHETHER YOU WOULD HAVE STRONG
4 FEELINGS IN FAVOR OF THE DEATH PENALTY AND AGAINST LIFE WITHOUT
5 POSSIBILITY OF PAROLE SO THAT IT WOULD BE MUCH HARDER FOR
6 THE DEFENDANT FOR EXAMPLE, TO PERSUADE YOU TO SAVE HIS LIFE
7 THAN IT WOULD BE FOR THE PEOPLE TO PERSUADE YOU TO TAKE HIS
8 LIFE.

9 MS. HARRIS: NO. I WOULDN'T BE STRONGLY THAT WAY AT
10 ALL. I DON'T HAVE ANY STRENGTH ONE WAY OR THE OTHER.

11 MR. CHIER: SO, YOUR FEELING ABOUT YOUR OWN SELF IN
12 TERMS OF THIS ISSUE IS THAT YOU ARE OPEN? YOU ARE WILLING
13 TO LISTEN TO ALL OF THE EVIDENCE AND WILL CONSIDER ALL OF
14 THE EVIDENCE BOTH ABOUT THE CRIME AND THE PERSON AND MAKE
15 A DECISION THAT YOU MAKE?

16 MS. HARRIS: I THINK THAT IT IS ABSOLUTELY IMPORTANT
17 TO DO THAT.

18 MR. CHIER: OKAY. WOULD YOU BE COMFORTABLE IF YOU WERE
19 IN HIS SPOT AND THERE WERE 12 PEOPLE WITH YOUR PRESENT STATE
20 OF MIND ON THIS ISSUE, THAT WERE GOING TO BE JURORS IN YOUR
21 CASE?

22 MS. HARRIS: YES. IF I WERE, I WOULD HOPE TO GET
23 SOMEONE LIKE ME BECAUSE I CAN SEPARATE THINGS VERY EASILY.

24 MR. CHIER: I PASS FOR CAUSE.

25 THE COURT: ALL RIGHT.

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

28 WHAT DID YOU MEAN WHEN YOU SAID THAT YOU WERE

1 THE KIND OF A PERSON WHO COULD SEPARATE THINGS VERY EASILY.

2 MS. HARRIS: I WOULD NOT HAVE TO TAKE INTO CONSIDERATION
3 ANY MATTER THAT DID NOT PERTAIN. IF I HAD ANY FEELINGS ABOUT
4 THAT, I COULD PUT IT ASIDE COMPLETELY AND I WOULD JUST HAVE
5 TO TAKE INTO CONSIDERATION WHAT I HEARD AND WHAT I HAD TO
6 WEIGH.

7 MR. WAPNER: OKAY. ARE YOU THE KIND OF A PERSON WHO
8 CAN RENDER YOUR OWN, INDIVIDUAL VERDICT AS TO WHETHER THE
9 PUNISHMENT IN THIS CASE SHOULD BE DEATH OR WHETHER IT SHOULD
10 BE LIFE WITHOUT POSSIBILITY OF PAROLE?

11 MS. HARRIS: DO YOU MEAN COULD I MAKE MY OWN DECISION?
12 IS THAT WHAT YOU MEAN?

13 MR. WAPNER: YES.

14 MS. HARRIS: I COULD.

15 MR. WAPNER: ALL RIGHT. IN OTHER WORDS, YOU WILL
16 DELIBERATE ON THE CASE WITH 11 OTHER PEOPLE. BUT THE JUDGE
17 WILL TELL YOU THAT YOU JUST CAN'T GO ALONG WITH THE PROGRAM.
18 YOU HAVE TO CAST YOUR OWN, INDIVIDUAL BALLOT. DO YOU
19 UNDERSTAND THAT?

20 MS. HARRIS: YES I DO.

21 MR. WAPNER: IS THAT A DECISION YOU ARE CAPABLE OF MAKING?

22 MS. HARRIS: ABSOLUTELY.

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

24 THE COURT: ALL RIGHT. BOTH ATTORNEYS HAVE PASSED FOR
25 CAUSE. WHAT THAT MEANS SO FAR AS YOU ARE CONCERNED, IS THAT
26 YOU QUALIFY. THEY STIPULATE THAT YOU QUALIFY AS A TRIAL JUROR
27 IN THE CASE.

28 MS. HARRIS: I SEE.

1 THE COURT: SO, WHAT I WILL ASK YOU TO DO IS, WE HAVE
2 12 MORE OR SO. WE WILL BE THROUGH. ON FRIDAYS, WE DON'T
3 CALL THIS MATTER.

4 WHAT I WILL ASK YOU TO DO, I THINK WE WILL HAVE
5 EVERYTHING FINISHED BY MONDAY, PROBABLY AT THE LATEST OR
6 TUESDAY.

7 I HAVE ASKED ALL OF THE OTHER JURORS WHO HAVE
8 QUALIFIED TO COME BACK TO THE JURY ASSEMBLY ROOM A WEEK FROM
9 WEDNESDAY. THAT WILL BE DECEMBER 10 AT 10 O'CLOCK IN THE
10 JURY ASSEMBLY ROOM.

11 MS. HARRIS: I DON'T HAVE TO COME BACK UNTIL THEN?

12 THE COURT: YOU DON'T HAVE TO COME BACK UNTIL THEN.
13 YOU GO TO THE JURY ASSEMBLY ROOM AT 10 O'CLOCK. THANK YOU.

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

15 (PROSPECTIVE JUROR HARRIS EXITED THE
16 COURTROOM.)

17 THE COURT: YOU BE PREPARED TO GO TO TRIAL ON WEDNESDAY.

18 MR. WAPNER: THANK YOU.

19 THE COURT: I MEAN, YOU WILL COME HERE ON MONDAY. BUT
20 YOU WILL BE PREPARED TO START THE TRIAL ON WEDNESDAY. THANK
21 YOU.

22 (AT 4:16 P.M. AN ADJOURNMENT WAS TAKEN
23 UNTIL MONDAY, DECEMBER 8, 1986, AT 10 A.M.)
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