

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT

88 DA 0269

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

SUPERIOR COURT  
NO. A-090435

OCT 09 1997

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 28 OF 101  
(PAGES 4028 TO 4170, INCLUSIVE)

COPY

ROSEMARIE GOODBODY, CSR NO. 932  
SALLY YERGER, CSR NO. 2008  
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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE

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

REPORTERS' DAILY TRANSCRIPT

MONDAY, JANUARY 5, 1987

VOLUME 28

(PAGES 4028 TO 4170, 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  
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MONDAY, JANUARY 5, 198<sup>7</sup>6

VOLUME 28

PAGES 4028 - 4170

A.M.

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PROCEEDINGS

VOIR DIRE OF PROSPECTIVE JURORS (CONTINUED)

4028

1 SANTA MONICA, CALIFORNIA; MONDAY, JANUARY 5, 198~~6~~<sup>7</sup>; 9:45 A.M.

2 DEPARTMENT 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 OUTSIDE THE PRESENCE AND HEARING OF  
8 THE PROSPECTIVE JURORS.)

9 THE COURT: ALL RIGHT, BRING THE JURORS IN TO TELL THEM  
10 WE ARE GOING TO PROCESS GETTING MORE QUALIFIED JURORS AND I  
11 WILL EXCUSE THEM UNTIL WEDNESDAY.

12 WHAT I WILL DO, I WILL ASK YOUR COOPERATION, BOTH  
13 OF YOU, TO TRY TO EXPEDITE AS MUCH AS POSSIBLE THE HOVEY  
14 ASPECTS OF THE CASE. I DON'T WANT TO LIMIT YOU BUT I WANT  
15 YOU TO EXPEDITE IT IF YOU CAN.

16 MR. WAPNER: OKAY.

17 THE COURT: ALL RIGHT?

18 MR. BARENS: YES, YOUR HONOR.

19 THE COURT: IS THAT AGREEABLE TO YOU?

20 MR. BARENS: YES, YOUR HONOR.

21 MR. WAPNER: COULD I HAVE A MOMENT WITH COUNSEL?

22 THE COURT: SURE.

23 MR. WAPNER: I THINK THAT IS PROBABLY ALL RIGHT.

24 (UNREPORTED COLLOQUY BETWEEN MR. WAPNER  
25 AND MR. BARENS.)

26 (OTHER COURT MATTERS.)

27 THE COURT: IS THAT ALL RIGHT?

28 MR. BARENS: THAT IS FINE, YOUR HONOR.

1 MR. WAPNER: THAT IS FINE.

2 THE COURT: DO YOU HAVE ANY OTHER IDEAS? IF YOU DO,  
3 TELL ME WHAT THEY ARE.

4 MR. BARENS: WE HAVE SOME IDEAS ON HOW TO ABBREVIATE  
5 THE HARDSHIP QUESTIONING. IF YOU WOULD ASK THE PEOPLE THAT  
6 WORK FOR TRW, HUGHES OR THE PUBLIC SCHOOL SYSTEM TO IDENTIFY  
7 THEMSELVES, WE COULD AGREE TO LET THOSE PEOPLE GO SUMMARILY,  
8 OR THE POST OFFICE, SINCE WE ALREADY KNOW WHAT THAT IS GOING  
9 TO BE ABOUT.

10 MR. WAPNER: WELL, I DON'T HAVE ANY OBJECTION REALLY  
11 TO LET THE POST OFFICE PEOPLE GO, THE GOVERNMENT DOES  
12 PAY THEM APPARENTLY IF THEY ARE HERE.

13 MAYBE THE EASIEST WAY TO DO IT, INSTEAD OF STARTING  
14 TO NAME SPECIFIC CORPORATIONS, IS TO ASK IF THERE IS ANYONE  
15 WHOSE EMPLOYER WILL NOT PAY FOR THE ENTIRE SERVICE, THEY WILL  
16 BE EXCUSED.

17 THE COURT: NOW I AM GOING TO TELL THEM IT IS TWO MONTHS,  
18 BECAUSE WE HAVE BEEN MORE THAN A MONTH NOW AND BECAUSE I THINK  
19 WE WILL HAVE A JURY BY THE END OF THE WEEK AND I WILL TELL  
20 THEM THE CASE -- ISN'T THAT WHAT YOU ANTICIPATE, IT WILL TAKE,  
21 THE ACTUAL TRIAL WON'T BE MORE THAN TWO MONTHS?

22 MR. WAPNER: PROBABLY, THAT IS PROBABLY ABOUT RIGHT.

23 THE COURT: ALL RIGHT, FIRST WE WILL GET THE JURORS IN  
24 AND I WILL TELL THEM TO COME BACK HERE ON WEDNESDAY AT 1:30 --

25 MR. WAPNER: ALL RIGHT.

26 THE COURT: -- TO BE SURE WE ARE THROUGH WITH THE VOIR  
27 DIRE ON THE HOVEY QUESTIONING.

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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: ALL RIGHT. THE RECORD WILL INDICATE THE  
5 PRESENCE OF THE DEFENDANT AND THE PROSPECTIVE JURORS. GOOD  
6 MORNING, LADIES AND GENTLEMEN. IT LOOKS VERY MUCH LIKE WE  
7 HAVE TO HAVE SOME MORE JURORS AND GO THROUGH THE SAME PROCESS  
8 WITH THEM THAT WE WENT THROUGH WITH YOU.

9 I ANTICIPATE THAT IT WILL ONLY TAKE TWO DAYS.

10 THE PROSPECTIVE JURORS: WE CAN'T HEAR YOU.

11 THE COURT: ALL RIGHT. TO REPEAT IT, IT LOOKS LIKE  
12 WE HAVE TO HAVE ANOTHER TWO DAYS IN ORDER TO GET MORE QUALIFIED  
13 JURORS BECAUSE IT LOOKS LIKE WE MIGHT RUN OUT OF THEM BY THE  
14 TIME WE GET THROUGH WITH THE PEREMPTORY CHALLENGES.

15 SO WHAT I WILL ASK YOU TO DO, IS TO COME BACK  
16 ON WEDNESDAY AFTERNOON AT 1:30. BY THAT TIME, IT IS ANTICIPATED  
17 THAT WE WILL HAVE A NEW GROUP OF JURORS AND WE CAN HAVE MORE  
18 OF A PANEL TO CHOOSE FROM.

19 I HOPE YOU DON'T MIND TOO MUCH. WELCOME BACK.  
20 I WISH YOU A HAPPY NEW YEAR.

21 COME BACK AT 1:30 ON WEDNESDAY TO THE JURY  
22 ASSEMBLY ROOM. WE'LL BE READY TO GO. HOPEFULLY, WE'LL HAVE  
23 A JURY BY THE END OF THE WEEK. THANK YOU VERY MUCH.

24 (THE PROSPECTIVE JURORS EXIT THE COURTROOM.)

25 THE COURT: BY STIPULATION, WE EXCUSED MRS. FARKAS,  
26 JUROR NUMBER 2. IS THAT RIGHT?

27 MR. BARENS: THAT IS MY RECOLLECTION. THAT IS THE LAST  
28 THING WE DID, YOUR HONOR.

1 THE COURT: ALL RIGHT. THE CLERK DIDN'T THINK IT WAS  
2 ON THE RECORD.

3 THE CLERK: SHE WAS NOT NOTIFIED UNTIL FRIDAY.

4 THE COURT: ANYWAY, SHE HAS BEEN NOTIFIED. SHE IS NOT  
5 HERE.

6 ALL RIGHT. NOW, WE ARE GETTING THE OTHER JURORS  
7 IN?

8 THE CLERK: I WILL HAVE THEM SENT IN NOW.

9 THE COURT: IF THEY ARE READY. WHAT I PROPOSE TO DO  
10 WITH THE FIRST GROUP THAT CAME IN, IS TO TELL THEM WHAT THE  
11 CASE IS ALL ABOUT AND INTRODUCE COUNSEL AND TELL THEM THAT  
12 I ANTICIPATE THE CASE WILL TAKE TWO MONTHS.

13 I WILL ALSO TELL THEM THAT WE HAVE BEEN IN THE  
14 PROCESS OF PICKING A JURY BUT WE RAN OUT OF JURORS AND THE  
15 FIRST THING I WILL ASK THEM IS WHETHER THERE ARE ANY OF THEM  
16 WHO WANT TO BE EXCUSED, AS YOU SUGGESTED. I WILL ASK THEM  
17 WHETHER OR NOT THERE ARE ANY OF THEM WHO CAN'T SERVE.

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1 THE COURT: I THOUGHT THAT YOU SAID THAT T --

2 MR. BARENS: TRW, YOUR HONOR, THAT IS 20 DAYS, YOUR  
3 HONOR, AND HUGHES WAS ABOUT THE SAME, IT MIGHT HAVE BEEN 30  
4 DAYS OR 20 DAYS RESPECTIVELY.

5 THE COURT: AND ALSO THE POST OFFICE?

6 MR. BARENS: WELL, THE POST OFFICE PEOPLE ALL SEEM TO  
7 HAVE SOME SORT OF A PROBLEM. FRED SAYS, AND HE PROBABLY IS  
8 RIGHT, THAT THE GOVERNMENT WOULD PAY THEM BUT THEY ALL HAD  
9 SOME KIND OF A PROBLEM WHERE THEY COULDN'T GO FOR MORE THAN  
10 TEN DAYS, IS WHAT THEY SEEMED TO BE SAYING.

11 THE COURT: I WILL TELL YOU WHAT I WILL DO, AS I DID  
12 BEFORE, ANYBODY WHO HAS A HARDSHIP, WHO CAN'T STAY FOR THAT  
13 TWO MONTHS, HAVE THEM RAISE THEIR HANDS AND WE WILL SEND THEM  
14 BACK, OKAY.

15 THEN I WILL BRIEFLY GO OVER WITH EACH ONE OF THEM,  
16 LIKE WE DID BEFORE, AND THAT WILL TAKE JUST A FEW MINUTES,  
17 DON'T YOU REMEMBER WHAT I DID?

18 MR. WAPNER: YES, I THINK THAT IS FINE.

19 MR. BARENS: THE ONLY THING I MIGHT SUGGEST, YOUR HONOR,  
20 IS THAT ANY OF THEM THAT SAY THAT "WELL, I HAVE GOT TO CALL  
21 MY EMPLOYER," IF THEY WORK AT HUGHES OR TRW, WE CAN TELL THEM  
22 DON'T BOTHER.

23 THE COURT: ALL RIGHT, FINE.

24 MR. WAPNER: AND THE OTHER THING IS, YOU MIGHT TRY, AS  
25 FUTILE AS IT IS, TO BE EMPHATIC THAT IF THEY SAY NOW THAT THEY  
26 CAN STAY, WE DON'T WANT THEM COMING BACK IN TWO OR THREE DAYS  
27 AND CHANGING THEIR MINDS.

28 THE COURT: FINE, THAT IS A GOOD IDEA.

29 (RECESS.)



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

4 THE CLERK: IF YOU WOULD ALL STAND PLEASE, TO BE SWORN.  
5 RAISE YOUR RIGHT HANDS.

6 EACH OF YOU DO SOLEMNLY SWEAR THAT YOU WELL  
7 AND TRULY ANSWER SUCH QUESTIONS AS MAY BE ASKED OF YOU,  
8 TOUCHING UPON YOUR QUALIFICATIONS TO ACT AS TRIAL JURORS IN  
9 THE CAUSE NOW PENDING BEFORE THIS COURT, SO HELP YOU GOD?

10 THE PROSPECTIVE JURORS: I DO.

11 THE CLERK: THANK YOU. YOU MAY BE SEATED.

12 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.

13 THE PROSPECTIVE JURORS: GOOD MORNING.

14 THE COURT: FOR THE LAST MONTH OR MORE, WE HAVE BEEN  
15 ENGAGED IN THE SELECTION OF JURORS TO TRY A MURDER CASE IN  
16 WHICH THE DEATH PENALTY HAS BEEN ASKED BY THE DISTRICT  
17 ATTORNEY.

18 THE NAME OF THAT CASE IS THE PEOPLE OF THE STATE  
19 OF CALIFORNIA VERSUS JOE HUNT. THE CASE HAS RECEIVED A GREAT  
20 DEAL OF PUBLICITY AND WHAT YOU HAVE HEARD ABOUT IT, I WILL  
21 INQUIRE IN DUE COURSE.

22 WHAT I AM GOING TO ASK YOU FIRST, IS THAT IT IS  
23 ANTICIPATED THAT THE CASE WILL TAKE AT LEAST TWO MORE MONTHS.  
24 IT HAS ALREADY BEEN TRIED FOR ABOUT FOUR OR FIVE WEEKS OR  
25 MORE. WE ARE IN THE PROCESS OF SELECTING A JURY AND WE HAVE  
26 RUN OUT OF JURORS. THAT IS WHY YOU HAVE BEEN REQUESTED TO  
27 COME HERE.

28 NOW, THE CHARGE AS I TOLD YOU, IS THAT THE DEFENDANT

1 IS ALLEGED TO HAVE COMMITTED A MURDER AND THE SPECIAL  
2 CIRCUMSTANCE WHICH MAKES IT -- WHICH QUALIFIES IT FOR THE DEATH  
3 PENALTY, IS THAT IT WAS ALLEGEDLY IN THE COURSE OF A ROBBERY.

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1                   IN CALIFORNIA, THE LEGISLATURE HAS DECLARED THAT  
2                   IN CERTAIN TYPES OF SPECIAL CIRCUMSTANCES THE DEATH PENALTY  
3                   MAY BE REQUESTED BY THE DISTRICT ATTORNEY AND THOSE CASES  
4                   ARE A MURDER COMMITTED IN THE FIRST DEGREE WHICH WAS COMMITTED  
5                   IN THE COURSE OF A ROBBERY, A BURGLARY, A RAPE, A KIDNAPPING,  
6                   TORTURE, OR A KILLING WHERE A CHILD DIES THAT HAS BEEN  
7                   MOLESTED AND IN CHARGES OF THOSE KINDS, ONLY UNDER SPECIAL  
8                   CIRCUMSTANCES IS THE DEATH PENALTY QUALIFIED AND THIS IS ONE  
9                   OF THOSE WHERE IT IS ALLEGED THAT THE MURDER WAS COMMITTED  
10                  IN THE COURSE OF A ROBBERY.

11                   NOW MY FIRST QUESTION OF ALL OF YOU --

12                   FIRST, I THINK WHAT I OUGHT TO DO IS TO INTRODUCE  
13                  YOU TO THE CAST OF CHARACTERS.

14                   IN THIS CASE, THE PEOPLE ARE REPRESENTED BY THE  
15                  DISTRICT ATTORNEY OF LOS ANGELES COUNTY AND MR. FRED WAPNER,  
16                  WHO WILL NOW RISE AND BE IDENTIFIED, IS PRESENTING THE CASE  
17                  ON BEHALF OF THE PEOPLE.

18                   (MR. WAPNER STANDS.)

19                  THE COURT: THE DEFENDANT IS REPRESENTED BY MR. ARTHUR  
20                  BARENS, B-A-R-E-N-S, WHO HAS NOW RISEN AND WILL BE IDENTIFIED  
21                  AND ALSO THE DEFENDANT IS JOE HUNT, WHO WILL NOW RISE AND  
22                  BE IDENTIFIED.

23                   (MR. BARENS STANDS AND DEFENDANT STANDS.)

24                  THE COURT: ALL RIGHT, THANK YOU, YOU MAY BE SEATED.

25                   MY FIRST QUESTION IS: ARE THERE ANY OF YOU WHOSE  
26                  EMPLOYERS WILL NOT PAY YOU FOR THE NEXT TWO MONTHS IF YOU  
27                  QUALIFY AS A JUROR IN THIS CASE? WILL YOU RAISE YOUR HANDS,  
28                  PLEASE?

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1 (PROSPECTIVE JURORS RAISE THEIR HANDS.)

2 THE COURT: ALL RIGHT, I TAKE IT THEN THAT ALL OF THE  
3 OTHER PROSPECTIVE JURORS WILL, IF THEY ARE SELECTED, BE ABLE  
4 TO STAY FOR THE NEXT TWO MONTHS IN THIS CASE.

5 A JUROR: I AM A STUDENT AND BEGIN SCHOOL --

6 THE COURT: ALL RIGHT, THOSE OF YOU WHO FOR ANY REASON,  
7 SUCH AS MEDICAL, SCHOOL, EMPLOYMENT, WHO FEEL THEY CANNOT  
8 STAY FOR A PERIOD OF TWO MONTHS, RAISE YOUR HANDS.

9 (PROSPECTIVE JURORS RAISE THEIR HANDS.)

10 THE COURT: ALL RIGHT, THANK YOU. NOW I TAKE IT THAT  
11 THE REMAINDER OF YOU -- YOU RAISE YOUR HANDS SO I CAN SEE  
12 HOW MANY THERE ARE OF YOU.

13 (PROSPECTIVE JURORS RAISE THEIR HANDS.)

14 THE COURT: ALL RIGHT, THOSE OF YOU WHO HAVE RAISED  
15 YOUR HANDS, WHAT I WILL ASK YOU TO DO IS TO GO BACK TO THE  
16 JURY ASSEMBLY ROOM AND WHEN I GET FINISHED QUESTIONING THOSE  
17 JURORS WHO WANT TO BE EXCUSED FOR SOME REASON OR ANOTHER,  
18 I WILL ASK YOU TO COME BACK AGAIN.

19 (PROSPECTIVE JURORS RAISE THEIR HANDS.)

20 THE COURT: SO ALL OF THOSE WHO FEEL YOU CAN STAY FOR  
21 THAT PERIOD, GO TO THE JURY ASSEMBLY ROOM.

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1 (A PORTION OF THE PROSPECTIVE JURY PANEL  
2 EXITS THE COURTROOM.)

3 THE COURT: WHICH OF YOU LADIES AND GENTLEMEN WORK FOR  
4 TRW, HUGHES OR THE POST OFFICE?

5 (THERE WAS A SHOW OF HANDS.)

6 THE COURT: YOUR NAME, PLEASE?

7 MR. PHELAN: MIKE PHELAN, P-H-E-L-A-N.

8 THE COURT: ALL RIGHT. WHO DO YOU WORK FOR?

9 MR. PHELAN: HUGHES AIRCRAFT.

10 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. YOU WILL  
11 BE EXCUSED.

12 THE BAILIFF: PLEASE COME UP AND GET YOUR LITTLE TICKET.

13 MR. WOOLEY: JAMES WOOLEY, ROCKWELL.

14 THE COURT: ALL RIGHT. YOU MAY COME FORWARD. YOU WILL  
15 BE EXCUSED.

16 (THERE WAS A SHOW OF HANDS.)

17 MR. KLINE: MY NAME IS KLINE, K-L-I-N-E. I WORK FOR  
18 MC DONNELL DOUGLAS.

19 THE COURT: ALL RIGHT. PLEASE COME FORWARD AND GET YOUR  
20 TICKET. YOU ARE EXCUSED.

21 DO ANY OF YOU WORK FOR THE POST OFFICE?

22 (THERE WAS NO AUDIBLE RESPONSE.)

23 THE COURT: ALL RIGHT. NOW, I WILL TAKE YOU ONE AT A  
24 TIME. WHAT IS YOUR NAME, PLEASE?

25 MR. TROUTMAN: JEFF TROUTMAN.

26 THE COURT: WHY DO YOU SEEK TO BE EXCUSED?

27 MR. TROUTMAN: MY EMPLOYER PAYS FOR ONLY TEN DAYS OF  
28 SERVICE.

1 THE COURT: WHAT IS THE NAME OF YOUR EMPLOYER?

2 MR. TROUTMAN: EXECUTIVE LIFE INSURANCE.

3 THE COURT REPORTER: PLEASE SPELL YOUR NAME.

4 MR. TROUTMAN: T-R-O-U-T-M-A-N.

5 THE COURT: AND YOU DON'T THINK THAT IF YOU TALK TO THEM,  
6 THEY MIGHT BE ABLE TO ALLOW YOU TO STAY FOR THAT PERIOD?

7 MR. TROUTMAN: I DON'T KNOW IF THEY MAKE EXCEPTIONS.  
8 I WOULD BE WILLING TO TRY.

9 THE COURT: ALL RIGHT. WHY DON'T YOU CALL AND COME BACK  
10 AND LET US KNOW? WILL YOU DO THAT?

11 MR. TROUTMAN: NOW?

12 THE COURT: YES.

13 WHAT IS YOUR NAME, PLEASE?

14 MR. MC NESE: BERNARD MC NESE.

15 THE COURT REPORTER: SPELL YOUR NAME.

16 MR. MC NESE: M-C N-E-S-E.

17 THE COURT: WHO ARE YOU EMPLOYED BY?

18 MR. MC NESE: I AM NOT EMPLOYED. I AM RETIRED, SIR.

19 THE COURT: DO YOU WANT TO BE EXCUSED?

20 MR. MC NESE: YES. I AM 68 YEARS OLD. I AM COMING FROM  
21 LAWDALE. IT IS A HARDSHIP FOR ME TO FIGHT THAT TRAFFIC EVERY  
22 MORNING BACK AND FORTH. IT IS A HARDSHIP.

23 THE COURT: WELL, I AM 81. I TRAVEL JUST AS FAR AS YOU  
24 DO. IT IS NO HARDSHIP FOR ME.

25 MR. MC NESE: BUT THIS IS YOUR JOB, SEE. I AM OUT THERE  
26 TRYING TO --

27 THE COURT: WELL, IT IS YOUR JOB AS A CITIZEN, YOU SEE,  
28 TO DO A PUBLIC DUTY.

1 MR. MC NESE: ALL RIGHT. WHATEVER YOU SAY, YOUR HONOR.

2 THE COURT: WELL, IF YOU THINK IT IS GOING TO BE TOO  
3 MUCH OF A PHYSICAL HARDSHIP --

4 MR. MC NESE: IT WOULD BE A PHYSICAL HARDSHIP.

5 THE COURT: ALL RIGHT. WE'LL EXCUSE YOU. THANK YOU  
6 VERY MUCH. YOU GO BACK TO THE JURY ASSEMBLY ROOM.

7 MS. GREEN: MY NAME IS ALICE GREEN.

8 THE COURT: ARE YOU A STUDENT?

9 MS. GREEN: YES, A LAW STUDENT.

10 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. YOU MAY  
11 BE EXCUSED.

12 I DON'T WANT TO DEPRIVE THE COMMUNITY OF A BUDDING  
13 LAWYER. YOU LOOK LIKE YOU WOULD MAKE A GOOD ONE.

14 BUT YOU SEE, IF YOU WERE A JUROR, YOU WOULD LEARN  
15 AN AWFUL LOT.

16 MS. GREEN: YES. I KNOW IT WOULD BE VERY INTERESTING.

17 THE COURT: YES, IT WOULD BE. I PROMISE YOU THAT.

18 MR. COLE: MY NAME IS BARRY COLE.

19 THE COURT REPORTER: SPELL YOUR NAME.

20 MR. COLE: C-O-L-E. I AM SELF-EMPLOYED.

21 THE COURT: DO YOU THINK IT WOULD BE A FINANCIAL  
22 HARDSHIP?

23 MR. COLE: YES, IT IS. MY INCOME IS SOLELY DERIVED  
24 FROM CONSULTING WORK THAT I AM DOING.

25 I CURRENTLY HAVE THREE CONTRACTS.

26 THE COURT: THANK YOU VERY MUCH.

27 MR. WINN: MY NAME IS IRA WINN.

28 THE COURT REPORTER: SPELL YOUR NAME.

1 MR. WINN: W-I-N-N, IRA. I AM EMPLOYED BY CAL STATE  
2 UNIVERSITY, NORTHRIDGE.

3 I AM CHAIRMAN OF THE PERSONNEL COMMITTEE. WE ARE  
4 SUPPOSED TO BE MAKING DECISIONS.

5 I AM MAKING DECISIONS ABOUT TENURE DURING JANUARY,  
6 FEBRUARY AND MARCH.

7 THE COURT: I SHOULD TELL YOU THIS, BY THE WAY. FRIDAYS,  
8 IN ORDER TO GIVE COUNSEL AN OPPORTUNITY TO PREPARE THEIR CASE  
9 FURTHER FOR THE FOLLOWING WEEK, WE DON'T HOLD SESSIONS.

10 SO, YOU CAN FIGURE ON TAKING FRIDAYS OFF. WHATEVER  
11 BUSSINESS YOU MIGHT HAVE TO ATTEND TO, YOU CAN DO IT FRIDAY.  
12 WOULD THAT BE HELPFUL?

13 MR. WINN: NO. IT WOULDN'T BECAUSE WE MEET ON A REGULAR  
14 BASIS.

15 I AM ALSO TEACHING IN THREE DEPARTMENTS. WE HAVE  
16 GOT TO GET THREE PEOPLE TO REPLACE ME.

17 THE COURT: ALL RIGHT. THANK YOU.

18 MR. BAUMANN: MY NAME IS FRANK BAUMANN.

19 THE COURT REPORTER: SPELL YOUR NAME FOR THE RECORD.

20 MR. BAUMANN: B-A-U-M-A-N-N, FRANK. I AM A COMMISSIONED  
21 SALESPERSON.

22 ALTHOUGH I WOULD LIKE VERY MUCH TO PARTICIPATE  
23 IN THE TRIAL, I HAVE SALES WHICH TAKE ME OUT OF THE STATE.

24 FOR EXAMPLE, DURING A TWO-WEEK PERIOD THIS MONTH  
25 STARTING THE 12TH OF JANUARY, I WILL BE IN GREEN BAY,  
26 WISCONSIN ON A PRESS APPROVAL.

27 THE COURT: ALL RIGHT.

28 MR. BAUMANN: FURTHER, I AM NOT SURE WHETHER YOU WOULD



1 BE INTERESTED IN ME. I AM A LAW SCHOOL GRADUATE.

2 THE COURT: WELL, THAT'S ALL RIGHT. I WILL TELL YOU  
3 TO FORGET WHAT YOU EVER LEARNED AND GET YOUR INSTRUCTIONS FROM  
4 ME.

5 I WILL TELL YOU WHAT THE LAW IS AND YOU ARE TO  
6 FOLLOW THE LAW. ALL RIGHT. REMEMBER THAT YOU MIGHT BE CALLED.

7 MR. BAUMANN: ALL RIGHT. THANK YOU.

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1 THE COURT: ALL RIGHT.

2 MR. PETERSON: DWAYNE PETERSON.

3 THE COURT: SPELL YOUR NAME.

4 MR. PETERSON: P-E-T-E-R-S-O-N, D-W-A-Y-N-E.

5 I DO WORK FOR DUPONT AIRWAYS, WHICH IS JUST  
6 GETTING STARTED. IN FACT, I HAVE MY FIRST BUSINESS TRIP TO  
7 JAPAN IN TWO WEEKS.

8 MR. BARENS: SAYONARA.

9 THE COURT: UNLESS I HEAR ANYTHING TO THE CONTRARY FROM  
10 COUNSEL, I WILL EXCUSE ANY JUROR THEN.

11 MR. WAPNER: I HAVE NO OBJECTION.

12 THE COURT: THANK YOU VERY MUCH. YOU MAY BE EXCUSED.

13 YES, MA'AM?

14 MS. EVANS: MY NAME IS PHYLLIS EVANS. I HAVE A TICKET  
15 TO LEAVE FOR NEW ORLEANS ON WEDNESDAY. MY HUSBAND WORKS FOR  
16 THE STUDIOS AND HE WILL BE ON LOCATION AND WE HAVE BEEN  
17 MARRIED 30 YEARS. IT WOULD BE A CONSIDERABLE HARDSHIP IF  
18 I WAS NOT BY HIS SIDE.

19 THE COURT: WE DON'T WANT TO KEEP YOU THEN. THANK YOU  
20 VERY MUCH. YOU WILL BE EXCUSED.

21 MR. HAMILTON: BRYAN HAMILTON.

22 I HAVE SEVERAL PROBLEMS.

23 FIRST, I AM MOVING TO PORT HUENEME, SO IT WOULD  
24 BE QUITE A WAYS, IT WILL BE 50 TO 60 MILES.

25 SECONDLY, ALTHOUGH I DO HAVE A REGULAR JOB AND  
26 MY EMPLOYER DOES PAY FOR IT, I HAVE SEVERAL CUSTOMERS I  
27 CONTRACT ON THE SIDE BUSINESS WITH AND THEY NEED TO GET HOLD  
28 OF ME.

1 THE COURT: CAN'T YOU DO THAT BUSINESS ON FRIDAYS?

2 MR. HAMILTON: NOT REALLY.

3 IN FACT, I GOT A CALL THIS MORNING.

4 THE COURT: ALL RIGHT, THANK YOU. YOU WILL BE EXCUSED,  
5 MR. HAMILTON.

6 MR. HAMILTON: THAT IS SPELLED H-A-M-I-L-T-O-N.

7 THE COURT: ALL RIGHT, THAT IS EASY TO SPELL.

8 YES, SIR?

9 MR. OUCHIDA: MY NAME IS OUCHIDA, O-U-C-H-I-D-A. I AM  
10 NOT SURE ABOUT MY PLACE OF EMPLOYMENT. AT THIS PARTICULAR  
11 TIME I DON'T KNOW ABOUT THE TWO MONTHS DEAL.

12 THE COURT: WHY DON'T YOU CALL THEM AND FIND OUT WHETHER  
13 THEY WILL EXCUSE YOU?

14 MR. OUCHIDA: OKAY.

15 MR. WILDAU: MY NAME IS JERRY WILDAU, W-I-L-D-A-U.

16 I WORK FOR THE CITY OF LOS ANGELES. I AM STILL  
17 ON PROBATION AS A BUILDING AND SAFETY INSPECTOR AND FOR EACH  
18 DAY OF SERVICE, MY PROBATION IS PROLONGED AND IT WOULD  
19 PROBABLY PUT ME INTO A YEAR'S PROBATION INSTEAD OF SIX MONTHS  
20 SO THERE IS GOING TO BE A DIVIDING HERE SOMEWHERE.

21 MR. WAPNER: I HAVE NO OBJECTION.

22 MR. BARENS: NO OBJECTION.

23 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. YOU WILL  
24 BE EXCUSED.

25 YOU ARE ON THE BORDERLINE, YOU KNOW, I COULD KEEP  
26 YOU IF I WANTED TO BUT I WILL TAKE INTO CONSIDERATION YOUR  
27 PERSONAL HARDSHIP. THANK YOU.

28 YES, SIR?

7-3  
1 MR. BORKOWSKI: MY NAME IS WALTER BORKOWSKI,  
2 B-O-R-K-O-W-S-K-I. I AM A STUDENT STUDYING FOR A REAL ESTATE  
3 EXAM AND I HAVE A FINAL THAT COMES UP IN TWO WEEKS. I HAVE  
4 ALREADY SIGNED FOR THE NEXT SEMESTER. I AM ALSO SELF-EMPLOYED.

5 THE COURT: ALL RIGHT, THANK YOU. YOU WILL BE EXCUSED.

6 MR. WERTHEIM: MY NAME IS STEVEN WERTHEIM, W-E-R-T-H-E-I-M.  
7 I WORK FOR JEWS FOR JESUS, AS IN JEWISH PEOPLE.

8 THE COURT: YES?

9 MR. WERTHEIM: I HAVE TEN DAYS OF PAID JURY SERVICE.  
10 I HAVE A BUSINESS TRIP COMING UP IN TWO WEEKS TO VANCOUVER  
11 AND I MIGHT HAVE ANOTHER BUSINESS TRIP IN THE MONTH OF  
12 FEBRUARY.

13 THE COURT: ALL RIGHT, THANK YOU. YOU WILL BE EXCUSED.

14 YES, SIR?

15 MR. WARREN: MY NAME IS WILLIAM WARREN, W-A-R-R-E-N.  
16 I AM WITH SECURITY PACIFIC NATIONAL BANK. MY EMPLOYER PAYS  
17 FOR 22 DAYS.

18 MR. WAPNER: WE KNOW.

19 MR. BARENS: NO OBJECTION.

20 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. YOU WILL  
21 BE EXCUSED.

22 YES?

23 MR. LU: MY NAME IS JOHN LU, L-U, LAST NAME.

24 I AM AN ASSOCIATE PROFESSOR AT THE UNIVERSITY OF  
25 CALIFORNIA AT LOS ANGELES MEDICAL SCHOOL. I INTEND TO TEACH  
26 AND I AM CURRENTLY INVOLVED IN A RESEARCH CONTRACT SO I HAVE  
27 TO BE IN ON THOSE GRANTS NEGOTIATION FOR TWO WEEKS.

28 THE COURT: THANK YOU, MR. LU, YOU WILL BE EXCUSED.

7-4

1 AND YOU, MA'AM?

2 MS. SIDENBERG: MY NAME IS NANCY LYNN SIDENBERG,  
3 S-I-D-E-N-B-E-R-G.

4 I WORK FOR AN IMPORT-EXPORT COMPANY. I AM THEIR  
5 SALES REPRESENTATIVE. I HAVE A LOT OF THINGS PENDING, A LOT  
6 OF PROPOSALS THAT I HAVE PRESENTED AND A LOT OF ACCOUNTS THAT  
7 I HAVE TO KEEP UP WITH. I AM THEIR ONLY SALES REP. I THINK  
8 TWO MONTHS WOULD PROBABLY FINISH ME WITH THE COMPANY.

9 THE COURT: WE DON'T WANT THAT TO HAPPEN. YOU WILL  
10 BE EXCUSED.

11 MS. SIDENBERG: BUT I WOULD LOVE TO COME WHEN I AM NOT  
12 WORKING, WHICH I THINK, YOU KNOW, WILL BE SOON.

13 THE COURT: YOU WILL BE ABLE TO SERVE FOR A SHORTER  
14 PERIOD OF TIME, YOU WILL BE AVAILABLE FOR A SHORT CASE?

15 MS. SIDENBERG: FOR A SHORTER CASE.

16 THE COURT: YOU TELL THEM THAT IN THE JURY ASSEMBLY  
17 ROOM.

18 MS. SIDENBERG: THANK YOU VERY MUCH.

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7A-1  
1 MR. GARCIA: I AM JOHN GARCIA, G-A-R-C-I-A.

2 I AM A HEALTHCARE WORKER AT THE VETERANS  
3 ADMINISTRATION HOSPITAL. I AM CHIEF OF THE MICROBIOLOGY  
4 LABORATORY.

5 THE COURT: IS THAT AT WADSWORTH GENERAL HOSPITAL?

6 MR. GARCIA: NO.

7 AT SEPULVEDA IN THE VALLEY.

8 THE COURT: YES.

9 MR. GARCIA: I DO A GREAT DEAL OF INTERACTION WITH THE  
10 PHYSICIANS ON A DAILY BASIS. WE ALSO HAVE A RESEARCH PROJECT  
11 COMING UP STARTING NEXT MONTH AND IT WOULD BE VERY MUCH OF  
12 AN INCONVENIENCE TO BE AWAY FROM MY JOB AND BEING DIRECTOR  
13 OF THE LABORATORY.

14 THE COURT: WELL, INCONVENIENCE IS NOT ENOUGH OF AN  
15 EXCUSE, I AM AFRAID.

16 IS IT MANDATORY THAT YOU STAY, ABSOLUTELY NECESSARY  
17 THAT YOU STAY?

18 MR. GARCIA: FOR THAT PERIOD OF TIME, YES, IT REALLY  
19 IS, BEING DIRECTOR OF THAT LABORATORY.

20 THE COURT: WELL, WHY DON'T YOU STAY? IT MAY VERY WELL  
21 BE WE MIGHT GET A JURY WITHOUT YOU. I WANT YOU TO STAY  
22 ANYWAY, ALL RIGHT? WE WILL SEE WHAT HAPPENS.

23 MR. BALLEW: MY NAME IS SCOTT BALLEW, B-A-L-L-E-W.

24 I WORK FOR FARMER'S INSURANCE AS A SENIOR  
25 ACCOUNTANT AND IT IS OUR BUSIEST TIME OF THE YEAR WITH  
26 FINANCIAL STATEMENTS AND SO FORTH.

27 THE COURT: HOW MANY DAYS DO THEY PAY YOU FOR?

28 MR. BALLEW: I AM NOT POSITIVE OF THAT. I THINK THEY

1 PROBABLY PAY A HUNDRED PERCENT BUT I AM NOT SURE.

2 THE COURT: WELL, DO YOU WANT TO CALL UP AND FIND OUT  
3 WHETHER OR NOT THEY WILL LET YOU STAY FOR THE TWO MONTHS?

4 MR. BALLEW: OH, YES, I COULD DO THAT.

5 THE COURT: WHY DON'T YOU DO THAT? COME BACK AND LET  
6 US KNOW, ALL RIGHT?

7 MR. BALLEW: ALL RIGHT.

8 THE COURT: WE WILL COME TO YOU AGAIN.

9 MR. WINDSOR: MY NAME IS WINDSOR, W-I-N-D-S-O-R. I  
10 WORK FOR THE SECURITY PACIFIC NATIONAL BANK AND MY EMPLOYER  
11 PAYS FOR 22 WORKING DAYS.

12 THE COURT: THEY WON'T PAY YOU FOR ANY MORE THAN THAT?

13 MR. WINDSOR: NO.

14 THE COURT: ALL RIGHT, THANK YOU. YOU WILL BE EXCUSED.  
15 YES?

16 MR. WOOD: MY NAME IS THEODORE WOOD.

17 I AM UNEMPLOYED AND ACTIVELY SEEKING EMPLOYMENT  
18 AND I AM DOING TEMPORARY WORK AND THAT IS THE ONLY INCOME  
19 I HAVE SO IF I AM NOT DOING THAT, I WOULDN'T BE ABLE TO MAKE  
20 MY RENT.

21 THE COURT: ALL RIGHT, THANK YOU. YOU WILL BE EXCUSED.

22 MS. STICHMAN: I AM JOANNE STICHMAN, S-T-I-C-H-M-A-N.

23 I HAVE A DAUGHTER WHO IS SERIOUSLY ILL.

24 THE COURT: A DAUGHTER WHO IS WHAT?

25 MS. STICHMAN: WHO IS ILL AND IN AND OUT OF THE HOSPITAL.  
26 SHE IS EXPECTING A BABY IN FOUR MONTHS AND IT IS A VERY  
27 SERIOUS THING, I AM REALLY NEEDED.

28 THE COURT: ALL RIGHT, THANK YOU VERY MUCH,

1 MRS. STICHMAN. YOU WILL BE EXCUSED.

2 MS. MC LAUGHLIN: I AM MARY MC LAUGHLIN,  
3 M-C CAPITAL L-A-U-G-H-L-I-N.

4 IT IS MY REAL REGRET THAT I AM A FULL-TIME STUDENT  
5 AND I HAVE GOT TO BE BACK TO SCHOOL JANUARY 27. I WOULD REALLY  
6 LIKE TO DO THIS BUT I CANNOT.

7 THE COURT: ALL RIGHT, I WILL EXCUSE YOU. THANK YOU  
8 VERY MUCH. I DON'T WANT TO INTERRUPT YOUR EDUCATION.

9 MR. SCARBOROUGH: MY NAME IS EDWARD SCARBOROUGH,  
10 S-C-A-R-B-O-R-O-U-G-H.

11 I AM CHIEF ENGINEER AT THE BEVERLY HILLS HOTEL.  
12 I HAVE A LITTLE OVER TWO MILLION DOLLAR PROJECT THAT STARTED  
13 LAST YEAR AND I HAVE ABOUT TWO MORE MONTHS BEFORE IT COMES  
14 TO COMPLETION. I DON'T HAVE ANYONE I COULD PUT THE  
15 RESPONSIBILITY ON TO COMPLETE IT.

16 THE COURT: IN EACH CASE WHERE I EXCUSE ANYBODY, YOU  
17 WILL GO BACK TO THE JURY ASSEMBLY ROOM FOR FURTHER  
18 INSTRUCTIONS. THANK YOU VERY MUCH. YOU WILL BE EXCUSED.

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1 MR. DANNO: YOUR HONOR, I AM STEVE DANNO, D-A-N-N-O.  
2 I AM SELF-EMPLOYED WITH A COMPUTER START-UP COMPANY. AND  
3 DURING THE NEXT TWO MONTHS, IT IS CRITICAL FOR OUR BUSINESS  
4 THAT I BE THERE.

5 THE COURT: ALL RIGHT. THANK YOU. YOU WILL BE EXCUSED.  
6 THANK YOU VERY MUCH.

7 MR. OUCHIDA: MY NAME IS OUCHIDA, O-U-C-H-I-D-A. THEY  
8 SAID NO. ONE MONTH IS OKAY. BUT TWO MONTHS IS NOT.

9 THE COURT: ALL RIGHT. PLEASE GO BACK TO THE JURY  
10 ASSEMBLY ROOM.

11 MR. ROTHENBERG: MY NAME IS JULES ROTHENBERG,  
12 R-O-T-H-E-N-B-E-R-G. I AM CURRENTLY UNEMPLOYED. I NEED TO  
13 FIND A JOB PRETTY DESPERATELY OR I WILL BE OUT OF RENT, AS  
14 WELL.

15 I DON'T SEE HOW I COULD DO IT FOR TWO MONTHS.

16 THE COURT: ALL RIGHT. DO YOU WANT TO BE EXCUSED  
17 ALL TOGETHER, DON'T YOU?

18 MR. ROTHENBERG: WELL, I WOULD LIKE TO BE, YES. BUT  
19 I WANT TO SERVE A SHORT LENGTH OF TIME. TWO MONTHS IS TOO  
20 MUCH TIME FOR ME NOT TO BE LOOKING FOR A JOB.

21 THE COURT: WELL, HOW LONG WILL YOU BE ABLE TO SERVE?

22 MR. ROTHENBERG: WELL, THROUGH THE 16TH OF JANUARY IS  
23 WHAT I FIGURED.

24 THE COURT: ALL RIGHT. GO BACK TO THE JURY ASSEMBLY  
25 ROOM AND TELL THEM THAT, PLEASE. YOU ARE EXCUSED.

26 MS. ISAAKS: MY NAME IS ISAAKS, I-S-A-A-K-S. I AM A  
27 FULL-TIME STUDENT. SCHOOL STARTS JANUARY 26TH.

28 THE COURT: THANK YOU. YOU WILL BE EXCUSED.

8A-2

1 MR. ANDERSON: MY NAME IS MYLO ANDERSON. I AM A SENIOR  
2 WASTE WATER RECOVERY OPERATOR WITH THE CITY OF LOS ANGELES.

3 I DON'T HAVE A VALID REASON, OTHER THAN MY WIFE  
4 AND I, OUR ANNIVERSARY IS IN FEBRUARY. WE HAVE ALREADY PAID  
5 FOR A TRIP AND EVERYTHING. IT IS --

6 THE COURT: ARE YOU GOING AWAY, YOU MEAN?

7 MR. ANDERSON: YES. WE ARE GOING ON VACATION FOR OUR  
8 ANNIVERSARY. I WOULD HAVE TO LOSE MY MONEY IF I AM IN COURT.  
9 IT IS THE MONEY FOR MY VACATION.

10 THE COURT: YOU MEAN YOU WOULD LOSE THAT IF YOU DIDN'T  
11 GO?

12 MR. ANDERSON: I WOULD LOSE THAT.

13 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. YOU WILL  
14 BE EXCUSED.

15 MR. MUHLMEISTER: MY NAME IS ALEX MUHLMEISTER,  
16 M-U-H-L-M-E-I-S-T-E-R. I AM A FULL-TIME STUDENT.

17 THE COURT: WHEN DO YOU START SCHOOL?

18 MR. MUHLMEISTER: I BELIEVE JANUARY 26.

19 THE COURT: THANK YOU. YOU WILL BE EXCUSED.

20 MS. GEORGE: MY NAME IS PATTY GEORGE, G-E-O-R-G-E. I  
21 AM ALSO A STUDENT AT CAL STATE, NORTHRIDGE. WE START SCHOOL  
22 ON JANUARY 26.

23 I ALSO LEAVE FOR WASHINGTON, D.C. IN REGARD TO  
24 AN INTERNSHIP WITH THE NATIONAL PARKS AND RECREATION ASSOCIATION  
25 ON THE 13TH.

26 THE COURT: ALL RIGHT. THANK YOU.

27 MS. HARRIS: I AM KENDRA HARRIS, H-A-R-R-I-S. I AM A  
28 FULL-TIME STUDENT AT CAL STATE, LONG BEACH. I START ON THE

1 21ST.

2 THE COURT: THANK YOU. YOU ARE EXCUSED.

3 MR. SCHWARTZKOPF: I WORK FOR A MANAGEMENT CONSULTANT  
4 COMPANY. THEY ONLY PAY TWO WEEKS FOR JURY DUTY.

5 THE COURT: DO YOU THINK THEY WILL PAY PAST TWO MONTHS?

6 MR. SCHWARTZKOPF: NO.

7 THE COURT REPORTER: SPELL YOUR NAME FOR THE RECORD.

8 MR. SCHWARTZKOPF: S-C-H-W-A-R-T-Z-K-O-P-F.

9 MR. CHAFEE: I AM JONATHAN CHAFEE. I THINK MY EMPLOYER  
10 WILL ONLY PAY FOR TEN DAYS.

11 THE COURT: WHO IS YOUR EMPLOYER?

12 MR. CHAFEE: JORDENE INSURANCE BROKERS.

13 THE COURT: YOU DON'T THINK THERE IS ANY POINT IN YOUR  
14 CALLING THEM?

15 MR. CHAFEE: NO.

16 THE COURT: CAN YOU CALL?

17 MR. CHAFEE: WOULD YOU LIKE ME TO CALL?

18 THE COURT: YES.

19 MR. CHAFEE: THANK YOU.

20 MS. SANCHEZ: MY NAME IS JOSEPHINE SANCHEZ, S-A-N-C-H-E-Z.

21 I AM A VOLUNTEER PAYROLL CLERK AT A SANTA MONICA DAY NURSERY.

22 I REALLY FEEL THAT I AM THE ONLY PERSON RIGHT NOW WHO COULD  
23 DO THE JOB.

24 ALSO, I DO HAVE A HEART PROBLEM, ARRHYTHMIA.  
25 THAT IS WHAT IT IS.

26 THE COURT: ALL RIGHT. I WILL EXCUSE YOU FOR MEDICAL  
27 REASONS.

28 MS. BONE: MY NAME IS SALLY BONE, BONE LIKE YOU GIVE

8A-4

1 A DOG. I AM A TEACHER AT MALIBU PARK.

2 I WOULD BE VERY WILLING TO SERVE BUT I DON'T THINK  
3 THE DISTRICT WOULD BE WILLING FOR THAT LENGTH OF TIME.

4 THE COURT: WHAT DO YOU MEAN? WOULD IT BE A HARDSHIP  
5 FOR THEM? NOT FOR YOU, THOUGH?

6 MS. BONE: IT IS NOT PARTICULARLY A HARDSHIP FOR ME.  
7 I BELIEVE IT WOULD BE A HARDSHIP FOR THEM IN GETTING  
8 SUBSTITUTE TEACHERS TO COVER THE CLASS. I DON'T KNOW. I CAN  
9 CALL, IF YOU WISH.

10 THE COURT: WELL, YES.

11 MR. WAPNER: I THINK WE SHOULD HAVE HER CALL, AT LEAST.

12 THE COURT: CALL THEM. TELL THEM THAT WE NEED YOU HERE.  
13 IT IS A VERY HIGH LEVEL OF A PUBLIC DUTY THAT YOU HAVE GOT  
14 TO PERFORM. THANK YOU.

15 MS. METZGER-ACOSTA: MY NAME IS LYNETTE METZGER-ACOSTA,  
16 L-Y-N-E-T-T-E, M-E-T-Z-G-E-R HYPHEN A-C-O-S-T-A.

17 I AM A RESOURCE SPECIALIST TEACHER FOR THE LOS  
18 ANGELES UNIFIED SCHOOL DISTRICT. IT IS MY UNDERSTANDING THAT  
19 THEY WILL PAY ME FIVE WEEKS OR 20 DAYS.

20 THE COURT: THE SCHOOL DISTRICT? IS THAT ALL THEY PAY?

21 MS. METZGER-ACOSTA: TWENTY DAYS, YES.

22 THE COURT: YOU INQUIRED ABOUT THAT?

23 MS. METZGER-ACOSTA: YES. I TALKED TO THE LEGAL DEPARTMENT  
24 LAST MONDAY.

25 THE COURT: THEY TOLD YOU THAT?

26 MS. METZGER-ACOSTA: THEY WILL PAY 20 DAYS. ACCORDING  
27 TO MY CALCULATIONS, THAT WOULD BE FIVE WEEKS ON THIS CASE.

28 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. PLEASE  
29 REPORT BACK TO THE JURY ASSEMBLY ROOM.

8B-1  
1 MR. FLANNIGAN: MY NAME IS FRANCIS FLANNIGAN. I WORK  
2 FOR ATLANTIC RICHFIELD COMPANY. I AM MANAGER OF PETROLEUM  
3 ADMINISTRATION.

4 TWO MONTHS WOULD BE A SEVERE HARDSHIP ON MY  
5 PROFESSIONAL EXISTENCE, IF YOU WILL.

6 WE HAVE UNLIMITED JURY DUTY. BUT MY FEELING IS,  
7 THAT IF I WAS GOING TO BE AWAY FROM MY OFFICE FOR THAT LONG,  
8 I --

9 THE COURT: YOU THINK IT WOULD PREJUDICE YOUR STANDING  
10 IN THE COMPANY IF YOU STAYED AWAY?

11 MR. FLANNIGAN: NO. I THINK THAT WE HAVE GONE THROUGH  
12 A NUMBER OF SEVERE CUTS WITHIN THE COMPANY. THERE IS NOBODY  
13 THERE THAT CAN AND WILL DO MY WORK.

14 THERE WOULD BE AN UNDUE HARDSHIP WHEN I RETURN  
15 BACK THERE. THERE ARE A NUMBER OF THINGS WHICH HAVE TO BE  
16 DONE FAIRLY CONSISTENTLY WHICH WON'T GET DONE IF I WAS NOT  
17 THERE.

18 THE COURT: ALL RIGHT. THANK YOU. YOU CAN SERVE FOR  
19 A SHORTER PERIOD THOUGH, CAN'T YOU?

20 MR. FLANNIGAN: TO THE 16TH IS FINE WITH ME. I CAN.

21 THE COURT: ALL RIGHT. TELL THAT TO THE JURY ASSEMBLY  
22 CLERK.

23 MR. BELIAEFF: MY NAME IS ALEX BELIAEFF.

24 THE COURT REPORTER: SPELL YOUR NAME.

25 MR. BELIAEFF: B-E-L-I-A-E-F-F. I AM CURRENTLY  
26 UNEMPLOYED. AND I NEED TIME TO LOOK FOR FULL-TIME EMPLOYMENT.

27 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. YOU WILL  
28 BE EXCUSED.

8B-2  
1 YES, MA'AM?

2 MS. VARTY: MY NAME IS VARTY, V-A-R-T-Y.

3 MY EMPLOYER PAYS FOR TEN DAYS JURY DUTY.

4 THE COURT: WHO IS YOUR EMPLOYER?

5 MS. VARTY: TERRY UTTERBACH ASSOCIATES.

6 THE COURT: THEY WOULDN'T PAY?

7 MS. VARTY: NO. I AM THE ONLY EMPLOYEE.

8 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. YOU MAY  
9 GO BACK TO THE JURY ASSEMBLY ROOM.

10 MS. BERKETT: YOUR HONOR, MY NAME IS MARY BERKETT.  
11 MY HUSBAND AND I HAVE ALREADY PAID FOR A TRIP, STARTING  
12 FEBRUARY 14TH FOR A WEEK. I CAN SERVE A SHORTER PERIOD BUT  
13 NOT THE FULL TWO MONTHS.

14 THE COURT REPORTER: PLEASE SPELL YOUR NAME FOR THE  
15 RECORD.

16 MS. BERKETT: B-E-R-K-E-T-T.

17 THE COURT: ALL RIGHT. YOU WILL BE EXCUSED.

18 MR. HENSLEY: MY NAME IS TIM HENSLEY, H-E-N-S-L-E-Y.  
19 I AM A FULL-TIME STUDENT. SCHOOL STARTS JANUARY 26TH.

20 THE COURT: THANK YOU. YOU WILL BE EXCUSED.

21 MR. TROUTMAN: MY EMPLOYER WON'T EXTEND BEYOND THE TEN  
22 DAYS.

23 THE COURT: ALL RIGHT. YOU WILL BE EXCUSED. PLEASE  
24 GO BACK TO THE JURY ASSEMBLY ROOM.

25 MS. CHAFFEE: THEY WILL PAY FULL-TIME.

26 THE COURT: ALL RIGHT. THEN YOU CAN STAY.

27 THE COURT REPORTER: SPELL YOUR NAME FOR THE RECORD.

28 MS. CHAFFEE: DONNA C-H-A-F-F-E-E.

8B-3  
1 THE COURT: ALL RIGHT. SO I THINK WE CAN GET THE JURORS  
2 BACK NOW.

3 MR. WAPNER: YOUR HONOR, CAN I INQUIRE OF MR. GARCIA  
4 BEFORE WE GET THE OTHER JURORS BACK? IT IS THE GENTLEMAN  
5 WHO WORKED FOR THE HOSPITAL.

6 THE COURT: IS THIS MR. GARCIA?

7 MR. GARCIA: YES.

8 MR. WAPNER: MR. GARCIA, IS THERE GOING TO BE SOMEBODY  
9 DOING THE WORK THAT NEEDS TO BE DONE IN THE LABORATORY IF  
10 YOU ARE NOT THERE?

11 MR. GARCIA: NOT FOR THAT LENGTH OF TIME, UNFORTUNATELY.  
12 I DO HAVE A SUPERVISOR.

13 BUT HE IS GONE ON VACATION NOW FOR AN EXTENDED  
14 PERIOD. AND STILL THERE IS A LOT OF WORK THAT NEEDS TO BE  
15 DONE. AND I FEEL THAT I AM THE ONLY QUALIFIED PERSON THERE  
16 TO DO IT.

17 MR. WAPNER: AND IF YOU ARE ON JURY DUTY FOR TEN DAYS,  
18 FOR EXAMPLE, WHO DOES THE WORK?

19 MR. GARCIA: WELL, THAT'S ALL RIGHT. A COUPLE OF WEEKS  
20 IS OKAY.

21 YOU KNOW, IT CAN GET DONE AND BE SHIFTED TO AN  
22 ACTING SUPERVISOR.

23 BUT FOR A PERIOD OF TWO MONTHS, I AM AFRAID THAT  
24 IT IS NOT GOING TO GET DONE.

25 MR. WAPNER: WELL, WHAT WILL THE HOSPITAL DO IF YOU  
26 ARE NOT THERE?

27 MR. GARCIA: WELL, I AM SURE THAT THEY WILL MANAGE.  
28 IT IS NOT GOING TO YOU KNOW, GO DOWN THE TUBES.

8B-4

1 BUT CERTAINLY, IT IS A RATHER SMALL SECTION. THERE  
2 ARE NOT THAT MANY PEOPLE WITH THE EXPERTISE THAT I HAVE IN  
3 THAT AREA TO GO INTO THAT LABORATORY.

4 AS I SAID, WE ALSO HAVE A RESEARCH PROJECT THAT  
5 I AM STARTING UP NEXT MONTH. WE HAVE AN UPCOMING PROJECT  
6 WITHIN THE NEXT COUPLE OF MONTHS THAT WE NEED TO GET READY  
7 FOR. I SHOULD BE THERE.

8 MR. WAPNER: MAY I HAVE A MOMENT?

9 THE COURT: YES.

10 (PAUSE.)

11 MR. BARENS: WE WILL STIPULATE, YOUR HONOR.

12 MR. WAPNER: IF IT IS AGREEABLE WITH THE COURT, WE WILL  
13 STIPULATE.

14 THE COURT: ALL RIGHT. MR. GARCIA, UPON THE STIPULATION  
15 OF COUNSEL, WE WILL EXCUSE YOU. WE WILL EXCUSE YOU FROM THIS  
16 CASE.

17 BUT, YOU MIGHT SERVE IN SOME SHORTER CASE. GO  
18 BACK TO THE JURY ASSEMBLY ROOM. THANK YOU.

19 CAN WE GET THE OTHER JURORS IN?

20 MR. WAPNER: YOUR HONOR, IT IS NOW A QUARTER TO 12:00.  
21 IF WE ARE GOING TO DO THIS --

22 THE COURT: HAVE THEM COME BACK AT 1:30?

23 MR. WAPNER: WE CAN START WITH ONE OR TWO TODAY. BUT  
24 I AM TRYING TO THINK OUT LOUD IN TERMS OF SPLITTING THEM UP.

25 MR. BARENS: YOUR HONOR, WE HAVE TO GO OVER THE HOVEY,  
26 YOUR HONOR.

27

28



9-1

1 THE COURT: THAT IS A VERY GOOD IDEA. LET'S GET THEM  
2 IN FIRST, ALL RIGHT?

3 I THINK WE ARE GOING TO GO FASTER THAN WE DID  
4 BEFORE.

5 MR. WAPNER: MAYBE WE COULD DO --

6 MR. BARENS: TEN, YOUR HONOR.

7 THE BAILIFF: YOUR HONOR, WE HAVE A JUROR HERE WHO WENT  
8 TO CHECK WITH HIS EMPLOYER.

9 MR. BALLEW: HE DOES PAY, YOUR HONOR. MY NAME IS BALLEW,  
10 SCOTT.

11 THE COURT: ALL RIGHT, YOU MAY HAVE A SEAT.

12 MR. WAPNER: MAYBE WHAT WE CAN DO IS START WITH --

13 MR. BARENS: START WITH EIGHT.

14 MR. WAPNER: -- ONE OR TWO THIS MORNING AND THEN DURING  
15 THE NOON HOUR WE CAN DIVIDE UP IN TERMS OF HOW MANY WE WILL  
16 GET TO THIS AFTERNOON AND HOW MANY SHOULD COME BACK TOMORROW  
17 AND THE NEXT MORNING.

18 THE COURT: ALL RIGHT. HOW MANY THIS AFTERNOON?

19 MR. WAPNER: WE COULD HAVE TWO THIS MORNING OR TRY TO  
20 BETWEEN NOW AND NOON AND THEN OVER THE LUNCH HOUR WE WILL GO  
21 AND FIGURE OUT HOW MANY WE WILL DO THIS AFTERNOON AND THEN  
22 HOW MANY TOMORROW MORNING AND HOW MANY TOMORROW AFTERNOON,  
23 ET CETERA.

24 THE COURT: HOW MANY DO YOU WANT THIS AFTERNOON?

25 (PAUSE IN PROCEEDINGS.)

26 (UNREPORTED COLLOQUY.)

27 THE BAILIFF: ALSO, MRS. BONE CHECKED WITH HER  
28 EMPLOYER AND SHE SAID SHE COULD STAY ALSO.

9-2

1 THE COURT: WHAT WAS THE NAME OF THAT LAST JUROR?

2 MR. BARENS: MARKHAM.

3 THE COURT: MR. MARKHAM HAS BEEN EXCUSED.

4 NOW THE PROCEDURE WHICH WE ARE GOING TO FOLLOW  
5 IS AS FOLLOWS: I BELIEVE I TOLD YOU THAT THE CHARGE AGAINST  
6 THE DEFENDANT IS THAT HE COMMITTED A MURDER AND THAT IT WAS  
7 MURDER IN THE FIRST DEGREE AND WAS COMMITTED IN THE COURSE  
8 OF A ROBBERY AND THAT THE PEOPLE ARE SEEKING THE DEATH PENALTY  
9 IN THIS CASE.

10 NOW THE LAW PROVIDES THAT EACH SINGLE JUROR HAS  
11 TO BE SEPARATELY QUESTIONED ABOUT THEIR ATTITUDES TOWARD THE  
12 DEATH PENALTY AND DEPENDING UPON THOSE ANSWERS ARE, THE  
13 QUESTION OF YOUR ELIGIBILITY TO BECOME A JUROR IN THIS CASE  
14 WILL THEN HAVE TO BE DETERMINED. THEN I WILL ASK A SERIES  
15 OF QUESTIONS OF EACH ONE OF YOU AND THAT HAS TO BE DONE, UNDER  
16 THE LAW, SEPARATELY.

17 NOW, WHAT I THINK WE WILL DO, SINCE IT TAKES A  
18 LITTLE WHILE FOR EACH ONE OF YOU TO BE SEPARATELY QUESTIONED,  
19 WHAT I WILL DO IS TO DIVIDE THE NUMBER OF JURORS UP, AS THERE  
20 IS NO SENSE IN ALL OF YOU WAITING AROUND FOR A DAY OR TWO  
21 UNTIL WE COME TO YOU.

22 SO WHAT I WILL ASK YOU TO DO IS -- DO YOU HAVE  
23 AN ALPHABETICAL LIST YET?

24 THE CLERK: YES, BUT WE DON'T HAVE IT TYPED UP YET.

25 THE BAILIFF: I AM MAKING UP A LIST NOW.

26 MR. WAPNER: YOUR HONOR --

27 THE COURT: JUST GIVE US 15.

28 THE BAILIFF: DO YOU WANT ME TO CALL THEM OUT?

1 CINTHIA ACUNA.

2 CAROL AUSUBEL.

3 THE COURT: RAISE YOUR HAND AS YOUR NAME IS CALLED,  
4 PLEASE.

5 YES, GO AHEAD.

6 THE BAILIFF: CINTHIA ACUNA.

7 CAROL AUSUBEL.

8 SCOTT BALLEW.

9 EMMA BECKING.

10 ANN BLANK.

11 SALLY BONE.

12 RICHARD BONGEORNO.

13 WINIFRED BRUBAKER.

14 DONALD BUSHNELL.

15 LYNDA CAMPBELL.

16 DONNA CHAFFEE.

17 ELEANOR CRAMER.

18 EVELYN DROKER.

19 THE COURT: HOW MANY HAVE WE GOT SO FAR?

20 THE BAILIFF: THIRTEEN.

21 THE COURT: GO AHEAD.

22 THE BAILIFF: JULIE ELIE.

23 MS. ELIE: ELIE.

24 THE BAILIFF: I'M SORRY. ELIE.

25 KAREN FELTS.

26 THE COURT: ALL RIGHT, I WILL ASK THE NAMES THAT HAVE  
27 BEEN CALLED OUT, THE 15 OF YOU TO COME BACK THIS AFTERNOON  
28 AT 1:45.

1 THE REMAINING JURORS WILL COME BACK HERE TOMORROW  
2 MORNING AT 10:30 AND YOU REPORT TO THE JURY ASSEMBLY ROOM,  
3 IF YOU WILL, PLEASE, AT 10:30 TOMORROW FOR THE REST OF YOU.

4 THE 15 WHOSE NAMES HAVE BEEN CALLED OUT, YOU WILL  
5 COME BACK THIS AFTERNOON AT 1:45.

6 IS THAT AGREEABLE?

7 ALL RIGHT, THE 15 OF YOU, I WILL SEE YOU THIS  
8 AFTERNOON. AND THE REST OF YOU I WILL SEE TOMORROW.

9 (AT 11:55 A.M. AN ADJOURNMENT WAS TAKEN  
10 UNTIL 1:45 P.M. OF THE SAME DAY.)

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1 SANTA MONICA, CALIFORNIA; MONDAY, JANUARY 5, 1986; 1:53 P.M.  
2 DEPARTMENT C HON. LAURENCE J. RITTENBAND, JUDGE  
3 (APPEARANCES AS NOTED ON TITLE PAGE.)  
4

5 THE COURT: IT WILL BE STIPULATED THE DEFENDANT IS  
6 PRESENT. COUNSEL ARE PRESENT.

7 WHO DO WE HAVE HERE, MS. ACUNA?

8 MS. ACUNA: YES.

9 THE COURT: WHERE DO YOU LIVE, MS. ACUNA?

10 MS. ACUNA: REDONDO BEACH.

11 THE COURT: HAVE YOU EVER HEARD ABOUT THIS CASE AT ALL  
12 EXCEPT FOR WHAT I TOLD YOU ABOUT THIS MORNING?

13 MS. ACUNA: NO.

14 THE COURT: YOU HAVE NOT TALKED TO ANYBODY ABOUT IT?

15 MS. ACUNA: NO.

16 THE COURT: ALL RIGHT. JUST TO REPEAT WHAT I TOLD YOU  
17 THIS MORNING VERY BRIEFLY, THE CASE WE ARE ABOUT TO TRY OR  
18 WILL BE TRYING, THE DEFENDANT IS CHARGED WITH COMMITTING A  
19 MURDER. IT IS A MURDER IN THE FIRST DEGREE AND IT WAS  
20 COMMITTED IN THE COURSE OF A ROBBERY.

21 BEING COMMITTED IN THE COURSE OF A ROBBERY MAKES  
22 THIS WHAT WE CALL A SPECIAL CIRCUMSTANCE TRIAL. AS I TOLD  
23 THE JURORS THIS MORNING, THERE ARE CERTAIN KINDS OF -- NOT  
24 EVERY MURDER, EVEN IF IT IS MURDER IN THE FIRST DEGREE, IS  
25 PUNISHABLE BY DEATH. DO YOU UNDERSTAND THAT? DO YOU?

26 MS. ACUNA: UH-HUH.

27 THE COURT: IT IS ONLY WHERE IT IS COMMITTED UNDER  
28 CERTAIN SPECIAL CIRCUMSTANCES LIKE DURING THE COURSE OF A

1 ROBBERY OR A BURGLARY, A KIDNAPPING OR A RAPE OR A CHILD  
2 MOLESTATION WHERE THE CHILD DIES AND MULTIPLE MURDERS AND SO  
3 FORTH -- THERE ARE ABOUT 19 OF THEM.

4 NOW, THIS IS A CLAIM THAT THIS WAS A MURDER  
5 COMMITTED DURING THE COURSE OF A ROBBERY. THAT QUALIFIES THIS  
6 CASE FOR THE DEATH PENALTY. DO YOU UNDERSTAND THAT?

7 MS. ACUNA: UH-HUH.

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1 THE COURT: NOW, WHEN THE JURY IS FINALLY PICKED IN THIS  
2 CASE THEY WILL HAVE TO DETERMINE ON WHAT WE CALL THE GUILT  
3 PHASE, DID THE DEFENDANT COMMIT A MURDER; WAS IT COMMITTED --  
4 WAS IT MURDER IN THE FIRST DEGREE AND WAS IT COMMITTED IN THE  
5 COURSE OF A ROBBERY?

6 IF THE JURORS SAY THAT IT WAS MURDER IN THE FIRST  
7 DEGREE AND IT WAS COMMITTED IN THE COURSE OF A ROBBERY, THEN  
8 WE HAVE A SECOND PHASE OF THE TRIAL BY THE SAME JURORS. THEY  
9 ARE THEN TO DETERMINE WHAT THE PENALTY IS GOING TO BE.

10 AND WHEN WE TALK ABOUT THE DEATH PENALTY, IT HAS  
11 TWO PHASES: ONE PHASE OF A DEATH PENALTY IS LIFE IMPRISONMENT  
12 WITHOUT THE POSSIBILITY OF PAROLE AND I MEAN EXACTLY THAT:  
13 THAT IF A MAN GETS LIFE IMPRISONMENT WITHOUT THE POSSIBILITY  
14 OF PAROLE, HE NEVER GETS OUT; DO YOU UNDERSTAND THAT?

15 MS. ACUNA: YES.

16 THE COURT: OR WHETHER OR NOT IT SHOULD BE DEATH IN THE  
17 GAS CHAMBER.

18 THAT, THE JURY HAS TO DETERMINE ON THE SECOND  
19 PHASE OF THE TRIAL WHEN THEY HEAR MORE TESTIMONY. THE  
20 DEFENDANT WILL PUT ON TESTIMONY TO SHOW, TO MITIGATE, TO LESSEN  
21 THE OFFENSE WHICH WAS COMMITTED AND TO SHOW THE VARIOUS  
22 THINGS ABOUT HIMSELF, HIS BACKGROUND, HIS CHARACTER, HIS  
23 FREEDOM FROM ANY PRIOR CRIMINAL CONVICTIONS AND SO FORTH. HE  
24 WILL TRY TO SHOW THINGS WHICH ARE FAVORABLE TO HIM SO THE JURY  
25 WILL NOT IMPOSE THE DEATH PENALTY ON HIM, LIFE IMPRISONMENT --  
26 I MEAN DEATH IN THE GAS CHAMBER.

27 THE PROSECUTION, ON THE OTHER HAND, WILL TRY TO  
28 SHOW UNFAVORABLE THINGS ABOUT HIM, YOU UNDERSTAND, TO SHOW

1 HE IS A BAD PERSON AND SO ON AND SO FORTH OR OTHER THINGS THAT  
2 ARE BAD ABOUT HIM THAT ARE CALLED AGGRAVATING CIRCUMSTANCES.

3 SO AT THE CONCLUSION OF THAT, THE JURY THEN  
4 DETERMINES ON ALL OF THE FACTS IN THE CASE WHICH THEY HAVE  
5 ALREADY DETERMINED, THEY CONSIDER THE FACTS IN THE CASE, IF  
6 HE IS GUILTY OF MURDER, THEY CONSIDER ALL OF THE FACTS IN THE  
7 CASE WHICH COME IN ON WHAT WE CALL THE PENALTY PHASE WHICH  
8 ARE FAVORABLE TO HIM AND UNFAVORABLE AND THEY MAKE UP THEIR  
9 MINDS WHETHER IT SHOULD BE LIFE IMPRISONMENT WITHOUT THE  
10 POSSIBILITY OF PAROLE OR DEATH IN THE GAS CHAMBER; DO YOU  
11 UNDERSTAND THAT?

12 MS. ACUNA: YES.

13 THE COURT: WHAT I AM GOING TO DO IS ASK YOU A SERIES  
14 OF QUESTIONS SO AS TO EXPLORE YOUR STATE OF MIND WITH RESPECT  
15 TO THE DEATH PENALTY.

16 MS. ACUNA: OKAY.

17 THE COURT: NOW, THE FIRST TWO QUESTIONS DEAL WITH THE  
18 GUILT PHASE; IN OTHER WORDS, IS HE GUILTY OR NOT GUILTY OF  
19 MURDER IN THE FIRST DEGREE AND WAS IT COMMITTED DURING THE  
20 COURSE OF A ROBBERY.

21 ALL RIGHT, NOW THE FIRST QUESTION I AM GOING TO  
22 ASK YOU IS: DO YOU HAVE ANY OPINION, WHATEVER IT MAY BE,  
23 REGARDING THE DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING  
24 AN IMPARTIAL DECISION AS TO THE GUILT OR INNOCENCE OF THE  
25 DEFENDANT?

26 MS. ACUNA: NO.

27 THE COURT: THE NEXT QUESTION, STILL RELATING TO THE  
28 GUILT PHASE, IS: DO YOU HAVE AN OPINION REGARDING THE DEATH



1 PENALTY THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL  
2 DECISION CONCERNING THE TRUTH OR FALSITY OF THE SPECIAL  
3 CIRCUMSTANCES?

4 I TOLD YOU IF YOU FIND THE DEFENDANT GUILTY OF  
5 MURDER IN THE FIRST DEGREE, THEN YOU DETERMINE WHETHER OR  
6 NOT IT IS TRUE OR NOT TRUE IT WAS COMMITTED DURING THE COURSE  
7 OF A ROBBERY; DO YOU UNDERSTAND THAT?

8 MS. ACUNA: UH-HUH.

9 THE COURT: ALL RIGHT, DO YOU HAVE ANY OPINION REGARDING  
10 THE DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING AN  
11 IMPARTIAL DECISION CONCERNING THE TRUTH OR FALSITY OF THE  
12 SPECIAL CIRCUMSTANCES?

13 MS. ACUNA: NO.

14 THE COURT: NOW, THE NEXT TWO QUESTIONS HAVE TO DO  
15 WITH -- ASSUMING THAT THE JURY FINDS HIM GUILTY OF MURDER IN  
16 THE FIRST DEGREE AND THAT IT WAS COMMITTED IN THE COURSE OF  
17 A ROBBERY, THE NEXT QUESTION IS: DO YOU HAVE ANY OPINION  
18 CONCERNING THE DEATH PENALTY THAT WOULD CAUSE YOU AUTOMATICALLY  
19 TO VOTE TO IMPOSE THE DEATH PENALTY, REGARDLESS OF ANY  
20 EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY PHASE OF THE  
21 TRIAL?

22 MS. ACUNA: NO.

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1 THE COURT: NOW, THE NEXT ONE IS THE SAME KIND EXCEPT  
2 IT HAS TO DO WITH LIFE WITHOUT POSSIBILITY OF PAROLE. WOULD  
3 YOU AUTOMATICALLY VOTE FOR LIFE WITHOUT THE POSSIBILITY OF  
4 PAROLE REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED AT  
5 THE PENALTY PHASE OF THE TRIAL?

6 MS. ACUNA: NO.

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

11 MS. ACUNA: YES.

12 MR. BARENS: THANK YOU, YOUR HONOR. GOOD AFTERNOON.  
13 AS THE JUDGE TOLD YOU, I REPRESENT THE DEFENDANT, JOE HUNT,  
14 IN THIS MATTER.

15 IT IS MY DUTY AT THIS STAGE OF THE PROCEEDINGS  
16 TO INQUIRE, AS HIS HONOR DID, INTO YOUR VIEWPOINTS ON THE  
17 DEATH PENALTY.

18 PARENTHETICALLY, LET ME INDICATE THAT THERE ARE  
19 NO RIGHT OR WRONG ANSWERS TO MY QUESTIONS AND NONE OF US HERE  
20 ARE GOING TO JUDGE YOU ON ANY OF YOUR ANSWERS BUT RATHER,  
21 WE ARE JUST SEEKING YOUR OPINIONS.

22 MS. ACUNA: OKAY.

23 MR. BARENS: WHICH YOU ARE ENTITLED TO AND CANNOT BE  
24 RIGHT OR WRONG, JUST YOUR OPINIONS.

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

27 MS. ACUNA: I HAVE NEVER REALLY GIVEN IT TOO MUCH THOUGHT.  
28 I HAVE NEVER DISCUSSED IT WITH ANYBODY BEFORE.

2-7  
1 MR. BARENS: WELL, UNFORTUNATELY OR FORTUNATELY, AS  
2 THE CASE MAY BE, WE ARE AT A POINT IN YOUR LIFE WHERE WE HAVE  
3 TO KNOW SOMETHING ABOUT YOUR POINT OF VIEW ON IT.

4 DO YOU RECALL WHEN IT WAS A SUBJECT OF ONE OF  
5 THE ELECTIONS THAT WE HAD IN CALIFORNIA A FEW YEARS AGO ABOUT  
6 WHETHER OR NOT WE SHOULD HAVE A DEATH PENALTY IN THIS STATE?

7 MS. ACUNA: I REALLY, TO TELL YOU THE TRUTH, WHEN IT  
8 COMES TO VOTING AND ALL THOSE THINGS, I JUST USUALLY GO FOR  
9 LIKE, THE MAJOR ELECTIONS. AS FAR AS OTHER THINGS LIKE THAT,  
10 I USUALLY DON'T EVEN VOTE ON THEM.

11 MR. BARENS: OKAY. WELL, I KIND OF NEED YOU TO VOTE  
12 TODAY. WOULD YOU SAY THAT YOU ARE IN FAVOR -- I AM SAYING  
13 PHILOSOPHICALLY AT THIS POINT. HOW DO YOU FEEL ABOUT WHETHER  
14 OR NOT WE SHOULD HAVE A DEATH PENALTY IN THIS STATE?

15 MS. ACUNA: SORRY TO SAY, WHEN YOU ARE REALLY NOT UP  
16 TO DATE ON IT, I HAVE NOT EVER REALLY LOOKED INTO IT. I HAVE  
17 NEVER THOUGHT ABOUT IT TOO MUCH.

18 MR. BARENS: WELL IN THIS INSTANCE, AS HIS HONOR HAS  
19 INDICATED, IF YOU WERE SELECTED AS A JUROR AND YOU WERE  
20 CONVINCED BEYOND A REASONABLE DOUBT AFTER A TRIAL IN THE GUILT  
21 PHASE, THAT FIRST PHASE THAT HIS HONOR REFERRED TO, THAT JOE  
22 HUNT HAD COMMITTED A MURDER DURING A ROBBERY, THAT SPECIAL  
23 CIRCUMSTANCES AFFECTED THE ISSUE THAT WOULD COME BEFORE YOU  
24 AS A JUROR AS TO WHETHER OR NOT HE SHOULD GET THE GAS CHAMBER  
25 OR LIFE WITHOUT POSSIBILITY OF PAROLE, WOULD YOU BE ABLE TO  
26 VOTE EITHER WAY, DEPENDING UPON THE WHOLE TOTALITY OF THE  
27 EVIDENCE YOU WERE GIVEN BY COUNSEL?

28 MS. ACUNA: YES.

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1 MR. BARENS: WOULD YOU BE CAPABLE OF VOTING FOR EITHER  
2 ONE?

3 MS. ACUNA: NO.

4 MR. BARENS: OKAY. WHICH COULD YOU NOT VOTE FOR?

5 MS. ACUNA: THE GAS CHAMBER.

6 THE COURT: PARDON ME?

7 MS. ACUNA: THE GAS CHAMBER.

8 MR. BARENS: LET'S TALK ABOUT THAT FOR A MINUTE BECAUSE  
9 BOTH SIDES ARE ENTITLED TO AS NEARLY A NEUTRAL, OPEN-MINDED  
10 JUROR AS POSSIBLE, NOT ONE PREDISPOSED EITHER WAY.

11 BECAUSE BOTH THE DEFENSE AND THE PROSECUTION ARE  
12 ENTITLED TO A FAIR TRIAL, WHICH MEANS AS NEARLY A NETURAL  
13 JUROR AS WE CAN.

14 ONE OF THE PROBLEMS WE HAVE IS THAT THE LAW SAYS  
15 WE CAN'T HAVE A JURY OF PEOPLE WHO SAY THAT THEY WILL NEVER  
16 VOTE FOR THE DEATH PENALTY BECAUSE SINCE THE LAW SAYS IT IS  
17 AN AVAILABLE REMEDY WE HAVE TO HAVE JURORS THAT WOULD BE EQUALLY  
18 ABLE TO VOTE FOR THE DEATH PENALTY OR LIFE WITHOUT POSSIBILITY  
19 OF PAROLE, DEPENDING UPON THEIR CONSCIENCE AT THAT POINT.

20 NOW, IT CONCERNS OBVIOUSLY, ALL OF US, THAT YOU  
21 SAID YOU COULD NEVER VOTE FOR THE DEATH PENALTY BECAUSE THAT  
22 WOULD DISQUALIFY YOU AS A JUROR.

23 SUPPOSING WE HAD A SITUATION WHERE YOU BELIEVED  
24 A VICTIM WAS KILLED IN COLD BLOOD BY SOMEONE WHO WAS ROBBING  
25 HIM, JUST WENT UP TO HIM WITHOUT ANY LEGITIMIZATION, WITHOUT  
26 ANY CAUSE OR REASON OTHER THAN TO STEAL FROM HIM.

27 HE JUST WENT UP AND BRUTALLY MURDERED SOMEBODY  
28 THAT HE NEVER MET BEFORE. A PERSON WAS -- LET'S SAY THE

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1 VICTIM WAS A FAMILY MAN AND LEFT ALL THOSE WIDOWS AND SOME  
2 ORPHAN CHILDREN SO THAT A PERSON COULD ILLEGALLY OBTAIN HIS  
3 PURSE, TAKE HIS MONEY.

4           COULD YOU UNDER CIRCUMSTANCES WHERE A DEFENDANT  
5 IS ACCUSED IN THAT SETTING, VOTE FOR THE DEATH PENALTY?

6           MS. ACUNA: I GUESS WHEN YOU PUT IT THAT WAY, I SUPPOSE  
7 SO. YES.

8           MR. BARENS: I THINK WHAT I AM REALLY DRIVING AT MA'AM,  
9 IS THAT WHAT WE HAVE CONCERN OURSELVES WITH, IS YOUR  
10 WILLINGNESS TO LISTEN TO THE TOTALITY OF THE EVIDENCE BEFORE  
11 YOU MADE A DECISION. SO, YOU WON'T GO IN PREDISPOSED.

12           AND I AM CERTAINLY NOT GOING TO ASK YOU TO VOTE  
13 FOR THE DEATH PENALTY BECAUSE OBVIOUSLY, I WOULD BE ASKING  
14 YOU NOT TO, AS A DEFENSE LAWYER. BUT I AM ALSO LOOKING TO  
15 KEEP YOU AS A JUROR, IF I CAN. I AM TRYING TO BE AS HONEST  
16 WITH YOU AND THE COURT AS I CAN BE. OKAY?

17           MS. ACUNA: OKAY.

18           MR. BARENS: WHAT WE ARE ASKING YOU AND WHAT THE JUDGE  
19 SAID TO YOU IS, WOULD YOU BE WILLING TO LISTEN TO THE TOTALITY  
20 OF THE EVIDENCE FOR AND AGAINST DEATH OR LIFE WITHOUT  
21 POSSIBILITY OF PAROLE, BEFORE MAKING A DECISION?

22           MS. ACUNA: WELL, THAT IS WHAT MAKES IT SO HARD FOR  
23 ME TO ANSWER YOUR QUESTION BECAUSE EVERYTHING IS SO HYPOTHETICAL.

24           I AM SURE IF I HAD A CHANCE TO LISTEN IN TOTALITY,  
25 I COULD CHANGE THAT.

26           MR. BARENS: ALL THE JUDGE AND MYSELF ARE REALLY  
27 CONCERNED WITH, IS YOUR WILLINGNESS TO CONSIDER -- AND THAT  
28 IS THE KEY AND OPERATIVE WORD TODAY -- YOUR WILLINGNESS TO

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1 CONSIDER THE DEATH PENALTY AS ONE OF YOUR OPTIONS AS A JUROR.  
2 WOULD YOU BE WILLING TO CONSIDER IT?

3 MS. ACUNA: YES. NO PROBLEM THERE.

4 MR. BARENS: YOU WOULDN'T SUMMARILY SAY THAT YOU WOULD  
5 NEVER CONSIDER IT, YOU WOULD NEVER VOTE FOR THE DEATH PENALTY  
6 UNDER ANY CIRCUMSTANCES? WHAT I THINK I HEAR YOU SAYING IS  
7 THAT YOU WOULD HAVE TO VERY CAREFULLY WEIGH ALL OF THE EVIDENCE  
8 BEFORE YOU COULD EVER COME TO A CONCLUSION ONE WAY OR ANOTHER?

9 MS. ACUNA: RIGHT.

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1 MR. BARENS: WOULD THAT BE A FAIR STATEMENT?

2 MS. ACUNA: YES.

3 MR. BARENS: NOW AGAIN, WE WANT YOU TO BE OPEN-MINDED  
4 IN CONSIDERING THIS AND OBVIOUSLY, IF YOU SAID TO ME "WELL,  
5 I COULD NEVER VOTE FOR THE DEATH PENALTY NO MATTER WHAT," YOU  
6 WOULDN'T BE OPEN-MINDED ON THE SUBJECT; DO YOU UNDERSTAND WHAT  
7 I MEAN?

8 MS. ACUNA: YES.

9 WELL, I CONSIDER MYSELF A PRETTY OPEN-MINDED  
10 PERSON, THAT CAN CHANGE.

11 MR. BARENS: AND YOU COULD UNDER CERTAIN CIRCUMSTANCES,  
12 IF YOU SAW A MURDER UNDER SPECIAL CIRCUMSTANCES AS WE HAVE  
13 DESCRIBED TO YOU, VOTE FOR THE DEATH PENALTY IF YOUR  
14 CONSCIENCE SAW THAT UNDER THOSE CIRCUMSTANCES?

15 MS. ACUNA: YES.

16 MR. BARENS: OKAY, DO YOU UNDERSTAND THAT NO LAW IN  
17 CALIFORNIA MAKES THE DEATH PENALTY MANDATORY FOR ANY SORT OF  
18 CONDUCT; DO YOU UNDERSTAND THAT?

19 MS. ACUNA: YES.

20 MR. WAPNER: IS THAT YES?

21 MS. ACUNA: YES.

22 MR. BARENS: ALTHOUGH HIS HONOR EXPLAINED TO YOU THAT  
23 THERE ARE SOME 19 TYPES OF CONDUCT IN THIS STATE WHICH ARE  
24 CALLED SPECIAL CIRCUMSTANCES, HIS HONOR WAS EXPLAINING TO YOU  
25 THAT THOSE ARE SITUATIONS IN WHICH YOU COULD GIVE A DEATH  
26 PENALTY, THAT IS WHEN A JURY COULD FIND THE DEATH PENALTY.

27 MS. ACUNA: RIGHT.

28 MR. BARENS: BUT IT IS NOT MANDATED BY THE LEGISLATURE.

1 IT IS A JURY'S DECISION; DO YOU UNDERSTAND THAT?

2 MS. ACUNA: YES.

3 MR. BARENS: OKAY, NOW OF EXTREME IMPORTANCE TO ME IS  
4 YOUR UNDERSTANDING THAT ALTHOUGH I AM HERE TALKING TO YOU  
5 ABOUT THE DEATH PENALTY, DOES THAT MAKE YOU HAVE ANY REASON  
6 TO BELIEVE THAT MY CLIENT HAS DONE ANYTHING WRONG?

7 MS. ACUNA: NO.

8 MR. BARENS: THERE HASN'T BEEN ANY EVIDENCE TO ANYTHING,  
9 HAS THERE?

10 MS. ACUNA: NO.

11 MR. BARENS: DO YOU UNDERSTAND THAT HE HAS A  
12 PRESUMPTION OF INNOCENCE UNDER OUR LAW AND THAT EVEN THOUGH  
13 I HAVE TO DISCUSS THIS WITH YOU AT THIS JUNCTURE AND THE  
14 DISTRICT ATTORNEY DOES AS WELL, THAT THERE IS NO REASON IN  
15 YOUR MIND TO BELIEVE THAT MR. HUNT MIGHT HAVE DONE SOMETHING  
16 BAD OR WE WOULDN'T BE HERE TALKING ABOUT THAT?

17 MS. ACUNA: RIGHT, YEAH, I UNDERSTAND ALL OF THAT.

18 MR. BARENS: YOU UNDERSTAND THAT HE IS PRESUMED  
19 INNOCENT?

20 MS. ACUNA: RIGHT, YEAH, UNTIL PROVEN GUILTY, I KNOW  
21 THAT.

22 MR. BARENS: OKAY. AND DO YOU FURTHER UNDERSTAND THAT  
23 THIS PROCEDURE WE ARE GOING THROUGH NOW, THIS TYPE OF  
24 QUESTIONING IS SOMETHING THAT WE JUST HAVE TO DO IN QUALIFYING  
25 JURORS NOW AND IT HAS NOTHING TO DO WITH WHETHER HE IS GUILTY  
26 OR INNOCENT OF ANYTHING?

27 MS. ACUNA: RIGHT.

28 MR. BARENS: THANK YOU FOR YOUR TIME.



1 PASS FOR CAUSE, YOUR HONOR.

2 THE COURT: YES.

3 MR. WAPNER: GOOD AFTERNOON, MS. ACUNA.

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

6 TELL ME WHAT YOU MEANT WHEN YOU SAID YOU COULDN'T  
7 VOTE FOR THE GAS CHAMBER.

8 MS. ACUNA: I JUST FIND THAT IT IS KIND OF CRUEL  
9 PUNISHMENT.

10 THE COURT: PARDON ME?

11 MS. ACUNA: I FIND THAT TO BE CRUEL PUNISHMENT. IT IS  
12 KIND OF EXTREME TO ME. IT SEEMED A LITTLE EXTREME.

13 MR. WAPNER: IF IT SEEMS EXTREME TO YOU, HOW DOES THAT  
14 TRANSLATE INTO YOUR ANSWER WHERE YOU SAID BEFORE THAT YOU  
15 COULDN'T VOTE FOR IT?

16 MR. BARENS: I OBJECT, YOUR HONOR. THAT IS NOT WHAT  
17 THE JUROR SAID.

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1 MR. WAPNER: WELL, YOUR HONOR --

2 THE COURT: HE IS ASKING THE QUESTION. GO AHEAD.

3 MS. ACUNA: COULD YOU REPEAT?

4 MR. WAPNER: SURE.

5 LET ME SEE IF I CAN PUT IT IN A DIFFERENT SETTING.

6 IF YOU GET TO THAT PART OF THE CASE, YOUR JOB IS  
7 GOING TO BE TO GO INTO THE JURY ROOM AND DECIDE WHETHER THE  
8 DEFENDANT SHOULD LIVE OR WHETHER HE SHOULD DIE; DO YOU UNDER-  
9 STAND THAT?

10 MS. ACUNA: YES.

11 MR. WAPNER: AND EVEN THOUGH THERE ARE GOING TO BE 11  
12 OTHER PEOPLE ON THE JURY, THE JUDGE WILL TELL YOU THAT YOU  
13 HAVE TO CAST YOUR OWN INDIVIDUAL VOTE AND THAT MEANS YOU HAVE  
14 TO MAKE UP YOUR OWN MIND WHETHER HE SHOULD DIE IN THE GAS  
15 CHAMBER OR WHETHER HE SHOULD SPEND THE REST OF HIS LIFE IN  
16 PRISON; DO YOU UNDERSTAND IF YOU ARE AT THAT POINT IN THE CASE  
17 THOSE WILL BE YOUR ONLY TWO CHOICES?

18 MS. ACUNA: YES.

19 MR. WAPNER: IF YOU GET TO THAT PHASE, AND THOSE ARE  
20 YOUR ONLY TWO CHOICES, COULD YOU VOTE TO SEND THE DEFENDANT  
21 TO THE GAS CHAMBER?

22 MS. ACUNA: YES.

23 I MENTIONED BEFORE THAT THINGS COULD CHANGE.

24 I MEAN THAT IS THE WAY I FEEL NOW BUT UNDER THE  
25 CIRCUMSTANCES, EVERYTHING IS SO HYPOTHETICAL, I AM SURE MY  
26 MIND COULD BE CHANGED.

27 MR. WAPNER: TELL ME WHAT YOU MEAN WHEN YOU SAY THINGS  
28 COULD CHANGE. I DON'T UNDERSTAND.

1 MS. ACUNA: MY THINKING, RIGHT NOW, I SAY NO, I DON'T --  
2 I DON'T THINK I COULD SEND HIM TO THE GAS CHAMBER BUT, YOU  
3 KNOW, EVERYTHING CHANGES.

4 MR. WAPNER: TELL ME WHAT IS BEHIND THAT, WHEN YOU SAY  
5 "RIGHT NOW I WOULDN'T SEND HIM TO THE GAS CHAMBER," WHAT DO  
6 YOU MEAN BY THAT?

7 MS. ACUNA: I DON'T KNOW NOTHING ABOUT THIS CASE, YOU  
8 KNOW.

9 I MEAN IT MIGHT TURN INTO SOMETHING GRISLY AND  
10 JUST THROW ME OFF COMPLETELY, FOR ALL I KNOW.

11 MR. WAPNER: DO YOU HAVE CERTAIN IDEAS IN YOUR MIND  
12 ABOUT CERTAIN KINDS OF THINGS WHERE A PERSON SHOULD GET THE  
13 DEATH PENALTY AND CERTAIN KINDS OF THINGS WHERE THEY SHOULDN'T?

14 MS. ACUNA: NO.

15 MR. WAPNER: IF IT DOESN'T TURN INTO SOMETHING GRISLY,  
16 TO USE YOUR WORDS, DOES THAT MEAN YOU COULDN'T VOTE FOR THE  
17 DEATH PENALTY?

18 MS. ACUNA: NO.

19 MR. WAPNER: I WANT TO ASK YOU TWO DIFFERENT TYPES OF  
20 QUESTIONS.

21 ALL RIGHT, ONE IS: ARE YOU SAYING THAT WHETHER  
22 YOU COULD VOTE FOR THE DEATH PENALTY OR NOT WOULD DEPEND UPON  
23 THE FACTS OF THE CASE?

24 MS. ACUNA: EXACTLY.

25 MR. WAPNER: AND TWO, YOU SAID THAT YOUR ATTITUDE MIGHT  
26 CHANGE. I MEAN, DO YOU EXPECT THAT YOUR STATE OF MIND, YOUR  
27 THINKING, SOMETHING MIGHT HAPPEN IN THIS CASE TO CHANGE YOUR  
28 ATTITUDE OR YOUR THINKING?

1 MS. ACUNA: WELL, YES, THE POSSIBILITY IS THERE.

2 YOU KNOW, I COULDN'T SAY FOR SURE BUT -- I AM NOT  
3 JUST GOING TO STICK TO ONE SQUARE ANSWER.

4 I MEAN, YOU KNOW, LIKE I SAID EVERYTHING CHANGES.  
5 I MEAN I DON'T EVEN KNOW WHAT THIS CASE IS ABOUT OTHER THAN  
6 THAT HE COMMITTED SUPPOSEDLY A MURDER.

7 MR. WAPNER: OKAY. BUT WHEN YOU SAY EVERYTHING CHANGES,  
8 I MEAN IF YOUR STATE OF MIND IS SUCH THAT YOU COULD NEVER VOTE  
9 FOR THE DEATH PENALTY THERE WOULDN'T BE ANYTHING THAT WOULD  
10 HAPPEN IN THIS CASE THAT WOULD CHANGE IT?

11 MR. BARENS: OBJECTION, YOUR HONOR. HE IS SAYING SHE  
12 SAID SOMETHING THAT SHE DIDN'T SAY.

13 MR. WAPNER: EXCUSE ME.

14 THE COURT: REPHRASE YOUR QUESTION, WILL YOU?

15 MR. BARENS: THANK YOU, YOUR HONOR.

16 MR. WAPNER: IF YOUR STATE OF MIND IS SUCH THAT YOU COULD  
17 NEVER VOTE FOR THE DEATH PENALTY --

18 MR. BARENS: SAME OBJECTION, YOUR HONOR.

19 MR. WAPNER: WELL, I AM ASKING HER IF. I DON'T KNOW.  
20 IT IS ASSUMED IN THE QUESTION.

21 MR. BARENS: SHE SAID -- HE IS TELLING HER WHAT SHE SAID  
22 AND SHE DID NOT SAY THAT.

23 ALL SHE HAS TO DO IS TO BE WILLING TO CONSIDER  
24 IT.

25 THE COURT: THEN I WILL ASK HER THE QUESTION: IS IT  
26 YOUR STATE OF MIND THAT YOU WILL NEVER VOTE FOR THE DEATH  
27 PENALTY IRRESPECTIVE OF WHAT THE FACTS ARE?

28 MS. ACUNA: NO.

1 MR. BARENS: THANK YOU, YOUR HONOR.

2 MR. WAPNER: TELL ME, IF YOU CAN, WHAT YOU MEANT WHEN  
3 YOU ANSWERED MR. BARENS' FIRST QUESTION BY SAYING YOU COULD  
4 NEVER VOTE FOR THE GAS CHAMBER?

5 MR. BARENS: OBJECTION. IT WAS JUST NEVER SAID LIKE  
6 THAT, YOUR HONOR.

7 THE COURT: ASSUMING SHE SAID THAT.

8 MS. ACUNA: WELL, I ALREADY SAID I THOUGHT THAT WAS A  
9 LITTLE BRUTAL THING TO DO TO A HUMAN BEING.

10 I FEEL WE ARE GOING IN CIRCLES HERE. I FEEL LIKE  
11 I HAVE ALREADY JUST ANSWERED THAT AND WE GOT BACK TO MY  
12 VOTING ON THE DEATH PENALTY AND NOT VOTING ON THE DEATH  
13 PENALTY AND THAT SEEMS REPETITIOUS.

14 MR. WAPNER: IT IS A LITTLE REPETITIOUS AND I APOLOGIZE  
15 FOR THAT.

16 WHEN YOU SAY IT IS A LITTLE BRUTAL, COULD YOU  
17 DO THAT, EVEN THOUGH YOU THINK IT IS BRUTAL?

18 MS. ACUNA: WHAT? VOTE FOR THE GAS CHAMBER?

19 MR. WAPNER: YES.

20 MS. ACUNA: YES.

21 MR. WAPNER: ALL RIGHT, THANK YOU.

22 THE COURT: PASS FOR CAUSE?

23 MR. WAPNER: YES.

24 THE COURT: MS. ACUNA, YOU QUALIFY AS A POSSIBLE JUROR  
25 IN THIS CASE, SO WHAT I WILL ASK YOU TO DO IS TO COME BACK  
26 HERE ON WEDNESDAY AFTERNOON AT 1:45. THAT IS WEDNESDAY  
27 AFTERNOON AT 1:45, GO INTO THE JURY ASSEMBLY ROOM AND WHEN  
28 ALL OF THE JURORS ARE COLLECTED, THEN WE WILL HAVE YOU BACK

1 HERE AND CONTINUE ON WITH THIS TRIAL.

2 MS. ACUNA: YES.

3 THE COURT: YOU HAVE BEEN ACCEPTED AS A POSSIBLE JUROR  
4 IN THIS CASE.

5 IN THE MEANTIME, DON'T TALK TO ANYBODY ABOUT THE  
6 CASE ABOUT ANYTHING ABOUT IT, ALL RIGHT?

7 MS. ACUNA: YES, SIR.

8 THE COURT: AND DON'T READ ANYTHING ABOUT IT IF YOU CAN  
9 HELP IT.

10 MS. ACUNA: OH, I DON'T READ THE PAPER SO I AM CLEAR  
11 THERE. THANK YOU.

12 MR. WAPNER: YOUR HONOR, AS FAR AS THAT IS CONCERNED,  
13 ABOUT THE PUBLICITY ASPECT, COULD WE JUST MENTION THE NAME  
14 THAT HAS BEEN USED MOST FREQUENTLY IN THE PRESS?

15 THE COURT: OH, YES.  
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4A-1  
1 THE COURT: YOU WILL FIND REFERENCE TO THIS CASE MADE  
2 SOMETIMES AS THE BILLIONAIRE BOYS CLUB. DON'T READ ANYTHING  
3 ABOUT IT.

4 MS. ACUNA: ALL RIGHT.

5 (PROSPECTIVE JUROR ACUNA EXITED THE  
6 COURTROOM.)

7 (PROSPECTIVE JUROR AUSUBEL ENTERED  
8 THE COURTROOM.)

9 THE COURT: IS IT MISS OR MRS.?

10 MS. AUSUBEL: MRS.

11 THE COURT: ALL RIGHT. WHERE DO YOU LIVE, MRS. AUSUBEL?

12 MS. AUSUBEL: CALABASAS.

13 THE COURT: AND TO BRIEFLY SUMMARIZE AGAIN, I TOLD THE  
14 JURORS THAT THIS IS A MURDER CASE WHERE IT IS ALLEGED THAT  
15 THE DEFENDANT COMMITTED THE CRIME OF MURDER AND IT WAS  
16 COMMITTED DURING THE COURSE OF A ROBBERY. I SAID THAT IT  
17 WAS SPECIAL CIRCUMSTANCES, YOU KNOW.

18 MS. AUSUBEL: RIGHT.

19 THE COURT: SO THE JURY WOULD HAVE TO DETERMINE FIRST,  
20 THE JURY SELECTED IN THIS CASE, AS TO WHETHER OR NOT HE  
21 COMMITTED A MURDER AND IT WAS IN THE FIRST DEGREE AND THEN  
22 WHETHER IT WAS TRUE OR FALSE THAT IT WAS COMMITTED IN THE  
23 COURSE OF A ROBBERY.

24 MS. AUSUBEL: OKAY.

25 THE COURT: DO YOU UNDERSTAND THAT THAT IS KNOWN AS  
26 SPECIAL CIRCUMSTANCES?

27 MS. AUSUBEL: YES.

28 THE COURT: YOU UNDERSTAND OF COURSE, THAT THE JURY

14A-2

1 WHICH IS SELECTED IN THIS CASE, WOULD FIRST HAVE TO DETERMINE  
2 AS TO WHETHER OR NOT THE DEFENDANT IS GUILTY OF MURDER?

3 MS. AUSUBEL: YES.

4 THE COURT: THEN THERE IS A QUESTION THAT THE JURORS  
5 ANSWER, WAS IT TRUE OR WAS IT NOT TRUE THAT IT WAS COMMITTED  
6 DURING THE COURSE OF A ROBBERY. IF THEY SAY YES, IT WAS  
7 COMMITTED DURING THE COURSE OF A ROBBERY, THEN THAT SAME JURY  
8 HEARS ADDITIONAL TESTIMONY ON BOTH SIDES.

9 THE PURPOSE OF THE ADDITIONAL TESTIMONY, WE CALL  
10 IT THE PENALTY PHASE WHERE THE DEFENDANT ATTEMPTS TO SHOW  
11 HIS BACKGROUND AND HIS CHARACTER IS SUCH THAT HE IS ENTITLED  
12 TO CONSIDERATION FROM THE JURY IN THE PENALTY THAT THEY ARE  
13 GOING TO INFLICT UPON HIM, IF THEY DO.

14 THE PROSECUTION ON THE OTHER HAND, WILL SHOW THINGS  
15 WHICH ARE UNFAVORABLE ABOUT HIM, WHICH WOULD DISINCLINE THE  
16 JURY TO BE FAVORABLE TOWARD HIM. THEN AFTER THEY HEAR ALL  
17 OF THAT, THEY CONSIDER THE EVIDENCE IN THE CASE, WHICH IS  
18 THE GUILT PHASE, THE CIRCUMSTANCES OF THE MURDER AND SO FORTH.

19 THEN THEY CONSIDER ALL THE FAVORABLE AND  
20 UNFAVORABLE ASPECTS. THEN THEY MAKE UP THEIR MINDS AS TO  
21 ONE OF TWO THINGS, EITHER LIFE WITHOUT POSSIBILITY OF PAROLE  
22 OR DEATH IN THE GAS CHAMBER.

23 LIFE WITHOUT POSSIBILITY OF PAROLE MEANS EXACTLY  
24 THAT, NO POSSIBILITY OF PAROLE. HE STAYS THERE THE REST OF  
25 HIS LIFE. DO YOU UNDERSTAND THAT?

26 MS. AUSUBEL: I UNDERSTAND.

27 THE COURT: OKAY. NOW, I AM GOING TO ASK YOU A SERIES  
28 OF QUESTIONS WHICH ARE DESIGNED FOR THE PURPOSE OF EXPLORING



14A-3  
1 YOUR MIND AS TO YOUR ATTITUDES TOWARD THE DEATH PENALTY. DO  
2 YOU UNDERSTAND THAT?

3 MS. AUSUBEL: YES.

4 THE COURT: OKAY. NOW, DO YOU HAVE ANY OPINION REGARDING  
5 THE DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING AN  
6 IMPARTIAL DECISION AS TO THE GUILT OR INNOCENCE OF THE  
7 DEFENDANT?

8 MS. AUSUBEL: NO.

9 THE COURT: NOW, THE OTHER PART OF THAT GUILT PHASE  
10 ALSO IS THAT I TOLD YOU THE SPECIAL CIRCUMSTANCE IS THAT IT  
11 WAS COMMITTED DURING THE COURSE OF A ROBBERY.

12 MS. AUSUBEL: RIGHT.

13 THE COURT: DO YOU HAVE ANY OPINION REGARDING THE DEATH  
14 PENALTY THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL  
15 DECISION CONCERNING THE TRUTH OR FALSITY OF THE SPECIAL  
16 CIRCUMSTANCES?

17 MS. AUSUBEL: NO.

18 THE COURT: THE NEXT TWO QUESTIONS ARE, ASSUMING THAT  
19 THE JURORS FOUND HIM GUILTY OF MURDER IN THE FIRST DEGREE  
20 AND IT WAS COMMITTED DURING THE COURSE OF A ROBBERY, THEN  
21 WE COME TO THE PENALTY PHASE.

22 DO YOU HAVE ANY OPINION REGARDING THE DEATH PENALTY  
23 THAT WOULD CAUSE YOU AUTOMATICALLY TO VOTE TO IMPOSE THE DEATH  
24 PENALTY, REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED  
25 AT THE PENALTY PHASE OF THE TRIAL?

26 MS. AUSUBEL: NO.

27 THE COURT: THE NEXT ONE IS THE SAME THING EXCEPT FOR  
28 LIFE WITHOUT POSSIBILITY OF PAROLE. DO YOU HAVE SUCH AN

14A-4

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

5 MS. AUSUBEL: NO.

6 THE COURT: GOOD. NOW, THE NEXT ONE, YOU UNDERSTAND  
7 OF COURSE, THAT THE ISSUE OF THE DEATH PENALTY MAY OR MAY  
8 NOT TAKE PLACE IN THIS CASE AND THAT THESE QUESTIONS HAVE  
9 BEEN ASKED ONLY IN THE EVENT THAT YOU REACH THAT PHASE OF  
10 THE CASE.

11 MS. AUSUBEL: YES.

12 THE COURT: OKAY.  
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4A-5  
1 MR. BARENS: THANK YOU, YOUR HONOR.

2 GOOD AFTERNOON, MS. AUSUBEL.

3 MS. AUSUBEL: RIGHT.

4 MR. BARENS: I AM ARTHUR BARENS. I REPRESENT MR. HUNT,  
5 THE DEFENDANT IN THIS MATTER.

6 AT THIS STAGE OF THE PROCEEDINGS, IT IS MY  
7 OBLIGATION AS IT IS THE JUDGE'S TO ASK YOU ABOUT YOUR  
8 POINT OF VIEW ON THE DEATH PENALTY.

9 PARENTHETICALLY, I WOULD LIKE TO INDICATE TO YOU  
10 THAT THERE ARE NO RIGHT OR WRONG ANSWERS TO MY QUESTIONS AND  
11 THAT NO ONE HERE IS JUDGING ANY OF YOUR ANSWERS. IT IS JUST  
12 YOUR OPINION AND YOU KNOW THAT YOUR OPINION CANNOT BE RIGHT  
13 OR WRONG. IT CAN ONLY BE YOUR OPINION.

14 MS. AUSUBEL: RIGHT.

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

17 MS. AUSUBEL: I THINK THAT IT CERTAINLY HAS ITS PLACE  
18 IN OUR SOCIETY.

19 MR. BARENS: AND WHEN YOU RESPOND THAT WAY, DO YOU FEEL  
20 THERE ARE CERTAIN TYPES OF SITUATIONS IN WHICH THE DEATH PENALTY  
21 IS APPROPRIATE?

22 MS. AUSUBEL: YES.

23 MR. BARENS: COULD YOU TRY TO DESCRIBE THOSE FOR ME  
24 AS BEST YOU ARE ABLE?

25 MS. AUSUBEL: IF YOU MURDERED MY DAUGHTER, I WOULD WANT  
26 YOU TO HAVE THE DEATH PENALTY.

27 MR. BARENS: I AM IN AGREEMENT WITH YOU, EVEN AS A DEFENSE  
28 LAWYER. I HAVE GOT TWO OF THEM.

14A-6

1                   HOWEVER, WHAT WE ARE TALKING ABOUT HERE, WILL  
2 NOT BE THE CASE OBVIOUSLY WHERE IT IS ANY OF OUR PERSONAL  
3 FAMILIES INVOLVED IN THIS.

4                   BUT, IT IS AN ALLEGED VICTIM THAT THE DEFENSE  
5 SAYS MAY OR MAY NOT BE DEAD. BUT THE QUESTION FOR YOU WOULD  
6 BE, IF YOU AND THE OTHER JURORS EVER GOT TO A POINT WHERE  
7 BEYOND A REASONABLE DOUBT, YOU BELIEVED THAT MY CLIENT HAD  
8 COMMITTED A MURDER DURING A ROBBERY, TO GIVE IT THAT SPECIAL  
9 CIRCUMSTANCE ASPECT HIS HONOR REFERRED TO, WOULD YOU CONSIDER  
10 THEN VOTING FOR THE DEATH PENALTY AS WELL AS CONSIDER VOTING  
11 FOR LIFE WITHOUT POSSIBILITY OF PAROLE?

12                  MS. AUSUBEL: YES.

13                  MR. BARENS: OKAY. AND WOULD IT BE A FAIR STATEMENT  
14 TO SAY THAT YOU WOULD HAVE TO HEAR ALL OF THE EVIDENCE BEFORE  
15 YOU COULD MAKE A DECISION AS TO WHETHER OR NOT THE DEFENDANT  
16 SHOULD DIE OR LIVE THE REST OF HIS LIFE IN PRISON?

17                  MS. AUSUBEL: CERTAINLY, YES.

18                  MR. BARENS: OKAY. NOW, WOULD YOU BE ABLE IN A  
19 SITUATION WHERE YOU BELIEVED A FIRST DEGREE MURDER OCCURRED  
20 DURING SPECIAL CIRCUMSTANCES, TO VOTE -- NOT TO VOTE, TO  
21 CONSIDER VOTING THAT THAT PERSON SHOULD GET LIFE WITHOUT  
22 POSSIBILITY OF PAROLE?

23                  MS. AUSUBEL: YES.

24                  MR. BARENS: OKAY. AND THE OTHER SIDE OF THAT WOULD  
25 BE THAT YOU WOULD BE EQUALLY ABLE TO CONSIDER THAT THAT PERSON  
26 SHOULD BE GIVEN THE DEATH PENALTY IF THE FACTS REQUIRED IT  
27 IN YOUR MIND?

28                  MS. AUSUBEL: YES.

1 MR. BARENS: NOW, YOU UNDERSTAND THAT ALTHOUGH HIS HONOR  
2 HAS TOLD YOU THAT THERE ARE SOME 19 CATEGORIES IN WHICH THE  
3 LEGISLATURE HAS SAID THE DEATH PENALTY IS AN AVAILABLE REMEDY  
4 UNDER SPECIAL CIRCUMSTANCES, FIRST DEGREE MURDER, THAT NONE  
5 OF THOSE ARE MANDATED?

6 THERE IS NO PROVISION IN OUR LAW THAT SAYS A PERSON  
7 MUST DIE FOR ANY TYPE OF CONDUCT. DO YOU UNDERSTAND THAT?

8 MS. AUSUBEL: I UNDERSTAND.

9 MR. BARENS: AND DO YOU UNDERSTAND THAT THE ONLY ONE  
10 WHO CAN MAKE THAT TYPE OF DECISION IS YOU AS A JUROR?

11 MS. AUSUBEL: I UNDERSTAND THAT.

12 MR. BARENS: OKAY. NOW, ASIDE FROM THE SITUATION WHERE  
13 IF IT WERE A FAMILY MEMBER -- AND CERTAINLY, I DON'T THINK  
14 THERE IS ONE OF US THAT WOULD DISAGREE WITH YOU, THAT THAT  
15 WOULD BE AN APPROPRIATE TIME FOR THE DEATH PENALTY, IS THERE  
16 ANY OTHER TYPE OF A SITUATION THAT YOU COULD DESCRIBE TO ME  
17 WHERE YOU FEEL THE DEATH PENALTY IS AN APPROPRIATE REMEDY?

18 MS. AUSUBEL: I THINK IN A WILLFUL, HEINOUS CRIME.

19 MR. BARENS: OKAY. IF I TOLD YOU THAT WE HAVE A SITUATION  
20 WHERE A MURDER OCCURRED WHERE A GUY CAME UP TO ANOTHER MAN,  
21 LET'S SAY IN THIS INSTANCE, AND SHOT HIM TO DEATH IN COLD  
22 BLOOD IN ORDER TO STEAL HIS MONEY, DIDN'T KNOW THIS GUY, JUST  
23 CAME UP AND SAID, "I WANT YOUR MONEY," AND BANG, SHOT HIM  
24 TO DEATH WITHOUT ANY SORT OF JUSTIFICATION WHATSOEVER OTHER  
25 THAN WANTING HIS MONEY, THAT THE DEAD MAN WAS A FAMILY MAN,  
26 LET'S SAY AND A DECENT SORT, WOULD YOU FEEL THAT IN ALL  
27 INSTANCES UNDER THAT SITUATION, THAT THE DEFENDANT SHOULD  
28 BE GIVEN THE DEATH PENALTY?

1 MS. AUSUBEL: I DON'T THINK I HAVE ENOUGH INFORMATION  
2 ABOUT HIM.

3 MR. BARENS: OKAY. WHAT OTHER SORT OF INFORMATION WOULD  
4 YOU NEED?

5 MS. AUSUBEL: WELL, I WOULD WANT TO KNOW HIS STATE OF  
6 MIND WHY HE WAS AFTER THE MONEY.

7 MR. BARENS: NOW REMEMBER, BY THE TIME YOU EVER GET  
8 TO MAKING THIS DECISION IF YOU EVER DO, YOU HAVE GOT TO BE  
9 CONVINCED IN YOUR OWN MIND THAT IT WAS AN INTENTIONAL KILLING,  
10 THAT THE DEFENDANT INTENDED TO KILL THE PERSON THAT IS DEAD,  
11 IF YOU BELIEVE SOMEBODY IS DEAD.

12 MS. AUSUBEL: RIGHT.  
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1 MR. BARENS: AND YOU HAVE TO ALSO BELIEVE THAT IT WAS  
2 NOT LEGALLY JUSTIFIABLE.

3 MS. AUSUBEL: OKAY.

4 MR. BARENS: NOW, ASSUMING THAT WE HAVE THOSE TWO THINGS  
5 PRESENT --

6 MS. AUSUBEL: DO YOU MEAN JUSTIFIABLE?

7 MR. BARENS: IT IS NOT JUSTIFIABLE. IT IS INTENTIONAL.  
8 NOW, IF THAT WERE THE EVIDENCE YOU HAD DURING THE GUILT PHASE,  
9 WOULD YOU AUTOMATICALLY THINK THAT THE DEFENDANT SHOULD THEN  
10 GET THE DEATH PENALTY?

11 MS. AUSUBEL: NOT NECESSARILY. I THINK I WOULD NEED  
12 THE WHOLE PICTURE.

13 MR. BARENS: THE WHOLE STORY? OKAY.

14 NOW, DURING THE DEATH PENALTY PHASE, THAT SECOND  
15 PHASE, IF YOU GET BEYOND THE GUILT PHASE HERE, THE DEFENSE  
16 WOULD ASK YOU TO CONSIDER CERTAIN THINGS. FOR INSTANCE,  
17 WOULD YOU BE WILLING TO CONSIDER THE DEFENDANT'S AGE AT THE  
18 TIME THE CRIME WAS ALLEGEDLY COMMITTED?

19 THE COURT: I WILL TELL YOU THAT IT IS THE LAW THAT  
20 YOU HAVE TO CONSIDER HIS AGE AND BACKGROUND AND EVERYTHING  
21 ELSE. YOU WILL FOLLOW THE LAW?

22 MS. AUSUBEL: I WILL DO THAT.

23 THE COURT: YOU WILL CONSIDER THE AGE?

24 MS. AUSUBEL: YES.

25 MR. BARENS: LIKewise, IF HIS HONOR WERE TO INSTRUCT  
26 YOU THAT YOU SHOULD CONSIDER WHETHER OR NOT THE DEFENDANT  
27 HAD A PRIOR HISTORY OF CRIMINAL CONDUCT, VIOLENT CONDUCT,  
28 WOULD YOU BE WILLING TO CONSIDER THAT AS A FACTOR IN

1 MITIGATION?

2 MS. AUSUBEL: YES.

3 THE COURT: IF HE DID NOT HAVE?

4 MR. BARENS: YES, THAT HE DID NOT HAVE.

5 MS. AUSUBEL: WAIT A MINUTE, NOW. I AM CONFUSED.

6 THE COURT: YOU SAID DID.

7 MR. BARENS: PARDON ME IF I DID SO.

8 THE DEFENSE WOULD DEMONSTRATE TO YOU HOPEFULLY,  
9 THAT THE DEFENDANT --

10 MR. WAPNER: WELL, I THINK THAT THE QUESTION OUGHT TO  
11 BE PUT IN THE ALTERNATIVE.

12 MR. BARENS: WELL, IF IN THIS CASE THE DEFENDANT WOULD  
13 ATTEMPT TO SHOW THAT HE HAD NO HISTORY OF PRIOR CRIMINAL,  
14 VIOLENT ACTS, WOULD YOU BE WILLING TO CONSIDER THAT IN MAKING  
15 YOUR DECISION WHETHER HE SHOULD LIVE OR DIE?

16 MS. AUSUBEL: YES.

17 MR. BARENS: OKAY, BECAUSE YOU WOULD BE INSTRUCTED TO  
18 DO SO BY HIS HONOR, TO CONSIDER THAT.

19 MS. AUSUBEL: OKAY.

20 MR. BARENS: WHAT WE ARE LOOKING FOR ESSENTIALLY, IS  
21 AS NEUTRAL A JUROR AS POSSIBLE, IF WE EVER GET TO THE PENALTY  
22 PHASE OF THE TRIAL. DO YOU UNDERSTAND THAT?

23 MS. AUSUBEL: I DO UNDERSTAND.

24 MR. BARENS: NEUTRAL ON THIS ISSUE, WILLING TO CONSIDER  
25 LIFE OR DEATH.

26 MS. AUSUBEL: WITH AN OPEN MIND.

27 MR. BARENS: YOU TOOK THE WORDS RIGHT OUT OF MY MOUTH.  
28 NOW, LET ME ASK YOU JUST A COUPLE OF CONCLUDING QUESTIONS.



1 DO YOU FEEL THAT BECAUSE I AM HERE DISCUSSING  
2 THE DEATH PENALTY WITH YOU AND BECAUSE HIS HONOR IS AND  
3 BECAUSE THE DISTRICT ATTORNEY WILL, DO YOU HAVE ANY REASON  
4 TO BELIEVE IN YOUR MIND THAT JOE HUNT HAS DONE ANYTHING WRONG?

5 MS. AUSUBEL: NO.

6 MR. BARENS: OKAY. DO YOU UNDERSTAND THAT --

7 MS. AUSUBEL: HE IS ACCUSED OF SOMETHING, OBVIOUSLY.  
8 BUT I DON'T KNOW THAT HE HAS DONE ANYTHING.

9 MR. BARENS: OKAY. YOU UNDERSTAND THAT THERE IS A  
10 DIFFERENCE BETWEEN BEING ACCUSED OF SOMETHING AND YOU KNOW,  
11 PROOF AND EVIDENCE BEING BROUGHT AGAINST YOU?

12 MS. AUSUBEL: YES I DO.

13 MR. BARENS: YOU UNDERSTAND THAT WE HAVE A PRESUMPTION  
14 OF INNOCENCE IN THE UNITED STATES UNDER ALL CIRCUMSTANCES?

15 MS. AUSUBEL: YES I DO.

16 MR. BARENS: AND IT IS AN IMPORTANT RIGHT, ISN'T IT?  
17 NOW, LASTLY, HAVE YOU HEARD -- I DON'T BELIEVE HIS HONOR  
18 INQUIRED INTO THIS. IF HE DID, PLEASE CORRECT ME.

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1 THE COURT: I AM SORRY.

2 DID YOU EVER READ ANYTHING ABOUT THIS CASE OR KNOW  
3 ANYTHING AT ALL ABOUT IT?

4 MS. AUSUBEL: I REALLY DON'T.

5 THE COURT: DID YOU EVER HEAR THE WORDS "BILLIONAIRE  
6 BOYS CLUB" OR ANYTHING ABOUT IT?

7 MS. AUSUBEL: I HAVE BEEN OUT OF THE COUNTRY FOR A WHILE.

8 MR. BARENS: GOOD.

9 MS. AUSUBEL: NO, I DON'T.

10 THE COURT: YOU DIDN'T TALK WITH ANY JUROR OR ANY THIRD  
11 PERSON ABOUT IT?

12 MS. AUSUBEL: NO.

13 MR. BARENS: HAVE YOU HEARD OR READ ANYTHING ON  
14 TELEVISION OR HEARD ANYTHING OR READ ANY NEWSPAPER OR MAGAZINES  
15 ABOUT THIS CASE?

16 MS. AUSUBEL: NO, I HAVE NOT.

17 MR. BARENS: YOU UNDERSTAND, ALTHOUGH THIS MAY GET A  
18 CERTAIN AMOUNT OF PUBLICITY, HIS HONOR WILL INSTRUCT YOU TO  
19 STUDIOUSLY AVOID READING ANYTHING ABOUT THIS MATTER.

20 MS. AUSUBEL: OKAY, YES, I UNDERSTAND THAT THAT IS A  
21 POSSIBILITY.

22 MR. BARENS: THANK YOU FOR YOUR TIME, MA'AM.

23 WE PASS FOR CAUSE, YOUR HONOR.

24 THE COURT: ALL RIGHT.

25 MR. WAPNER: GOOD AFTERNOON. I AM FRED WAPNER. I AM  
26 THE DEPUTY DISTRICT ATTORNEY WHO IS PROSECUTING THIS CASE.

27 MS. AUSUBEL: GOOD AFTERNOON.

28 MR. WAPNER: DO YOU HAVE ANY STRONGLY HELD RELIGIOUS,

1                                   OR  
2 PHILOSOPHICAL/MORAL BELIEFS THAT WOULD PREVENT YOU FROM  
3 VOTING FOR OR AGAINST THE DEATH PENALTY IN THIS CASE?

4           MS. AUSUBEL: NO, I DO NOT.

5           MR. WAPNER: DID YOU UNDERSTAND WHAT THE JUDGE WAS  
6 TELLING YOU ABOUT THE TWO DIFFERENT PARTS OF THE TRIAL?

7           MS. AUSUBEL: THE PENALTY PHASE AND THE TRIAL --

8           THE COURT: THE GUILT PHASE.

9           MR. WAPNER: EXACTLY.

10          MS. AUSUBEL: IS THE GUILT PART THE TRIAL?

11          THE COURT: YES.

12          MS. AUSUBEL: GOTCHA. OKAY, YES, I UNDERSTAND THOSE  
13 TWO THINGS.

14          MR. WAPNER: IN THE GUILT PART, THE JUDGE IS GOING TO  
15 TELL YOU THAT YOU CAN'T THINK ABOUT PENALTY.

16          MS. AUSUBEL: I UNDERSTAND.

17          MR. WAPNER: AND IF HE TELLS YOU THAT, CAN YOU FOLLOW  
18 THAT INSTRUCTION?

19          MS. AUSUBEL: I BELIEVE SO.

20          MR. WAPNER: SO THE POINT OF HIM TELLING YOU THAT IS,  
21 WHEN YOU ARE MAKING A DECISION AS TO WHETHER A CRIME WAS  
22 COMMITTED AND WHETHER OR NOT THE DEFENDANT DID IT, YOU CAN'T  
23 MAKE THAT DECISION BASED ON WHAT MIGHT HAPPEN TO HIM.

24          MS. AUSUBEL: I UNDERSTAND.

25          MR. WAPNER: YOU WON'T HAVE ANY PROBLEM WITH THAT?

26          MS. AUSUBEL: NO, I DON'T BELIEVE SO.

27          MR. WAPNER: ALL RIGHT, THEN, IF YOU GET TO THE SECOND  
28 PART OF THE CASE WHICH IS THE PENALTY PART, IF IT COMES DOWN  
TO IT, YOU WILL BE IN THE JURY ROOM WITH 11 OTHER PEOPLE.

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1 MS. AUSUBEL: RIGHT.

2 MR. WAPNER: AND YOU WILL HAVE TO CAST YOUR OWN  
3 INDIVIDUAL BALLOT AS TO WHETHER THE DEFENDANT SHOULD SPEND  
4 THE REST OF HIS LIFE IN PRISON OR WHETHER HE SHOULD DIE IN  
5 THE GAS CHAMBER.

6 MS. AUSUBEL: RIGHT.

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

8 MS. AUSUBEL: ABSOLUTELY.

9 MR. WAPNER: YOU DON'T HAVE ANY PRE --

10 MS. AUSUBEL: NO RESERVATIONS, NO PRECONCEIVED. WHATEVER  
11 I DECIDE AFTER HEARING EVERYTHING IS WHAT I WILL VOTE.

12 MR. WAPNER: HAVE YOU EVER SERVED ON A JURY LIKE THIS  
13 BEFORE, ON A CAPITAL CASE?

14 MS. AUSUBEL: NOT ON A CAPITAL CASE, NO, I HAVE NOT.

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

16 THE COURT: BOTH SIDES HAVE PASSED FOR CAUSE. WHAT THAT  
17 MEANS IS THEY FIND YOU, AND THE COURT FINDS YOU, ENTIRELY  
18 SATISFACTORY AS A POSSIBLE JUROR IN THIS CASE.

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1 MS. AUSUBEL: OKAY.

2 THE COURT: YOU MIGHT BE UNHAPPY ABOUT THAT BUT AT ANY  
3 RATE, YOU ARE SATISFACTORY, EMINENTLY.

4 MS. AUSUBEL: OKAY.

5 THE COURT: SO WHAT I WILL ASK YOU TO DO IS -- WE HAVE  
6 GOT TO GO THROUGH THIS WHOLE PROCESS WITH ALL OF THE OTHERS.

7 MS. AUSUBEL: DO I GET TO GO HOME AND STAY UNTIL THEN?

8 THE COURT: YOU GO HOME UNTIL WEDNESDAY AFTERNOON AT  
9 1:45.

10 MS. AUSUBEL: OKAY.

11 THE COURT: YOU COME BACK TO THE JURY ASSEMBLY ROOM AND  
12 THEN WE WILL ASK YOU TO ALL COME BACK IN HERE, ALL RIGHT?

13 MS. AUSUBEL: THANK YOU VERY MUCH.

14 THE COURT: YOU ARE WELCOME.

15 (WHEREUPON, PROSPECTIVE JUROR AUSUBEL  
16 EXITS THE COURTROOM.)

17 (WHEREUPON, PROSPECTIVE JUROR SCOTT  
18 BALLEW ENTERS THE COURTROOM.)

19 THE COURT: MR. BALLEW?

20 MR. BALLEW: HI. HOW ARE YOU?

21 THE COURT: HOW ARE YOU?

22 WHERE DO YOU LIVE, MR. BALLEW?

23 MR. BALLEW: TOPANGA.

24 THE COURT: ALL RIGHT, DOES THE PHRASE "BILLIONAIRE  
25 BOYS CLUB" MEAN ANYTHING TO YOU, EVER HEARD THAT BEFORE?

26 MR. BALLEW: NO, I HAVEN'T.

27 THE COURT: YOU HAVEN'T READ ANYTHING ABOUT IT OR SEEN  
28 ANYTHING ON TELEVISION?

1 MR. BALLEW: NO.

2 THE COURT: ALL RIGHT, BRIEFLY, AS YOU KNOW, THIS IS  
3 A MURDER CASE WHERE THE DEFENDANT IS ACCUSED OF COMMITTING  
4 THE CRIME OF MURDER IN THE FIRST DEGREE AND THAT IT WAS  
5 COMMITTED DURING THE COURSE OF A ROBBERY.

6 I TOLD YOU THAT NOT EVERY MURDER, EVEN IF IT IS  
7 DELIBERATE AND INTENTIONAL AND PREMEDITATED, CALLS FOR THE  
8 IMPOSITION OF THE DEATH PENALTY.

9 IT IS ONLY WHERE THE LEGISLATURE SAID THERE ARE  
10 CERTAIN KINDS OF MURDERS COMMITTED IN CERTAIN SPECIAL WAYS,  
11 SPECIAL CIRCUMSTANCES THAT THE DEATH PENALTY MAY BE SOUGHT  
12 BY THE DISTRICT ATTORNEY AND MAY BE IMPOSED; DO YOU UNDERSTAND  
13 THAT?

14 (MR. BALLEW NODS HIS HEAD UP AND DOWN.)

15 THE COURT: LIKE ROBBERY AND BURGLARY AND KIDNAPPING  
16 AND CHILD MOLESTATION, MULTIPLE MURDERS AND TORTURE-MURDERS  
17 AND SO ON AND SO FORTH, THERE ARE 19 OF THEM WHICH WARRANT  
18 THE IMPOSITION OF THE DEATH PENALTY IN THE DISCRETION OF THE  
19 JURY; DO YOU UNDERSTAND THAT?

20 MR. BALLEW: YES, SIR.

21 THE COURT: NOW, THE JURY WHICH WILL BE SELECTED IN THIS  
22 CASE WILL FIRST HAVE TO DETERMINE ON WHAT WE CALL THE GUILT  
23 PHASE, IS THE DEFENDANT GUILTY OF MURDER IN THE FIRST DEGREE  
24 AND WAS THAT MURDER COMMITTED DURING THE COURSE OF A ROBBERY?

25 IF IT IS MURDER IN THE FIRST DEGREE, THEN THEY  
26 ARE ASKED TO ANSWER A QUESTION: IS IT TRUE OR IS IT FALSE  
27 THAT IT WAS COMMITTED DURING THE COURSE OF A ROBBERY?  
28 THAT IS A SPECIAL CIRCUMSTANCE.

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1 IF THEY SAY IT IS TRUE, THEN WE START THE SECOND  
2 PHASE OF THE TRIAL AND THAT IS KNOWN AS THE PENALTY PHASE.

3 NOW, AT THE PENALTY PHASE STAGE, THE JURY HAS TO  
4 DETERMINE AFTER THEY HAVE HEARD ADDITIONAL EVIDENCE,  
5 ADDITIONAL TESTIMONY, ALSO REMEMBERING THE TESTIMONY THEY HEARD  
6 ON THE GUILT PHASE, WHETHER IT SHOULD BE LIFE IMPRISONMENT  
7 WITHOUT THE POSSIBILITY OF PAROLE --

8 AND IT MEANS EXACTLY THAT, IT IS LIFE IMPRISONMENT  
9 AND NO PAROLE. IT IS FOR LIFE. HE DOESN'T GET OUT.

10 OR SHOULD IT BE DEATH IN THE GAS CHAMBER; DO YOU  
11 UNDERSTAND THAT?

12 MR. BALLEW: YES.

13 THE COURT: SO AT THE PENALTY PHASE OF THE TRIAL, THE  
14 DEFENDANT WILL OFFER EVIDENCE TO SHOW THAT HE IS A PERSON OF  
15 GOOD CHARACTER AND HE IS FREE FROM ANY -- HE HAS NEVER  
16 COMMITTED ANY KIND OF CRIME AND HIS EDUCATION AND BACKGROUND  
17 ARE SUCH -- EVERYTHING WHICH IS FAVORABLE TO HIM WILL BE  
18 ATTEMPTED TO BE SHOWN BY THE DEFENSE.

19 THE PROSECUTION, ON THE OTHER HAND, ON THE PENALTY  
20 PHASE WILL SHOW UNFAVORABLE ASPECTS OF THE DEFENDANT IF THEY  
21 CAN.

22 AND AFTER THE JURY HAS HEARD ALL OF THAT AND  
23 CONSIDERED -- AND THEY MUST CONSIDER THE WHOLE BACKGROUND OF  
24 THE DEFENDANT AND HIS MENTAL AND PHYSICAL CONDITION AND EVERY-  
25 THING ELSE, THEN THEY HAVE TO DETERMINE WHETHER IT SHOULD BE  
26 ONE OF THOSE TWO THINGS, YOU UNDERSTAND?

27 MR. BALLEW: YES.

28 THE COURT: OKAY, NOW SINCE IT MIGHT POSSIBLY ENTAIL

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1 THE DEATH PENALTY, THE PURPOSE OF THESE QUESTIONS IS TO  
2 DETERMINE WHAT YOUR STATE OF MIND IS AND EXPLORE YOUR STATE  
3 OF MIND ON THE SUBJECT OF THE DEATH PENALTY, IF YOU HAVE ANY  
4 OPINION ON THE DEATH PENALTY, SO I WILL ASK YOU A SERIES OF  
5 QUESTIONS WHICH ARE DESIGNED FOR THAT PURPOSE AND THEN COUNSEL  
6 WILL ASK YOU SOME QUESTIONS, ALWAYS FOR THE PURPOSE OF TRYING  
7 TO FIND OUT WHAT YOUR THOUGHTS ARE ON THE SUBJECT OF THE DEATH  
8 PENALTY. ALL RIGHT?

9 MR. BALLEW: OKAY.

10 THE COURT: INCIDENTALLY, I WANT TO REPEAT AGAIN: ON  
11 THE GUILT PHASE, YOU DON'T CONSIDER THE MATTER OF PENALTY AT  
12 ALL. IT SHOULDN'T ENTER INTO YOUR CONSIDERATION IN ANY WAY  
13 IN MAKING UP YOUR MIND AS TO WHETHER THE DEFENDANT IS GUILTY  
14 OR NOT GUILTY.

15 YOU MUSTN'T CONSIDER OR SAY "IF I FIND HIM GUILTY,  
16 THEN HE MIGHT POSSIBLY FACE DEATH AND I MIGHT CHANGE MY MIND  
17 AS TO WHETHER HE IS GUILTY OR NOT"; DO YOU UNDERSTAND?

18 MR. BALLEW: YES.

19 THE COURT: THE FIRST QUESTION IS -- THE FIRST TWO  
20 QUESTIONS HAVE TO DO WITH THE GUILT PHASE: DO YOU HAVE ANY  
21 OPINION REGARDING THE DEATH PENALTY THAT WOULD PREVENT YOU FROM  
22 MAKING AN IMPARTIAL DECISION AS TO THE GUILT OR INNOCENCE OF  
23 THE DEFENDANT?

24 MR. BALLEW: WOULD YOU REPEAT THAT AGAIN?

25 THE COURT: YES.

26 DO YOU HAVE ANY OPINION, WHATEVER IT MAY BE,  
27 REGARDING THE DEATH PENALTY THAT WOULD PREVENT YOU FROM MAKING  
28 AN IMPARTIAL DECISION AS TO THE GUILT OR INNOCENCE OF THE



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1 DEFENDANT?

2 MR. BALLEW: NO.

3 THE COURT: NOW, YOU REMEMBER I TOLD YOU THAT IF YOU  
4 FIND HIM GUILTY OF MURDER IN THE FIRST DEGREE, THEN YOU  
5 DETERMINE WHETHER IT IS TRUE OR FALSE THAT IT WAS COMMITTED  
6 DURING THE COURSE OF A ROBBERY, THAT IS A SPECIAL CIRCUMSTANCE.

7 DO YOU HAVE ANY OPINION REGARDING THE DEATH  
8 PENALTY THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL  
9 DECISION CONCERNING THE TRUTH OR FALSITY OF THE SPECIAL  
10 CIRCUMSTANCE?

11 MR. BALLEW: NO.

12 THE COURT: THE NEXT TWO HAVE TO DO WITH THE PENALTY  
13 PHASE.

14 YOU HAVE ALREADY FOUND HIM GUILTY OF MURDER IN  
15 THE FIRST DEGREE AND IT WAS COMMITTED IN THE COURSE OF A  
16 ROBBERY, OKAY?

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

21 MR. BALLEW: NO.

22 THE COURT: THE NEXT QUESTION IS EXACTLY THE SAME THING  
23 EXCEPT IT HAS RELATIONSHIP TO LIFE IMPRISONMENT WITHOUT THE  
24 POSSIBILITY OF PAROLE: DO YOU HAVE SUCH AN OPINION CONCERNING  
25 THE DEATH PENALTY THAT YOU WOULD AUTOMATICALLY VOTE FOR LIFE  
26 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE, REGARDLESS  
27 OF ANY EVIDENCE THAT MAY BE PRESENTED ON THE PENALTY PHASE  
28 OF THE TRIAL?

1 MR. BALLEW: NO.

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

6 MR. BALLEW: CORRECT.

7 MR. WAPNER: YOUR HONOR, I AM SORRY. I DIDN'T HEAR THE  
8 ANSWER TO THE NEXT TO THE LAST QUESTION.

9 THE COURT: HE SAID NO; ISN'T THAT WHAT YOU SAID?

10 MR. BALLEW: YES.

11 NO.

12 MR. WAPNER: THANK YOU.

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16A-1  
1 MR. WAPNER: THANK YOU.

2 MR. BARENS: THANK YOU, YOUR HONOR.

3 GOOD AFTERNOON, MR. BALLEW. I AM ARTHUR BARENS.  
4 I REPRESENT THE DEFENDANT, JOE HUNT IN THIS MATTER. AND AS  
5 IT WAS HIS HONOR'S, IT IS MY OBLIGATION AT THIS STAGE OF THE  
6 PROCEEDINGS, TO INQUIRE INTO YOUR POINT OF VIEW AND YOUR  
7 OPINION ON THE DEATH PENALTY ISSUE.

8 PARENTHETICALLY, I WANT TO EXPRESS THAT THERE  
9 ARE NO RIGHT OR WRONG ANSWERS TO MY QUESTIONS. BUT RATHER,  
10 I AM JUST INQUIRING INTO YOUR OPINION AND NO ONE HERE IS  
11 GOING TO JUDGE ANY OF YOUR ANSWERS.

12 DO YOU UNDERSTAND THAT?

13 MR. BALLEW: YES I DO.

14 MR. BARENS: OKAY. WITH THAT IN MIND, HOW DO YOU FEEL  
15 ABOUT THE DEATH PENALTY AS A GENERAL PROPOSITION IN OUR  
16 SOCIETY?

17 MR. BALLEW: I AGREE WITH IT. I THINK THAT IF THE PENALTY  
18 CALLS FOR IT, THE DEFENDANT SHOULD GET THE DEATH PENALTY,  
19 DEPENDING UPON THE CIRCUMSTANCES.

20 MR. BARENS: OKAY. WOULD YOU HELP ME UNDERSTAND WHAT  
21 YOU MEAN BY THAT? I THINK YOU USED THE EXPRESSION, "IF THE  
22 PENALTY CALLS FOR IT."

23 AND THEN YOU SAID, "DEPENDING UPON THE CIRCUMSTANCES,"  
24 WHICH ARE KIND OF MAYBE TWO ASPECTS OF THE SAME QUESTION.

25 WHAT DO YOU MEAN BY THAT, MR. BALLEW?

26 MR. BALLEW: WELL, BASICALLY, I AGREE WITH THE DEATH  
27 PENALTY. I FEEL THAT THERE ARE A LOT OF PEOPLE IN PRISON  
28 THAT SHOULD HAVE GOTTEN THE DEATH PENALTY.

16A-2

1 IF FOR SOME REASON, IT WAS NOT PREMEDITATED MURDER,  
2 THERE MIGHT BE A POSSIBILITY THAT I WOULD DISAGREE WITH THE  
3 DEATH PENALTY.

4 MR. BARENS: DO YOU UNDERSTAND THAT IN THIS CASE, IF  
5 WE GET PAST THE GUILT PHASE, YOU AND THE OTHER JURORS WOULD  
6 HAVE ALREADY BECOME CONVINCED BEYOND A REASONABLE DOUBT THAT  
7 A FIRST DEGREE MURDER TOOK PLACE? THAT MEANS THAT IT WAS  
8 AN INTENTIONAL MURDER, PREMEDITATED. IT WAS AN INTENTIONAL  
9 MURDER DURING THE COMMISSION OF A ROBBERY.

10 NOW, I THINK I UNDERSTAND FROM YOU, THAT IT WOULD  
11 BE YOUR OPINION WHICH YOU ARE ENTITLED TO, THAT ANYONE  
12 CONVICTED OF A FIRST DEGREE, INTENTIONAL, PREMEDITATED MURDER  
13 FOR MONEY OR GAIN OR SOMETHING LIKE THAT, THAT THAT SORT OF  
14 FELLOW OUGHT TO AUTOMATICALLY GET THE DEATH PENALTY IN EVERY  
15 CASE?

16 MR. BALLEW: IF IT WAS PREMEDITATED, YES.

17 THE COURT: WELL, I ASKED YOU THAT QUESTION. I  
18 PARTICULARLY ASKED YOU THAT AND YOU SAID NO. I READ TO YOU  
19 AS FOLLOWS: DO YOU HAVE ANY OPINION CONCERNING THE DEATH  
20 PENALTY THAT WOULD CAUSE YOU TO AUTOMATICALLY VOTE TO IMPOSE  
21 THE DEATH PENALTY, REGARDLESS OF ANY EVIDENCE THAT MAY BE  
22 PRESENTED AT THE PENALTY PHASE OF THE TRIAL?

23 I TOLD YOU THAT THERE WAS A PENALTY PHASE OF THE  
24 TRIAL, DO YOU REMEMBER? THAT IS, WHERE GOOD THINGS AND BAD  
25 THINGS ABOUT THE DEFENDANT WILL BE ADDUCED. I TOLD YOU.

26 MR. BALLEW: YOU MEAN LIKE --

27 THE COURT: THEN YOU HAVE TO DECIDE WHETHER OR NOT IT  
28 SHOULD BE LIFE WITHOUT POSSIBILITY OF PAROLE OR DEATH IN THE

6A-3  
1 GAS CHAMBER.

2 MR. BALLEW: YES. I TAKE THAT BACK. I AGREE WITH HIM.

3 MR. BARENS: OKAY. GO AHEAD. WHAT DO YOU THINK HE  
4 IS SAYING TO YOU? "HE" BEING HIS HONOR, THIS INSTANCE.

5 MR. BALLEW: WELL, THAT IF HE IS OF GOOD, SOUND BODY  
6 AND MIND, THAT IF HE REALLY NEVER HAD ANYTHING AGAINST HIM  
7 PREVIOUS TO THIS AND THAT HIS INTENTIONS YOU KNOW, WERE NOT  
8 SPECIFICALLY TO GO IN THERE AND KILL HIM -- IS THAT WHAT YOU  
9 ARE SAYING?

10 MR. BARENS: MR. BALLEW, THIS IS PREMEDITATED IF YOU  
11 GET TO THIS. LET ME TELL YOU AGAIN, WHAT I AM SAYING. YOU  
12 WILL NEVER DEAL WITH THIS QUESTION UNTIL YOU AS A JUROR, HAVE  
13 FIRST BELIEVED THAT THE DEFENDANT ACTED INTENTIONALLY,  
14 KNOWINGLY, PREMEDITATEDLY AND WITHOUT ANY JUSTIFICATION OR  
15 LEGITIMIZATION WHATSOEVER, THAT HE KILLED IN COLD BLOOD, FIRST  
16 DEGREE MURDER TO GAIN MONEY, COMMIT A ROBBERY.

17 YOU WILL NEVER GET TO THIS QUESTION UNLESS YOU  
18 FIRST FORM THOSE BELIEFS. DO YOU UNDERSTAND WHAT I MEAN?  
19 THAT IS THE KIND OF GUY YOU HAVE GOT.

20 YOU DON'T HAVE A GUY WHO HAD ANY EXCUSE OR REASON  
21 FOR THE MURDER. YOU DON'T HAVE A GUY WHO HAD ANY  
22 JUSTIFICATION FOR THE MURDER. AND YOU CERTAINLY DON'T HAVE  
23 A GUY WHO MADE A MISTAKE.

24 YOU HAVE GOT A DEFENDANT WHO IS A FIRST DEGREE,  
25 PREMEDITATED, TOTALLY UNACCEPTABLE MURDERER AT THIS POINT.  
26 IT IS INTENTIONAL.

27 I BELIEVE THAT YOU ARE ENTITLED TO THIS POINT  
28 OF VIEW, THAT IT IS YOUR STATE OF MIND, THAT GUYS THAT DID

6A-4  
1 THAT KIND OF A CRIME, ARE THE KIND OF GUYS THAT AUTOMATICALLY,  
2 WE GIVE THE DEATH PENALTY TO, IRRESPECTIVE OF ANYTHING ELSE  
3 ABOUT THEM. WHAT DO YOU SAY, SIR?

4 MR. BALLEW: YES. WHEN YOU PUT IT THAT WAY, I WOULD  
5 AGREE.

6 MR. BARENS: WELL, I PUT IT TO YOU THAT WAY BECAUSE  
7 WE ARE NEVER GOING TO GET TO THIS UNLESS YOU FOUND THOSE THINGS  
8 TO BE THAT WAY TO BEGIN WITH.

9 NOW AGAIN MR. BALLEW, THERE IS ABSOLUTELY NOTHING  
10 WRONG WITH THAT POINT OF VIEW WHICH MAY BE SHARED BY A MAJORITY  
11 OF OUR SOCIETY, THAT YOU DON'T PUT THOSE KINDS OF GUYS IN  
12 JAIL. WHEN THEY COMMIT FIRST DEGREE, INTENTIONAL MURDER,  
13 THAT IS WHAT WE HAVE A GAS CHAMBER FOR. THAT IS AN OKAY POINT  
14 OF VIEW TO HAVE.

15 NOW, I SUPPOSE IF THE JUDGE SAID TO YOU WELL,  
16 YOU KNOW, YOU ARE SUPPOSED TO CONSIDER BEFORE YOU MAKE THAT  
17 TYPE OF DECISION, THE DEFENDANT'S AGE OR THE FACT THAT HE  
18 DIDN'T HAVE A PRIOR CRIMINAL BACKGROUND OR PRIOR VIOLENT  
19 CRIMINAL BACKGROUND, THAT REALLY IS NOT SOMETHING YOU ARE  
20 GOING TO CONSIDER, ONCE YOU HAVE BEEN TOLD THAT HE COMMITTED  
21 A MURDER, A FIRST DEGREE, PREMEDITATED MURDER? YOU ARE  
22 REALLY NOT GOING TO CONSIDER THAT, ARE YOU?

23 MR. BALLEW: NO.

24 MR. BARENS: OKAY. AND THERE IS NO REASON THAT YOU  
25 SHOULD, IF THAT IS NOT YOUR CONSCIENCE AND YOUR STATE OF MIND,  
26 MR. BALLEW.

27 YOUR HONOR, I BELIEVE THE PEOPLE ARE ENTITLED  
28 TO INQUIRE, HOWEVER, I THINK THAT MR. BALLEW --

16A-5

1 MR. WAPNER: ARE YOU RESERVING YOUR CHALLENGE?

2 MR. BARENS: I RESERVE A CHALLENGE AT THIS POINT.

3 MR. WAPNER: THANK YOU.

4 MR. BALLEW, HOW LONG HAVE YOU HELD THESE FEELINGS  
5 ABOUT THE DEATH PENALTY?

6 MR. BALLEW: FOR A WHILE. A FEW YEARS, I GUESS.

7 MR. WAPNER: OKAY. HOW FIRM ARE THEY IN YOUR MIND?

8 MR. BALLEW: FIRM.

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16A-6

1 MR. WAPNER: OKAY. IF YOU GET TO THE PENALTY PHASE  
2 IN THIS PARTICULAR TRIAL, IT MEANS THAT YOU AND 11 OTHER PEOPLE  
3 HAVE ALREADY DECIDED THAT THERE WAS A MURDER AND IT WAS  
4 INTENTIONAL AND IT WAS DONE DURING A ROBBERY.

5 DO YOU UNDERSTAND THAT?

6 MR. BALLEW: YES.

7 MR. WAPNER: AFTER YOU HAVE HEARD THAT, ARE YOU GOING  
8 TO PAY ANY ATTENTION TO ANY EVIDENCE THAT IS INTRODUCED IN  
9 THE PENALTY TRIAL OR WOULD YOU HAVE ALREADY MADE UP YOUR MIND  
10 ABOUT WHAT THE PENALTY SHOULD BE?

11 MR. BALLEW: I PROBABLY WOULD NOT PAY ATTENTION TO THE  
12 EVIDENCE.

13 MR. WAPNER: THANK YOU. NOTHING FURTHER.

14 THE COURT: ALL RIGHT.

15 MR. BARENS: THERE IS A MOTION BY THE DEFENSE, YOUR  
16 HONOR.

17 THE COURT: ALL RIGHT. I WILL GRANT IT.

18 MR. BALLEW, IN VIEW OF YOUR ATTITUDES TOWARD THE  
19 DEATH PENALTY, THAT YOU WOULD AUTOMATICALLY, REALLY IN EFFECT,  
20 VOTE FOR IT IF IT IS MURDER IN THE FIRST DEGREE, YOU CAN'T  
21 QUALIFY AS A JUROR IN THIS CASE.

22 SO, YOU WILL BE EXCUSED. PLEASE GO TO THE JURY  
23 ASSEMBLY ROOM. TELL THEM THAT YOU ARE AVAILABLE FOR SOME  
24 OTHER TRIAL. ALL RIGHT? THANK YOU.

25 I THINK THAT YOU WILL MAKE A VERY FINE JUROR ON  
26 SOME OTHER TYPE OF CASE. THANK YOU.

27 (PROSPECTIVE JUROR BALLEW EXITED THE  
28 COURTROOM.)



1 (PROSPECTIVE JUROR BECKING ENTERED THE  
2 COURTROOM.)

3 THE COURT: GOOD AFTERNOON, MRS. BECKING. IS IT  
4 MRS. BECKING?

5 MS. BECKING: MRS. BECKING, YES.

6 THE COURT: ALL RIGHT. MRS. BECKING, WHERE DO YOU LIVE?

7 MS. BECKING: MANHATTAN BEACH.

8 THE COURT: HAVE YOU EVER HEARD OR READ OR SEEN ANYTHING  
9 ON TELEVISION ABOUT THIS CASE?

10 MS. BECKING: NO.

11 THE COURT: I THINK I MENTIONED THE BILLIONAIRE BOYS  
12 CLUB. HAVE YOU EVER HEARD OF THAT? DOES THAT REGISTER?

13 MS. BECKING: NO IT DOESN'T REGISTER A THING.

14 THE COURT: ALL RIGHT. AND IF YOU ARE ACCEPTED AS A  
15 POSSIBLE JUROR IN THIS CASE, IF THERE IS ANYTHING THAT YOU  
16 SEE IN THE NEWSPAPERS OR SEE ON TELEVISION, DON'T PAY ANY  
17 ATTENTION TO IT. DON'T READ IT. WILL THAT BE ALL RIGHT?

18 MS. BECKING: YES.

19 THE COURT: OKAY. NOW, WHAT WE ARE GOING TO TRY TO  
20 DO IS EXPLORE YOUR MIND TO SEE WHAT YOUR ATTITUDES ARE TOWARD  
21 THE DEATH PENALTY. WE WANT TO SEE WHETHER OR NOT YOU QUALIFY  
22 AS A JUROR. DO YOU UNDERSTAND?

23 MS. BECKING: YES.

24 THE COURT: YOU KNOW, AS I HAVE TOLD YOU, THIS IS A  
25 CASE WHERE THE PEOPLE ALLEGE THAT THE DEFENDANT HAD COMMITTED  
26 A MURDER IN THE FIRST DEGREE AND IT WAS COMMITTED DURING THE  
27 COURSE OF A ROBBERY.

28 I TOLD THE JURORS THIS MORNING THAT IN THE COURSE

6-8  
1 OF A ROBBERY QUALIFIES THIS CASE FOR A POSSIBLE DEATH PENALTY.  
2 WHEN I TALK ABOUT A DEATH PENALTY, IT HAS TWO ASPECTS.

3 ONE ASPECT IS LIFE WITHOUT POSSIBILITY OF PAROLE.  
4 THAT MEANS EXACTLY THAT. HE GOES TO PRISON FOR THE REST OF  
5 HIS LIFE. THERE IS NO CHANCE OF HIS GETTING OUT.

6 SECONDLY, IT IS THE GAS CHAMBER. OKAY? NOW,  
7 WHAT THE JURY WILL BE CALLED UPON TO DETERMINE IN THIS CASE,  
8 FIRST, IS THE GUILT OR INNOCENCE OF THE DEFENDANT. WE CALL  
9 THAT THE GUILT PHASE OF THE TRIAL.

10 THE JURY WILL FIRST DETERMINE, AFTER THEY HEAR  
11 ALL OF THE EVIDENCE, WHETHER OR NOT HE COMMITTED THE CRIME  
12 OF MURDER AND WHETHER IT WAS MURDER IN THE FIRST DEGREE AND  
13 THEN THEY HAVE TO ANSWER A QUESTION, IS IT TRUE OR IS IT  
14 FALSE THAT IT OCCURRED DURING THE COURSE OF A ROBBERY. THAT  
15 IS WHAT WE CALL A SPECIAL CIRCUMSTANCE, YOU SEE.

16C  
16 IF THEY SAY YES, IT WAS COMMITTED DURING THE COURSE  
17 OF A ROBBERY, IT IS TRUE, THEN WE GO THROUGH A SECOND PHASE  
18 OF THE TRIAL WITH THE SAME JURORS WHERE THE DEFENSE WILL PUT  
19 ON EVIDENCE TO SHOW ALL NICE THINGS ABOUT THE DEFENDANT. THAT  
20 IS, HIS AGE, HIS CHARACTER, HIS BACKGROUND AND EVERYTHING  
21 ELSE WHICH IS FAVORABLE TO HIM.

22 THE PEOPLE ON THE OTHER HAND, WILL PRODUCE IF  
23 THEY ARE GOING TO, EVIDENCE TO SHOW UNFAVORABLE THINGS, BAD  
24 THINGS ABOUT HIM. THE JURY HEARS ALL OF THAT AND CONSIDERS  
25 HIS AGE, PREVIOUS BACKGROUND AND CHARACTER AND EDUCATION AND  
26 PHYSICAL AND MENTAL CONDITION AND EVERYTHING ABOUT HIM.

27 THEY ALSO CONSIDER THE NATURE OF THE EVIDENCE  
28 ON THE GUILT PHASE. THEN THEY MAKE UP THEIR MINDS WHETHER

16-9  
1 IT SHOULD BE ONE OF TWO THINGS, LIFE WITHOUT POSSIBILITY OF  
2 PAROLE OR DEATH IN THE GAS CHAMBER. DO YOU UNDERSTAND THAT?

3 MS. BECKING: YES.

4 THE COURT: NOW, THE PURPOSE OF ASKING YOU THE QUESTIONS  
5 I AM GOING TO ASK YOU, WHICH COUNSEL WILL ALSO ASK YOU, WILL  
6 BE TO DETERMINE YOUR STATE OF MIND, EXPLORE YOUR STATE OF  
7 MIND CONCERNING THE DEATH PENALTY AND WHAT YOUR REACTION TOWARD  
8 IT IS.

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

13 MS. BECKING: NO. I DON'T BELIEVE SO.

14 THE COURT: AND THE SAME ASPECT OF IT. DO YOU HAVE  
15 ANY OPINION REGARDING THE DEATH PENALTY WHATEVER IT MAY BE,  
16 THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL DECISION  
17 CONCERNING THE TRUTH OR FALSITY OF THE SPECIAL CIRCUMSTANCES?

18 MS. BECKING: NO. I DON'T BELIEVE SO.

19 THE COURT: OKAY. NEXT WOULD HAVE TO DO WITH ASSUMING  
20 THAT THE JURY HAS FOUND THE DEFENDANT GUILTY OF MURDER IN THE  
21 FIRST DEGREE WITH SPECIAL CIRCUMSTANCES, THAT IT WAS COMMITTED  
22 DURING THE COURSE OF A ROBBERY ON THE GUILT PHASE.

23 DO YOU HAVE ANY OPINION CONCERNING THE DEATH PENALTY  
24 THAT WOULD CAUSE YOU, AUTOMATICALLY, TO VOTE TO IMPOSE THE  
25 DEATH PENALTY, REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED  
26 AT THE PENALTY PHASE OF THE TRIAL?

27 MS. BECKING: NO. I DON'T HAVE ANY OPINION.

28 THE COURT: YOU MEAN, YOU DON'T -- YOU WOULD NOT

1 AUTOMATICALLY VOTE TO IMPOSE THE DEATH PENALTY UNTIL YOU HAVE  
2 HEARD ALL OF THE TESTIMONY?

3 MS. BECKING: WELL, I WOULD HAVE TO HEAR ALL OF THE  
4 TESTIMONY.

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

10 MS. BECKING: NO.

11 THE COURT: GOOD. ALL RIGHT. DO YOU UNDERSTAND THAT  
12 THE ISSUE OF THE DEATH PENALTY MAY OR MAY NOT BE PRESENTED  
13 TO THE JURY? THESE QUESTIONS HAVE BEEN ASKED ONLY IN THE  
14 EVENT THAT YOU REACH THAT PHASE OF THE TRIAL. DO YOU UNDER-  
15 STAND THAT?

16 MS. BECKING: UH-HUH.

17 THE COURT: ALL RIGHT.

18 MR. BARENS: THANK YOU, YOUR HONOR.

19 GOOD AFTERNOON, MS. BECKING. I AM ARTHUR BARENS.  
20 I REPRESENT THE DEFENDANT, JOE HUNT, IN THIS CASE.

21 AND AS IT WAS THE CASE WITH HIS HONOR A MOMENT  
22 AGO, IT IS MY DUTY AND OBLIGATION AT THIS STAGE OF THE  
23 PROCEEDINGS, TO ASK YOU ABOUT YOUR POINT OF VIEW ON THE DEATH  
24 PENALTY.

25 NOW, FIRST, I WANT TO LET YOU KNOW THAT THERE  
26 ARE NO RIGHT OR WRONG ANSWERS TO MY QUESTIONS. THERE ARE  
27 NO GOOD OR BAD ANSWERS BECAUSE NOBODY HERE IS GOING TO JUDGE  
28 ANY OF YOUR ANSWERS BECAUSE YOU ARE CERTAINLY ENTITLED TO

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YOUR OPINION.

DO YOU UNDERSTAND THAT?

MS. BECKING: YES.

17F

CONFIDENTIAL

17-1

1 MR. BARENS: WITH THAT IN MIND, HOW DO YOU FEEL ABOUT  
2 THE DEATH PENALTY AS A GENERAL PROPOSITION IN OUR SOCIETY?

3 MS. BECKING: WELL, I HAVE MIXED FEELINGS ABOUT IT.

4 I THINK IT DEPENDS UPON THE SERIOUSNESS OF THE  
5 CRIME. IN SOME CASES, I THINK, LIKE THE NIGHT STALKER, SOME-  
6 THING LIKE THAT, WELL, I THINK THEY SHOULD IMPOSE THE DEATH  
7 PENALTY.

8 MR. BARENS: WELL, IF IT WERE TRUE THAT HE DID THOSE  
9 THINGS HE SUPPOSEDLY DID, I WOULDN'T DISAGREE WITH YOU ON THAT.

10 ARE THERE ANY OTHER SITUATIONS WHERE YOU CAN TELL  
11 ME WHERE YOU THINK THE DEATH PENALTY MIGHT BE APPROPRIATE,  
12 OTHER THAN, YOU KNOW, WE CALL THAT TYPE OF FELLOW A SERIAL  
13 KILLER, YOU KNOW, THAT DOES --

14 MS. BECKING: YES.

15 MR. BARENS: -- 21 PEOPLE, WHATEVER HE DID.

16 ARE THERE ANY OTHER SITUATIONS WHERE YOU THINK  
17 THE DEATH PENALTY MIGHT BE APPROPRIATE?

18 MS. BECKING: NO, NOT REALLY.

19 THE COURT: DOES THAT MEAN THAT IN NO OTHER CASE WOULD  
20 YOU VOTE FOR A DEATH PENALTY?

21 MS. BECKING: WELL, I WOULD HAVE TO HEAR THE EVIDENCE.  
22 I WOULD HAVE TO HEAR THE EVIDENCE.

23 THE COURT: SUPPOSE IT IS ONLY ONE MURDER INSTEAD OF  
24 MULTIPLE MURDERS, WILL YOU STILL HAVE AN OPEN MIND AS TO WHETHER  
25 THE DEATH PENALTY SHOULD BE IMPOSED?

26 MS. BECKING: OH, YES, I WILL HAVE AN OPEN MIND.

27 MR. BARENS: YOU SEE, THAT IS WHAT WE ARE REALLY LOOKING  
28 FOR, THAT IS ALL THE JUDGE IS REALLY LOOKING FOR, AND THE PEOPLE

7-2

1 AND MYSELF ARE LOOKING FOR, IS A PERSON WHO IS WILLING TO  
2 CONSIDER ALL OF THE EVIDENCE AND TO CONSIDER VOTING FOR THE  
3 DEATH PENALTY OR VOTING FOR LIFE IMPRISONMENT WITHOUT THE  
4 POSSIBILITY OF PAROLE; DO YOU UNDERSTAND THAT?

5 MS. BECKING: UH-HUH.

6 MR. WAPNER: IS THAT YES?

7 THE COURT: UH-HUH, DOES THAT MEAN YES?

8 MS. BECKING: YES.

9 MR. BARENS: OKAY, YOU HAVE TO ARTICULATE THOSE WORDS  
10 BECAUSE THE LADY, THE COURT REPORTER NEEDS TO TAKE IT DOWN.

11 MS. BECKING: SORRY.

12 MR. BARENS: WELL, ON THE OTHER HAND, TO ASK YOU THE  
13 OTHER SIDE OF THE SAME QUESTION: COULD YOU SEE A SITUATION  
14 WHERE, IF A PERSON DID COMMIT AN INTENTIONAL FIRST DEGREE  
15 MURDER DURING A ROBBERY WHERE YOU COULD VOTE FOR LIFE  
16 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE FOR THAT  
17 DEFENDANT?

18 MS. BECKING: I THINK I COULD.

19 MR. BARENS: WOULD IT BE A FAIR STATEMENT THAT YOU WOULD  
20 HAVE TO CONSIDER ALL OF THE EVIDENCE ABOUT THAT DEFENDANT BEFORE  
21 YOU CAN MAKE A DECISION ONE WAY OR THE OTHER?

22 MS. BECKING: I WOULD HAVE TO HEAR IT ALL, UH-HUH.

23 MR. BARENS: AND THAT IS WHAT WE ARE LOOKING FOR.

24 THE JUDGE WOULD INSTRUCT YOU THAT IF WE EVER GET  
25 TO THAT SECOND PENALTY PHASE THAT YOU WOULD HAVE TO CONSIDER,  
26 FOR INSTANCE, THE AGE OF THE DEFENDANT AT THE TIME THE CRIME  
27 WAS ALLEGEDLY COMMITTED; WOULD YOU CONSIDER THAT?

28 MS. BECKING: OH, YES.

1 MR. BARENS: AND HE WOULD TELL YOU TO CONSIDER WHETHER  
2 OR NOT THE DEFENDANT HAD A PRIOR HISTORY OF VIOLENT CRIME OR  
3 NOT.

4 MS. BECKING: YES.

5 MR. BARENS: YOU WOULD CONSIDER THAT?

6 MS. BECKING: YES, I WOULD.

7 MR. BARENS: NOW, ALTHOUGH HIS HONOR INDICATED TO YOU  
8 THAT THERE ARE SOME 19 CATEGORIES OF SPECIAL CIRCUMSTANCES  
9 THAT THE LEGISLATURE SAYS QUALIFIES FOR A POSSIBLE DEATH  
10 PENALTY, DO YOU UNDERSTAND THAT THERE IS NO CASE IN WHICH THE  
11 LEGISLATURE SAID YOU MUST GIVE SOMEBODY THE DEATH PENALTY;  
12 DO YOU UNDERSTAND?

13 MS. BECKING: WILL YOU REPEAT IT?

14 MR. BARENS: SURE.

15 WHEN HIS HONOR MADE REFERENCE TO THE FACT THAT  
16 THERE ARE SOME 19 CATEGORIES --

17 MS. BECKING: UH-HUH.  
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7-4

1 MR. BARENS: -- WHERE OUR LEGISLATURE SAYS YOU CAN GIVE  
2 THE DEATH PENALTY FOR THAT OR FOR THAT TYPE OF CONDUCT, DO  
3 YOU UNDERSTAND THAT THAT IS SOLELY A DECISION FOR A JURY TO  
4 MAKE; THAT THE LEGISLATURE NEVER SAID THAT YOU MUST GIVE THE  
5 DEATH PENALTY FOR ANY TYPE OF CONDUCT?

6 MS. BECKING: UH-HUH, YES.

7 MR. BARENS: DO YOU UNDERSTAND THAT?

8 MS. BECKING: YES, I UNDERSTAND THAT.

9 MR. BARENS: SO THERE IS NO, WHAT WE CALL, MANDATORY  
10 DEATH PENALTY BUT, RATHER, THAT IS SOMETHING A JURY MAKES THE  
11 DECISION ABOUT; DO YOU UNDERSTAND THAT?

12 MS. BECKING: YES.

13 MR. BARENS: IT IS OF CONCERN TO ME, DO YOU HAVE ANY  
14 REASON TO BELIEVE THAT, WELL, JOE HUNT IS SITTING OVER THERE  
15 AND HE MUST HAVE DONE SOMETHING WRONG OR WE WOULDN'T BE HERE  
16 TALKING ABOUT THE DEATH PENALTY TO BEGIN WITH; WHAT DO YOU  
17 THINK?

18 MS. BECKING: WELL, SOMETHING MUST HAVE BEEN WRONG --

19 MR. BARENS: OKAY, WHAT I WANT TO MAKE CLEAR IN YOUR  
20 MIND: NOW YOU HAVEN'T HEARD ANY EVIDENCE IN THIS CASE, HAVE  
21 YOU?

22 MS. BECKING: NO.

23 MR. BARENS: ALL YOU HAVE HEARD IS HE IS CHARGED OR  
24 ACCUSED OF A CRIME.

25 (WHEREUPON, MS. BECKING NODS HER HEAD UP  
26 AND DOWN.)

27 MR. BARENS: WHAT DO WE SAY ABOUT THAT IN THE UNITED  
28 STATES? DON'T WE SAY THAT PEOPLE ARE PRESUMED INNOCENT UNTIL

7-5  
1 THEY ARE PROVED GUILTY?

2 MS. BECKING: THAT'S RIGHT.

3 MR. BARENS: OKAY, NOW JUST BECAUSE JOE HUNT IS SITTING  
4 AT THE END OF THAT TABLE AND I AM ONLY TALKING TO YOU ABOUT  
5 THE DEATH PENALTY, DO YOU THINK HE MUST HAVE DONE SOMETHING  
6 WRONG?

7 MS. BECKING: WELL, I WOULD HAVE TO HEAR THE EVIDENCE  
8 BEFORE I COULD SAY ONE WAY OR THE OTHER.

9 MR. BARENS: RIGHT, BECAUSE -- AND I THINK THE JUDGE  
10 WOULD BE THE FIRST ONE TO INSTRUCT YOU AND HE WILL IN TIME  
11 THAT MR. HUNT HAS AN ABSOLUTE PRESUMPTION OF INNOCENCE AND  
12 THAT WHAT WE ARE DOING HERE, MA'AM, IS WHAT THE LAW REQUIRES,  
13 TO IMPANEL A JURY, WE HAVE TO ASK ABOUT THE DEATH PENALTY  
14 BUT THAT DOES NOT MEAN TO SUGGEST TO YOU IN ANY WAY, SHAPE  
15 OR FORM THAT THIS YOUNG MAN HAS DONE ANYTHING WRONG. IT IS  
16 JUST SOMETHING WE HAVE GOT TO DO NOW; DO YOU UNDERSTAND  
17 THAT?

18 MS. BECKING: I UNDERSTAND THAT.

19 MR. BARENS: DO YOU BELIEVE THAT?

20 MS. BECKING: I DO.

21 MR. BARENS: OKAY, THANK YOU FOR YOUR TIME.

22 THE DEFENSE PASSES FOR CAUSE, YOUR HONOR.

23 THE COURT: ALL RIGHT.

24 MR. WAPNER: MRS. BECKING, IF IT IS NOT GETTING TOO  
25 PERSONAL, CAN YOU SEE WITHOUT YOUR GLASSES?

26 MS. BECKING: WELL, I WOULD HAVE TO PUT MY OTHER ONES  
27 ON.

28 MR. WAPNER: OKAY, IT JUST WILL HELP ME A LITTLE BIT

17-6

1 IF I CAN SEE YOUR EYES WHEN I AM ASKING YOU THE QUESTIONS.

2 (WHEREUPON, PROSPECTIVE JUROR CHANGES

3 GLASSES.)

4 MS. BECKING: IS THAT BETTER?

5 MR. WAPNER: THAT IS GREAT. THANK YOU.

6 HAD YOU GIVEN MUCH THOUGHT TO THE QUESTION OF THE  
7 DEATH PENALTY BEFORE YOU CAME INTO THIS COURTROOM TO SIT AS  
8 A JUROR?

9 MS. BECKING: YES, I HAVE, UH-HUH.

10 MR. WAPNER: AND WHAT DID YOU THINK ABOUT?

11 MS. BECKING: WELL, LIKE I SAID TO THE JUDGE AND TO THE  
12 OTHER ATTORNEY, I HAVE TO WEIGH THE EVIDENCE AND, YOU KNOW,  
13 LISTEN TO BOTH SIDES AND THEN DECIDE FROM THERE.

14 MR. WAPNER: DO YOU REMEMBER VOTING FOR OR AGAINST THE  
15 DEATH PENALTY WHEN IT WAS ON THE BALLOT SEVERAL YEARS AGO?

16 MS. BECKING: NO, I DON'T, TO TELL YOU THE TRUTH.  
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1 MR. WAPNER: OKAY, WHEN MR. BARENS WAS ASKING YOU ABOUT  
2 SERIAL KILLING AND THEN HE SAID ARE THERE ANY OTHER SITUATIONS  
3 WHERE YOU WOULD CONSIDER THE DEATH PENALTY YOU SAID NO, WHAT  
4 DID YOU MEAN BY THAT?

5 MS. BECKING: WELL, I JUST WOULD -- THAT IS THE ONLY  
6 SITUATION I CAN THINK OF.

7 MR. WAPNER: WERE YOU USING THAT AS AN EXAMPLE, KIND OF?

8 MS. BECKING: YES, MORE OR LESS, YES.

9 MR. WAPNER: IS THAT THE ONLY SITUATION THAT YOU CAN  
10 THINK OF IN YOUR MIND?

11 MS. BECKING: THAT IS THE ONLY ONE I CAN THINK OF, YES.

12 MR. BARENS: EXCUSE ME, YOUR HONOR. I BELIEVE AFTER  
13 THAT YOUR HONOR INQUIRED WHAT WOULD HER OPINION BE IF THERE  
14 WERE ONLY A SINGLE HOMICIDE?

15 MR. WAPNER: WELL, I UNDERSTAND THAT BUT I AM ENTITLED  
16 TO ASK THE QUESTIONS THE WAY I WANT TO ASK THEM.

17 THE COURT: LET HIM ASK. GO AHEAD, YOU CAN ANSWER THE  
18 QUESTION.

19 MR. BARENS: THANK YOU.

20 THE COURT: DO YOU WANT TO HAVE IT READ BACK?

21 MR. WAPNER: NO. I THINK SHE ANSWERED THAT ONE AND WE  
22 ARE INTO THE NEXT ONE.

23 THE COURT: ALL RIGHT, GO AHEAD.

24 MR. WAPNER: IF IN THIS CASE THERE IS ONLY ONE MURDER  
25 AND YOU ARE ON THE JURY AND YOU ARE IN THE PENALTY PHASE AND  
26 THE QUESTION IS, SHOULD THE DEFENDANT SPEND THE REST OF HIS  
27 LIFE IN PRISON OR SHOULD HE GET THE DEATH PENALTY IN THE GAS  
28 CHAMBER AND YOU HAVE TO CAST YOUR OWN INDIVIDUAL BALLOT, IS

7-8

1 THAT A DECISION YOU ARE CAPABLE OF MAKING?

2 MS. BECKING: I WOULD BE CAPABLE OF MAKING IT, YES.

3 MR. WAPNER: BUT IF YOU KNEW THERE WAS ONLY ONE MURDER,  
4 REGARDLESS OF THE FACTS NOW, BUT IF YOU KNEW THERE WAS ONLY  
5 ONE MURDER AND NOT SEVERAL, IS THAT A SITUATION WHERE YOU COULD  
6 VOTE TO IMPOSE THE DEATH PENALTY?

7 MS. BECKING: WELL, I WOULD HAVE TO WEIGH THE EVIDENCE,  
8 YOU KNOW.

9 MR. WAPNER: OKAY, BUT IF THERE IS ONLY ONE MURDER AND  
10 THE EVIDENCE IN YOUR MIND POINTS TO THE FACT THAT HE SHOULD  
11 GET THE DEATH PENALTY, COULD YOU VOTE FOR THE DEATH PENALTY  
12 EVEN THOUGH THERE WAS ONLY ONE MURDER?

13 MS. BECKING: I DON'T THINK SO.

14 MR. WAPNER: WHY?

15 MS. BECKING: WELL, I JUST DON'T KNOW WHY REALLY. IT  
16 IS JUST HOW I FEEL.

17 MR. WAPNER: OKAY, BUT --

18 THE COURT: IN OTHER WORDS, IN NO INSTANCES, WILL YOU  
19 EVER VOTE FOR THE DEATH PENALTY WHERE THERE IS A SINGLE MURDER  
20 AND NOT MULTIPLE MURDERS; IS THAT RIGHT?

21 MS. BECKING: I JUST MIGHT. I WOULD HAVE TO HEAR ALL  
22 OF THE EVIDENCE AND --

23 THE COURT: YOU JUST GOT THROUGH TELLING US THAT IF IT  
24 IS A SINGLE MURDER, YOU CANNOT VOTE FOR THE DEATH PENALTY.

25 MS. BECKING: WELL, I JUST REALLY DON'T KNOW WHETHER  
26 I COULD OR NOT.

27 MR. WAPNER: OKAY, MR. BARENS MAY HAVE SAID THIS BEFORE --  
28 I AM NOT TRYING TO GET YOU TO SAY ANYTHING ONE WAY OR THE OTHER

1 AND THERE IS NOT A RIGHT ANSWER OR A WRONG ANSWER BUT IT IS  
2 IMPORTANT TO KNOW HOW YOU REALLY FEEL ABOUT THIS: CAN YOU  
3 IMAGINE YOURSELF IN THE JURY ROOM IN THIS CASE TRYING TO  
4 DECIDE ON WHAT THE PENALTY SHOULD BE, CAN YOU SEE THAT?

5 MS. BECKING: YES, YES.

6 MR. WAPNER: IF YOU ARE IN THAT SITUATION AND THE EVIDENCE  
7 POINTS TO THE FACT THAT THE DEFENDANT SHOULD GET THE DEATH  
8 PENALTY AND THE EVIDENCE ALSO IS THAT THERE IS ONLY ONE MURDER  
9 INVOLVED HERE, COULD YOU NEVERTHELESS IMPOSE IT?

10 MR. BARENS: OBJECTION, YOUR HONOR. COULD WE APPROACH  
11 THE BENCH ON THAT QUESTION?

12 THE COURT: ALL RIGHT.

13 MR. BARENS: THANK YOU.

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1 (THE FOLLOWING PROCEEDINGS WERE HELD  
2 AT THE BENCH:)

3 THE COURT: YES?

4 MR. BARENS: YOUR HONOR, I AM ONLY TAKING THIS COURT'S  
5 TIME BECAUSE THAT IS A FUNDAMENTAL CONCERN TO THE DEFENSE.  
6 THE QUESTION PROPERLY, UNDER ALL OF THE CASES, IS NOT WOULD  
7 SHE VOTE FOR THE DEATH PENALTY, BUT WOULD SHE CONSIDER  
8 VOTING FOR THE DEATH PENALTY.

9 THE OPERATIVE WORD IS "CONSIDER". THE PEOPLE  
10 CANNOT COMPEL THE PROSPECTIVE JUROR TO TELL THEM THAT THEY  
11 WOULD VOTE FOR THE DEATH PENALTY OR THAT THEY WOULD VOTE FOR  
12 LIFE WITHOUT POSSIBILITY OF PAROLE. THE QUESTION IS  
13 "CONSIDER."

14 MR. WAPNER IS UNIFORMLY ASKING THE PROSPECTIVE  
15 JURORS TO TELL HIM THAT THEY WOULD COMMIT TO HIM THAT THEY  
16 WOULD VOTE FOR THE DEATH PENALTY.

17 THE COURT: WELL, CONSIDER DOESN'T MEAN ANYTHING, IN  
18 EFFECT. MERELY TO CONSIDER IT, I WILL CONSIDER IT BUT I WILL  
19 STILL VOTE FOR THE DEATH PENALTY, ANYWAY.

20 MR. BARENS: BUT YOUR HONOR, I THINK THAT THE CASES  
21 TALK ABOUT THE WORD "CONSIDER" AS THE OPERATIVE TEST AND  
22 STANDARD.

23 THE COURT: YES?

24 MR. WAPNER: MY POINT IS EXACTLY THE SAME AS THE  
25 COURT'S. IF CONSIDER IS JUST AN INTELLECTUAL EXERCISE, THEN  
26 IT IS ABSOLUTELY MEANINGLESS. THE POINT IS, WHEN IT GETS  
27 DOWN TO IT, CAN THEY DO IT OR CAN THEY NOT?

28 IF FOR EXAMPLE, MR. BALLOW WITH HIS ABSOLUTELY

1 FIRM BELIEFS THAT HE WOULD IMPOSE THE DEATH PENALTY, COULD  
2 SAY THAT HE WOULD SIT IN THE JURY ROOM AND CONSIDER SOMETHING,  
3 WHAT DIFFERENCE DOES IT MAKE IF HE WOULD CONSIDER IT WHEN  
4 HE WOULD NEVER DO IT?

5 MR. BARENS: EXCUSE ME, YOUR HONOR. BUT I ASKED  
6 MR. BALLEW IF HE COULD CONSIDER IT. HE SAID HE COULDN'T.

7 HE SAID THAT HE WOULDN'T CONSIDER ANY OF THE  
8 INSTRUCTIONS YOUR HONOR GAVE HIM.

9 THE OPERATIVE WORD I USED WAS "CONSIDER". I DID NOT  
10 ASK HIM TO COMMIT TO WHETHER HE WOULD VOTE FOR THE DEATH PENALTY,  
11 EVEN THOUGH HE EXPRESSED --

12 THE COURT: WELL, IF YOU ASKED HER WHETHER SHE WOULD  
13 CONSIDER IT AND SHE SAID YES --

14 MR. BARENS: THAT IS SUFFICIENT.

15 THE COURT: DOES THAT MEAN THEN THAT IN THE PROPER CASE,  
16 WOULD SHE VOTE FOR THE DEATH PENALTY? YOU CAN ASK HER THAT  
17 AFTER THAT.

18 MR. WAPNER: ALL RIGHT. THAT IS FINE. THANK YOU.

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

21 MR. WAPNER: MS. BECKING, I KNOW YOU THINK WE ARE BEATING  
22 A DEAD HORSE HERE. BUT I REALLY NEED TO KNOW IN A SITUATION  
23 THAT INVOLVES A DEFENDANT CHARGED WITH MURDERING ONE PERSON,  
24 WHEN YOU ARE IN THE JURY ROOM TRYING TO DECIDE WHAT THE  
25 APPROPRIATE PUNISHMENT SHOULD BE, COULD YOU CONSIDER VOTING  
26 FOR THE DEATH PENALTY?

27 MS. BECKING: YES.

28 MR. WAPNER: AND AFTER HAVING CONSIDERED VOTING FOR



1 THE DEATH PENALTY, COULD YOU ACTUALLY VOTE FOR IT IF YOU THOUGHT  
2 IT WAS THE APPROPRIATE PUNISHMENT?

3 MS. BECKING: YES.

4 MR. WAPNER: EVEN THOUGH A PERSON WAS CHARGED WITH AND  
5 CONVICTED OF ONLY KILLING ONE PERSON?

6 MS. BECKING: YES.

7 MR. WAPNER: WOULD IT BE MORE DIFFICULT FOR YOU TO VOTE  
8 FOR THE DEATH PENALTY IN A CASE WHERE THE DEFENDANT IS  
9 CHARGED WITH KILLING ONE PERSON?

10 MR. BARENS: OBJECTION, IRRELEVANT.

11 THE COURT: SUSTAINED.

12 MR. BARENS: THANK YOU.

13 MR. WAPNER: MAY I HAVE A MOMENT PLEASE?

14 THE COURT: YES.

15 (PAUSE.)

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1 MR. WAPNER: WOULD THE FACT THAT THE DEFENDANT IS  
2 CHARGED WITH ONLY ONE MURDER, PREVENT OR SUBSTANTIALLY  
3 IMPAIR YOU FROM VOTING FOR THE DEATH PENALTY IN AN  
4 APPROPRIATE CASE?

5 MS. BECKING: NO.

6 MR. WAPNER: DO YOU HAVE ANY STRONGLY HELD RELIGIOUS,  
7 MORAL OR PHILOSOPHICAL CONVICTIONS FOR OR AGAINST THE DEATH  
8 PENALTY?

9 MS. BECKING: NO I DON'T.

10 MR. WAPNER: WHEN YOU ARE IN THE GUILT PHASE OF THE  
11 TRIAL, THE JUDGE WILL TELL YOU THAT YOU CAN'T CONSIDER  
12 PENALTY IN DECIDING WHETHER A DEFENDANT IS GUILTY OR INNOCENT.  
13 IF HE TELLS YOU THAT, COULD YOU FOLLOW THAT INSTRUCTION?

14 MS. BECKING: YES I CAN.

15 MR. WAPNER: DO YOU UNDERSTAND THAT THAT MEANS THAT  
16 WHEN YOU ARE MAKING A DECISION ON WHETHER HE IS GUILTY OR  
17 INNOCENT, YOU ARE NOT SUPPOSED TO BE THINKING ABOUT WHAT  
18 MIGHT HAPPEN TO HIM IF YOU FIND HIM GUILTY?

19 MS. BECKING: WILL YOU REPEAT THAT AGAIN?

20 MR. WAPNER: SURE. WHEN YOU ARE MAKING A DECISION AS  
21 TO WHETHER OR NOT A MURDER WAS COMMITTED AND WHETHER OR NOT  
22 THE DEFENDANT DID IT, YOU ARE SUPPOSED TO DECIDE THAT  
23 QUESTION BASED ON FACTS AND ON THE EVIDENCE, WITHOUT THINKING  
24 ABOUT WHAT MIGHT HAPPEN TO THE PERSON, IF YOU FOUND HIM GUILTY.  
25 DO YOU UNDERSTAND THAT?

26 MS. BECKING: YES.

27 MR. WAPNER: COULD YOU DO THAT?

28 MS. BECKING: YES.

1 MR. WAPNER: DOES THAT MAKE SENSE TO YOU?

2 MS. BECKING: YES IT DOES, NOW.

3 MR. WAPNER: OKAY. IN A CRIME CHARGED IN THE STATE  
4 OF CALIFORNIA, THE PEOPLE ARE REQUIRED TO PROVE THE DEFENDANT  
5 GUILTY BEYOND A REASONABLE DOUBT. IF YOU ARE SITTING ON THIS  
6 CASE ON THE GUILT PHASE AND YOU KNOW THAT THERE IS ONLY ONE  
7 MURDER CHARGE AND YOU KNOW THERE IS A POSSIBILITY OF THE DEATH  
8 PENALTY SOMEWHERE DOWN THE LINE, ARE YOU GOING TO RAISE THAT  
9 STANDARD OF PROOF TO SOMETHING LIKE ABSOLUTE PROOF OR  
10 SOMETHING LIKE THAT?

11 MR. BARENS: YOUR HONOR, I BELIEVE YOUR HONOR WOULD  
12 INSTRUCT ON THE BURDEN OF PROOF. THE QUESTION IS, WOULD SHE  
13 FOLLOW YOUR HONOR'S INSTRUCTIONS ON THE BURDEN OF PROOF.

14 MR. WAPNER: WELL, IT IS ANOTHER WAY OF ASKING THE SAME  
15 QUESTION.

16 THE COURT: WELL, NO. I WILL SUSTAIN THE OBJECTION.  
17 I DON'T THINK WE HAVE TO HAVE AN ANSWER TO THAT.

18 MR. WAPNER: BECAUSE THERE IS A POSSIBILITY OF THE DEATH  
19 PENALTY EXISTING IN THIS CASE, ARE YOU GOING TO REQUIRE THE  
20 PEOPLE TO PROVE THE CASE BY MORE EVIDENCE THAN YOU WOULD IF  
21 THERE WASN'T THE DEATH PENALTY LOOMING SOMEWHERE IN THE  
22 BACKGROUND?

23 MR. BARENS: SAME OBJECTION.

24 THE COURT: DO YOU KNOW THAT IN EVERY, SINGLE CASE, WHETHER  
25 IT IS A MURDER CASE WITH A DEATH PENALTY OR WHETHER IT IS  
26 GOING THROUGH A RED LIGHT, IN A CRIMINAL CASE, IT IS THE SAME  
27 BURDEN OF PROOF?

28 IN OTHER WORDS, EVERY DEFENDANT NO MATTER WHAT

1 KIND OF CASE IT IS, IS PRESUMED TO BE INNOCENT UNTIL THE  
2 CONTRARY IS PROVED. AND YOU CAN ONLY BE FOUND GUILTY BEYOND  
3 A REASONABLE DOUBT, WHEN THE EVIDENCE SHOWS IT IS BEYOND A  
4 REASONABLE DOUBT. YOU WILL FOLLOW THAT, WILL YOU NOT?

5 MS. BECKING: YES. I WOULD FOLLOW THAT.

6 THE COURT: YOU WOULDN'T REQUIRE ANY MORE THAN THAT  
7 JUST BECAUSE IT HAPPENS TO BE A MURDER CASE?

8 MS. BECKING: NO. NO, I WOULDN'T.

9 MR. WAPNER: OR JUST BECAUSE IT HAPPENED TO BE A DEATH  
10 PENALTY CASE?

11 MS. BECKING: UH-HUH.

12 MR. WAPNER: RIGHT?

13 MS. BECKING: NO, IT IS RIGHT.

14 MR. WAPNER: OKAY. THANK YOU. PASS FOR CAUSE.

15 THE COURT: ALL RIGHT. MISS BECKING, BOTH SIDES HAVE  
16 AGREED THAT YOU HAVE QUALIFIED AS A JUROR IN THIS CASE.

17 SO, WHAT I WILL ASK YOU TO DO IS, COME BACK HERE  
18 WEDNESDAY AT 1:45, A QUARTER OF 2:00 ON WEDNESDAY OF THIS  
19 WEEK. REPORT BACK TO THE JURY ASSEMBLY ROOM. THERE WILL  
20 BE ALL THE OTHER JURORS THERE.

21 YOU COME IN WITH THEM. WE'LL START COMING IN  
22 ON THIS TRIAL.

23 MS. BECKING: ALL RIGHT.

24 THE COURT: IN THE MEANTIME, DON'T READ ANYTHING ABOUT  
25 THE CASE IF YOU CAN HELP IT. DON'T TALK TO ANYBODY ABOUT  
26 IT. THANK YOU VERY MUCH.

27 (RECESS.)

28

1 THE CLERK: IF YOU WOULD HAVE A SEAT ON THE WITNESS  
2 STAND AND IF YOU WOULD STATE YOUR NAME FOR THE RECORD, PLEASE.

3 MS. BLANK: ANN BLANK.

4 THE COURT: IS THAT MISS BLANK?

5 MS. BLANK: YES.

6 THE COURT: MISS BLANK, WHERE DO YOU LIVE?

7 MS. BLANK: SANTA MONICA.

8 THE COURT: HAVE YOU EVER READ ANYTHING AT ALL ABOUT THIS  
9 CASE OR HEARD ANYTHING AT ALL ABOUT THIS CASE?

10 MS. BLANK: I DON'T THINK SO.

11 THE COURT: DOES THE BILLIONAIRES BOYS CLUB MEAN ANYTHING  
12 TO YOU?

13 MS. BLANK: NO.

14 THE COURT: ALL RIGHT, IF YOU READ ANYTHING ABOUT IT  
15 IF YOU ARE ACCEPTED AS A TENTATIVE JUROR, TRY NOT TO LISTEN  
16 TO ANYTHING ON THE RADIO OR TELEVISION OR READ ANYTHING ABOUT  
17 IT IN THE NEWSPAPERS. IN OTHER WORDS, WE WANT TO HAVE YOUR  
18 MIND PERFECTLY OPEN ABOUT ALL OF THE FACTS IN THE CASE,  
19 INSTEAD OF HAVING IT INFLUENCED BY PROBABLY, SOMETIMES MISTAKEN  
20 IDEAS AS TO WHAT THE CASE IS ABOUT AS REPORTED IN THE NEWS-  
21 PAPERS, ALL RIGHT?

22 MS. BLANK: OKAY.

23 THE COURT: ALL RIGHT, I TOLD YOU THAT THIS CASE IS ONE  
24 WHERE THE PEOPLE ALLEGE THAT THE DEFENDANT COMMITTED A MURDER  
25 AND THAT MURDER WAS COMMITTED IN THE COURSE OF A ROBBERY.  
26 THAT IS WHAT IS KNOWN AS A SPECIAL CIRCUMSTANCE.

27 I TOLD YOU THAT THE LEGISLATURE HAS SAID THERE  
28 ARE 19 KINDS OF MURDERS WHERE THE DEATH PENALTY OR LIFE

9-2

1 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE ARE APPLICABLE.

2 MERELY BECAUSE SOMEONE COMMITS A MURDER AND IT  
3 IS DELIBERATE AND INTENTIONAL AND PREMEDITATED DOESN'T MEAN  
4 THAT MURDER QUALIFIES FOR THE DEATH PENALTY; DO YOU UNDERSTAND?

5 MS. BLANK: YES.

6 THE COURT: IT IS ONLY WHERE IT IS ACCOMPANIED BY CERTAIN  
7 SPECIAL CIRCUMSTANCES, LIKE IF IT WAS COMMITTED DURING THE  
8 COURSE OF A ROBBERY, A BURGLARY OR RAPE OR KIDNAPPING, MULTIPLE  
9 MURDERS, CHILD MOLESTATION AND SO ON AND SO FORTH, IT IS ONLY  
10 WHEN THE MURDER IS COMMITTED UNDER THOSE CIRCUMSTANCES, WHAT  
11 THEY CALL SPECIAL CIRCUMSTANCES, DOES IT QUALIFY FOR THE DEATH  
12 PENALTY.

13 MS. BLANK: UH-HUH.

14 THE COURT: WHEN I TALK ABOUT THE DEATH PENALTY, THE  
15 DEATH PENALTY INVOLVES TWO THINGS: IT MAY BE EITHER LIFE  
16 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE -- WHICH MEANS  
17 EXACTLY THAT: NO PAROLE. WHEN HE GETS IN THERE, HE IS IN  
18 THERE FOR LIFE. OR IT MEANS THAT IS DEATH IN THE GAS  
19 CHAMBER; DO YOU UNDERSTAND THAT?

20 MS. BLANK: UH-HUH.

21 THE COURT: NOW, THE JURY WHICH WILL BE SELECTED WOULD  
22 FIRST HAVE TO DETERMINE THE GUILT OR INNOCENCE OF THE DEFENDANT,  
23 IS HE OR IS HE NOT GUILTY OF MURDER?

24 AND IF HE IS GUILTY, WAS THAT MURDER IN THE FIRST  
25 DEGREE? AND IF SO, WAS IT COMMITTED IN THE COURSE OF A  
26 ROBBERY, WHICH THEN QUALIFIES IT AS A DEATH PENALTY CASE.

27 IF THE JURY SAYS IT IS TRUE IT WAS COMMITTED  
28 DURING THE COURSE OF A ROBBERY, THEN THAT SAME JURY HAS TO

19-3

1 DETERMINE WHAT WE CALL THE PENALTY.

2 FIRST, WE HAVE THE GUILT PHASE, GUILTY OR NOT  
3 GUILTY AND THEN WE HAVE THE PENALTY PHASE WHERE BOTH SIDES  
4 INTRODUCE ADDITIONAL TESTIMONY.

5 THE TESTIMONY OF THE DEFENDANT THAT YOU MUST  
6 CONSIDER ON THE DEATH PENALTY PHASE, FIRST, THE AGE OF THE  
7 DEFENDANT AND THE PRIOR HISTORY, WAS HE OR WAS HE NOT CONVICTED  
8 IN THE PAST OF SOME VIOLENT CRIMES OR HIS CHARACTER, HIS  
9 BACKGROUND, EVERYTHING RELATING TO THE DEFENDANT AS A PERSON  
10 MAY BE CONSIDERED, ANYTHING FAVORABLE MAY BE CONSIDERED BY  
11 THE JURY IN DETERMINING WHICH OF THE TWO PENALTIES SHOULD BE  
12 IMPOSED.

13 THE PROSECUTION, ON THE OTHER HAND, WILL ATTEMPT  
14 TO SHOW THAT HE IS A BAD PERSON, UNFAVORABLE THINGS ABOUT  
15 HIM, SO THAT THE DEATH PENALTY MIGHT BE JUSTIFIED; DO YOU  
16 UNDERSTAND THAT?

17 MS. BLANK: YES.

18 THE COURT: THEN THE JURY HEARS ALL OF THAT AND THEN  
19 THEY DETERMINE WHAT IT SHOULD BE, WHETHER IT SHOULD BE LIFE  
20 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE OR SHOULD IT  
21 BE DEATH; DO YOU UNDERSTAND THAT?

22 MS. BLANK: UH-HUH.

23 THE COURT: THE PURPOSE OF HAVING YOU IN IS TO EXPLORE  
24 YOUR MIND TO DETERMINE WHAT YOUR STATE OF MIND IS WITH  
25 RESPECT TO THE DEATH PENALTY, YOUR OPINION ABOUT IT. I WILL  
26 ASK YOU SOME QUESTIONS ABOUT IT AND THEN ALSO COUNSEL WILL  
27 ASK YOU FURTHER QUESTIONS.

28 NOW, THE FIRST TWO QUESTIONS RELATE TO THE GUILT

1 PHASE OF THE CASE, IN OTHER WORDS, THE FINDING OF WHETHER OR  
2 NOT HE IS GUILTY OR NOT GUILTY AND WHETHER OR NOT IT WAS IN  
3 THE COURSE OF A ROBBERY ON THE GUILT PHASE.

4 DO YOU HAVE ANY OPINION REGARDING THE DEATH  
5 PENALTY, WHATEVER THAT OPINION MAY BE, THAT WOULD PREVENT YOU  
6 FROM MAKING AN IMPARTIAL DECISION AS TO THE GUILT OR INNOCENCE  
7 OFD THE DEFENDANT?

8 MS. BLANK: I THINK THAT I AM FOR THE DEATH PENALTY IN  
9 CERTAIN CIRCUMSTANCES BUT THAT I -- I MIGHT NOT BE OBJECTIVE  
10 ENOUGH BECAUSE OF THE OTHER CONSIDERATIONS, LIKE YOU SAID ABOUT  
11 THE SITUATION, YOU KNOW.

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1 THE COURT: WE HAVEN'T COME TO THAT YET.

2 MS. BLANK: OH, OKAY.

3 THE COURT: WHATEVER YOUR OPINION MIGHT BE AS TO THE  
4 DEATH PENALTY, WOULD THAT PREVENT YOU FROM MAKING AN IMPARTIAL  
5 DECISION AS TO WHETHER THE DEFENDANT IS GUILTY OR NOT GUILTY  
6 OF MURDER?

7 MS. BLANK: NO, I AM NOT REALLY CLEAR ON IT MYSELF.

8 THE COURT: THE FIRST PHASE OF THE TRIAL IS CALLED THE  
9 GUILT PHASE AND THAT HAS NOTHING TO DO WHATEVER --

10 MS. BLANK: WITH THE PENALTY?

11 THE COURT: -- WITH THE PENALTY, NOTHING WHATEVER.

12 MS. BLANK: I THINK I COULD LOOK FOR HIS GUILT AND SAY  
13 YES OR NO.

14 THE COURT: YES OR NO?

15 MS. BLANK: YES.

16 THE COURT: AS TO WHETHER HE IS GUILTY?

17 AND WHATEVER YOUR OPINION AS TO THE DEATH PENALTY  
18 MAY BE, THAT IS NOT GOING TO INFLUENCE YOU IN DETERMINING HIS  
19 GUILT OR INNOCENCE?

20 MS. BLANK: IN DETERMINING GUILT OR INNOCENCE?

21 THE COURT: IS THAT CORRECT?

22 MS. BLANK: YES.

23 THE COURT: SO YOUR ANSWER IS NO.

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

27 MS. BLANK: REGARDING THE GUILT OR INNOCENCE, NO.

28 THE COURT: LATER ON WE WILL COME TO THE OTHER ONE.

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1                   NOW, DO YOU HAVE ANY OPINION REGARDING THE DEATH  
2 PENALTY THAT WOULD PREVENT YOU FROM MAKING AN IMPARTIAL  
3 DECISION CONCERNING THE TRUTH OR FALSITY OF THE SPECIAL  
4 CIRCUMSTANCE, IN OTHER WORDS, THE TRUTH OR FALSITY OF THE  
5 SPECIAL CIRCUMSTANCE, IF IT IS TRUE THAT IT WAS COMMITTED  
6 DURING THE COURSE OF A ROBBERY OR IT ISN'T TRUE?

7           MS. BLANK: NO, I COULD STILL GIVE MY TRUE OPINION ON  
8 WHAT I HEARD.

9           THE COURT: WHATEVER YOUR OPINION AS OF THE DEATH  
10 PENALTY IS, IT WOULDN'T INFLUENCE YOU ONE WAY OR THE OTHER --

11          MS. BLANK: I DON'T THINK SO.

12          THE COURT: -- IN DETERMINING WHETHER OR NOT --

13                   THE NEXT QUESTION HAS TO DO WITH THE PENALTY PHASE  
14 OF THE TRIAL: DO YOU HAVE ANY OPINION CONCERNING THE DEATH  
15 PENALTY THAT WOULD CAUSE YOU AUTOMATICALLY TO VOTE TO IMPOSE  
16 THE DEATH PENALTY REGARDLESS OF ANY EVIDENCE THAT MAY BE  
17 PRESENTED AT THE PENALTY PHASE OF THE TRIAL?

18          MS. BLANK: DO I HAVE AN OPINION WHICH WOULD CAUSE ME  
19 TO VOTE FOR IT?

20          THE COURT: AUTOMATICALLY.

21          MS. BLANK: AUTOMATICALLY, NO.

22          THE COURT: IN OTHER WORDS, YOU WOULD LISTEN TO ALL OF  
23 THE EVIDENCE --

24          MS. BLANK: RIGHT.

25          THE COURT: -- ON THE PENALTY PHASE BEFORE YOU WOULD  
26 MAKE UP YOUR MIND?

27          MS. BLANK: RIGHT.

28          THE COURT: THE SAME WAY, THE NEXT QUESTION HAS TO DO

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1 WITH THE SAME THING, EXCEPT FOR THE POSSIBILITY OF LIFE  
2 IMPRISONMENT: DO YOU HAVE SUCH AN OPINION CONCERNING THE  
3 DEATH PENALTY THAT YOU WOULD AUTOMATICALLY VOTE FOR LIFE  
4 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE, REGARDLESS  
5 OF ANY EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY PHASE  
6 OF THE TRIAL?

7 MS. BLANK: I --

8 THE COURT: WOULD YOU AUTOMATICALLY VOTE FOR THE DEATH  
9 PENALTY --

10 MS. BLANK: NO.

11 THE COURT: -- OR FOR LIFE IMPRISONMENT WITHOUT THE  
12 POSSIBILITY OF PAROLE --

13 MS. BLANK: NO, NO.

14 THE COURT: -- AUTOMATICALLY?

15 MS. BLANK: I WOULDN'T AUTOMATICALLY.

16 THE COURT: YOU WOULD CONSIDER ALL OF THE EVIDENCE --

17 MS. BLANK: YES.

18 THE COURT: -- ON THE PENALTY PHASE, WOULD YOU NOT?

19 MS. BLANK: YES.

20 THE COURT: OKAY, THE NEXT QUESTION IS: YOU UNDERSTAND  
21 THAT THE ISSUE OF THE DEATH PENALTY MAY OR MAY NOT OCCUR IN  
22 THIS CASE AND THAT THESE QUESTIONS HAVE BEEN ASKED ONLY IN  
23 THE EVENT YOU REACH THAT PHASE OF THE CASE, THE PENALTY PHASE  
24 OF THE TRIAL; DO YOU UNDERSTAND THAT?

25 MS. BLANK: YES.

26 MR. BARENS: THANK YOU, YOUR HONOR.

27 GOOD AFTERNOON.

28 IT WAS MS. BLANK, WAS IT?

1 MS. BLANK: YES, MS.

2 MR. BARENS: MS. BLANK, I AM ARTHUR BARENS.

3 THE COURT: I ASKED YOU WHERE YOU LIVE?

4 MS. BLANK: SANTA MONICA, YES.

5 MR. BARENS: SANTA MONICA, I BELIEVE, WAS IT?

6 MS. BLANK: YES.

7 MR. BARENS: I AM ARTHUR BARENS AND I REPRESENT THE  
8 DEFENDANT, JOE HUNT, AND AT THIS STAGE OF THE PROCEEDINGS IT  
9 IS MY OBLIGATION, AS IT WAS HIS HONOR'S, TO ASK ABOUT YOUR  
10 POINT OF VIEW ON THE DEATH PENALTY.

11 NOW PLEASE UNDERSTAND THAT THERE ARE NO RIGHT OR  
12 WRONG ANSWERS TO MY QUESTIONS AND NONE OF US HERE ARE GOING  
13 TO JUDGE ANY OF YOUR ANSWERS BECAUSE YOU CAN'T BE WRONG ABOUT  
14 YOUR OWN OPINION. YOU ARE CERTAINLY ENTITLED TO IT.

15 WHAT WE ARE LOOKING FOR IS AS NEUTRAL A JUROR AS  
16 POSSIBLE, NEUTRAL TO BOTH THE PROSECUTION AND THE DEFENSE,  
17 IF WE EVER GET TO THAT SECOND PHASE IN THIS CASE, THE PENALTY  
18 PHASE.

19 NOW, A LOT OF PEOPLE IN OUR SOCIETY FEEL THAT TOO  
20 MANY MURDERERS HAVE BEEN PUT INTO PRISON AND THAT WE SHOULD  
21 HAVE THE DEATH PENALTY FOR PEOPLE THAT COMMIT FIRST DEGREE  
22 MURDER AND AT THIS POINT, I AM NOT SAYING WHETHER THAT IS RIGHT  
23 OR WRONG. IF THAT IS SOMEONE'S OPINION, THAT IS THEIR  
24 OPINION, THERE IS NOTHING RIGHT OR WRONG ABOUT THAT; DO YOU  
25 FEEL THAT IS YOUR OPINION?

26 MS. BLANK: NO.

27 I FEEL THAT THEY SHOULD HAVE A DEATH PENALTY IN  
28 A LOT OF CASES BUT -- IF I CAN ADD THAT I AM AFRAID THAT I

1 WOULD MAYBE MAKE SOME CIRCUMSTANCES LIKE IF SOMETHING WAS DONE  
2 IN A MOMENT OF PANIC THAT I -- I CAN'T SAY -- I THINK I MIGHT  
3 NOT BE OBJECTIVE ON THAT.

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1 THE COURT: NO. YOU START OUT --

2 MS. BLANK: I MIGHT NOT BE OBJECTIVE ENOUGH.

3 THE COURT: YOU START OUT WITH HAVING CONVICTED THE  
4 DEFENDANT DELIBERATELY OF COMMITTING A MURDER, DELIBERATELY  
5 AND A PREMEDITATED MURDER, ALL RIGHT? AND THAT IT IS  
6 INTENTIONALLY COMMITTED DURING THE COURSE OF A ROBBERY. OKAY?

7 FORGET ABOUT ANYTHING ELSE THAT YOU MIGHT THINK,  
8 IMPULSE OR WHETHER IT IS JUSTIFIED. FORGET ABOUT ALL THAT.

9 YOU HAVE CONVICTED HIM NOW OF MURDER IN THE FIRST  
10 DEGREE.

11 NOW, THE QUESTION FOR YOU TO DETERMINE IS, WHAT  
12 PENALTY SHOULD BE IMPOSED ON HIM, IF ANY? DO YOU UNDERSTAND  
13 THAT?

14 MS. BLANK: UH-HUH.

15 THE COURT: THAT IS WHAT COUNSEL MEANS.

16 MR. BARENS: RIGHT. MS. BLANK, LET ME TRY TO GIVE YOU  
17 THE SETTING IN WHICH YOU WOULD EVER COME TO THIS QUESTION  
18 BEFORE WE GET TO THE PENALTY PHASE ON THIS. YOU AND THE OTHER  
19 JURORS WOULD HAVE TO BELIEVE BEYOND A REASONABLE DOUBT THAT  
20 MY CLIENT HAD COMMITTED A FIRST DEGREE MURDER, ONE OF THOSE  
21 INTENTIONAL, PREMEDITATED, FIRST DEGREE MURDERS.

22 MS. BLANK: OKAY.

23 MR. BARENS: UNJUSTIFIABLE, NO PANIC, NO SELF-DEFENSE,  
24 NO JUSTIFICATION AT ALL AND THAT IT WAS COMMITTED DURING THE  
25 COURSE OF A ROBBERY.

26 IN OTHER WORDS, THAT HE DID IT FOR SOME SORT OF  
27 GAIN, THAT HE WAS NOT IN ANY WAY ENTITLED TO IT.

28 LET'S SAY FOR INSTANCE, IF I HELD YOU UP FOR YOUR

20A-2  
1 PURSE AND SHOT YOU DEAD IN THAT PROCESS, OKAY?

2 MS. BLANK: UH-HUH.

3 MR. BARENS: YOU WOULD FIRST HAVE BELIEVED ALL THOSE  
4 THINGS. NOW, THE QUESTION WE COME TO AT THIS JUNCTURE, IS  
5 WHAT ARE WE GOING TO DO WITH THESE KINDS OF PEOPLE, IN YOUR  
6 OPINION? IF A PERSON HAS DONE THAT, WOULD IT BE YOUR OPINION  
7 THAT THAT IS THE TYPE OF PERSON THAT IN EVERY INSTANCE, WE  
8 ARE GOING TO GIVE THE DEATH PENALTY TO?

9 MS. BLANK: I GUESS, YES. I WOULD FEEL YES.

10 MR. BARENS: THERE IS NOTHING WRONG WITH YOUR HAVING  
11 THAT OPINION. WHAT WE HAVE --

12 MS. BLANK: WELL, I AM NOT SURE, TO TELL YOU THE TRUTH.  
13 I AM NOT ABSOLUTELY SURE IN EVERY, SINGLE INSTANCE.

14 THE COURT: WELL, YOU SEE, YOU ARE LEAVING OUT THE DEATH  
15 PENALTY TESTIMONY.

16 MR. BARENS: I AM COMING TO THAT, YOUR HONOR. NOW,  
17 ONE OF THE QUESTIONS THAT WAS ASKED OF YOU A BIT EARLIER,  
18 WAS, WOULD YOU AUTOMATICALLY -- AND THAT IS THE OPERATIVE  
19 WORD THERE -- IMPOSE THE DEATH PENALTY IF YOU HAD THAT TYPE  
20 OF A CASE? NOW, AUTOMATICALLY ALMOST SUGGESTS THAT WE DON'T  
21 EVEN THINK ABOUT ANYTHING.

22 MS. BLANK: RIGHT.

23 MR. BARENS: WE JUST DO THAT EVERY TIME.

24 MS. BLANK: UH-HUH.

25 MR. BARENS: WHAT I AM ASKING YOU IS, ALTHOUGH YOU WOULD  
26 CONSIDER EVIDENCE THAT THE DEFENSE MIGHT GIVE YOU UNDER THOSE  
27 CIRCUMSTANCES ABOUT THE AGE OF THE DEFENDANT AT THE TIME THE  
28 CRIME WAS ALLEGEDLY COMMITTED OR WHETHER OR NOT HE HAD A

20A-3

1 PRIOR CRIMINAL HISTORY OF VIOLENT CRIME, WOULD IT BE A FAIR  
2 STATEMENT TO SAY THAT IRRESPECTIVE OF THESE TYPES OF  
3 CONSIDERATIONS, THAT YOU WOULD FEEL COMPELLED TO GIVE THE  
4 DEATH PENALTY TO SOMEONE WHO HAD COMMITTED A FIRST DEGREE,  
5 PREMEDITATED MURDER?

6 MS. BLANK: I WOULDN'T FEEL COMPELLED TO --

7 MR. BARENS: OKAY --

8 MS. BLANK: IN CONSIDERING IT.

9 MR. BARENS: WOULD I AS A DEFENSE LAWYER, HAVE A HARDER  
10 JOB TO CONVINCING YOU TO GIVE THAT INDIVIDUAL LIFE WITHOUT  
11 POSSIBILITY OF PAROLE THAN IT WOULD BE TO CONVINCING YOU THAT  
12 HE SHOULD GET THE DEATH PENALTY?

13 MS. BLANK: I THINK IT WOULD BE HARDER FOR THE DEATH  
14 PENALTY THAN LIFE WITHOUT POSSIBILITY OF PAROLE. IT WOULD  
15 BE HARDER TO CONVINCING ME ABOUT THE DEATH PENALTY.

16 MR. BARENS: HARDER TO CONVINCING YOU THAT YOU SHOULD  
17 GIVE THE DEATH PENALTY OR THAT YOU SHOULDN'T?

18 MS. BLANK: THAT I SHOULD GIVE THE DEATH PENALTY.  
19 OF THE TWO, IT IS A HARDER CHOICE TO DO THE DEATH PENALTY.

20 MR. BARENS: OKAY. YOU SEE MS. BLANK, ALL WE ARE LOOKING  
21 FOR, IS SOMEONE THAT REALLY DOESN'T HAVE ANY PRECONCEIVED  
22 IDEAS THAT WOULD BE BROUGHT TO THIS SETTING, WERE WE TO EVER  
23 GET TO THE DEATH PENALTY OR THE PENALTY PHASE OF THIS CASE.

24 I AM LOOKING FOR A JUROR AND I THINK WE ALL ARE,  
25 THAT WOULD BE OPEN-MINDED AND CONSIDER ALL OF THE EVIDENCE  
26 IN THE PENALTY PHASE BEFORE MAKING THAT LIFE OR DEATH DECISION.  
27 ARE YOU WITH ME ON THAT?

28 MS. BLANK: YES.



20A-11  
1 MR. BARENS: DO YOU THINK THAT YOU ARE THAT KIND OF  
2 A PERSON?

3 MS. BLANK: YES.

4 MR. BARENS: OKAY. DO YOU UNDERSTAND THAT LIFE WITHOUT  
5 POSSIBILITY OF PAROLE MEANS EXACTLY THAT? IT IS NOT ONE OF  
6 THOSE THINGS WHERE WE ARE JUST SAYING THAT?

7 MS. BLANK: RIGHT.

8 MR. BARENS: BUT IF THE JUDGE TELLS YOU NO PAROLE, THAT  
9 MEANS NO PAROLE. THE DEFENDANT NEVER IS GOING TO GET OUT.

10 MS. BLANK: UH-HUH.

11 MR. BARENS: DO YOU BELIEVE THAT?

12 MS. BLANK: YES.

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1 MR. BARENS: YOU DON'T THINK IT IS JUST SOMETHING THAT  
2 LAWYERS ARE TELLING YOU?

3 MS. BLANK: WELL, I HEAR THAT IT IS NOT THE CASE  
4 ALWAYS. BUT I WOULD BELIEVE IT YOU KNOW, IF I SAID YES TO  
5 THAT, THAT YOU KNOW, I WOULD BE SAYING YES TO THAT.

6 MR. BARENS: OKAY. BELIEVE ME, THAT IF THE JUDGE TELLS  
7 YOU THAT, WHICH HE WOULD, THAT IS THE GOSPEL TRUTH AND THERE  
8 IS NO POSSIBLE --

9 MS. BLANK: I WOULD JUDGE IT JUST ON THAT.

10 MR. BARENS: THAT YOU HAVE GOT TO LOOK AT THAT AS THE  
11 LITERAL TRUTH BECAUSE THAT IS IN FACT, THE LITERAL TRUTH IN  
12 OUR STATE TODAY.

13 NOW, WOULD THERE EVER BE A SITUATION IN YOUR MIND,  
14 WHERE YOU HONESTLY COULD GIVE A DEFENDANT LIFE WITHOUT  
15 POSSIBILITY OF PAROLE IF YOU BELIEVED HE HAD COMMITTED A FIRST  
16 DEGREE MURDER, TOTALLY UNJUSTIFIABLY DURING THE COMMISSION  
17 OF A ROBBERY? COULD YOU EVER VOTE FOR LIFE WITHOUT POSSIBILITY  
18 OF PAROLE?

19 MS. BLANK: THAT'S A PLANNED MURDER?

20 MR. BARENS: YES, MA'AM.

21 MS. BLANK: I DON'T KNOW IF IT WOULD BE LIKELY.

22 MR. BARENS: NOT TOO LIKELY?

23 MS. BLANK: YES.

24 MR. BARENS: IT IS OKAY.

25 MS. BLANK: I HAVE -- THERE IS A CHANCE THAT I MIGHT  
26 CONSIDER THAT POSSIBILITY. BUT I THINK IF IT WAS PREPLANNED  
27 AND PREMEDITATED, I THINK THAT I WOULD VOTE FOR --

28 THE COURT: FOR WHAT?

1 MS. BLANK: THAT I WOULD GO FOR MURDER -- I MEAN, BEING  
2 EXECUTED.

3 MR. BARENS: THE DEATH PENALTY?

4 MS. BLANK: THE DEATH PENALTY.

5 MR. BARENS: OKAY.

6 MS. BLANK: I THINK.

7 MR. BARENS: BEAR IN MIND THAT THE ONLY KIND OF CASE  
8 YOU WOULD EVER HAVE IN THIS SETTING, FROM MY CLIENT, BEFORE  
9 WE EVER GOT TO THAT QUESTION, YOU WOULD HAVE TO BELIEVE BEYOND  
10 A REASONABLE DOUBT THAT IT WAS IN FACT PREMEDITATED AND NO  
11 OTHER KIND OF A MURDER.

12 NOW, THE QUESTION IS -- NOW, LISTEN. YOU DON'T  
13 HAVE TO BE OPEN-MINDED AT THAT TIME IF YOU BELIEVE THAT IT  
14 IS PERMEDITATED AND THAT ANYBODY WHO DOES A PREMEDITATED  
15 MURDER SHOULD GET THE GAS CHAMBER. THAT IS OKAY.

16 I NEED TO KNOW IF THAT IS WHAT YOU BELIEVE.

17 MS. BLANK: I LEAN TOWARD THAT MORE.

18 MR. BARENS: OKAY. WOULD IT BELIEVABLE TO YOU IN ALL  
19 HONESTY, THAT IF YOU BELIEVED THAT, THAT YOU WOULD EVER VOTE  
20 FOR LIFE WITHOUT POSSIBILITY OF PAROLE? COULD YOU EVER VOTE  
21 FOR THAT FOR THAT TYPE OF FELON?

22 MS. BLANK: I THINK THERE COULD BE A POSSIBILITY, WITH  
23 THE OTHER EVIDENCE THAT IS PRESENTED. THERE IS STILL A  
24 POSSIBILITY OF LIFE WITHOUT POSSIBILITY OF PAROLE.

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1 MR. BARENS: OKAY. COULD YOU TELL US WHAT YOU ARE  
2 REFERRING TO WHEN YOU SAY THAT?

3 MS. BLANK: WELL, I THINK I WOULD NOT WANT IT TO  
4 INFLUENCE ME TOO MUCH, BECAUSE -- BUT, MAYBE SOME OF THE  
5 HISTORY OF THE PERSON, YOU KNOW.

6 MR. BARENS: OKAY. IN OTHER WORDS, BY THAT, YOU MEAN  
7 WHETHER OR NOT HE HAD A PRIOR CRIMINAL BACKGROUND?

8 MS. BLANK: CRIMINAL BACKGROUND, YES.

9 MR. BARENS: EVEN THOUGH THE MURDER YOU BELIEVE HE  
10 COMMITTED WOULD BE ONE TOTALLY OUT OF GREED AND SELF-  
11 SATISFACTION AT THAT TIME?

12 MS. BLANK: WELL, IT WOULD HAVE TO BE PRETTY EXTREME,  
13 THE EVIDENCE, TO MAKE ME SYMPATHETIC FOR HIM TO THE POINT TO  
14 HAVE LIFE WITHOUT POSSIBILITY OF PAROLE.

15 MR. BARENS: OKAY. WOULDN'T IT BE A FAIR STATEMENT TO  
16 SAY THAT I CAN'T THINK OF -- AND I WILL BET YOU COULDN'T  
17 EITHER -- ANY EXTREME CIRCUMSTANCES THAT WOULD BE EXTREME  
18 ENOUGH TO JUSTIFY LIFE WITHOUT POSSIBILITY OF PAROLE, IF YOU  
19 BELIEVED THERE WAS A PREMEDITATED MURDER TO BEGIN WITH?

20 MS. BLANK: I AM CAPABLE OF CONSIDERING IT. I DON'T  
21 KNOW IF THERE WAS AN ABUSIVE CHILDHOOD. MAYBE IT WOULD SWAY  
22 ME IF I HEARD SOME VERY EXTREME, VERY EXTREME THINGS ON THE  
23 OTHER SIDE. BUT --

24 MR. BARENS: NOT LIKELY?

25 MS. BLANK: I THINK IN MOST CASES, NOT LIKELY.

26 MR. BARENS: REMOTE? A REMOTE POSSIBILITY?

27 MS. BLANK: I DON'T KNOW. I WOULD GET PRETTY SYMPATHETIC  
28 SOMETIMES TO THE INDIVIDUAL, EVEN THOUGH I AM MORE SYMPATHETIC

1 TO THE VICTIM, OF COURSE. BUT SOMETIMES I AM NOT OBJECTIVE  
2 ENOUGH.

3 MR. BARENS: WOULD YOU CONSIDER THE NATURE OF THE  
4 ALLEGED VICTIM, WHAT SORT OF PERSON HE WAS IN MAKING THE  
5 DECISION?

6 MS. BLANK: I WOULD HOPE IT WOULDN'T INFLUENCE ME, YOU  
7 KNOW, IF I DIDN'T LIKE THE PERSON OR SOME QUALITY ABOUT THE  
8 PERSON BECAUSE I THINK --

9 THE COURT: I TOLD YOU A LITTLE WHILE AGO THE THINGS  
10 THAT YOU MUST CONSIDER. THEY ARE THE BACKGROUND OF THE  
11 DEFENDANT AND HIS EDUCATION AND --

12 MS. BLANK: I THOUGHT YOU MEANT OF THE VICTIM. OF THE  
13 VICTIM?

14 THE COURT: OF THE VICTIM?

15 MR. BARENS: I ASKED ABOUT THE VICTIM.

16 MS. BLANK: IF IT WOULD INFLUENCE ME. I WOULD THINK  
17 THAT ANYBODY WHO IS MURDERED SHOULD BE JUDGED ON THAT, NOT  
18 ON WHO THEY ARE. NOT LIKE ON ANY KIND OF PERSONAL VALUES.

19 MR. BARENS: GIVEN A SITUATION WHERE YOU HAVE A FIRST  
20 DEGREE, PREMEDITATED, INTENTIONAL MURDER, I DON'T BELIEVE YOU  
21 REALLY THINK THAT YOU ARE OPEN-MINDED WHEN IT COMES TO  
22 SENTENCING ON A DEFENDANT WHO YOU HAVE CONVICTED OF THAT TYPE  
23 OF CRIME. DO YOU THINK YOU ARE REALLY OPEN-MINDED IN THAT  
24 INSTANCE?

25 THE COURT: ARE YOU TELLING HER OR ASKING HER?

26 MR. BARENS: I THOUGHT I POSED A QUESTION.

27 THE COURT: WELL, THAT IS NOT THE WAY YOU POSED IT.

28 MR. BARENS: I THINK I CONCLUDED WITH ASKING HER, "DO

1 YOU THINK YOU ARE OPEN-MINDED?"

2 KNOWING THAT YOU DON'T HAVE TO BE -- THERE IS NO  
3 RULE ABOUT BEING OPEN-MINDED, YOU DON'T HAVE TO BE OPEN-MINDED  
4 AND --

5 MS. BLANK: I AM AS YOU CAN TELL, INDECISIVE ABOUT WHERE  
6 I STAND EXACTLY ON THE DEATH PENALTY OR YOU KNOW -- ON THE  
7 DEATH PENALTY, LET'S SAY. I THINK I WOULD BE OPEN-MINDED,  
8 GIVEN ALL OF THE CONSIDERATIONS THE JUDGE HAS MENTIONED.

9 MR. BARENS: OKAY. SO YOU THINK THAT YOU COULD GIVE THE  
10 DEFENSE A FAIR TRIAL IF IT EVER CAME TO A PENALTY PHASE, EVEN  
11 THOUGH YOU HAVE A PREMEDITATED, FIRST DEGREE MURDER?

12 MS. BLANK: ONCE IT GETS TO THE POINT OF BEING DETERMINED  
13 TO BE PREMEDITATED, FIRST DEGREE MURDER?

14 MR. BARENS: YES. ARE WE STILL OPEN-MINDED?

15 MS. BLANK: BUT I COULD STILL CONSIDER ALL OF THE --  
16 SORRY, YOU CAN STILL CONSIDER ALL OF THE OTHER FACTORS, THE  
17 AGE AND THE BACKGROUND AND --

18 THE COURT: YES. YOU SEE, YOU HAVE REACHED ON THE GUILT  
19 PHASE -- YOU HAVE REACHED THE POINT WHERE YOU SAID HE  
20 DELIBERATELY, PREMEDITATEDLY COMMITTED MURDER IN THE COURSE  
21 OF A ROBBERY. NOW YOU ARE CONSIDERING SOMETHING ELSE. YOU  
22 ARE CONSIDERING HOW HE SHOULD BE PUNISHED.

23 MS. BLANK: CONCERNING THE PENALTY?

24 THE COURT: HOW SHOULD HE BE PUNISHED? THEN WE HAVE  
25 THE PENALTY PHASE. WE HEAR ALL OF THE EVIDENCE ON BOTH SIDES.  
26 DO YOU UNDERSTAND?

27 MS. BLANK: YES.

28 THE COURT: DO YOU HAVE AN OPEN MIND, WITHOUT EVEN HEARING

1 ANY EVIDENCE ON BOTH SIDES? WOULD YOU SAY AUTOMATICALLY, I  
2 AM GOING TO IMPOSE THE DEATH PENALTY?

3 MS. BLANK: NO. I WOULDN'T SAY AUTOMATICALLY EITHER  
4 WAY.

5 THE COURT: ALL RIGHT. YOU WILL HEAR ALL OF THE EVIDENCE  
6 FIRST, WILL YOU?

7 MS. BLANK: I WOULD WANT TO HEAR ALL OF THE EVIDENCE,  
8 DEFINITELY.

9 MR. BARENS: NOW, I ASKED YOU A QUESTION.

10 MS. BLANK: SORRY. BECAUSE I DON'T KNOW MY OWN MIND.  
11 I AM NOT SURE.

12 MR. BARENS: AGAIN, WE REGRET HAVING TO DO THIS. BUT  
13 I AM REQUIRED TO DO THIS, NOW.

14 LET ME ASK YOU THIS. OBVIOUSLY, YOU HAVE SEEN  
15 SOME CONCERN THAT WE HAVE DISCUSSED ABOUT YOUR ABILITY AND  
16 HOW YOU WOULD VOTE, IF WE HAD A PREMEDITATED -- IF YOU BELIEVED  
17 IT WAS A PREMEDITATED FIRST DEGREE MURDER DURING A ROBBERY.  
18 AND YOU WOULD HAVE A PROBLEM CONSIDERING LIFE WITHOUT POSSIBILITY  
19 OF PAROLE, WOULD YOU?

20 MS. BLANK: YES.

21 MR. BARENS: WOULD YOU SAY THAT YOUR PREFERENCE OR  
22 BIAS FOR THE DEATH PENALTY UNDER THOSE CIRCUMSTANCES, WOULD  
23 SUBSTANTIALLY IMPAIR YOUR ABILITY TO EVER VOTE FOR LIFE WITHOUT  
24 THE POSSIBILITY OF PAROLE, IF YOU BELIEVED IT WAS A PREMEDITATED  
25 MURDER?

26 MS. BLANK: NO. I THINK GIVEN OTHER CIRCUMSTANCES, I  
27 COULD VOTE FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE.

28 MR. BARENS: OKAY.

1 MS. BLANK: YOU KNOW, CONSIDERING --

2 MR. BARENS: BUT YOU WOULD CONSIDER ALL OF THE  
3 CIRCUMSTANCES? THAT IS ALL YOU ARE ASKED TO DO OF COURSE,  
4 HERE. NOW, DO YOU UNDERSTAND THAT ALTHOUGH WE HAVE BEEN  
5 TALKING ABOUT THE DEATH PENALTY WITH YOU AT THIS POINT, DOES  
6 THAT GIVE YOU ANY REASON TO BELIEVE THAT JOE HUNT DID ANYTHING  
7 WRONG?

8 MS. BLANK: I WOULDN'T PREJUDGE HIM, ANYWAY. I WOULD  
9 JUST WANT TO BE OPEN-MINDED ABOUT IT. YOU KNOW, I THINK  
10 SOMETIMES WHEN SOMEONE IS BROUGHT IN, THEY HAVE SOME REASON  
11 TO BRING THEM TO THIS POINT. BUT I WOULD DEFINITELY WANT TO  
12 BE OPEN-MINDED AND NOT CONVICT ANYONE.

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1 MR. BARENS: YOU UNDERSTAND THAT HE HAS A PRESUMPTION  
2 OF INNOCENCE UNDER OUR SYSTEM?

3 MS. BLANK: YES.

4 MR. BARENS: AND THAT AN ACCUSATION IS NOT THE EQUIVALENT  
5 OF ANY KIND OF EVIDENCE AT ALL?

6 MS. BLANK: I WOULD GO ALONG WITH THAT TOTALLY AND NOT  
7 LET THAT INFLUENCE ME IN ANY WAY.

8 MR. BARENS: YOU UNDERSTAND THAT BECAUSE HE IS ACCUSED  
9 OF A CRIME DOESN'T MEAN HE COMMITTED A CRIME?

10 MS. BLANK: RIGHT, RIGHT.

11 MR. BARENS: YOU UNDERSTAND THE LAW REQUIRES THAT HIS  
12 HONOR, MYSELF AND THE DISTRICT ATTORNEY ASK YOU THESE QUESTIONS  
13 NOW BUT THAT IT DOESN'T SIGNIFY IN ANY WAY TO YOU THAT MY  
14 CLIENT HAS DONE ANYTHING, RIGHT?

15 MS. BLANK: RIGHT.

16 MR. BARENS: DO YOU READ THE EVENING OUTLOOK HERE IN  
17 SANTA MONICA?

18 MS. BLANK: ONCE IN A WHILE, NOT ALWAYS.

19 MR. BARENS: YOU ARE SURE YOU HAVE NEVER READ ANYTHING  
20 ABOUT THIS CASE HERE IN THE SANTA MONICA NEWSPAPER? AND I  
21 ASK YOU THAT ONLY BECAUSE --

22 MS. BLANK: I DON'T REMEMBER THE NAME AND THE DETAILS,  
23 I DON'T KNOW THE DETAILS SO IF IT WOULD SOUND FAMILIAR, NOT  
24 UNLESS I WAS GIVEN THE DETAILS.

25 MR. BARENS: YOU DIDN'T READ ANYTHING IN THE EVENING  
26 OUTLOOK ABOUT JOE HUNT OR BILLIONAIRE BOYS CLUB OR ANYTHING  
27 OF THAT NATURE?

28 MS. BLANK: I DON'T THINK SO, NO.

1-2  
1 MR. BARENS: I APPRECIATE THAT VERY MUCH. THANK YOU,  
2 MA'AM.

3 THE COURT: WAIT A MINUTE. HE IS GOING TO ASK YOU SOME  
4 QUESTIONS.

5 MR. WAPNER: THANK YOU, YOUR HONOR.

6 GOOD AFTERNOON, MS. BLANK. I AM FRED WAPNER,  
7 THE DEPUTY DISTRICT ATTORNEY WHO IS GOING TO PROSECUTE THIS  
8 CASE.

9 YOU DON'T REMEMBER SEEING A PICTURE OF A VERY  
10 HANDSOME AND DISTINGUISHED JUDGE IN THE EVENING OUTLOOK?

11 THE COURT: THIS JUDGE, HE MEANS.

12 MS. BLANK: I DON'T REMEMBER ANYTHING.

13 THE COURT: OR THAT GENTLEMAN OVER THERE OR THAT  
14 GENTLEMAN THERE, YOU DON'T REMEMBER SEEING THEIR PICTURES,  
15 DO YOU?

16 MS. BLANK: I AM SORRY. I DON'T REMEMBER.

17 MR. WAPNER: OKAY, YOU SAID TWO THINGS THAT, TO ME,  
18 WERE SOMEWHAT INCONSISTENT.

19 ONE, THAT IT WOULD BE HARDER FOR YOU TO VOTE FOR  
20 THE DEATH PENALTY THAN FOR LIFE WITHOUT THE POSSIBILITY OF  
21 PAROLE AND TWO, THAT IN MOST CASES OF A DELIBERATE MURDER  
22 IN THE COURSE OF A ROBBERY, THAT YOU WOULD VOTE FOR THE DEATH  
23 PENALTY --

24 MS. BLANK: OKAY.

25 MR. WAPNER: -- AS OPPOSED TO LIFE WITHOUT THE POSSIBILITY  
26 OF PAROLE; CAN YOU SQUARE THOSE FOR ME?

27 MS. BLANK: WELL, IT IS JUST THAT THE DEATH PENALTY  
28 SEEMS EVEN MORE EXTREME FOR ANYBODY TO MAKE THAT DECISION.

1       HOWEVER, IF SOMEBODY WAS, YOU KNOW, A COLD-BLOODED MURDERER,  
2       I FEEL THAT PUNISHMENT IS WARRANTED ALTHOUGH, YOU KNOW, I  
3       WOULD HAVE TO BE CONVINCED THAT THAT PERSON WAS FULLY  
4       DESERVING, IN MY MIND, DESERVING OF THE DEATH PENALTY THAT  
5       HE --

6                YOU KNOW, IT IS HARD TO KNOW, YOU KNOW, HOW YOU  
7       WOULD BE INFLUENCED IF THERE IS SOMETHING THAT WOULD BE  
8       REDEEMING ABOUT THE PERSON IN MY MIND ON AN INDIVIDUAL BASIS,  
9       YOU KNOW, THAT I MAY BE A LITTLE MORE SUBJECTIVE TO, YOU KNOW,  
10      THAT I MAY SUBJECTIVELY MAY BE A LITTLE MORE SYMPATHETIC TO  
11      THE PERSON IN SOME WAY.

12               I MEAN I DO FEEL THERE HAS TO BE PUNISHMENT FOR  
13      SOMETHING THAT WOULD BE, YOU KNOW, FOR THAT KIND OF CRIME  
14      DEFINITELY, BUT THE SEVERITY OF IT, I HOPE WOULDN'T BE --  
15      YOU KNOW, I MIGHT BE INFLUENCED BY THE CIRCUMSTANCES, YOU  
16      KNOW, YOU MENTIONED THE PERSON'S BACKGROUND OR -- I AM THINKING  
17      IT WOULDN'T BUT I CAN'T SAY THAT I WOULD BE COLD HEARTED AND  
18      OBJECTIVE AND THAT SOMEHOW IT MIGHT NOT GET TO ME.

19               MR. WAPNER:   OKAY, SO IF YOU HAD SYMPATHY FOR THE  
20      DEFENDANT --

21               MS. BLANK:    TO SOME PART OF SOMETHING, YEAH.

22               I AM SORRY.

23               MR. WAPNER:   OKAY, YOU HAVE TO DO THIS LADY, WHO IS  
24      SITTING IN FRONT OF YOU, A BIG FAVOR.

25               MS. BLANK:    OH, OKAY.

26               MR. WAPNER:   SHE CAN'T WRITE IT DOWN WHEN WE BOTH TALK  
27      AT THE SAME TIME.

28               IF YOU HEARD THE EVIDENCE ON THE PENALTY PHASE

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1 AND YOU FELT SYMPATHY FOR THE DEFENDANT, YOU WOULD TAKE THAT  
2 INTO CONSIDERATION --

3 LET ME REPHRASE THAT: COULD YOU TAKE THAT INTO  
4 CONSIDERATION IN DECIDING TO VOTE FOR THE PENALTY OF LIFE  
5 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE?

6 MS. BLANK: I THINK I WOULD TAKE SOME OF IT SOMEWHAT  
7 INTO CONSIDERATION.

8 MR. WAPNER: IF THE JUDGE TELLS YOU THAT YOU ARE  
9 REQUIRED TO, WOULD YOU DO THAT?

10 MS. BLANK: OH, YES.

11 MR. WAPNER: LET ME PUT YOU IN A SITUATION THAT YOU  
12 GET TO IF YOU ARE SERVING AS A JUROR ON THIS CASE.

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1                   AFTER YOU HAVE FOUND THE DEFENDANT GUILTY OF MURDER  
2 DURING THE COURSE OF A ROBBERY AND AFTER YOU HAVE HEARD ALL  
3 OF THE EVIDENCE ON THE PENALTY PHASE, YOU WOULD BE IN THE  
4 JURY ROOM ALONG WITH 11 OTHER JURORS AND YOUR JOB WOULD BE  
5 TO DECIDE WHETHER THE DEFENDANT SHOULD DIE IN THE GAS CHAMBER  
6 OR SHOULD HE SPEND THE REST OF HIS LIFE IN PRISON; IS THAT  
7 A DECISION YOU ARE CAPABLE OF MAKING?

8                   MS. BLANK: IT IS ONE VERY HARD FOR ME BUT I THINK --  
9 I AM SORRY THAT I AM SO -- I HAVEN'T DEFINITELY EVER, YOU  
10 KNOW, THOUGHT OF THIS ISSUE AND NEVER REALLY --

11                   THE COURT: WHAT HE IS ASKING YOU IS, HAVING HEARD ALL  
12 OF THE EVIDENCE ON BOTH SIDES OF THE PENALTY PHASE, COULD  
13 YOU MAKE UP YOUR MIND AS TO WHETHER OR NOT -- ARE YOU  
14 CAPABLE OF MAKING UP YOUR MIND AS TO WHETHER OR NOT THE  
15 DEFENDANT SHOULD BE SENTENCED TO THE GAS CHAMBER OR LIFE  
16 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE?

17                   MS. BLANK: I THINK IT WOULD BE HARD BUT I THINK I AM  
18 CAPABLE. IT WOULD BE A HARD DECISION BUT I AM CAPABLE OF  
19 IT, I THINK.

20                   MR. WAPNER: WHAT IS YOUR RESERVATION?

21                   MS. BLANK: OH, JUST I GUESS THE RESPONSIBILITY FOR  
22 SOMEONE'S LIFE, YOU KNOW.

23                   MR. WAPNER: THAT IS VERY UNDERSTANDABLE.

24                   THINKING OF BEING IN THAT SITUATION, HOW WOULD  
25 YOUR FEELING OF RESPONSIBILITY FOR SOMEONE ELSE'S LIFE AFFECT  
26 YOUR DECISION IN THE CASE OR YOUR ABILITY TO DECIDE THE CASE?

27                   MS. BLANK: BECAUSE I AM WONDERING IF IN REALITY, EVEN  
28 THOUGH I SAY I COULD VOTE FOR THE DEATH PENALTY UNDER, YOU

1 KNOW, CERTAIN CIRCUMSTANCES, I AM WONDERING WHEN REALITY  
2 FACES ME AND I END UP DOING THAT AND I AM LOOKING AT THE PERSON,  
3 IF IT WOULD BE VERY -- IF I COULD DO IT THAT OBJECTIVELY.

4 MR. WAPNER: OKAY. IF YOU WERE ON THIS JURY, WE ARE  
5 NOT GOING TO BE ABLE TO ASK YOU LATER WHEN YOU ARE IN THE  
6 JURY ROOM, CAN YOU DO IT? NOW IS THE ONLY TIME WE GET TO  
7 ASK YOU THESE QUESTIONS.

8 IF YOU DECIDE, ALONG WITH THE 11 OTHER PEOPLE,  
9 THAT DEATH IS THE APPROPRIATE PUNISHMENT, THEN WHAT HAPPENS  
10 IS YOU VOTE FOR THAT AND IF ALL OF THE OTHER 11 PEOPLE AGREE  
11 WITH YOU, YOU COME INTO THE COURTROOM AND THE VERDICT IS HANDED  
12 TO THE BAILIFF, WHO GIVES IT TO THE JUDGE, WHO GIVES IT TO  
13 THE CLERK AND THEN THE CLERK READS THE VERDICT. AND IF THE  
14 VERDICT IS DEATH, IT IS READ WHILE YOU ARE IN THE JURY BOX  
15 AND THE DEFENDANT IS AT THE TABLE.

16 MR. BARENS: DO WE GET VERDICTS OF DEATH, YOUR HONOR?

17 WE GET VERDICTS OF GUILT OR INNOCENCE, I BELIEVE.

18 THE COURT: NO, THEY VOTE WHETHER IT SHOULD BE LIFE  
19 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE OR IT SHOULD  
20 BE DEATH IN THE GAS CHAMBER, DON'T THEY?

21 MR. BARENS: I UNDERSTAND. I THINK IT IS MISLEADING  
22 TO THE JUROR AT THIS POINT TO USE THE WORD "VERDICT" IN THAT  
23 SETTING. WE FIRST HAVE TO GET AN INNOCENT OR GUILTY VERDICT.

24 THE COURT: YES, AFTER THAT, HE IS TALKING ABOUT NOW.  
25 WE ARE TALKING ABOUT THE PENALTY PHASE NOW.

26 MR. BARENS: AGAIN, YOUR HONOR, I THOUGHT THE QUESTION  
27 WAS A BIT MISLEADING FOR THE JUROR AT THIS POINT.

28 THE COURT: ALL RIGHT, HE MEANS AFTER YOU HAVE ALREADY

1 DECIDED THE GUILT OR INNOCENCE OF THE DEFENDANT THAT HE IS  
2 GUILTY AND THAT HE COMMITTED A MURDER IN THE COURSE OF A  
3 ROBBERY, THEN YOU DELIBERATE AFTER YOU HEAR ALL OF THE  
4 TESTIMONY, AND SOME OTHER TESTIMONY, THEN YOU DELIBERATE AS  
5 TO WHAT THE PENALTY SHOULD BE, SHOULD IT BE LIFE IMPRISONMENT  
6 WITHOUT THE POSSIBILITY OF PAROLE --

7 MS. BLANK: RIGHT.

8 THE COURT: -- OR SHALL IT BE DEATH?

9 MR. WAPNER: YES, THANK YOU.

10 NOW IF YOU DECIDE THAT THE PUNISHMENT SHOULD BE  
11 DEATH AND IF THE OTHER 11 PEOPLE AGREE WITH YOU, THEN WHAT  
12 HAPPENS IS THAT YOU RENDER THAT VERDICT AND THE PAPER IS THEN  
13 BROUGHT INTO THIS COURT AND IT IS GIVEN TO THE JUDGE AND IT  
14 IS GIVEN TO THE CLERK AND WHILE YOU ARE SITTING IN THE JURY  
15 BOX AND THE DEFENDANT IS SITTING IN COURT, THE VERDICT IS  
16 READ. NOW THAT YOU KNOW THAT THAT IS WHAT WOULD HAPPEN, ARE  
17 YOU GOING TO FEEL AS YOU ARE IN THE JURY ROOM SOME RESPONSIBILITY  
18 FOR ANOTHER LIFE SO THAT YOU CAN'T MAKE THAT DECISION?

19 MS. BLANK: I HOPE NOT. AS I AM SAYING, I THINK THERE  
20 IS A POSSIBILITY THAT IT MIGHT BE --

21 I THINK I WOULD BE ABLE TO MAKE THE DECISION.

22 I KNOW I SHOULD KNOW MY OWN MIND.

23 I THINK I WOULD BE ABLE TO MAKE THE DECISION BUT  
24 I --

25 MR. WAPNER: MAY I HAVE A MOMENT WITH COUNSEL, YOUR  
26 HONOR?

27 MS. BLANK: I AM SORRY.

28 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

1 MR. WAPNER: MAY WE HAVE JUST A MOMENT, YOUR HONOR?

2 MS. BLANK: ACTUALLY, I THINK I COULD MAKE THE DECISION.

3 MR. WAPNER: JUST GIVE US A SECOND.

4 (FURTHER UNREPORTED COLLOQUY BETWEEN  
5 COUNSEL.)

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1 MR. WAPNER: OKAY. EXCUSE ME FOR ANY LAUGHTER THAT MIGHT  
2 HAVE SEEMED INAPPROPRIATE TO YOU.

3 MR. BARENS: YES. IT HAD NOTHING TO DO WITH YOU AS A  
4 JUROR.

5 MS. BLANK: I DON'T BLAME YOU.

6 MR. WAPNER: I KNOW IT IS A LITTLE TOUGH BECAUSE WE ARE  
7 TRYING TO FORCE YOU NOW, TO BE ABLE TO TELL US WHAT YOU WOULD  
8 DO IN A GIVEN SITUATION THAT YOU HAVE NOT YET BEEN FACED WITH.

9 BUT AS I SAID BEFORE, WE CAN'T ASK YOU THE QUESTIONS  
10 LATER. WE HAVE TO DO IT NOW.

11 AGAIN, PUTTING YOURSELF IN THAT SITUATION AND  
12 IMAGINING HOW YOU MIGHT FEEL IN THAT SITUATION, DO YOU THINK --  
13 WELL, CAN YOU ELABORATE FOR ME WHAT YOU MEAN WHEN YOU SAY YOU  
14 FEEL A RESPONSIBILITY FOR A PERSON'S LIFE?

15 MS. BLANK: WELL, IF IT COMES DOWN TO ONE PERSON'S  
16 DECISION OR EACH PERSON'S DECISION THAT IS GOING TO MAKE THE  
17 DIFFERENCE FOR HAVING ANOTHER PERSON'S LIFE, YOU KNOW, TAKEN  
18 AWAY, THAT IS HOW I WOULD FEEL, RESPONSIBLE.

19 I MEAN -- I AM NOT SURE.

20 MR. WAPNER: NO FURTHER QUESTIONS.

21 MS. BLANK: I THINK I COULD MAKE THE DECISION, BASED  
22 ON ALL OF THE EVIDENCE, REALLY. AND WHEN I THINK ABOUT IT,  
23 I THINK I COULD MAKE A FAIR DECISION EITHER --

24 MR. WAPNER: THANK YOU.

25 THE COURT: THAT IS YOUR FINAL CONCLUSION, IS IT?

26 MS. BLANK: YES. I THINK I COULD, BASED ON THE EVIDENCE.

27 THE COURT: ALL RIGHT.

28 MR. BARENS: WE HAVE --

1 MR. WAPNER: COULD WE JUST EXCUSE THE JUROR FOR ONE  
2 MOMENT?

3 THE COURT: ALL RIGHT. THANK YOU. PLEASE WAIT  
4 OUTSIDE THE COURTROOM, PLEASE.

5 (PROSPECTIVE JUROR BLANK EXITS THE  
6 COURTROOM.)

7 MR. WAPNER: IF IT IS ACCEPTABLE TO THE COURT, WE HAVE  
8 REACHED A STIPULATION THAT SHE CAN BE EXCUSED.

9 THE COURT: I THINK SO. SHE CAN'T MAKE UP HER MIND  
10 WHAT IT IS ALL ABOUT.

11 MR. BARENS: I WOULD LIKE A CONFIRMATION ON THE DAY.

12 THE COURT: ALL RIGHT. WOULD YOU GET HER IN THEN?  
13 THEN WE CAN GET MISS BONE, IS IT?

14 (PROSPECTIVE JUROR BLANK ENTERS THE  
15 COURTROOM.)

16 THE COURT: WE DON'T WANT TO IMPOSE TOO MUCH OF A BURDEN  
17 ON YOU. WE KNOW HOW DEEPLY YOU FEEL ABOUT IT.

18 I THINK WE WILL EXCUSE YOU AS A JUROR IN THIS  
19 CASE. YOU CAN GO TO THE JURY ASSEMBLY ROOM AND TELL THEM THAT  
20 YOU ARE QUALIFIED FOR SOME OTHER CASE.

21 MS. BLANK: OKAY.

22 THE COURT: THANK YOU.

23 (PROSPECTIVE JUROR BLANK EXITS THE  
24 COURTROOM.)

25 (PROSPECTIVE JUROR SALLY BONE ENTERS THE  
26 COURTROOM.)

27 THE COURT: GOOD AFTERNOON, MS. BONE. SIT DOWN, WILL  
28 YOU PLEASE?

1 MS. BONE, WHERE DO YOU LIVE?

2 MS. BONE: I LIVE IN PACIFIC PALISADES.

3 THE COURT: YOU HEARD EARLIER THIS AFTERNOON, THAT THIS  
4 CASE IS A CASE WHERE THE PEOPLE CHARGE THE DEFENDANT WITH THE  
5 CRIME OF MURDER IN THE FIRST DEGREE AND THE MURDER WAS  
6 COMMITTED DURING THE COURSE OF A ROBBERY.

7 IN THE COURSE OF A ROBBERY, AS I EXPLAINED TO YOU,  
8 QUALIFIES THIS CASE FOR A DEATH PENALTY.

9 I TOLD YOU THAT THERE ARE 19 INSTANCES WHERE THE  
10 STATE LEGISLATURE HAS SAID WHERE A MURDER IN THE FIRST DEGREE  
11 IS COMMITTED UNDER CERTAIN SPECIAL CIRCUMSTANCES, THAT THE  
12 DEATH PENALTY CAN BE QUALIFIED.

13 THERE ARE 19 INSTANCES. I WILL GIVE YOU SOME OF  
14 THE INSTANCES. THEY ARE A MURDER COMMITTED IN THE COURSE OF  
15 A ROBBERY, A BURGLARY, A KIDNAPPING, A RAPE, AGAINST A CHILD  
16 YOU KNOW IN THE COURSE OF A MOLESTATION AND MULTIPLE MURDERS.  
17 THOSE ARE ALL SOME. ALSO TORTURE.

18 THOSE ARE INSTANCES WHERE THE LEGISLATURE HAS SAID,  
19 BECAUSE OF THE SPECIAL CIRCUMSTANCES, THAT QUALIFIES THOSE  
20 CASES FOR THE DEATH PENALTY. ALL RIGHT?

21 NOW, THE CHARGE IN THIS CASE WAS THAT IT WAS  
22 COMMITTED AS I SAID, IN THE COURSE OF A ROBBERY. NOW, THE  
23 JURY SELECTED IN THIS CASE AT THE FIRST PHASE OF THE TRIAL,  
24 WE CALL IT THE GUILT PHASE, THEY HAVE TO DETERMINE THE GUILT  
25 OR INNOCENCE OF THE DEFENDANT.

26 IF HE IS GUILTY OF MURDER IN THE FIRST DEGREE,  
27 THEN THEY HAVE TO ANSWER A QUESTION, IS IT TRUE OR IS IT FALSE  
28 THAT IT WAS COMMITTED DURING THE COURSE OF A ROBBERY. IF IT

1 IS TRUE IT WAS COMMITTED DURING THE COURSE OF A ROBBERY, THEN  
2 THAT SAME JURY LISTENS TO ADDITIONAL EVIDENCE FROM BOTH SIDES.

3 THAT IS CALLED THE PENALTY PHASE OF THE TRIAL,  
4 WHERE ALL OF THIS ADDITIONAL TESTIMONY IN ADDITION TO THE  
5 TESTIMONY YOU HAVE ALREADY HEARD ON THE GUILT PHASE, IS TO  
6 BE CONSIDERED BY THE JURY IN DETERMINING WHAT THE PENALTY SHOULD  
7 BE, SHOULD IT BE LIFE WITHOUT THE POSSIBILITY OF PAROLE --  
8 THAT MEANS EXACTLY THAT, NO PAROLE, LIFE OR DEATH IN THE GAS  
9 CHAMBER.

10 THOSE ARE THE ALTERNATIVES THAT THE JURY WOULD  
11 HAVE ON THE PENALTY PHASE OF THE TRIAL. AS I TOLD YOU, THE  
12 TESTIMONY ABOUT THE DEFENDANT WOULD SHOW HIS BACKGROUND. YOU  
13 WOULD CONSIDER HIS AGE, HIS LACK OF OR PRESENCE OF ANY PRIOR  
14 VIOLENT CRIMINAL ACTIVITIES OR CONDUCT OR CONVICTIONS OR HIS  
15 CHARACTER, HIS MENTAL AND PHYSICAL CONDITION AND EVERYTHING  
16 ABOUT THE PERSON THAT WOULD BE CONSIDERED BY THE JURY.

17 EVERY FAVORABLE ASPECT OF THE DEFENDANT WOULD BE  
18 SHOWN. THE REASON FOR THAT IS THAT THEY WANT TO MITIGATE THE  
19 OFFENSE SO HE DOESN'T HAVE TO SUFFER THE EXTREME PENALTY OF  
20 DEATH.

21 ON THE OTHER HAND, THE PEOPLE I ASSUME, WOULD  
22 PRODUCE EVIDENCE TO SHOW THE UNFAVORABLE ASPECTS ABOUT HIM,  
23 THE BAD THINGS ABOUT HIM TO SHOW THAT THE ULTIMATE PENALTY  
24 IS APPROPRIATE IN THIS CASE.

25 THE JURY, HEARING ALL OF THAT, MUST CONSIDER ALL  
26 THAT. THEN THEY MAKE UP THEIR MINDS, SHOULD IT BE LIFE  
27 WITHOUT POSSIBILITY OF PAROLE OR DEATH IN THE GAS CHAMBER.  
28 THE QUESTION I AM GOING TO ASK YOU AND THE QUESTIONS COUNSEL

1 ARE GOING TO ASK YOU I HOPE -- WELL, I HOPE THAT WE WILL  
2 FINISH BY 4:15 BECAUSE I HAVE GOT A DOCTOR'S APPOINTMENT DOWN  
3 AT CEDARS-SINAI HOSPITAL. IF NOT, WE WILL ASK YOU TO COME  
4 BACK TOMORROW.

5 THESE QUESTIONS ARE DESIGNED TO EXPLORE YOUR  
6 MIND OR YOUR STATE OF MIND AS TO YOUR FEELINGS ABOUT THE  
7 DEATH PENALTY, ONE WAY OR THE OTHER OR NOT AT ALL.

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1           NOW, THE QUESTION I WILL ASK YOU IS AS FOLLOWS --  
2 WELL, THE FIRST TWO QUESTIONS HAVE TO DO WITH THE GUILT PHASE  
3 OF THE CASE.

4           DO YOU HAVE ANY OPINION REGARDING THE DEATH PENALTY,  
5 WHATEVER THAT OPINION MAY BE, THAT WOULD PREVENT YOU FROM  
6 MAKING AN IMPARTIAL DECISION AS TO THE GUILT OR INNOCENCE OF  
7 THE DEFENDANT?

8           MS. BONE: IT WOULD DEPEND UPON HOW VERY CLOSE THE  
9 PERSON WAS TO ME PERSONALLY. IF IT WAS A RELATIVE, I THINK  
10 THAT I WOULD HAVE SOME FEELINGS. AND INDIVIDUALLY, I DID NOT  
11 KNOW -- I WOULD HAVE TO KNOW ALL OF THE FACTS BEYOND A REASONABLE  
12 DOUBT FOR THAT.

13           THE COURT: NO, NO. THE MATTER OF PENALTY IS NOT TO  
14 BE DISCUSSED DURING THE GUILT PHASE. FORGET ABOUT WHAT THE  
15 PENALTY MAY ULTIMATELY BE IF YOU FOUND HIM GUILTY.

16           THE QUESTION IS, DO YOU HAVE ANY OPINION ABOUT  
17 THE DEATH PENALTY THAT WOULD INTERFERE WITH YOUR DETERMINING  
18 WHETHER HE IS GUILTY OR NOT GUILTY OF THE OFFENSE WITH WHICH  
19 HE IS CHARGED?

20           MS. BONE: NO.

21           THE COURT: ALL RIGHT. NOW, DO YOU REMEMBER WHAT I TOLD  
22 YOU THAT THE OTHER ASPECT OF THE CASE IS, AFTER THEY FIND HE  
23 IS GUILTY OF MURDER IN THE FIRST DEGREE, THEY HAVE GOT TO  
24 DETERMINE WHETHER OR NOT IT WAS COMMITTED DURING THE COURSE  
25 OF A ROBBERY, THE SPECIAL CIRCUMSTANCE. SO, THEY ANSWER --  
26 THE JURY MUST ANSWER THE QUESTION, TRUE OR FALSE, THAT IT WAS  
27 COMMITTED DURING THE COURSE OF A ROBBERY.

28           NOW, IS YOUR OPINION ABOUT THE DEATH PENALTY SUCH

1 THAT IT WOULD INTERFERE WITH YOUR MAKING AN IMPARTIAL DECISION  
2 ON THAT ASPECT OF IT?

3 MS. BONE: NO.

4 THE COURT: NOW, THE NEXT TWO QUESTIONS HAVE TO DO WITH,  
5 ASSUMING THE DEFENDANT WERE FOUND GUILTY OF MURDER IN THE FIRST  
6 DEGREE AND IT WAS IN THE COURSE OF A ROBBERY, NOW WE ARE IN  
7 THE PENALTY PHASE OF THE TRIAL. OF COURSE YOU KNOW, THAT IN  
8 THE GUILT PHASE, YOU DON'T CONSIDER THE MATTER OF PENALTY AT  
9 ALL. IT IS NOT WITHIN YOUR CONSIDERATIONS, YOUR DELIBERATIONS.

10 NOW, ASSUMING THAT HE HAS BEEN FOUND GUILTY OF  
11 MURDER IN THE FIRST DEGREE AND IT HAS BEEN SHOWN IT WAS WITHIN  
12 THE COURSE OF A ROBBERY, MY QUESTION TO YOU IS, DO YOU HAVE  
13 ANY OPINION CONCERNING THE DEATH PENALTY THAT WOULD CAUSE YOU  
14 TO AUTOMATICALLY VOTE TO IMPOSE THE DEATH PENALTY, REGARDLESS  
15 OF ANY EVIDENCE THAT MAY BE PRESENTED AT THE PENALTY PHASE  
16 OF THE TRIAL?

17 MS. BONE: NO.

18 THE COURT: THE NEXT QUESTION IS EXACTLY THE SAME, EXCEPT  
19 IT APPLIES TO LIFE WITHOUT POSSIBILITY OF PAROLE. DO YOU HAVE  
20 SUCH AN OPINION CONCERNING THE DEATH PENALTY, THAT YOU WOULD  
21 AUTOMATICALLY VOTE TO IMPOSE LIFE WITHOUT POSSIBILITY OF  
22 PAROLE, REGARDLESS OF ANY EVIDENCE THAT MAY BE PRESENTED AT  
23 THE PENALTY PHASE OF THE TRIAL?

24 MS. BONE: NO.

25 THE COURT: ALL RIGHT. DO YOU UNDERSTAND OF COURSE,  
26 THAT THE ISSUE OF THE DEATH PENALTY MAY OR MAY NOT TAKE PLACE  
27 AND THAT THESE QUESTIONS HAVE BEEN ASKED ONLY IN THE EVENT  
28 THAT YOU COME TO THAT PHASE OF THE TRIAL?

1 MS. BONE: YES. I UNDERSTAND.

2 THE COURT: ALL RIGHT.

3 MR. BARENS: GOOD AFTERNOON, MS. BONE. I AM ARTHUR  
4 BARENS. I REPRESENT THE DEFENDANT, JOE HUNT. IT IS MY DUTY  
5 AT THIS STAGE OF THE PROCEEDINGS, TO ASK YOU YOUR POINT OF  
6 VIEW ON THE DEATH PENALTY.

7 PARENTHETICALLY, LET ME MAKE IT CLEAR THAT THERE  
8 ARE NO RIGHT OR WRONG ANSWERS TO MY QUESTIONS AND NONE OF US  
9 ARE GOING TO JUDGE ANY OF YOUR ANSWERS BECAUSE YOU COULD NEVER  
10 BE WRONG ABOUT YOUR OWN OPINION. OKAY?

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

13 MS. BONE: I HAVE THOUGHT ABOUT IT BEFORE BECAUSE IT  
14 DOES COME UP. I WOULD HAVE A VERY HARD TIME MAKING THAT  
15 DECISION BECAUSE I WOULD HAVE TO BE SO POSITIVE, YOU KNOW,  
16 BEYOND A REASONABLE DOUBT AT ALL.

17 BECAUSE I FALSELY ANSWERED YOU THE FIRST TIME I  
18 THINK. IF IT INVOLVED MY HUSBAND OR SOMEONE, I WOULD PROBABLY  
19 FEEL YES, IT IS DESERVED.

20 BUT THEN AGAIN, I WOULD NOT BE ABLE TO IN MY MIND,  
21 PLAY GOD AND SAY YES, I WOULD IMPOSE THE DEATH PENALTY.

22 I WOULD HAVE A VERY HARD TIME WITH IT. I WOULD  
23 HAVE TO DO A LOT OF SOUL-SEARCHING.

24 MR. BARENS: NOW, YOU UNDERSTAND MS. BONE THAT BEFORE  
25 WE EVER GET TO A DETERMINATION ON THE DEATH PENALTY OR LIFE  
26 WITHOUT POSSIBILITY OF PAROLE, YOU WOULD FIRST HAVE TO BELIEVE  
27 IN YOUR OWN MIND THAT THE DEFENDANT HAD COMMITTED A FIRST  
28 DEGREE, PREMEDITATED, INTENTIONAL MURDER BEYOND A REASONABLE



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DOUBT?

MS. BONE: DEFINITELY.

MR. BARENS: SO YOU WOULD NEVER GET TO THIS QUESTION  
UNLESS YOU FIRST MADE A REASONABLE DOUBT DECISION AGAINST THE  
DEFENDANT. DO YOU UNDERSTAND THAT?

MS. BONE: YES.

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1 MR. BARENS: NOW WHAT WE NEED TO KNOW IS, ONCE HAVING  
2 MADE THAT DECISION, IF WE EVER GET TO THIS PHASE OF THE TRIAL,  
3 WOULD YOU BE WILLING TO CONSIDER THE DEATH PENALTY AS WELL  
4 AS BEING ABLE TO CONSIDER LIFE IMPRISONMENT WITHOUT THE  
5 POSSIBILITY OF PAROLE, WOULD YOU BE WILLING TO CONSIDER THOSE  
6 TWO ALTERNATIVES?

7 MS. BONE: YES.

8 MR. BARENS: AND I KNOW THAT OBVIOUSLY THESE ARE  
9 DIFFICULT KINDS OF DECISIONS TO MAKE AND ONEROUS DECISIONS  
10 THAT WE WOULD ALL JUST AS SOON NOT MAKE, BUT A SITUATION COULD  
11 ARISE WHERE WE WOULD BE COMPELLED TO MAKE ONE OR THE OTHER.

12 NOW, COULD YOU, WOULD YOU BE WILLING TO LISTEN  
13 TO ALL OF THE EVIDENCE BEFORE YOU MADE A DECISION DURING THAT  
14 SECOND PHASE OF THE TRIAL AS TO WHETHER OR NOT THERE SHOULD  
15 BE LIFE OR DEATH?

16 MS. BONE: I WOULD HAVE TO LISTEN TO IT ALL OR I COULDN'T  
17 MAKE IT.

18 MR. BARENS: RIGHT, OKAY.

19 DO YOU UNDERSTAND THAT ALTHOUGH HIS HONOR  
20 INDICTED THERE ARE 19 DIFFERENT SITUATIONS IN WHICH THE  
21 LEGISLATURE HAS SAID THE DEATH PENALTY COULD BE FOUND UNDER  
22 SPECIAL CIRCUMSTANCES, THAT NOWHERE IN OUR LEGAL SYSTEM IN  
23 CALIFORNIA DOES IT SAY THAT YOU MUST IMPOSE THE DEATH PENALTY;  
24 DO YOU UNDERSTAND THAT?

25 MS. BONE: YES.

26 MR. BARENS: DO YOU UNDERSTAND THAT THAT IS SOLELY A  
27 DECISION TO BE MADE BY THE JURORS?

28 THE LEGISLATURE DOESN'T SAY THAT YOU HAVE TO.

23-2  
1 IT SAYS YOU MAY DO THAT OR YOU MAY GIVE LIFE IN PRISON WITHOUT  
2 THE POSSIBILITY OF PAROLE.

3 MS. BONE: SO YOU ARE SAYING THOSE ARE THE TWO DECISIONS,  
4 LIFE IMPRISONMENT OR THE DEATH PENALTY?

5 MR. BARENS: WELL, YOU HAVE A THIRD CALLED NOT GUILTY,  
6 WHICH IS THE ONE --

7 MR. WAPNER: YOUR HONOR, EXCUSE ME. I THINK THAT IS  
8 SOMEWHAT CONFUSING BECAUSE NOW HE IS CONFUSING THE JUROR.

9 MR. BARENS: WELL, SHE SAID THERE ARE ONE OF TWO  
10 DECISIONS. YOU HAVE FOUR DECISIONS. YOU CAN MAKE A GUILT  
11 OR INNOCENCE DECISION.

12 MS. BONE: OH, THOSE ARE THE TWO CHOICES THEN?

13 MR. BARENS: ONLY IF YOU MAKE A GUILT DECISION IN THIS  
14 CASE DO YOU GET TO THIS PENALTY PHASE.

15 MS. BONE: I SEE.

16 MR. BARENS: OKAY?

17 MS. BONE: UH-HUH.

18 MR. BARENS: SO REMEMBER, AS I MENTIONED TO YOU A FEW  
19 MINUTES AGO, AND SO AS TO MAKE THIS PERFECTLY CLEAR, YOU FIRST  
20 HAVE TO MAKE THAT GUILT DECISION BEYOND A REASONABLE DOUBT  
21 BEFORE YOU WILL EVER COME TO THIS TYPE OF A CONCERN, AND I  
22 AM NOT SAYING NOR IS HIS HONOR SAYING THAT YOU WILL EVER COME  
23 TO THIS AS A NECESSITY. IT IS JUST AT THIS STAGE THE LAW  
24 SAYS I HAVE TO ASK ABOUT THIS; DO YOU UNDERSTAND THAT?

25 MS. BONE: I UNDERSTAND.

26 MR. BARENS: DO YOU FEEL THAT MY CLIENT, JOE HUNT THERE,  
27 MUST HAVE DONE SOMETHING WRONG OR WE WOULDN'T BE HERE TALKING  
28 ABOUT THIS TO BEGIN WITH?

23-3

1 MS. BONE: OH, YES.

2 MR. BARENS: YOU DO FEEL THAT?

3 MS. BONE: YES.

4 MR. BARENS: OKAY, WELL YOU SEE, EVERYBODY HAS A  
5 PRESUMPTION OF INNOCENCE IN OUR SOCIETY AND THE FACT THAT  
6 HE IS ACCUSED OF A CRIME DOESN'T MEAN HE DID ANYTHING WRONG  
7 BECAUSE HE IS HERE.

8 YOU KNOW, A LOT OF PEOPLE ARE FOUND NOT GUILTY.

9 MS. BONE: UH-HUH.

10 MR. BARENS: NOW I PUT IT TO YOU AGAIN, MRS. BONE, DO  
11 YOU BELIEVE HE HAS DONE SOMETHING WRONG OR HE WOULDN'T BE  
12 HERE TO BEGIN WITH?

13 MS. BONE: WELL, I IMAGINE SO. I MEAN SO WOULD --

14 MR. BARENS: OKAY, YOU ARE ENTITLED TO BELIEVE THAT.

15 MS. BONE: I THINK SO.

16 MR. BARENS: THE PROBLEM I GET INTO IN SEEKING A FAIR  
17 JUROR IS THAT YOU ARE EQUIVOLATING (SIC) THE FACT THAT HE  
18 IS ACCUSED OF A MURDER WITH THE FACT THAT HE MUST HAVE DONE  
19 SOMETHING WRONG.

20 NOW IF THE JUDGE TELLS YOU THAT YOU CAN'T THINK  
21 THAT WAY AND THAT EVERYBODY IN THIS COUNTRY IF YOU ARE ACCUSED --  
22 SUPPOSING THEY JUST SOMEHOW OR ANOTHER SAID  
23 "MRS. BONE COMMITTED A FIRST DEGREE MURDER," AND YOU ARE SOMEHOW  
24 OR ANOTHER BROUGHT TO TRIAL, YOU UNDERSTAND YOU HAVE AN  
25 ABSOLUTE PRESUMPTION OF INNOCENCE, PERIOD, UNTIL AFTER THE TRIAL  
26 IS OVER AND ALL OF THE EVIDENCE IS PRODUCED; DO YOU UNDERSTAND?

27 (MRS. BONE NODS HER HEAD UP AND DOWN.)

28 MR. BARENS: DO YOU STILL THINK HE DID SOMETHING WRONG

23-4  
1 OR WOULD HE BE --

2 MS. BONE: I AM STILL THINKING LIKE A TEACHER. I SEE  
3 A KID IN THE PRINCIPAL'S OFFICE AND I THINK, "AH-HA" AND THEN  
4 I ALWAYS STAND UP FOR THE STUDENT IF HE IS MINE. AND THIS  
5 ONE IS YOURS.

6 MR. BARENS: THE POINT BEING THIS ISN'T A CLASSROOM  
7 BUT IT IS A COURTROOM.

8 MS. BONE: I KNOW I HAVE TO THINK LIKE THAT.

9 MR. BARENS: I MIGHT AGREE WITH YOU, HAVING TWO YOUNG  
10 CHILDREN OF MY OWN, THAT MOST OF THE TIME WHEN YOU SEE SOMEONE  
11 IN THE PRINCIPAL'S OFFICE, YOU THINK THERE MIGHT HAVE BEEN  
12 SOMETHING GOING ON. BUT THAT IS NOT TRUE IN THIS CASE.

13 THERE ARE MANY, MANY, MANY CRIMINAL DEFENDANTS  
14 THAT ARE CLEARED BECAUSE THEY WERE NOT GUILTY TO BEGIN WITH,  
15 EVEN THOUGH THEY WERE CHARGED. THE ONLY ONE WHO MAKES THAT  
16 DECISION IS THE JURORS AFTER FULL TRIALS WITH EVIDENCE AND  
17 DEMONSTRATION OF THAT EVIDENCE; CAN YOU UNDERSTAND THAT?

18 MS. BONE: I UNDERSTAND THAT.

23A FO  
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3A-1  
1 MR. BARENS: BUT MORE IMPORTANT IS, MRS. BONE --

2 MR. WAPNER: I WOULD LIKE TO INTERPOSE AN OBJECTION.  
3 WHILE I THINK THIS IS AN IMPORTANT LINE OF INQUIRY, I DON'T  
4 THINK THIS IS THE APPROPRIATE TIME TO BE TALKING ABOUT THE  
5 PRESUMPTION OF INNOCENCE. THAT IS FOR THE GENERAL VOIR DIRE  
6 AND WE HAVE GONE INTO IT WITH ALL THE OTHER JURORS ON KIND  
7 OF A SUMMARY BASIS BUT --

8 MR. BARENS: WELL, I DON'T USUALLY HAVE A JUROR  
9 EQUIVULATE (SIC) THE ACCUSATION WITH SOMETHING BEING WRONG,  
10 WHICH SHE IS ENTITLED TO DO.

11 THE COURT: WELL, LET'S EXPLORE THE QUESTION OF HER  
12 ATTITUDE TOWARD THE DEATH PENALTY, WHETHER IT WOULD INTERFERE  
13 WITH HER FINDING, QUITE APART FROM THAT.

14 MR. BARENS: THANK YOU, YOUR HONOR.

15 THE COURT: ON THE GUILT PHASE OF IT, YOU SAID NO.

16 ON THE GUILT PHASE OF IT, HER FEELING ABOUT THE  
17 DEATH PENALTY WOULDN'T IN ANY WAY INTERFERE WITH HER FINDING  
18 HIM GUILTY OR NOT GUILTY, SHE HAS ALREADY SAID THAT.

19 MR. BARENS: IS IT BELIEVABLE IN YOUR MIND THAT IF YOU  
20 HAD A DEFENDANT THAT WAS CONVICTED OF A FIRST DEGREE INTENTIONAL,  
21 PREMEDITATED MURDER DURING A ROBBERY, DO YOU BELIEVE YOU WOULD  
22 BE CAPABLE OF GIVING THAT DEFENDANT LIFE IMPRISONMENT WITHOUT  
23 THE POSSIBILITY OF PAROLE?

24 MS. BONE: YES.

25 MR. BARENS: YOU THINK THAT YOU COULD?

26 MS. BONE: I IMAGINE.

27 MR. BARENS: IN ALL TRUTH --

28 MS. BONE: I WOULD HAVE TO.

1 MR. BARENS: -- THAT YOU WOULD CONSIDER THAT AS AN  
2 ALTERNATIVE?

3 WE DIDN'T INQUIRE INTO THIS: HAVE YOU READ OR  
4 SEEN ANYTHING ABOUT THIS CASE IN THE PRESS OR IN THE MEDIA?

5 MS. BONE: NO.

6 I NEVER HEARD OF IT UNTIL THE JUDGE MENTIONED  
7 IT.

8 MR. BARENS: WOULD THE EXPRESSION "BILLIONAIRE BOYS  
9 CLUB" MEAN ANYTHING TO YOU?

10 MS. BONE: NO.

11 MR. BARENS: SO YOU HAVE ABSOLUTELY SEEN NOTHING ABOUT  
12 THIS IN ANY MAGAZINES YOU READ, ANY NEWSPAPERS, TELEVISION,  
13 ET CETERA?

14 MS. BONE: NOPE.

15 MR. BARENS: ALL RIGHT, THANK YOU.

16 YOUR HONOR, WE WOULD RESERVE A CHALLENGE AT THIS  
17 POINT.

18 THE COURT: ALL RIGHT.

19 MR. WAPNER: GOOD AFTERNOON, MRS. BONE. I AM FRED  
20 WAPNER, THE DISTRICT ATTORNEY WHO IS PROSECUTING THIS CASE.

21 MS. BONE: ALL RIGHT.

22 MR. WAPNER: YOU ARE NOT A LAWYER. YOU ARE A TEACHER,  
23 RIGHT?

24 MS. BONE: WE ARE A LITTLE OF EVERYTHING. I AM A  
25 TEACHER.

26 MR. WAPNER: HAVE YOU EVER SERVED ON A JURY BEFORE?

27 MS. BONE: YES, I HAVE.

28 MR. WAPNER: BECAUSE WE DON'T GET TOO MANY PEOPLE COMING

1 IN HERE TELLING US ABOUT PROOF BEYOND A REASONABLE DOUBT;  
2 USUALLY WE HAVE TO TELL THEM.

3 I WANT TO ASK YOU, FIRST OF ALL, ABOUT THE GUILT  
4 PHASE OF THE TRIAL. IF THE JUDGE TELLS YOU THAT DURING THE  
5 GUILT PHASE YOU CAN'T CONSIDER PENALTY OR PUNISHMENT, CAN  
6 YOU FOLLOW THAT INSTRUCTION?

7 MS. BONE: YES.

8 MR. WAPNER: SO EVEN THOUGH YOU KNOW, BECAUSE WE ARE  
9 GOING THROUGH THIS PROCESS, THAT THERE IS A POSSIBILITY THAT  
10 THERE MAY BE THE DEATH PENALTY SOMEWHERE DOWN THE LINE, COULD  
11 YOU PUT THAT OUT OF YOUR MIND IN DECIDING THE QUESTION OF  
12 GUILT OR INNOCENCE?

13 MS. BONE: I WOULD HAVE TO.

14 MR. WAPNER: OKAY, YOU WOULDN'T HAVE ANY PROBLEM WITH  
15 THAT?

16 MS. BONE: NO.

17 YOU HAVE TO DO THAT.

18 MR. WAPNER: NOW, THE NEXT QUESTION IS: AS YOU OBVIOUSLY  
19 ARE AWARE, THE STANDARD OF PROOF IN A CRIMINAL CASE IS PROOF  
20 BEYOND A REASONABLE DOUBT. BECAUSE YOU HAVE NOW BEEN TOLD  
21 THAT THERE IS A POSSIBILITY THAT THIS CASE MIGHT INVOLVE THE  
22 DEATH PENALTY, WOULD YOU REQUIRE THE PROSECUTION TO PROVE  
23 THE CASE TO A HIGHER STANDARD, IN OTHER WORDS, MORE THAN PROOF  
24 BEYOND A REASONABLE DOUBT?

25 MS. BONE: I AM NOT SURE THAT I UNDERSTAND WHAT YOU  
26 MEAN BY HIGHER STANDARD, MORE THAN PROOF BEYOND A REASONABLE  
27 DOUBT?

28 THE COURT: THE LAW IS THAT IN EVERY CRIMINAL CASE THE



1 DEFENDANT IS PRESUMED TO BE INNOCENT UNTIL THE CONTRARY IS  
2 PROVED AND HIS GUILT MUST BE ESTABLISHED BEYOND A REASONABLE  
3 DOUBT AND THAT APPLIES TO A MAN WHO RUNS A RED LIGHT AND IS  
4 CHARGED IN MUNICIPAL COURT WITH A TRAFFIC VIOLATION AND THAT  
5 APPLIES ALSO IN A MURDER CASE, SO THE SAME BURDEN OF PROOF  
6 APPLIES IN BOTH OF THOSE CASES, NO MATTER HOW SERIOUS THE  
7 CRIME MAY BE; ARE YOU WILLING TO ABIDE BY THAT LAW?

8 MS. BONE: YES.

9 MR. WAPNER: WHAT I AM REALLY TRYING TO GET AT IS: IF  
10 YOU HAD TWO IDENTICAL MURDER CASES AND YOU WERE A JUROR ON  
11 EACH CASE AND THE FACTS WERE EXACTLY THE SAME, THE ONLY  
12 DIFFERENCE BEING THAT IN ONE CASE YOU KNEW WHEN YOU WERE  
13 DECIDING GUILT OR INNOCENCE THAT AT SOME LATER POINT YOU MIGHT  
14 HAVE TO DECIDE WHETHER OR NOT THE PENALTY SHOULD BE DEATH  
15 AND IN THE SECOND CASE, YOU KNEW THAT REGARDLESS OF YOUR  
16 DECISION ON THE GUILT PHASE THAT THAT WOULD BE THE END OF  
17 IT, THERE WOULDN'T BE ANY PENALTY PHASE --

18 DO YOU UNDERSTAND THAT HYPOTHETICAL SO FAR?

19 MS. BONE: I THINK SO.

20 THE COURT: IT LOOKS LIKE WE MIGHT TAKE SOME MORE TIME.

21 MS. BONE: I HAVE SOME RESERVATION FROM THE WAY YOU  
22 ARE SAYING IT.

23 THE COURT: I THINK WE WILL ASK MRS. BONE TO COME BACK  
24 TOMORROW MORNING. WILL YOU COME BACK TOMORROW MORNING AT  
25 9:45, WILL YOU PLEASE?

26 MS. BONE: 9:45?

27 THE COURT: AND YOU COME DIRECTLY INTO THIS COURTROOM,  
28 OKAY?

1 MS. BONE: ALL RIGHT.

2 THE COURT: THEN WE WILL FINISH UP.

3 MR. BARENS: WHAT TIME?

4 THE COURT: 9:45, 10 O'CLOCK, WHICH DO YOU WANT?

5 MR. BARENS: IF YOU WOULD SAY 10:00. ASSUMING WE WERE  
6 AT 10:30, I HAVE MY SCHEDULE SET FOR THAT, YOUR HONOR.

7 THE COURT: ALL RIGHT, 10 O'CLOCK.

8 MR. BARENS: WOULD IT BE AN IMPOSITION TO SAY 10:15,  
9 YOUR HONOR?

10 THE COURT: ALL RIGHT, 10:15.

11 MR. BARENS: THANK YOU FOR THE COURTESY ON THAT, YOUR  
12 HONOR.

13 THE COURT: ALL RIGHT, 10:15.

14 (AT 4:15 P.M. AN ADJOURNMENT WAS TAKEN  
15 UNTIL TUESDAY, JANUARY 6, 1987, AT  
16 10:15 A.M.)  
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