

DUPLICATE A

COPY
CAPITAL
CASE

No. 06 KA 2419

COPY

SUPREME COURT
STATE OF LOUISIANAVolume No. XXXV of XXXXIV

Filed _____

Clerk

State of Louisiana

Plaintiff and APPELLEE

VERSUS

JASON MANUEL REEVES

DEFENDANT AND APPELLEE

FILED OCT - 9 2006

Defendant and APPELLEE

J. MICHAEL CANADAY
CLERK OF COURT

APPEAL FROM

The 14TH Judicial District Court for the

Parish of CALCASIEU

G. MICHAEL CANADAY
Judge

No. 20179-01

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DUPLICATE A

CHRONOLOGICAL INDEX

DATE	DOCUMENT	VOL	PAGE
12/14/01- 12/10/04	MINUTES HELD IN OPEN COURT-----	I	1-234
12/13/01	BILL OF INFORMATION-----	I	235
12/14/01	PROCEEDINGS HAD AT ARRAIGNMENT-----	XIII	3133- 3135
12/14/01	PROCEEDINGS HAD AT GRAND JURY REPORT----	XIII	3136- 3139
1/7/02	NOTICE OF INTENT TO SEEK THE DEATH PENALTY-----	I	236
1/7/02	PROCEEDINGS HAD AT ARRAIGNMENT-----	XIII	3140- 3144
2/7/02	NOTICE OF INTENT TO FILE ADDITIONAL MOTIONS-----	I	237-239
2/7/02	PEART MOTION-----	I	240-246
3/7/02	MOTION FOR DISCOVERY AND INSPECTION-----	I-II	247-256
3/13/02	STATE'S RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	II-III	257-584
3/13/02	PROCEEDINGS HAD AT STATE'S RESPONSE FOR DISCOVERY AND INSPECTION-----	XIII	3145- 3150
3/15/02	FIRST SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	III	585-588
3/19/02	MOTION FOR DISCOVERY AND INSPECTION BY THE STATE-----	III	589-590
3/19/02	BERNARD NOTICE-----	III	591
4/9/02	LETTER FROM ATTORNEY KERRY CUCCIA-----	III	592
4/11/02	OMNIBUS CERTIFICATE OF SERVICE-----	III	593
4/11/02	MOTION TO ENROLL-----	III	594
4/11/02	MOTION TO QUASH INDICTMENT WITH INCORPORATED MEMORANDUM OF LAW-----	III	595-602
4/11/02	MOTION FOR PERMISSION TO FILE ADDITIONAL MOTIONS WITH INCORPORATED MEMORANDUM OF LAW-----	III	603-604

CHRONOLOGICAL INDEX

4/11/02	MOTION FOR PRELIMINARY HEARING-----	III	605-607
4/11/02	JACKSON REQUEST WITH INCORPORATED MEMORANDUM OF LAW-----	III	608-610
4/11/02	REQUEST FOR NOTICE OF AGGRAVATING CIRCUMSTANCES WITH INCORPORATED MEMORANDUM OF LAW-----	III	611-612
4/11/02	BERNARD REQUEST WITH INCORPORATED MEMORANDUM OF LAWS-----	III	613-614
4/11/02	MOTION TO SUPPRESS THE EVIDENCE-----	III	615
4/11/02	MOTION TO SUPPRESS INCULPATORY STATEMENTS-----	III	616
4/11/02	MOTION TO SUPPRESS THE IDENTIFICATIONS---	III	617
4/15/02	MOTION FOR PRODUCTION OF LAW ENFORCEMENT REPORTS WITH INCORPORATED MEMORANDUM OF LAW-----	III	618-619
4/15/02	MOTION FOR CHANGE OF VENUE WITH INCORPORATED MEMORANDUM OF LAW-----	III	620-621
4/15/02	MOTION FOR FULL AND OPEN FILE DISCOVERY WITH INCORPORATED MEMORANDUM OF LAW WITH ATTACHED ATTORNEY'S LETTER-----	III	622-624
4/15/02	PROCEEDINGS HAD AT MOTIONS-----	XIII	3151- 3154
4/17/02	MOTION FOR RELEASE OF JUVENILE ADJUDICATION-----	III	625-626
4/17/02	PROCEEDINGS HAD AT MOTIONS-----	XIII	3155- 3181
4/17/02	PROCEEDINGS HAD AT MOTION TO SUPPRESS IDENTIFICATIONS-----	XIII- XIV	3182- 3283
4/18/02	MOTION FOR RELEASE OF JUVENILE ADJUDICATION-----	III	627-631
4/25/02	MOTION AND ORDER TO APPOINT SPECIAL PROCESS SERVER-----	III	632-633
4/30/02	SECOND SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	III	634-715
4/30/02	STATE'S JACKSON NOTICE-----	III	716
4/30/02	PROCEEDINGS HAD AT MOTION TO SUPPRESS IDENTIFICATION-----	XIV	3284- 3293

CHRONOLOGICAL INDEX

4/30/02	PROCEEDINGS HAD AT MOTION TO SUPPRESS EVIDENCE AND STATEMENTS-----	XIV	3294- 3550
5/1/02	DEFENDANT'S OBJECTION TO THE STATE'S DISCOVERY RESPONSES-----	III	717-721
5/1/02	MOTION TO EXPAND THE MOTION TO SUPPRESS EVIDENCE-----	III	722
5/1/02	SECOND OMNIBUS CERTIFICATE OF SERVICE----	III	723
5/1/02	POST HEARING MEMORANDUM MOTION TO SUPPRESS IDENTIFICATIONS-----	III	724-725
5/9/02	LETTER FROM ASSISTANT DISTRICT ATTORNEY CYNTHIA KILLINGSWORTH TO MR. KERRY CUCCIA-----	III-IV	726-817
5/13/02	SUPPLEMENTAL DISCOVERY REQUEST-----	IV	818-820
5/30/02	STATE'S SUPPLEMENTAL JACKSON NOTICE-----	IV	821-822
5/31/02	MOTION AND ORDER TO APPOINT SPECIAL PROCESS SERVER-----	IV	823-824
5/31/02	APPLICATION FOR SUBPOENA DUCES TECUM----	IV	825-859
6/10/02	MOTION AND ORDER FOR TRANSCRIPT-----	IV	860
7/3/02	STATE'S RESPONSE TO DEFENDANT'S SUPPLEMENTAL MOTION FOR DISCOVERY-----	IV	861-937
7/18/02	DEFENDANT'S ANSWER TO MOTION FOR DISCOVERY AND INSPECTION BY THE STATE WITH ATTORNEY KERRY CUCCIA'S ATTACHED LETTER-----	IV	938-940
7/29/02	MOTION TO ENROLL WITH ATTORNEY KERRY CUCCIA'S ATTACHED LETTER-----	IV	941-942
7/31/02	NOTICE OF INTENT TO SEEK SUPERVISORY WRITS WITH ATTORNEY-----	IV	943-945
8/9/02	AFFIDAVIT (6)-----	IV	946-951
8/12/02	STATE'S SECOND SUPPLEMENTAL JACKSON NOTICE-----	IV	952-953
8/12/02	MOTION FOR EXTENSION OF TIME IN WHICH TO SEEK SUPERVISORY WRITS-----	IV	954-955
8/12/02	MOTION FOR RELEASE OF RECORD-----	IV	956
8/12/02	THIRD SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	IV	957-983

CHRONOLOGICAL INDEX

8/12/02	MOTION TO QUASH SUBPOENAS DUCES TECUM--	IV	984-987
8/19/02	WRIT APPLICATION RECEIVED AND FILED FROM THIRD CIRCUIT COURT OF APPEALS-----	IV	988
9/30/02	WRIT GRANTED AND MADE PEREMPTORY FROM COURT OF APPEAL-----	IV	989
10/10/02	MOTION TO CONTINUE-----	IV	990-992
10/11/02	STATE'S OPPOSITION TO DEFENDANT'S MOTION OR EX-PARTE DISCUSSION REGARDING EXPERT WITNESSES AND OPPOSITION TO DEFENSE MOTION FOR A CONTINUANCE-----	IV	993-998
10/11/02	STATE'S POST-HEARING BRIEF ON DEFENDANT'S MOTION TO SUPPRESS-----	IV-V	999- 1020
10/16/02	SUPPLEMENTAL BERNARD NOTICE-----	V	1021- 1023
10/16/02	STATE'S POST-HEARING BRIEF ON DEFENDANT'S MOTION TO SUPPRESS-----	V	1024- 1041
10/21/02	NOTICE OF INTENT TO SEEK SUPERVISORY WRITS-----	V	1042- 1043
10/21/02	MEMORANDUM IN SUPPORT OF MOTION TO SUPPRESS EVIDENCE-----	V	1044- 1049
10/21/02	MEMORANDUM IN SUPPORT OF MOTION TO SUPPRESS INCULPATORY STATEMENT-----	V	1050- 1074
10/21/02	PROCEEDINGS HAD AT ROLL CALL-----	XV	3551- 3553
10/23/02	SUPPLEMENTAL MOTION FOR CONTINUANCE-----	V	1075- 1077
10/31/02	FOURTH SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	V	1078- 1143
11/4/02	RULING-----	V	1144- 1146
11/5/02	ADDENDUM TO FOURTH SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	V	1147- 1152
11/12/02	MOTION T STRIKE CERTAIN VICTIM IMPACT TESTIMONY PRESENTED IN SUPPLEMENTAL BERNARD NOTICE-----	V	1153- 1157
11/12/02	MOTION TO RECONSIDER CHANGE OF VENUE----	V	1158- 1159

CHRONOLOGICAL INDEX

11/12/02	MOTION IN LIMINE PURSUANT TO ARTICLE 601 LA. C.E. WITH ATTORNEY'S ATTACHED LETTER AND AFFIDAVIT-----	V	1160- 1165
11/12/02	APPLICATION FOR SUBPOENA DUCES TECUM-----	V	1166- 1175
11/14/02	RULING-----	V	1176- 1177
11/15/02	LETTER FROM INVESTIGATOR CINNAMON SALVADOR TO JUDGE PATRICIA MINALDI-----	V	1178
11/20/02	MOTION FOR DAUBERT HEARING ON THE ADMISSIBILITY OF EXPERT TESTIMONY IN REGARD TO THE ALLEGED DNA EVIDENCE-----	V	1179- 1180
11/20/02	MOTION IN LIMINE TO EXCLUDE TESTIMONY IN REGARD TO THE EVENTS AT THE ST. THEODORE'S CATHOLIC SCHOOL WITH INCORPORATED MEMORANDUM-----	V	1181- 1186
11/20/02	MOTION IN LIMINE TO STRIKE ALL REFERENCE TO RAPE FROM THE INDICTMENT AND TO EXCLUDE ANY TESTIMONY IN REGARD THERETO FROM THE GUILT PHASE OF THE TRIAL-----	V	1187- 1190
11/20/02	MOTION TO REOPEN JACKSON HEARING-----	V	1191- 1193
11/20/02	SECOND MOTION FOR CONTINUANCE-----	V	1194- 1197
11/20/02	SECOND MOTION FOR CHANGE OF VENUE OR, ALTERNATIVELY, A CONTINUANCE OF TRIAL-----	V	1198- 1200
11/20/02	STATE'S OBJECTION TO SERVICE OF APPLICATION FOR SUBPOENA DUCES TECUM-----	V	1201- 1203
11/20/02	JUROR INFORMATION QUESTIONNAIRE-----	V	1204- 1211
11/20/02	LETTER FROM CAPITAL DEFENSE PROJECT (MR. KERRY CUCCIA) TO JUDGE PATRICIA MINALDI-----	V	1212
11/26/02	MOTION FOR EXTENSION OF TIME IN WHICH TO SEEK SUPERVISORY WRITS-----	V	1213- 1214
11/27/02	OBJECTIONS TO PROPOSED REDACTION OF VIDEOTAPED STATEMENT-----	V	1215- 1219
12/2/02	MOTION FOR EXTENSION OF TIME IN WHICH TO SEEK SUPERVISORY WRITS-----	V	1220- 1221
12/4/02	MOTION FOR EXTENSION OF TIME IN WHICH TO SEEK SUPERVISORY WRITS-----	V	1222- 1225

CHRONOLOGICAL INDEX

12/9/02	WRIT APPLICATION FILED FROM COURT OF APPEAL-----	V	1226
12/20/02	LETTER FROM COURT OF APPEAL TO MR. KERRY CUCCIA-----	V	1227
1/8/03	LETTER FROM COURT OF APPEAL TO MR. KERRY CUCCIA-----	V	1228
1/9/03	MOTION AND ORDER FOR RELEASE FOR EVIDENCE-----	V	1229- 1230
1/9/03	AUTHORIZATION TO EXAMINE EVIDENCE-----	V	1231
1/9/03	MOTION FOR STAY OF PROCEEDINGS-----	V	1232- 1233
1/13/03	MOTION FOR PUBLIC RECORDS REQUEST-----	V	1234- 1236
1/13/03	MOTION FOR PRE-TRIAL DISCLOSURE OF ADMONITION-----	V	1237- 1238
1/13/03	MOTION TO CONTINUE TRIAL DATE OF JANUARY 20, 2003-----	V	1239- 1242
1/13/03	MOTION TO QUASH BILL OF INDICTMENT, OR, IN THE ALTERNATIVE, TO PRECLUDE THE STATE FROM ALLEGING AND SEEKING TO PROVE AGGRAVATING FACTORS NOT LISTED IN THE BILL OF INDICTMENT-----	V	1243- 1246
1/13/03	MOTION TO RECUSE THE OFFICE OF THE CALCASIEU DISTRICT ATTORNEY AND ASSISTANT DISTRICT ATTORNEY WAYNE FREY-----	V-VI	1247- 1288
1/14/03	FIFTH SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	VI	1289- 1290
1/14/03	STATE'S RESPONSE TO DEFENDANT'S "MOTION TO QUASH BILL OF INDICTMENT, OR, IN THE ALTERNATIVE, TO PRECLUDE THE STATE FROM ALLEGING AND SEEKING TO PROVE AGGRAVATING FACTORS NOT LISTED IN THE BILL FO INDICTMENT"-----	VI	1291- 1293
1/14/03	STATE'S FIRST SUPPLEMENTAL JACKSON NOTICE-----	VI	1294- 1297
1/14/03	MOTION FOR STAY OF PROCEEDINGS-----	VI	1298- 1300
1/14/03	NOTICE OF INTENT TO SEEK SUPERVISORY WRITS-----	VI	1301- 1302

CHRONOLOGICAL INDEX

1/14/03	STATE'S RESPONSE TO DEFENDANT'S "MOTION FOR PUBLIC RECORDS REQUEST"-----	VII	1303-1304
1/16/03	WRIT APPLICATION FROM COURT OF APPEAL-----	VI	1305
1/16/03	WRIT GRANTED TO DOCKET FROM COURT OF APPEAL-----	VI	1306
1/17/03	LETTER FROM SUPREME COURT TO COUNSEL OF RECORD-----	VI	1307
1/23/03	SECOND MOTION TO CONTINUE TRIAL DATE OF JANUARY 20, 2003-----	VI	1308-1310
1/31/03	WRIT GRANTED TO DOCKET FROM COURT OF APPEAL, THIRD CIRCUIT-----	VI	1311
2/3/03	MOTION FOR EXTENSION OF TIME IN WHICH TO FILE SUPPLEMENTAL BRIEFS-----	VI	1311-1313
6/11/03	LETTER FROM SUPREME COURT TO COUNSEL----	VI	1314
7/1/03	MOTION TO CONTINUE-----	VI	1315-1322
8/4/03	STATE'S BRIEF ON THE REQUIRED HEARING ON VIDEOTAPED REDACTION-----	VI	1323-1325
8/20/03	MEMORANDUM IN REGARD TO TRACKING/CADAVER DOG EVIDENCE-----	VI	1326-1335
8/21/03	STATE'S SUPPLEMENTAL BRIEF ON THE REQUIRED HEARING ON VIDEOTAPED REDACTION-----	VI	1336-1436
8/27/03	NOTICE OF INTENTION TO APPLY TO THE THIRD CIRCUIT, COURT OF APPEAL FOR WRIT OF REVIEW-----	VI	1437-1438
9/16/03	NOTICE OF INTENT TO SEEK SUPERVISORY WRITS-----	VI	1438-1440
9/16/03	NOTICE OF INTENT TO SEEK SUPERVISORY WRITS-----	VI	1441-1442
9/16/03	NOTICE OF INTENT TO SEEK SUPERVISORY WRITS-----	VI	1443-1444
9/16/03	SUPPLEMENTAL MOTION TO CONTINUE-----	VI	1445-1448
9/16/03	SUPPLEMENTAL MOTION TO CONTINUE OCTOBER 27, 2003 TRIAL DATE WITH MEMORANDUM OF LAW-----	VI	1449-1453

CHRONOLOGICAL INDEX

9/16/03	MOTION FOR USE OF JUDICIAL AUTHORITY UNDER ARTICLE 17 LOUISIANA CODE OF CRIMINAL PROCEDURE WITH MEMORANDUM OF LAW-----	VI	1454- 1480
9/16/03	MOTION FOR RANDOM SELECTION OF ALTERNATE VENUE-----	VI	1481- 1482
9/16/03	MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR RANDOM SELECTION OF ALTERNATE VENUE-----	VI-VII	1483- 1566
9/16/03	CHRONOLOGY OF TRIAL SETTINGS-----	VII	1567- 1607
9/16/03	MOTION TO CONTINUE OCTOBER 27, 2003 TRIAL DATE-----	VII	1608- 1613
9/17/03	MOTION TO CONTINUE OCTOBER 27, 2003 TRIAL DATE-----	VII	1614- 1620
9/25/03	STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR A STAY OF PROCEEDINGS-----	VII	1621- 1623
9/25/03	MOTION FOR STAY OF PROCEEDINGS-----	VII	1624- 1625
9/25/03	MOTION FOR STAY OF PROCEEDINGS-----	VII	1626- 1627
9/25/03	MOTION FOR STAY OF PROCEEDINGS-----	VII	1628- 1629
9/30/03	MOTION AND ORDER TO PRODUCE DOCUMENTS	VII	1630- 1633
9/30/03	LETTER FROM DEPARTMENT OF PUBLIC CORRECTIONS TO MR. JAMES ANDRUS, CLERK OF COURT-----	VII	1634- 1639
9/30/03	WRIT APPLICATION FROM THE DISTRICT COURT PARISH OF CALCASIEU; PETITION FOR SUPERVISORY WRITS REGARDING THE TRIAL COURT'S DENIAL OF DEFENDANT'S MOTION TO CONTINUE OCTOBER 27, 2003 TRIAL DATE AND MOTION FOR USE OF JUDICIAL AUTHORITY UNDER ARTICLE 17; REQUEST FOR EXPEDITED CONSIDERATION; REQUEST FOR STAY ORDER; DEATH PENALTY CASE-----	VII- VIII	1640- 1764
10/1/03	WRIT APPLICATION RECEIVED AND FILED FROM COURT OF APPEAL-----	VIII	1765
10/1/03	LETTER FROM ASSISTANT DISTRICT ATTORNEY CYNTHIA KILLINGSWORTH TO MR. KERRY CUCCIA-----	VIII	1766- 1958

CHRONOLOGICAL INDEX

10/2/03	FAXED COPY OF REQUEST FOR TRANSCRIPTS FORM 1/14/03-1/17/03-----	VIII	1959
10/3/03	SIXTH SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	VIII	1960- 1961
10/3/03	MOTION FOR EXTENSION OF TIME IN WHICH TO SEEK SUPERVISORY WRITS-----	VIII	1962- 1963
10/8/03	WRIT DENIED; STAY DENIED FROM THIRD CIRCUIT, COURT OF APPEAL-----	VIII	1964
10/8/03	MOTION DENIED ON MOTION FOR AMICUS CURIAE, FROM THIRD CIRCUIT, COURT OF APPEAL-----	VIII	1965
10/8/03	MOTION DENIED ON MOTION FOR LEAVE OF AMICI CURIAE FROM THIRD CIRCUIT, COURT OF APPEAL-----	VIII	1966
10/8/03	WRIT OF REVIEW ON APPLICANT'S REPLY TO OPPOSITION BRIEF; REQUEST FOR EXPEDITED CONSIDERATION; REQUEST FOR STAY ORDER; DEATH PENALTY CASE-----	VIII	1967- 1981
10/14/03	LETTER FROM CAPITAL DEFENSE PROJECT TO CLERK OF COURT-----	VIII	1982
10/14/03	APPLICATION FOR SUPERVISORY WRITS-----	VIII-IX	1983- 2075
10/14/03	STATE'S MOTION TO COMPEL PRODUCTION PURSUANT TO LA. C.C.R.P. ARTICLES 724 AND 725-----	IX	2076- 2107
10/14/03	APPLICATION FOR WRIT OF REVIEW BY DEFENDANT; REQUEST FOR EXPEDITED CONSIDERATION; REQUEST FOR STAY ORDER; DEATH PENALTY CASE-----	IX-X	2108- 2295
10/15/03	WRIT APPLICATION RECEIVED AND FILED-----	X	2296
10/15/03	LETTER FROM SUPREME COURT TO MR. KERRY CUCCIA ON PLEADINGS FILED-----	X	2297
10/16/03	DEFENDANT'S SUPPLEMENTAL ANSWER TO MOTION FOR DISCOVERY AND INSPECTION BY THE STATE-----	X	2298- 2300
10/16/03	LETTER FROM COURT OF APPEAL TO MR. KERRY CUCCIA-----	X	2301
10/17/03	LETTER FROM CAPITAL DEFENSE PROJECT ATTORNEY KERRY CUCCIA-----	X	2302

CHRONOLOGICAL INDEX

10/17/03	APPLICATION FOR SUPERVISORY WRITS-----	X	2303- 2425
10/17/03	WRITS DENIED IN PART; GRANTED IN PART; AND REMANDED WITH INSTRUCTIONS (2)-----	X	2426- 2452
10/20/03	LETTER FROM SUPREME COURT TO MR. KERRY CUCCIA-----	X	2453
10/20/03	WRIT DENIED FROM SUPREME COURT-----	X	2454
10/20/03	ORDER-----	X	2455
10/20/03	PROCEEDINGS HAD AT TELECONFERENCE-----	XV	3554- 3560
10/21/03	STATE'S OPPOSITION TO DEFENDANT'S SECOND MOTION TO CONTINUE TRIAL DATE OF OCTOBER 27,2003-----	X-XI	2456- 2501
10/22/03	SECOND MOTION TO CONTINUE TRIAL DATE OF OCTOBER 27, 2003-----	XI	2502- 2514
10/22/03	SEVENTH SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	XI	2515- 2517
10/22/03	WRIT DENIED FROM COURT OF APPEAL-----	XI	2518
10/23/03	TRANSFER ORDER OF CUSTODY OF DEFENDANT-	XI	2519
10/23/03	EIGHTH SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	XI	2520- 2521
10/24/03	MOTION FOR STAY OF PROCEEDINGS-----	XI	2522- 2523
10/24/03	NOTICE OF INTENT TO SEEK SUPERVISORY WRITS-----	XI	2524- 2525
10/24/03	WRIT DENIED FROM SUPREME COURT-----	XI	2526
10/27/03	APPLICATION RECEIVED AND FILED FROM COURT OF APPEAL-----	XI	2527
10/27/03	LETTER FROM SUPREME COURT TO COUNSEL OF RECORD-----	XI	2528
10/27/03	APPLICATION FOR SUPERVISORY WRITS REGARDING REQUEST FOR EXPEDITED CONSIDERATION; REQUEST FOR STAY ORDER---	XI	2529- 2574
10/27/03	WRIT DENIED FROM COURT OF APPEAL-----	XI	2575
10/27/03	PROFFER-D-1-COPY OF ARTICLE FROM MORNING ADVOCATE NEWS PAPER-----	XI	2576

CHRONOLOGICAL INDEX

10/27/03	JUROR EXCUSE-----	XI	2577
10/28/03	JUROR EXCUSE-----	XI	2578- 2579
10/28/03	LETTER FROM SUPREME COURT TO COUNSEL OF RECORD MR. KERRY CUCCIA-----	XI	2580
10/29/03	APPLICATION FOR WRITS DENIED FROM SUPREME COURT-----	XI	2581
10/31/03	JUROR EXCUSES-----	XI	2582- 2583
10/31/03	JUROR SEQUESTRATION ORDER-----	XI	2584- 2586
11/3/03	LETTER OF REQUEST FROM MEMBERS OF THE JURY-----	XI	2587
11/3/03	LOG-IN OF DEPUTY-----	XI	2588- 2592
11/4/03	NOTE FROM JUROR-----	XI	2593
11/6/03	REQUEST FROM JUROR-----	XI	2594
11/7/03	DEFENDANT'S PROPOSED GUILT PHASE INSTRUCTION NO.1-DETERMINATION REGARDING A PURPORTED STATEMENT BY THE DEFENDANT-	XI	2595
11/7/03	QUESTION AND ANSWERS FROM JUDGE TO JURY-----	XI	2596- 2597
11/7/03	STATEMENTS FROM THE JURY-----	XI	2598
11/7/03	NOTE TO THE JURY FROM THE JUDGE-----	XI	2599
11/8/03	REQUEST FROM THE JURY TO THE JUDGE-----	XI	2600- 2608
11/8/03	INSTRUCTIONS FROM JUDGE TO THE JURY (2)---	XI	2628
11/9/03	REQUEST FROM THE JURY TO THE JUDGE-----	XI	2629- 2632
12/5/03	MOTION AND ORDER OF RECUSAL-----	XI	2633
12/5/03	LETTER FROM CLERK OF COURT TO JUDGE DAVID PAINTER-----	XI	2634
12/8/03	MOTION TO RELEASE EVIDENCE INTRODUCED AT TRIAL-----	XI	2635- 2637
1/7/04	PROCEEDINGS HAD AT SETTING MOTIONS-----	XV	3561- 3563

CHRONOLOGICAL INDEX

1/20/04	PROCEEDINGS HAD AT MOTION FOR CHANGE OF VENUE-----	XV	3564-3570
1/21/04	PROCEEDINGS HAD AT MOTIONS-----	XV	3571-3579
1/27/04	ORDER-----	XI	2638
2/4/04	PROCEEDINGS HAD AT MOTION TO HAVE CONFLICT FREE COUNSEL APPOINTED-----	XV	3580-3623
2/19/04	PROCEEDINGS HAD AT MOTIONS-----	XV	3624-3628
3/9/04	NOTICE OF INTENT-----	XI	2639-2640
3/9/04	NOTICE OF INTENT TO PRESENT SCIENTIFIC EVIDENCE-----	XI	2641-2642
3/9/04	NINTH SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	XI	2643-2645
3/23/04	LETTER FROM CLERK OF COURT TO PUBLIC DEFENDER'S OFFICE-----	XI	2646
3/23/04	LETTER FROM CLERK OF COURT TO MR. CHARLES ST. DIZIER-----	XI	2647
3/31/04	NOTICE OF INTENT TO SEEK WRITS-----	XI	2648-2649
4/13/04	MOTION TO RECONSIDER ORDER OF MARCH 23, 2004 SUBSTITUTING COUNSEL-----	XI	2650-2652
4/14/04	MOTION FOR EXTENSION OF TIME-----	XI	2653-2654
4/29/04	ORDER-----	XI	2655
5/21/04	SUPPLEMENTAL NOTICE OF AGGRAVATING CIRCUMSTANCES-----	XI	2656-2657
5/21/04	SECOND NOTICE OF INTENT TO PRESENT SCIENTIFIC EVIDENCE-----	XI	2658-2667
5/21/04	PROCEEDINGS HAD AT STATUS CONFERENCE IN OPEN COURT-----	XV	3629-3659
5/24/04	MOTION TO ENROLL APPELLATE COUNSEL-----	XI	2668-2670
5/27/04	MOTION AND ORDER TO SUBSTITUTE APPELLATE COUNSEL-----	XI	2671-2673
5/28/04	MOTION FOR INDIVIDUAL AND SEQUESTERED VOIR DIRE AND INCORPORATED MEMORANDUM-----	XI	2674-2676

CHRONOLOGICAL INDEX

5/28/04	MOTION TO EXCLUDE EXPERT TESTIMONY CONCERNING FORENSIC ENTOMOLOGY CASE STUDY-----	XI	2677- 2679
5/28/04	NOTICE OF RECEIPT OF JASON REEVES' CASE FILE FROM FORMER COUNSEL-----	XI	2680
5/28/04	NOTICE OF INTENTION TO FILE OTHER MOTIONS-----	XI	2681- 2683
5/28/04	MOTION TO SUPPRESS MR. REEVES' STATEMENTS TO DEPUTY TAGGERT ON NOVEMBER 5, 2003-----	XI	2684- 2686
5/28/04	MOTION TO EXCLUDE EXPERT TESTIMONY CONCERNING PRE-PUBESCENT FINGERPRINTS AND THE USE OF CADAVER DOGS-----	XI	2687- 2689
5/28/04	MOTION TO SUPPRESS THE PHOTOGRAPHIC LINE-UP IDENTIFICATION OF MR. REEVES AUTOMOBILE-----	XI	2690- 2692
6/15/04	STATUS ORDER #2-----	XI	2693
6/18/04	PROCEEDINGS HAD AT STATUS CONFERENCE#2-----	XV	3660- 3706
6/23/04	MOTION TO ENROLL COUNSEL-----	XI	2694- 2700
6/23/04	PEART MOTION TO PRECLUDE THE STATE FROM FORCING THE PUBLIC DEFENDER TO BEHAVE UNETHICALLY TOWARD ITS CLIENTS-----	XI	2701- 2707
6/23/04	MOTION TO CONTINUE-----	XI	2708- 2710
6/23/04	MOTION TO ENROLL AS COUNSEL OF RECORD---	XI	2711
6/23/04	PROCEEDINGS HAD AT MOTIONS-----	XV	3707- 3746
6/28/04	PROCEEDINGS HAD AT MOTION TO SUPPRESS THE PHOTOGRAPHIC LINE-UP IDENTIFICATION OF MR. REEVE'S AUTOMOBILE-----	XV- XVI	3747- 3790
6/28/04	PROCEEDINGS HAD AT MOTION TO SUPPRESS MR. REEVE'S STATEMENTS TO DEPUTY MANDY TAGGART-----	XVI	3791- 3834
6/29/04	MOTION AND ORDER FOR A SECOND EX-PARTE, IN CAMERA HEARING-----	XI	2712- 2713
6/29/04	NOTICE OF INTENT TO SEEK WRITS-----	XI	2714- 2715

CHRONOLOGICAL INDEX

7/19/04	PROCEEDINGS HAD AT MOTIONS-----	XVI	3835-3972
7/20/04	STATUS ORDER #3-----	XI	2716
7/20/04	STATUS ORDER #4-----	XI	2717
7/20/04	STATUS ORDER #5-----	XI	2718
7/20/04	STATUS ORDER #6-----	XI	2719
7/21/04	MOTION FOR EXTENSION OF TIME TO FILE WRIT OF REVIEW-----	XI	2720-2721
8/4/04	PROCEEDINGS HAD AT STATUS CONFERENCE----	XVI	3973-3993
8/16/04	WRIT APPLICATION RECEIVED AND FILED-----	XI	2722
8/17/04	NOTICE OF INTENT TO PRESENT EXPERT EVIDENCE-----	XI	2723-2727
8/25/04	MOTION TO EXCLUDE TESTIMONY CONCERNING TRACE EVIDENCE EXAMINATIONS-----	XI	2728-2730
8/25/04	SUPPLEMENTAL MOTION TO SUPPRESS INCULPATORY STATEMENTS-----	XI	2731-2734
8/28/04	PROCEEDINGS HAD AT MOTIONS-----	XVI-XVII	3994-4081
8/30/04	WRIT DENIED ON APPLICATION FOR WRIT OF REVIEW-----	XI	2735
9/3/04	MOTION AND ORDER FOR TRANSCRIPT-----	XI	2736-2737
9/3/04	NOTICE OF INTENT TO SEEK WRITS-----	XI	2738-2739
9/3/04	STATE'S RESPONSE TO DEFENDANT'S MOTION TO INSPECT, EXAMINE AND TEST PHYSICAL EVIDENCE-----	XI	2740-2744
9/3/04	STATE'S RESPONSE TO DEFENDANT'S MOTION FOR INVENTORY AND ACCOUNTING OF ALL ITEMS AND SUBSTANCES TAKEN FROM JASON REEVES-----	XI-XII	2745-2765
9/3/04	MOTION TO EXCLUDE VIDEOTAPED REENACTMENT OF DISCOVERY OF VICTIM'S BODY-----	XII	2766-2768
9/3/04	MOTION TO INSPECT, EXAMINE AND TEST PHYSICAL EVIDENCE-----	XII	2769-2771

CHRONOLOGICAL INDEX

9/3/04	PROCEEDINGS HAD AT STATUS CONFERENCE----	XVII	4082- 4109
9/3/04	MOTION FOR INVENTORY AND ACCOUNTING OF ALL ITEMS AND SUBSTANCE TAKEN FROM JASON REEVES-----	XII	2772- 2775
9/3/04	PEART MOTION TO PRECLUDE THE STATE FROM FORCING THE PUBLIC DEFENDER TO BEHAVE UNETHICALLY TOWARD ITS CLIENTS; TO PERMIT ENROLLMENT OF INDEPENDENT COUNSEL FOR LITIGATING THE PEART MOTION; AND TO REINSTATE PREVIOUS TRIAL COUNSEL AS APPOINTED COUNSEL FOR MR. REEVES-----	XII	2776- 2785
9/3/04	DECLARATION OF JASON REEVES-----	XII	2786- 2797
9/7/04	STATE'S OPPOSITION TO THE DEFENDANT'S REPETITIVE PEART MOTION-----	XII	2798- 2816
9/7/04	STATE'S RESPONSE TO THE DEFENDANT'S MOTION FOR INDIVIDUAL AND SEQUESTRATION VOIR DIRE-----	XII	2817- 2819
9/7/04	STATE'S OPPOSITION FOR THE DEFENDANT'S MOTION AND ORDER FOR TRANSCRIPT-----	XII	2820- 2822
9/7/04	STATE'S OPPOSITION TO THE DEFENDANT'S MOTION TO EXCLUDE VIDEOTAPED REENACTMENT OF DISCOVERY OF VICTIM'S BODY-----	XII	2823- 2825
9/9/04	MOTION TO RELEASE EVIDENCE INTRODUCED AT TRIAL-----	XII	2826- 2827
9/14/04	MOTION FOR EXTENSION OF TIME TO FILE WRIT OF REVIEW-----	XII	2828- 2829
9/15/04	PROCEEDINGS HAD AT MOTIONS-----	XVII	4110- 4197
9/17/04	NOTICE OF INTENT TO SEEK WRITS-----	XII	2830- 2831
9/17/04	PROCEEDINGS HAD AT MOTIONS-----	XVII	4198- 4236
9/20/04	ORDER-----	XII	2832- 2833
9/21/04	SECOND SUPPLEMENTAL BERNARD NOTICE-----	XII	2834- 2837
9/21/04	SUPPLEMENTAL TO SECOND NOTICE OF INTENT TO PRESENT SCIENTIFIC EVIDENCE-----	XII	2838- 2890

CHRONOLOGICAL INDEX

9/22/04	SUPPLEMENTAL NOTICE OF INTENT TO PRESENT EXPERT EVIDENCE-----	XII	2891- 2893
9/22/04	LETTER FROM ASSISTANT DISTRICT ATTORNEY CYNTHIA KILLINGSWORTH TO PUBLIC DEFENDER MR. RON WARE-----	XII	2894
9/22/04	APPLICATION FOR WRIT RECEIVED AND FILED FROM COURT OF APPEAL-----	XII	2895
9/23/04	ANTICIPATED PROFFER ON SEPTEMBER 24, 2004-----	XII	2896- 2901
9/24/04	MOTION FOR EXTENSION OF TIME TO FILE WRIT OF REVIEW-----	XII	2902- 2904
9/24/04	PROCEEDINGS HAD AT MOTIONS-----	XVIII	4237- 4264
9/24/04	PROCEEDINGS HAD AT PROFFER-----	XVIII	4265- 4346
9/29/04	MOTION FOR SECOND EXTENSION FOR TIME TO FILE WRIT OF REVIEW-----	XII	2905- 2912
9/30/04	ORDER-----	XII	2913
9/30/04	ORDER-----	XII	2914
9/30/04	TRANSFER ORDER OF CUSTODY OF DEFENDANT-	XII	2915
9/30/04	JUROR SEQUESTRATION ORDER-----	XII	2916- 2919
10/5/04	MOTION TO RELEASE EVIDENCE INTRODUCED AT TRIAL-----	XII	2920- 2921
10/5/04	ORDER-PERTAINING TO EXTRA-JUDICIAL STATEMENTS OF PARTICIPANTS-----	XII	2922- 2925
10/5/04	MOTION TO CONTINUE-----	XII	2926- 2929
10/6/04	AMENDED TRANSFER ORDER OF CUSTODY OF DEFENDANT-----	XII	2930
10/6/04	ORDER-----	XII	2931
10/6/04	APPLICATION FOR WRIT RECEIVED AND FILED FROM THIRD CIRCUIT-----	XII	2932
10/6/04	PROCEEDINGS HAD AT MOTION FOR CONTINUANCE-----	XVIII	4347- 4398
10/7/04	WRIT DENIED; STAY DENIED ON WRIT OF REVIEW FROM COURT OF APPEAL-----	XII	2933

CHRONOLOGICAL INDEX

10/7/04	SUPREME COURT ORDER FOR JUDGE AD HOC---	XII	2934- 2935
10/8/04	WRIT DENIED; STAY DENIED FROM COURT OF APPEAL-----	XII	2936
10/12/04	TENTH SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	XII	2937- 2943
10/12/04	SECOND SUPPLEMENTAL NOTICE OF INTENT TO PRESENT EXPERT EVIDENCE-----	XII	2944- 2946
10/12/04	LETTER FROM INDIGENT DEFENSE ASSISTANCE BOARD-----	XII	2947
10/12/04	JUROR EXCUSES-----	XII	2948- 2957
10/12/04	PROCEEDINGS HAD AT JURY SELECTION-----	XVIII- XIX	4399- 4663
10/13/04	JUROR EXCUSES-----	XII	2958- 2963
10/13/04	PROCEEDINGS HAD AT JURY SELECTION-----	XIX- XXI	4664- 5029
10/14/04	JUROR EXCUSES-----	XII	2964
10/14/04	PROCEEDINGS HAD AT JURY SELECTION-----	XXI- XXII	5030- 5448
10/15/04	JUROR EXCUSES-----	XII	2965- 2969
10/15/04	SUPERVISORY WRITS DENIED FROM SUPREME COURT-----	XII	2970
10/15/04	PROCEEDINGS HAD AT JURY SELECTION-----	XXII- XXV	5449- 6077
10/16/04	JUROR EXCUSES-----	XII	2971- 2973
10/16/04	PROCEEDINGS HAD AT VOIR DIRE-----	XXV- XXVI	6078- 6276
10/18/04	JUROR EXCUSES-----	XII	2974- 2977
10/18/04	PROCEEDINGS HAD AT VOIR DIRE-----	XXVI- XXVII	6277- 6685
10/19/04	JUROR EXCUSES-----	XII	2978- 2986
10/19/04	PROCEEDINGS HAD AT VOIR DIRE-----	XXVII- XXIX	6686- 7077

CHRONOLOGICAL INDEX

10/20/04	JUROR EXCUSE-----	XII	2987
10/20/04	PROCEEDINGS HAD AT VOIR DIRE-----	XXIX- XXX	7078- 7494
10/21/04	PROCEEDINGS HAD AT JURY SELECTION-----	XXX- XXXII	7495- 7970
10/22/04	MOTION TO RELEASE EVIDENCE INTRODUCED AT TRIAL-----	XII	2988- 2989
10/25/04	JUROR EXCUSE-----	XII	2990
10/25/04	PROCEEDINGS HAD AT VOIR DIRE-----	XXXII- XXXIV	7971- 8333
10/26/04	PROCEEDINGS HAD AT VOIR DIRE-----	XXXIV- XXXV	8334- 8687
10/27/04	JUROR EXCUSE-----	XII	2991
10/27/04	ORDER TRANSFERRING CUSTODY OF DEFENDANT-----	XII	2992
10/27/04	LIST OF POTENTIAL JURORS-----	XII- XIII	2993- 3019
10/27/04	PROCEEDINGS HAD AT JURY SELECTION-----	XXXV- XXXVII	8688- 9138
10/28/04	MOTION TO RELEASE EVIDENCE ADMITTED DURING THE FIRST TRIAL OF THIS CASE-----	XIII	3020
10/28/04	SUPPLEMENTAL MOTION TO EXCLUDE EVIDENCE OF JASON REEVES' PRESENCE AND CONDUCT AT ST. THEODORE'S HOLY FAMILY CATHOLIC SCHOOL-----	XIII	3021- 3022
10/28/04	PROCEEDINGS HAD AT MOTIONS-----	XXXVII	9139- 9164
10/29/04	PROCEEDINGS HAD AT TRIAL-----	XXXVII- XXXVIII	9165- 9388
10/30/04	PROCEEDINGS HAD AT TRIAL-----	XXXVIII- XXXIX	9389- 9613
11/1/04	PROCEEDINGS HAD AT TRIAL-----	XXXIX- XXXX	9614- 9756
11/2/04	PROCEEDINGS HAD AT TRIAL-----	XXXX	9757- 9982
11/3/04	PROCEEDINGS HAD AT TRIAL-----	XXXX- XXXXI	9983- 10231
11/4/04	MOTION TO TRANSPORT PRISONER-----	XIII	3023- 3024

CHRONOLOGICAL INDEX

11/4/04	MOTION AND ORDER FOR PRODUCTION OR RECORDS-----	XIII	3025- 3026
11/4/04	PROCEEDINGS HAD AT TRIAL-----	XXXXI- XXXXII	10232- 10342
11/5/04	INSTRUCTIONS TO THE JURY-----	XIII	3027- 3037
11/5/04	QUESTIONS FROM MEMBERS OF THE JURY-----	XIII	3038- 3039
11/5/04	LIST OF POSSIBLE VERDICTS-----	XIII	3040
11/5/04	VERDICT OF THE JURY-----	XIII	3041
11/5/04	PROCEEDINGS HAD AT CLOSING ARGUMENTS----	XXXXII	10343- 10469
11/6/04	PROCEEDINGS HAD AT PENALTY PHASE-----	XXXXII- XXXXIII	10470- 10606
11/8/04	INSTRUCTIONS FROM THE JUDGE TO THE JURY REGARDING SENTENCE TO BE IMPOSED-----	XIII	3042- 3047
11/8/04	DEFENDANT'S PROPOSED PENALTY PHASE JURY INSTRUCTION NO. 1-----	XIII	3048
11/8/04	DEFENDANT'S PROPOSED PENALTY PHASE JURY INSTRUCTION NO. 2-----	XIII	3049
11/8/04	DEFENDANT'S PROPOSED PENALTY PHASE JURY INSTRUCTION NO. 3-----	XIII	3050
11/8/04	DEFENDANT'S PROPOSED PENALTY PHASE JURY INSTRUCTION NO. 4-----	XIII	3051
11/8/04	DEFENDANT'S PROPOSED PENALTY PHASE JURY INSTRUCTION NO. 5-----	XIII	3052
11/8/04	LIST OF AGGRAVATING CIRCUMSTANCES-----	XIII	3053
11/8/04	LIST OF MITIGATING CIRCUMSTANCES-----	XIII	3054
11/8/04	AGGRAVATING CIRCUMSTANCE OR CIRCUMSTANCES FOUND-----	XIII	3055
11/8/04	DEFENDANT SENTENCED TO DEATH-----	XIII	3056
11/8/04	PROCEEDINGS HAD AT PENALTY PHASE-----	XXXXIII- XXXXIV	10607- 10884
11/9/04	LETTER OF APPOINTMENT FROM CLERK OF COURT TO PROBATION AND PAROLE-----	XIII	3057
11/18/04	APPOINTMENT OF APPELLATE COUNSEL FOR DEATH SENTENCE-----	XIII	3058

CHRONOLOGICAL INDEX

11/22/04	STATE'S OPPOSITION TO THE UNIFORM CAPITAL SENTENCE REPORT-----	XIII	3059- 3061
11/24/04	DEFENDANT'S OPPOSITION TO THE UNIFORM CAPITAL SENTENCE REPORT-----	XIII	3062- 3063
12/6/04	MOTION TO RETURN PRISONER FROM A STATE INSTITUTION FOR SENTENCING-----	XIII	3064
12/9/04	MOTION FOR NEW TRIAL AND FOR ARREST OF JUDGMENT AND TO DELAY SENTENCING FOR EXTENSION OF TIME TO FILE AMENDED AND SUPPLEMENTAL MOTION FOR NEW TRIAL AND AMENDED SUPPLEMENTAL MOTION FOR ARREST OF JUDGMENT-----	XIII	3065- 3115
12/10/04	UNIFORM COMMITMENT DOCUMENT LOUISIANA DEPARTMENT OF CORRECTIONS-----	XIII	3116
12/10/04	PROCEEDINGS HAD AT MOTIONS AND SENTENCING-----	XXXIV	10885- 10999
12/17/04	MOTION FOR APPEAL-----	XIII	3117- 3120
12/22/04	NOTICE OF APPEAL-----	XIII	3121
3/10/05	EXTENSION OF TIME FROM COURT REPORTER ELIZABETH SURLS-----	XIII	3122- 3124
4/14/05	MOTION AND ORDER FOR EXTENSION OF RETURN DATE-----	XIII	3125- 3128
6/15/05	MOTION AND ORDER FOR EXTENSION OF RETURN DATE-----	XIII	3129- 3132
12/15/05	MOTION AND ORDER FOR EXTENSION OF RETURN DATE-----	XIII	3132A-B
1/15/06	CERTIFICATE OF THE CLERK OF COURT-----	XXXIV	11000- 11002

ALPHABETICAL INDEX

DOCUMENT	DATE	VOL	PAGE
ADDENDUM TO FOURTH SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	11/5/02	V	1147-1152
AFFIDAVIT (6)-----	8/9/02	IV	946-951
AGGRAVATING CIRCUMSTANCE OR CIRCUMSTANCES FOUND-----	11/8/04	XIII	3055
AMENDED TRANSFER ORDER OF CUSTODY OF DEFENDANT-----	10/6/04	XII	2930
ANTICIPATED PROFFER ON SEPTEMBER 24, 2004-----	9/23/04	XII	2896-2901
APPLICATION FOR SUBPOENA DUCES TECUM----	5/31/02	IV	825-859
APPLICATION FOR SUBPOENA DUCES TECUM----	11/12/02	V	1166-1175
APPLICATION FOR SUPERVISORY WRITS-----	10/14/03	VIII-IX	1983-2075
APPLICATION FOR SUPERVISORY WRITS-----	10/17/03	X	2303-2425
APPLICATION FOR SUPERVISORY WRITS REGARDING REQUEST FOR EXPEDITED CONSIDERATION; REQUEST FOR STAY ORDER----	10/27/03	XI	2529-2574
APPLICATION FOR WRIT OF REVIEW BY DEFENDANT; REQUEST FOR EXPEDITED CONSIDERATION; REQUEST FOR STAY ORDER; DEATH PENALTY CASE-----	10/14/03	IX-X	2108-2295
APPLICATION FOR WRIT RECEIVED AND FILED FROM COURT OF APPEAL-----	9/22/04	XII	2895
APPLICATION FOR WRIT RECEIVED AND FILED FROM THIRD CIRCUIT-----	10/6/04	XII	2932
APPLICATION FOR WRITS DENIED FROM SUPREME COURT-----	10/29/03	XI	2581
APPLICATION RECEIVED AND FILED FROM COURT OF APPEAL-----	10/27/03	XI	2527
APPOINTMENT OF APPELLATE COUNSEL FOR DEATH SENTENCE-----	11/18/04	XIII	3058
AUTHORIZATION TO EXAMINE EVIDENCE-----	1/9/03	V	1231
BERNARD NOTICE-----	3/19/02	III	591

ALPHABETICAL INDEX

BERNARD REQUEST WITH INCORPORATED MEMORANDUM OF LAWS-----	4/11/02	III	613-614
BILL OF INFORMATION-----	12/13/01	I	235
CERTIFICATE OF THE CLERK OF COURT-----	1/15/06	XXXXIV	11000- 11002
CHRONOLOGY OF TRIAL SETTINGS-----	9/16/03	VII	1567-1607
DECLARATION OF JASON REEVES-----	9/3/04	XII	2786-2797
DEFENDANT SENTENCED TO DEATH-----	11/8/04	XIII	3056
DEFENDANT'S ANSWER TO MOTION FOR DISCOVERY AND INSPECTION BY THE STATE WITH ATTORNEY KERRY CUCCIA'S ATTACHED LETTER-----	7/18/02	IV	938-940
DEFENDANT'S OBJECTION TO THE STATE'S DISCOVERY RESPONSES-----	5/1/02	III	717-721
DEFENDANT'S OPPOSITION TO THE UNIFORM CAPITAL SENTENCE REPORT-----	11/24/04	XIII	3062-3063
DEFENDANT'S PROPOSED GUILT PHASE INSTRUCTION NO.1-DETERMINATION REGARDING A PURPORTED STATEMENT BY THE DEFENDANT-	11/7/03	XI	2595
DEFENDANT'S PROPOSED PENALTY PHASE JURY INSTRUCTION NO. 1-----	11/8/04	XIII	3048
DEFENDANT'S PROPOSED PENALTY PHASE JURY INSTRUCTION NO. 2-----	11/8/04	XIII	3049
DEFENDANT'S PROPOSED PENALTY PHASE JURY INSTRUCTION NO. 3-----	11/8/04	XIII	3050
DEFENDANT'S PROPOSED PENALTY PHASE JURY INSTRUCTION NO. 4-----	11/8/04	XIII	3051
DEFENDANT'S PROPOSED PENALTY PHASE JURY INSTRUCTION NO. 5-----	11/8/04	XIII	3052
DEFENDANT'S SUPPLEMENTAL ANSWER TO MOTION FOR DISCOVERY AND INSPECTION BY THE STATE-----	10/16/03	X	2298-2300
EIGHTH SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	10/23/03	XI	2520-2521
EXTENSION OF TIME FROM COURT REPORTER ELIZABETH SURLS-----	3/10/05	XIII	3122-3124

ALPHABETICAL INDEX

FAXED COPY OF REQUEST FOR TRANSCRIPTS FORM 1/14/03-1/17/03-----	10/2/03	VIII	1959
FIFTH SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	1/14/03	VI	1289-1290
FIRST SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	3/15/02	III	585-588
FOURTH SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	10/31/02	V	1078-1143
INSTRUCTIONS FROM JUDGE TO THE JURY (2)----	11/8/03	XI	2628
INSTRUCTIONS FROM THE JUDGE TO THE JURY REGARDING SENTENCE TO BE IMPOSED-----	11/8/04	XIII	3042-3047
INSTRUCTIONS TO THE JURY-----	11/5/04	XIII	3027-3037
JACKSON REQUEST WITH INCORPORATED MEMORANDUM OF LAW-----	4/11/02	III	608-610
JUROR EXCUSE-----	10/20/04	XII	2987
JUROR EXCUSE-----	10/27/03	XI	2577
JUROR EXCUSE-----	10/28/03	XI	2578-2579
JUROR EXCUSE-----	10/25/04	XII	2990
JUROR EXCUSE-----	10/27/04	XII	2991
JUROR EXCUSES-----	10/31/03	XI	2582-2583
JUROR EXCUSES-----	10/12/04	XII	2948-2957
JUROR EXCUSES-----	10/13/04	XII	2958-2963
JUROR EXCUSES-----	10/14/04	XII	2964
JUROR EXCUSES-----	10/15/04	XII	2965-2969
JUROR EXCUSES-----	10/16/04	XII	2971-2973
JUROR EXCUSES-----	10/18/04	XII	2974-2977
JUROR EXCUSES-----	10/19/04	XII	2978-2986
JUROR INFORMATION QUESTIONNAIRE-----	11/20/02	V	1204-1211
JUROR SEQUESTRATION ORDER-----	10/31/03	XI	2584-2586
JUROR SEQUESTRATION ORDER-----	9/30/04	XII	2916-2919

ALPHABETICAL INDEX

LETTER FROM ASSISTANT DISTRICT ATTORNEY CYNTHIA KILLINGSWORTH TO MR. KERRY CUCCIA-----	5/9/02	III-IV	726-817
LETTER FROM ASSISTANT DISTRICT ATTORNEY CYNTHIA KILLINGSWORTH TO MR. KERRY CUCCIA-----	10/1/03	VIII	1766-1958
LETTER FROM ASSISTANT DISTRICT ATTORNEY CYNTHIA KILLINGSWORTH TO PUBLIC DEFENDER MR. RON WARE-----	9/22/04	XII	2894
LETTER FROM ATTORNEY KERRY CUCCIA-----	4/9/02	III	592
LETTER FROM CAPITAL DEFENSE PROJECT (MR. KERRY CUCCIA) TO JUDGE PATRICIA MINALDI----	11/20/02	V	1212
LETTER FROM CAPITAL DEFENSE PROJECT ATTORNEY KERRY CUCCIA-----	10/17/03	X	2302
LETTER FROM CAPITAL DEFENSE PROJECT TO CLERK OF COURT-----	10/14/03	VIII	1982
LETTER FROM CLERK OF COURT TO JUDGE DAVID PAINTER-----	12/5/03	XI	2634
LETTER FROM CLERK OF COURT TO MR. CHARLES ST. DIZIER-----	3/23/04	XI	2647
LETTER FROM CLERK OF COURT TO PUBLIC DEFENDER'S OFFICE-----	3/23/04	XI	2646
LETTER FROM COURT OF APPEAL TO MR. KERRY CUCCIA-----	12/20/02	V	1227
LETTER FROM COURT OF APPEAL TO MR. KERRY CUCCIA-----	1/8/03	V	1228
LETTER FROM COURT OF APPEAL TO MR. KERRY CUCCIA-----	10/16/03	X	2301
LETTER FROM DEPARTMENT OF PUBLIC CORRECTIONS TO MR. JAMES ANDRUS, CLERK OF COURT-----	9/30/03	VII	1634-1639
LETTER FROM INDIGENT DEFENSE ASSISTANCE BOARD-----	10/12/04	XII	2947
LETTER FROM INVESTIGATOR CINNAMON SALVADOR TO JUDGE PATRICIA MINALDI-----	11/15/02	V	1178
LETTER FROM SUPREME COURT TO COUNSEL----	6/11/03	VI	1314
LETTER FROM SUPREME COURT TO COUNSEL OF RECORD-----	1/17/03	VI	1307

ALPHABETICAL INDEX

LETTER FROM SUPREME COURT TO COUNSEL OF RECORD-----	10/27/03	XI	2528
LETTER FROM SUPREME COURT TO COUNSEL OF RECORD MR. KERRY CUCCIA-----	10/28/03	XI	2580
LETTER FROM SUPREME COURT TO MR. KERRY CUCCIA-----	10/20/03	X	2453
LETTER FROM SUPREME COURT TO MR. KERRY CUCCIA ON PLEADINGS FILED-----	10/15/03	X	2297
LETTER OF APPOINTMENT FROM CLERK OF COURT TO PROBATION AND PAROLE-----	11/9/04	XIII	3057
LETTER OF REQUEST FROM MEMBERS OF THE JURY-----	11/3/03	XI	2587
LIST OF AGGRAVATING CIRCUMSTANCES-----	11/8/04	XIII	3053
LIST OF MITIGATING CIRCUMSTANCES-----	11/8/04	XIII	3054
LIST OF POSSIBLE VERDICTS-----	11/5/04	XIII	3040
LIST OF POTENTIAL JURORS-----	10/27/04	XII- XIII	2993-3019
LOG-IN OF DEPUTY-----	11/3/03	XI	2588-2592
MEMORANDUM IN REGARD TO TRACKING/CADAVER DOG EVIDENCE-----	8/20/03	VI	1326-1335
MEMORANDUM IN SUPPORT OF MOTION TO SUPPRESS EVIDENCE-----	10/21/02	V	1044-1049
MEMORANDUM IN SUPPORT OF MOTION TO SUPPRESS INCULPATORY STATEMENT-----	10/21/02	V	1050-1074
MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR RANDOM SELECTION OF ALTERNATE VENUE-----	9/16/03	VI-VII	1483-1566
MINUTES HELD IN OPEN COURT-----	12/14/01- 12/10/04	I	1-234
MOTION AND ORDER FOR A SECOND EX-PARTE, IN CAMERA HEARING-----	6/29/04	XI	2712-2713
MOTION AND ORDER FOR EXTENSION OF RETURN DATE-----	4/14/05	XIII	3125-3128
MOTION AND ORDER FOR EXTENSION OF RETURN DATE-----	6/15/05	XIII	3129-3132
MOTION AND ORDER FOR EXTENSION OF RETURN DATE-----	12/15/05	XIII	3132A-B

ALPHABETICAL INDEX

MOTION AND ORDER FOR PRODUCTION OR RECORDS-----	11/4/04	XIII	3025-3026
MOTION AND ORDER FOR RELEASE FOR EVIDENCE-----	1/9/03	V	1229-1230
MOTION AND ORDER FOR TRANSCRIPT-----	6/10/02	IV	860
MOTION AND ORDER FOR TRANSCRIPT-----	9/3/04	XI	2736-2737
MOTION AND ORDER OF RECUSAL-----	12/5/03	XI	2633
MOTION AND ORDER TO APPOINT SPECIAL PROCESS SERVER-----	4/25/02	III	632-633
MOTION AND ORDER TO APPOINT SPECIAL PROCESS SERVER-----	5/31/02	IV	823-824
MOTION AND ORDER TO PRODUCE DOCUMENTS	9/30/03	VII	1630-1633
MOTION AND ORDER TO SUBSTITUTE APPELLATE COUNSEL-----	5/27/04	XI	2671-2673
MOTION DENIED ON MOTION FOR AMICUS CURIAE, FROM THIRD CIRCUIT, COURT OF APPEAL-----	10/8/03	VIII	1965
MOTION DENIED ON MOTION FOR LEAVE OF AMICI CURIAE FROM THIRD CIRCUIT, COURT OF APPEAL-----	10/8/03	VIII	1966
MOTION FOR APPEAL-----	12/17/04	XIII	3117-3120
MOTION FOR CHANGE OF VENUE WITH INCORPORATED MEMORANDUM OF LAW-----	4/15/02	III	620-621
MOTION FOR DAUBERT HEARING ON THE ADMISSIBILITY OF EXPERT TESTIMONY IN REGARD TO THE ALLEGED DNA EVIDENCE-----	11/20/02	V	1179-1180
MOTION FOR DISCOVERY AND INSPECTION-----	3/7/02	I-II	247-256
MOTION FOR DISCOVERY AND INSPECTION BY THE STATE-----	3/19/02	III	589-590
MOTION FOR EXTENSION OF TIME-----	4/14/04	XI	2653-2654
MOTION FOR EXTENSION OF TIME IN WHICH TO FILE SUPPLEMENTAL BRIEFS-----	2/3/03	VI	1311-1313
MOTION FOR EXTENSION OF TIME IN WHICH TO SEEK SUPERVISORY WRITS-----	8/12/02	IV	954-955
MOTION FOR EXTENSION OF TIME IN WHICH TO SEEK SUPERVISORY WRITS-----	11/26/02	V	1213-1214

ALPHABETICAL INDEX

MOTION FOR EXTENSION OF TIME IN WHICH TO SEEK SUPERVISORY WRITS-----	12/2/02	V	1220-1221
MOTION FOR EXTENSION OF TIME IN WHICH TO SEEK SUPERVISORY WRITS-----	12/4/02	V	1222-1225
MOTION FOR EXTENSION OF TIME IN WHICH TO SEEK SUPERVISORY WRITS-----	10/3/03	VIII	1962-1963
MOTION FOR EXTENSION OF TIME TO FILE WRIT OF REVIEW-----	7/21/04	XI	2720-2721
MOTION FOR EXTENSION OF TIME TO FILE WRIT OF REVIEW-----	9/14/04	XII	2828-2829
MOTION FOR EXTENSION OF TIME TO FILE WRIT OF REVIEW-----	9/24/04	XII	2902-2904
MOTION FOR FULL AND OPEN FILE DISCOVERY WITH INCORPORATED MEMORANDUM OF LAW WITH ATTACHED ATTORNEY'S LETTER-----	4/15/02	III	622-624
MOTION FOR INDIVIDUAL AND SEQUESTERED VOIR DIRE AND INCORPORATED MEMORANDUM-----	5/28/04	XI	2674-2676
MOTION FOR INVENTORY AND ACCOUNTING OF ALL ITEMS AND SUBSTANCE TAKEN FROM JASON REEVES-----	9/3/04	XII	2772-2775
MOTION FOR NEW TRIAL AND FOR ARREST OF JUDGMENT AND TO DELAY SENTENCING FOR EXTENSION OF TIME TO FILE AMENDED AND SUPPLEMENTAL MOTION FOR NEW TRIAL AND AMENDED SUPPLEMENTAL MOTION FOR ARREST OF JUDGMENT-----	12/9/04	XIII	3065-3115
MOTION FOR PERMISSION TO FILE ADDITIONAL MOTIONS WITH INCORPORATED MEMORANDUM OF LAW-----	4/11/02	III	603-604
MOTION FOR PRELIMINARY HEARING-----	4/11/02	III	605-607
MOTION FOR PRE-TRIAL DISCLOSURE OF ADMONITION-----	1/13/03	V	1237-1238
MOTION FOR PRODUCTION OF LAW ENFORCEMENT REPORTS WITH INCORPORATED MEMORANDUM OF LAW-----	4/15/02	III	618-619
MOTION FOR PUBLIC RECORDS REQUEST-----	1/13/03	V	1234-1236
MOTION FOR RANDOM SELECTION OF ALTERNATE VENUE-----	9/16/03	VI	1481-1482
MOTION FOR RELEASE OF JUVENILE ADJUDICATION-----	4/17/02	III	625-626

ALPHABETICAL INDEX

MOTION FOR RELEASE OF JUVENILE ADJUDICATION-----	4/18/02	III	627-631
MOTION FOR RELEASE OF RECORD-----	8/12/02	IV	956
MOTION FOR SECOND EXTENSION FOR TIME TO FILE WRIT OF REVIEW-----	9/29/04	XII	2905-2912
MOTION FOR STAY OF PROCEEDINGS-----	1/9/03	V	1232-1233
MOTION FOR STAY OF PROCEEDINGS-----	1/14/03	VI	1298-1300
MOTION FOR STAY OF PROCEEDINGS-----	9/25/03	VII	1624-1625
MOTION FOR STAY OF PROCEEDINGS-----	9/25/03	VII	1626-1627
MOTION FOR STAY OF PROCEEDINGS-----	9/25/03	VII	1628-1629
MOTION FOR STAY OF PROCEEDINGS-----	10/24/03	XI	2522-2523
MOTION FOR USE OF JUDICIAL AUTHORITY UNDER ARTICLE 17 LOUISIANA CODE OF CRIMINAL PROCEDURE WITH MEMORANDUM OF LAW-----	9/16/03	VI	1454-1480
MOTION IN LIMINE PURSUANT TO ARTICLE 601 LA. C.E. WITH ATTORNEY'S ATTACHED LETTER AND AFFIDAVIT-----	11/12/02	V	1160-1165
MOTION IN LIMINE TO EXCLUDE TESTIMONY IN REGARD TO THE EVENTS AT THE ST. THEODORE'S CATHOLIC SCHOOL WITH INCORPORATED MEMORANDUM-----	11/20/02	V	1181-1186
MOTION IN LIMINE TO STRIKE ALL REFERENCE TO RAPE FROM THE INDICTMENT AND TO EXCLUDE ANY TESTIMONY IN REGARD THERETO FROM THE GUILT PHASE OF THE TRIAL-----	11/20/02	V	1187-1190
MOTION T STRIKE CERTAIN VICTIM IMPACT TESTIMONY PRESENTED IN SUPPLEMENTAL BERNARD NOTICE-----	11/12/02	V	1153-1157
MOTION TO CONTINUE-----	10/10/02	IV	990-992
MOTION TO CONTINUE-----	7/1/03	VI	1315-1322
MOTION TO CONTINUE-----	6/23/04	XI	2708-2710
MOTION TO CONTINUE-----	10/5/04	XII	2926-2929
MOTION TO CONTINUE OCTOBER 27, 2003 TRIAL DATE-----	9/16/03	VII	1608-1613
MOTION TO CONTINUE OCTOBER 27, 2003 TRIAL DATE-----	9/17/03	VII	1614-1620

ALPHABETICAL INDEX

MOTION TO CONTINUE TRIAL DATE OF JANUARY 20, 2003-----	1/13/03	V	1239-1242
MOTION TO ENROLL-----	4/11/02	III	594
MOTION TO ENROLL APPELLATE COUNSEL-----	5/24/04	XI	2668-2670
MOTION TO ENROLL AS COUNSEL OF RECORD---	6/23/04	XI	2711
MOTION TO ENROLL COUNSEL-----	6/23/04	XI	2694-2700
MOTION TO ENROLL WITH ATTORNEY KERRY CUCCIA'S ATTACHED LETTER-----	7/29/02	IV	941-942
MOTION TO EXCLUDE EXPERT TESTIMONY CONCERNING FORENSIC ENTOMOLOGY CASE STUDY-----	5/28/04	XI	2677-2679
MOTION TO EXCLUDE EXPERT TESTIMONY CONCERNING PRE-PUBESCENT FINGERPRINTS AND THE USE OF CADAVER DOGS-----	5/28/04	XI	2687-2689
MOTION TO EXCLUDE TESTIMONY CONCERNING TRACE EVIDENCE EXAMINATIONS-----	8/25/04	XI	2728-2730
MOTION TO EXCLUDE VIDEOTAPED REENACTMENT OF DISCOVERY OF VICTIM'S BODY-----	9/3/04	XII	2766-2768
MOTION TO EXPAND THE MOTION TO SUPPRESS EVIDENCE-----	5/1/02	III	722
MOTION TO INSPECT, EXAMINE AND TEST PHYSICAL EVIDENCE-----	9/3/04	XII	2769-2771
MOTION TO QUASH BILL OF INDICTMENT, OR, IN THE ALTERNATIVE, TO PRECLUDE THE STATE FROM ALLEGING AND SEEKING TO PROVE AGGRAVATING FACTORS NOT LISTED IN THE BILL OF INDICTMENT-----	1/13/03	V	1243-1246
MOTION TO QUASH INDICTMENT WITH INCORPORATED MEMORANDUM OF LAW-----	4/11/02	III	595-602
MOTION TO QUASH SUBPOENAS DUCES TECUM--	8/12/02	IV	984-987
MOTION TO RECONSIDER CHANGE OF VENUE---	11/12/02	V	1158-1159
MOTION TO RECONSIDER ORDER OF MARCH 23, 2004 SUBSTITUTING COUNSEL-----	4/13/04	XI	2650-2652
MOTION TO RECUSE THE OFFICE OF THE CALCASIEU DISTRICT ATTORNEY AND ASSISTANT DISTRICT ATTORNEY WAYNE FREY-----	1/13/03	V-VI	1247-1288

ALPHABETICAL INDEX

MOTION TO RELEASE EVIDENCE ADMITTED DURING THE FIRST TRIAL OF THIS CASE-----	10/28/04	XIII	3020
MOTION TO RELEASE EVIDENCE INTRODUCED AT TRIAL-----	12/8/03	XI	2635-2637
MOTION TO RELEASE EVIDENCE INTRODUCED AT TRIAL-----	9/9/04	XII	2826-2827
MOTION TO RELEASE EVIDENCE INTRODUCED AT TRIAL-----	10/5/04	XII	2920-2921
MOTION TO RELEASE EVIDENCE INTRODUCED AT TRIAL-----	10/22/04	XII	2988-2989
MOTION TO REOPEN JACKSON HEARING-----	11/20/02	V	1191-1193
MOTION TO RETURN PRISONER FROM A STATE INSTITUTION FOR SENTENCING-----	12/6/04	XIII	3064
MOTION TO SUPPRESS INCULPATORY STATEMENTS-----	4/11/02	III	616
MOTION TO SUPPRESS MR. REEVES' STATEMENTS TO DEPUTY TAGGERT ON NOVEMBER 5, 2003-----	5/28/04	XI	2684-2686
MOTION TO SUPPRESS THE EVIDENCE-----	4/11/02	III	615
MOTION TO SUPPRESS THE IDENTIFICATIONS----	4/11/02	III	617
MOTION TO SUPPRESS THE PHOTOGRAPHIC LINE-UP IDENTIFICATION OF MR. REEVES AUTOMOBILE-----	5/28/04	XI	2690-2692
MOTION TO TRANSPORT PRISONER-----	11/4/04	XIII	3023-3024
NINTH SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	3/9/04	XI	2643-2645
NOTE FROM JUROR-----	11/4/03	XI	2593
NOTE TO THE JURY FROM THE JUDGE-----	11/7/03	XI	2599
NOTICE OF APPEAL-----	12/22/04	XIII	3121
NOTICE OF INTENT-----	3/9/04	XI	2639-2640
NOTICE OF INTENT TO FILE ADDITIONAL MOTIONS-----	2/7/02	I	237-239
NOTICE OF INTENT TO PRESENT EXPERT EVIDENCE-----	8/17/04	XI	2723-2727
NOTICE OF INTENT TO PRESENT SCIENTIFIC EVIDENCE-----	3/9/04	XI	2641-2642

ALPHABETICAL INDEX

NOTICE OF INTENT TO SEEK SUPERVISORY WRITS-----	10/21/02	V	1042-1043
NOTICE OF INTENT TO SEEK SUPERVISORY WRITS-----	1/14/03	VI	1301-1302
NOTICE OF INTENT TO SEEK SUPERVISORY WRITS-----	9/16/03	VI	1438-1440
NOTICE OF INTENT TO SEEK SUPERVISORY WRITS-----	9/16/03	VI	1441-1442
NOTICE OF INTENT TO SEEK SUPERVISORY WRITS-----	9/16/03	VI	1443-1444
NOTICE OF INTENT TO SEEK SUPERVISORY WRITS-----	10/24/03	XI	2524-2525
NOTICE OF INTENT TO SEEK SUPERVISORY WRITS WITH ATTORNEY-----	7/31/02	IV	943-945
NOTICE OF INTENT TO SEEK THE DEATH PENALTY-----	1/7/02	I	236
NOTICE OF INTENT TO SEEK WRITS-----	3/31/04	XI	2648-2649
NOTICE OF INTENT TO SEEK WRITS-----	6/29/04	XI	2714-2715
NOTICE OF INTENT TO SEEK WRITS-----	9/3/04	XI	2738-2739
NOTICE OF INTENT TO SEEK WRITS-----	9/17/04	XII	2830-2831
NOTICE OF INTENTION TO APPLY TO THE THIRD CIRCUIT, COURT OF APPEAL FOR WRIT OF REVIEW-----	8/27/03	VI	1437-1438
NOTICE OF INTENTION TO FILE OTHER MOTIONS-----	5/28/04	XI	2681-2683
NOTICE OF RECEIPT OF JASON REEVES' CASE FILE FROM FORMER COUNSEL-----	5/28/04	XI	2680
OBJECTIONS TO PROPOSED REDACTION OF VIDEOTAPED STATEMENT-----	11/27/02	V	1215-1219
OMNIBUS CERTIFICATE OF SERVICE-----	4/11/02	III	593
ORDER-----	10/20/03	X	2455
ORDER-----	1/27/04	XI	2638
ORDER-----	4/29/04	XI	2655
ORDER-----	9/20/04	XII	2832-2833
ORDER-----	9/30/04	XII	2913

ALPHABETICAL INDEX

ORDER-----	9/30/04	XII	2914
ORDER-----	10/6/04	XII	2931
ORDER TRANSFERRING CUSTODY OF DEFENDANT-----	10/27/04	XII	2992
ORDER-PERTAINING TO EXTRA-JUDICIAL STATEMENTS OF PARTICIPANTS-----	10/5/04	XII	2922-2925
PEART MOTION-----	2/7/02	I	240-246
PEART MOTION TO PRECLUDE THE STATE FROM FORCING THE PUBLIC DEFENDER TO BEHAVE UNETHICALLY TOWARD ITS CLIENTS-----	6/23/04	XI	2701-2707
PEART MOTION TO PRECLUDE THE STATE FROM FORCING THE PUBLIC DEFENDER TO BEHAVE UNETHICALLY TOWARD ITS CLIENTS; TO PERMIT ENROLLMENT OF INDEPENDENT COUNSEL FOR LITIGATING THE PEART MOTION; AND TO REINSTATE PREVIOUS TRIAL COUNSEL AS APPOINTED COUNSEL FOR MR. REEVES-----	9/3/04	XII	2776-2785
POST HEARING MEMORANDUM MOTION TO SUPPRESS IDENTIFICATIONS-----	5/1/02	III	724-725
PROCEEDINGS HAD AT ARRAIGNMENT-----	12/14/01	XIII	3133-3135
PROCEEDINGS HAD AT ARRAIGNMENT-----	1/7/02	XIII	3140-3144
PROCEEDINGS HAD AT CLOSING ARGUMENTS----	11/5/04	XXXXXII	10343- 10469
PROCEEDINGS HAD AT GRAND JURY REPORT----	12/14/01	XIII	3136-3139
PROCEEDINGS HAD AT JURY SELECTION-----	10/12/04	XVIII- XIX	4399-4663
PROCEEDINGS HAD AT JURY SELECTION-----	10/13/04	XIX- XXI	4664-5029
PROCEEDINGS HAD AT JURY SELECTION-----	10/14/04	XXI- XXII	5030-5448
PROCEEDINGS HAD AT JURY SELECTION-----	10/15/04	XXII- XXV	5449-6077
PROCEEDINGS HAD AT JURY SELECTION-----	10/21/04	XXX- XXXII	7495-7970
PROCEEDINGS HAD AT JURY SELECTION-----	10/27/04	XXXV- XXXVII	8688-9138
PROCEEDINGS HAD AT MOTION FOR CHANGE OF VENUE-----	1/20/04	XV	3564-3570

ALPHABETICAL INDEX

PROCEEDINGS HAD AT MOTION FOR CONTINUANCE-----	10/6/04	XVIII	4347-4398
PROCEEDINGS HAD AT MOTION TO HAVE CONFLICT FREE COUNSEL APPOINTED-----	2/4/04	XV	3580-3623
PROCEEDINGS HAD AT MOTION TO SUPPRESS EVIDENCE AND STATEMENTS-----	4/30/02	XIV	3294-3550
PROCEEDINGS HAD AT MOTION TO SUPPRESS IDENTIFICATION-----	4/30/02	XIV	3284-3293
PROCEEDINGS HAD AT MOTION TO SUPPRESS IDENTIFICATIONS-----	4/17/02	XIII- XIV	3182-3283
PROCEEDINGS HAD AT MOTION TO SUPPRESS MR. REEVE'S STATEMENTS TO DEPUTY MANDY TAGGART-----	6/28/04	XVI	3791-3834
PROCEEDINGS HAD AT MOTION TO SUPPRESS THE PHOTOGRAPHIC LINE-UP IDENTIFICATION OF MR. REEVE'S AUTOMOBILE-----	6/28/04	XV- XVI	3747-3790
PROCEEDINGS HAD AT MOTIONS-----	7/19/04	XVI	3835-3972
PROCEEDINGS HAD AT MOTIONS-----	4/15/02	XIII	3151-3154
PROCEEDINGS HAD AT MOTIONS-----	4/17/02	XIII	3155-3181
PROCEEDINGS HAD AT MOTIONS-----	1/21/04	XV	3571-3579
PROCEEDINGS HAD AT MOTIONS-----	2/19/04	XV	3624-3628
PROCEEDINGS HAD AT MOTIONS-----	6/23/04	XV	3707-3746
PROCEEDINGS HAD AT MOTIONS-----	8/28/04	XVI- XVII	3994-4081
PROCEEDINGS HAD AT MOTIONS-----	9/15/04	XVII	4110-4197
PROCEEDINGS HAD AT MOTIONS-----	9/17/04	XVII	4198-4236
PROCEEDINGS HAD AT MOTIONS-----	9/24/04	XVIII	4237-4264
PROCEEDINGS HAD AT MOTIONS-----	10/28/04	XXXVII	9139-9164
PROCEEDINGS HAD AT MOTIONS AND SENTENCING-----	12/10/04	XXXIV	10885- 10999
PROCEEDINGS HAD AT PENALTY PHASE-----	11/6/04	XXXII- XXXIII	10470- 10606
PROCEEDINGS HAD AT PENALTY PHASE-----	11/8/04	XXXIII- XXXIV	10607- 10884
PROCEEDINGS HAD AT PROFFER-----	9/24/04	XVIII	4265-4346
PROCEEDINGS HAD AT ROLL CALL-----	10/21/02	XV	3551-3553
PROCEEDINGS HAD AT SETTING MOTIONS-----	1/7/04	XV	3561-3563

ALPHABETICAL INDEX

PROCEEDINGS HAD AT STATE'S RESPONSE FOR DISCOVERY AND INSPECTION-----	3/13/02	XIII	3145-3150
PROCEEDINGS HAD AT STATUS CONFERENCE----	9/3/04	XVII	4082-4109
PROCEEDINGS HAD AT STATUS CONFERENCE----	8/4/04	XVI	3973-3993
PROCEEDINGS HAD AT STATUS CONFERENCE IN OPEN COURT-----	5/21/04	XV	3629-3659
PROCEEDINGS HAD AT STATUS CONFERENCE#2-	6/18/04	XV	3660-3706
PROCEEDINGS HAD AT TELECONFERENCE-----	10/20/03	XV	3554-3560
PROCEEDINGS HAD AT TRIAL-----	10/29/04	XXXVII- XXXVIII	9165-9388
PROCEEDINGS HAD AT TRIAL-----	10/30/04	XXXVIII- XXXIX	9389-9613
PROCEEDINGS HAD AT TRIAL-----	11/1/04	XXXIX- XXXX	9614-9756
PROCEEDINGS HAD AT TRIAL-----	11/2/04	XXXX	9757-9982
PROCEEDINGS HAD AT TRIAL-----	11/3/04	XXXX- XXXXI	9983-10231
PROCEEDINGS HAD AT TRIAL-----	11/4/04	XXXXI- XXXXII	10232- 10342
PROCEEDINGS HAD AT VOIR DIRE-----	10/16/04	XXV- XXVI	6078-6276
PROCEEDINGS HAD AT VOIR DIRE-----	10/18/04	XXVI- XXVII	6277-6685
PROCEEDINGS HAD AT VOIR DIRE-----	10/19/04	XXVII- XXIX	6686-7077
PROCEEDINGS HAD AT VOIR DIRE-----	10/20/04	XXIX- XXX	7078-7494
PROCEEDINGS HAD AT VOIR DIRE-----	10/25/04	XXXII- XXXIV	7971-8333
PROCEEDINGS HAD AT VOIR DIRE-----	10/26/04	XXXIV- XXXV	8334-8687
PROFFER-D-1-COPY OF ARTICLE FROM MORNING ADVOCATE NEWS PAPER-----	10/27/03	XI	2576
QUESTION AND ANSWERS FROM JUDGE TO JURY-----	11/7/03	XI	2596-2597
QUESTIONS FROM MEMBERS OF THE JURY-----	11/5/04	XIII	3038-3039
REQUEST FOR NOTICE OF AGGRAVATING CIRCUMSTANCES WITH INCORPORATED MEMORANDUM OF LAW-----	4/11/02	III	611-612

ALPHABETICAL INDEX

REQUEST FROM JUROR-----	11/6/03	XI	2594
REQUEST FROM THE JURY TO THE JUDGE-----	11/8/03	XI	2600-2608
REQUEST FROM THE JURY TO THE JUDGE-----	11/9/03	XI	2629-2632
RULING-----	11/4/02	V	1144-1146
RULING-----	11/14/02	V	1176-1177
SECOND MOTION FOR CHANGE OF VENUE OR, ALTERNATIVELY, A CONTINUANCE OF TRIAL-----	11/20/02	V	1198-1200
SECOND MOTION FOR CONTINUANCE-----	11/20/02	V	1194-1197
SECOND MOTION TO CONTINUE TRIAL DATE OF JANUARY 20, 2003-----	1/23/03	VI	1308-1310
SECOND MOTION TO CONTINUE TRIAL DATE OF OCTOBER 27, 2003-----	10/22/03	XI	2502-2514
SECOND NOTICE OF INTENT TO PRESENT SCIENTIFIC EVIDENCE-----	5/21/04	XI	2658-2667
SECOND OMNIBUS CERTIFICATE OF SERVICE-----	5/1/02	III	723
SECOND SUPPLEMENTAL BERNARD NOTICE-----	9/21/04	XII	2834-2837
SECOND SUPPLEMENTAL NOTICE OF INTENT TO PRESENT EXPERT EVIDENCE-----	10/12/04	XII	2944-2946
SECOND SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	4/30/02	III	634-715
SEVENTH SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	10/22/03	XI	2515-2517
SIXTH SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	10/3/03	VIII	1960-1961
STATE'S BRIEF ON THE REQUIRED HEARING ON VIDEOTAPED REDACTION-----	8/4/03	VI	1323-1325
STATE'S FIRST SUPPLEMENTAL JACKSON NOTICE-----	1/14/03	VI	1294-1297
STATE'S JACKSON NOTICE-----	4/30/02	III	716
STATE'S MOTION TO COMPEL PRODUCTION PURSUANT TO LA. C.C.R.P. ARTICLES 724 AND 725-----	10/14/03	IX	2076-2107
STATE'S OBJECTION TO SERVICE OF APPLICATION FOR SUBPOENA DUCES TECUM-----	11/20/02	V	1201-1203

ALPHABETICAL INDEX

STATE'S OPPOSITION FOR THE DEFENDANT'S MOTION AND ORDER FOR TRANSCRIPT-----	9/7/04	XII	2820-2822
STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR A STAY OF PROCEEDINGS-----	9/25/03	VII	1621-1623
STATE'S OPPOSITION TO DEFENDANT'S MOTION OR EX-PARTE DISCUSSION REGARDING EXPERT WITNESSES AND OPPOSITION TO DEFENSE MOTION FOR A CONTINUANCE-----	10/11/02	IV	993-998
STATE'S OPPOSITION TO DEFENDANT'S SECOND MOTION TO CONTINUE TRIAL DATE OF OCTOBER 27,2003-----	10/21/03	X-XI	2456-2501
STATE'S OPPOSITION TO THE DEFENDANT'S MOTION TO EXCLUDE VIDEOTAPED REENACTMENT OF DISCOVERY OF VICTIM'S BODY-----	9/7/04	XII	2823-2825
STATE'S OPPOSITION TO THE DEFENDANT'S REPETITIVE PEART MOTION-----	9/7/04	XII	2798-2816
STATE'S OPPOSITION TO THE UNIFORM CAPITAL SENTENCE REPORT-----	11/22/04	XIII	3059-3061
STATE'S POST-HEARING BRIEF ON DEFENDANT'S MOTION TO SUPPRESS-----	10/11/02	IV-V	999-1020
STATE'S POST-HEARING BRIEF ON DEFENDANT'S MOTION TO SUPPRESS-----	10/16/02	V	1024-1041
STATE'S RESPONSE TO DEFENDANT'S "MOTION FOR PUBLIC RECORDS REQUEST"-----	1/14/03	VII	1303-1304
STATE'S RESPONSE TO DEFENDANT'S "MOTION TO QUASH BILL OF INDICTMENT, OR, IN THE ALTERNATIVE, TO PRECLUDE THE STATE FROM ALLEGING AND SEEKING TO PROVE AGGRAVATING FACTORS NOT LISTED IN THE BILL FO INDICTMENT"-----	1/14/03	VI	1291-1293
STATE'S RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	3/13/02	II-III	257-584
STATE'S RESPONSE TO DEFENDANT'S MOTION TO INSPECT, EXAMINE AND TEST PHYSICAL EVIDENCE-----	9/3/04	XI	2740-2744
STATE'S RESPONSE TO DEFENDANT'S MOTOI FOR INVENTORY AND ACCOUNTING OF ALL ITEMS AND SUBSTANCES TAKEN FORM JASON REEVES-----	9/3/04	XI-XII	2745-2765
STATE'S RESPONSE TO DEFENDANT'S SUPPLEMENTAL MOTION FOR DISCOVERY-----	7/3/02	IV	861-937

ALPHABETICAL INDEX

STATE'S RESPONSE TO THE DEFENDANT'S MOTION FOR INDIVIDUAL AND SEQUESTRATION VOIR DIRE-----	9/7/04	XII	2817-2819
STATE'S SECOND SUPPLEMENTAL JACKSON NOTICE-----	8/12/02	IV	952-953
STATE'S SUPPLEMENTAL BRIEF ON THE REQUIRED HEARING ON VIDEOTAPED REDACTION-----	8/21/03	VI	1336-1436
STATE'S SUPPLEMENTAL JACKSON NOTICE-----	5/30/02	IV	821-822
STATEMENTS FROM THE JURY-----	11/7/03	XI	2598
STATUS ORDER #2-----	6/15/04	XI	2693
STATUS ORDER #3-----	7/20/04	XI	2716
STATUS ORDER #4-----	7/20/04	XI	2717
STATUS ORDER #5-----	7/20/04	XI	2718
STATUS ORDER #6-----	7/20/04	XI	2719
SUPERVISORY WRITS DENIED FROM SUPREME COURT-----	10/15/04	XII	2970
SUPPLEMENTAL BERNARD NOTICE-----	10/16/02	V	1021-1023
SUPPLEMENTAL DISCOVERY REQUEST-----	5/13/02	IV	818-820
SUPPLEMENTAL MOTION FOR CONTINUANCE-----	10/23/02	V	1075-1077
SUPPLEMENTAL MOTION TO CONTINUE-----	9/16/03	VI	1445-1448
SUPPLEMENTAL MOTION TO CONTINUE OCTOBER 27, 2003 TRIAL DATE WITH MEMORANDUM OF LAW-----	9/16/03	VI	1449-1453
SUPPLEMENTAL MOTION TO EXCLUDE EVIDENCE OF JASON REEVES' PRESENCE AND CONDUCT AT ST. THEODORE'S HOLY FAMILY CATHOLIC SCHOOL-----	10/28/04	XIII	3021-3022
SUPPLEMENTAL MOTION TO SUPPRESS INCUPLYATORY STATEMENTS-----	8/25/04	XI	2731-2734
SUPPLEMENTAL NOTICE OF AGGRAVATING CIRCUMSTANCES-----	5/21/04	XI	2656-2657
SUPPLEMENTAL NOTICE OF INTENT TO PRESENT EXPERT EVIDENCE-----	9/22/04	XII	2891-2893

ALPHABETICAL INDEX

SUPPLEMENTAL TO SECOND NOTICE OF INTENT TO PRESENT SCIENTIFIC EVIDENCE-----	9/21/04	XII	2838-2890
SUPREME COURT ORDER FOR JUDGE AD HOC---	10/7/04	XII	2934-2935
TENTH SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	10/12/04	XII	2937-2943
THIRD SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION-----	8/12/02	IV	957-983
TRANSFER ORDER OF CUSTODY OF DEFENDANT-	10/23/03	XI	2519
TRANSFER ORDER OF CUSTODY OF DEFENDANT-	9/30/04	XII	2915
UNIFORM COMMITMENT DOCUMENT LOUISIANA DEPARTMENT OF CORRECTIONS-----	12/10/04	XIII	3116
VERDICT OF THE JURY-----	11/5/04	XIII	3041
WRIT APPLICATION FILED FROM COURT OF APPEAL-----	12/9/02	V	1226
WRIT APPLICATION FROM COURT OF APPEAL-----	1/16/03	VI	1305
WRIT APPLICATION FROM THE DISTRICT COURT PARISH OF CALCASIEU; PETITION FOR SUPERVISORY WRITS REGARDING THE TRIAL COURT'S DENIAL OF DEFENDANT'S MOTION TO CONTINUE OCTOBER 27, 2003 TRIAL DATE AND MOTION FOR USE OF JUDICIAL AUTHORITY UNDER ARTICLE 17; REQUEST FOR EXPEDITED CONSIDERATION; REQUEST FOR STAY ORDER; DEATH PENALTY CASE-----	9/30/03	VII- VIII	1640-1764
WRIT APPLICATION RECEIVED AND FILED-----	10/15/03	X	2296
WRIT APPLICATION RECEIVED AND FILED-----	8/16/04	XI	2722
WRIT APPLICATION RECEIVED AND FILED FROM COURT OF APPEAL-----	10/1/03	VIII	1765
WRIT APPLICATION RECEIVED AND FILED FROM THIRD CIRCUIT COURT OF APPEALS-----	8/19/02	IV	988
WRIT DENIED FROM COURT OF APPEAL-----	10/22/03	XI	2518
WRIT DENIED FROM COURT OF APPEAL-----	10/27/03	XI	2575
WRIT DENIED FROM SUPREME COURT-----	10/20/03	X	2454
WRIT DENIED FROM SUPREME COURT-----	10/24/03	XI	2526

ALPHABETICAL INDEX

WRIT DENIED ON APPLICATION FOR WRIT OF REVIEW-----	8/30/04	XI	2735
WRIT DENIED; STAY DENIED FROM COURT OF APPEAL-----	10/8/04	XII	2936
WRIT DENIED; STAY DENIED FROM THIRD CIRCUIT, COURT OF APPEAL-----	10/8/03	VIII	1964
WRIT DENIED; STAY DENIED ON WRIT OF REVIEW FROM COURT OF APPEAL-----	10/7/04	XII	2933
WRIT GRANTED AND MADE PEREMPTORY FROM COURT OF APPEAL-----	9/30/02	IV	989
WRIT GRANTED TO DOCKET FROM COURT OF APPEAL-----	1/16/03	VI	1306
WRIT GRANTED TO DOCKET FROM COURT OF APPEAL, THIRD CIRCUIT-----	1/31/03	VI	1311
WRIT OF REVIEW ON APPLICANT'S REPLY TO OPPOSITION BRIEF; REQUEST FOR EXPEDITED CONSIDERATION; REQUEST FOR STAY ORDER; DEATH PENALTY CASE-----	10/8/03	VIII	1967-1981
WRITS DENIED IN PART; GRANTED IN PART; AND REMANDED WITH INSTRUCTIONS (2)-----	10/17/03	X	2426-2452

EXHIBIT INDEX

DOCUMENT	DATE	ENV	PAGE
EVIDENCE INTRODUCED AT: MOTION TO STAY PROCEEDINGS FOR LACK OF FUNDS TO PROVIDE A COMPETENT DEFENSE:	3/23/04		
FOR MR. WARE:			
WARE-1-COPY OF THE AMERICAN COUNCIL OF CHIEF DEFENDERS ETHICS OPINIONS-----	3/23/04	I	SEPARATE EXHIBIT
EVIDENCE INTRODUCED AT: PRE-TRIAL MOTIONS:	6/23/04		
FOR THE DEFENDANT:			
PROFFER-1-MOTION FOR DETERMINATION OF FUNDING SOURCE----	6/23/04	I	SEPARATE EXHIBIT
EVIDENCE INTRODUCED AT: MOTION TO SUPPRESS R. REEVES STATEMENT TO DEPUTY MANDY TAGGART ON 11-5-03:	6/28/04		
FOR THE DEFENDANT:			
D-1-PHOTOGRAPHS OF AUTOMOBILES (SEE EXHIBIT S-3 DATED 11/5/04 COPY SUBSTITUTE FOR D-1)-----	6/28/04	V	SEPARATE EXHIBIT
EVIDENCE INTRODUCED AT: MOTION TO EXCLUDE EXPERT TESTIMONY CONCERNING PRE-PUBESCENT FINGERPRINTS:	7/19/04		
FOR THE STATE:			
S-1-IN GLOBO-CURRICULUM VITAE OF STEPHEN MEAGHER-----	7/19/04	I	SEPARATE EXHIBIT
EVIDENCE INTRODUCED AT: MOTION TO EXCLUDE EXPERT TESTIMONY CONCERNING FORENSIC ENTOMOLOGY CASE STUDY:	7/19/04		
FOR THE STATE:			
S-2-IN-GLOBO-ABBREVIATED CURRICULUM VITAE OF DR. JIMMY K. OLSEN-----	7/19/04	I	SEPARATE EXHIBIT

EXHIBIT INDEX

EVIDENCE INTRODUCED AT: PRE-TRIAL MOTIONS: 9/24/04

FOR THE STATE:

PROFFER -S-1-STATUS CONFERENCE TRANSCRIPT IN STATE VS. JASON REEVES, DATED 8/4/04-----	9/24/04	I	SEPARATE EXHIBIT
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PROFFER S-2-TRUE STATUS OF MANDATORY LIFE CASE IN THE PUBLIC DEFENDER'S OFFICE-----	9/24/04	I	SEPARATE EXHIBIT
---	---------	---	---------------------

FOR THE DEFENDANT:

PROFFER D-A-ATTORNEY CLIENT LIST OF RONALD WARE, ESQ.-----	9/24/04	I	SEPARATE EXHIBIT
---	---------	---	---------------------

PROFFER D-B-MANDATORY LIFE CASES IN THE PUBLIC DEFENDER'S OFFICE-----	9/24/04	I	SEPARATE EXHIBIT
---	---------	---	---------------------

PROFFER D-C-AFFIDAVIT AND CURRICULUM OF PROFESSOR DANE CIOLINO-----	9/24/04	I	SEPARATE EXHIBIT
---	---------	---	---------------------

PROFFER D-D-ABA 10 PRINCIPLES OF A PUBLIC DEFENSE DELIVERY SYSTEM-----	9/24/04	I	SEPARATE EXHIBIT
--	---------	---	---------------------

PROFFER D-E-AMERICAN COUNCIL OF CHIEF DEFENDER'S NATIONAL LEGAL AID AND DEFENDER ASSOCIATION ETHICS OPINION 03/01/ DATED APRIL 2003-----	9/24/04	I	SEPARATE EXHIBIT
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PROFFER D-F-PRINTOUT OF LEXIS, 9TH CIRCUIT COURT OF APPEALS DECISION-----	9/24/04	I	SEPARATE EXHIBIT
---	---------	---	---------------------

EVIDENCE INTRODUCED AT TRIAL: 11/5/04

FOR THE STATE:

S-1-AUDIO CASSETTE TAPE OF 9-11 CALL ON 11/12/01-----	11/5/04	V	SEPARATE EXHIBIT
--	---------	---	---------------------

S-2-AUDIO CASSETTE TAPE OF CPSO CALL ON 11/12/01-----	11/5/04	V	SEPARATE EXHIBIT
--	---------	---	---------------------

S-3-PHOTOGRAPH LINE-UP VEHICLES (PREVIOUSLY INTRODUCED ON 6/28/04 AS D-1. S-3 IS A SUBSTITUTED COPY)-----	11/5/04	V	SEPARATE EXHIBIT
--	---------	---	---------------------

EXHIBIT INDEX

S-4-EVIDENCE ENVELOPE CONTAINING VICTIM'S SHOES-----	11/5/04		RETAINED BY THE CLERK
S-5-EVIDENCE BAG CONTAINING VICTIM'S PANTS-----	11/5/04		RETAINED BY THE CLERK
S-6-EVIDENCE BAG CONTAINING VICTIM'S SWEATER-----	11/5/04		RETAINED BY THE CLERK
S-7-PHOTOGRAPHIC LINE-UP IDENTIFICATION FORM, SIGNED BY ERIN SCHREFFER-----	11/5/04	I	SEPARATE EXHIBIT
S-8-PHOTOGRAPH LINE-UP VIEWED BY ERIN SCHREFFER-----	11/5/04	I	SEPARATE EXHIBIT
S-9-PHOTOGRAPHIC LINE-UP IDENTIFICATION FORM, SIGNED BY MICHELLE ROGERS-----	11/5/04	I	SEPARATE EXHIBIT
S-10-PHOTOGRAPH LINE-UP VIEWED BY MICHELLE ROGERS-----	11/5/04	I	SEPARATE EXHIBIT
S-11-THROUGH S-14-PHOTOGRAPHS OF VICTIM'S PANTS-----	11/5/04	V	SEPARATE EXHIBIT
S-15-"YOUR MIRANDA RIGHTS" FORM SIGNED BY DEFENDANT-----	11/5/04	I	SEPARATE EXHIBIT
S-16-"VOLUNTARY CONSENT TO SUBMISSION OF PHOTOGRAPHING, FINGERPRINTING OR TAKING OF BODILY SUBSTANCES" FORM, SIGNED BY DEFENDANT-----	11/5/04	I	SEPARATE EXHIBIT
S-17-SEXUAL ASSAULT EVIDENCE COLLECT KIT FOR DEFENDANT-----	11/5/04		RETAINED BY THE CLERK
S-18-ANATOMICAL DRAWING SHEET WITH MARKINGS BY NURSE BAILEY-----	11/5/04	I	SEPARATE EXHIBIT
S-19-THROUGH S-24- PHOTOGRAPHS-----	11/5/04	V	SEPARATE EXHIBIT
S-25-MARKED, NOT OFFERED-----			
S-26-"YOUR MIRANDA RIGHTS" FORM, SIGNED BY DEFENDANT ON 11-13- 01-----	11/5/04	I	SEPARATE EXHIBIT
S-27-"YOUR MIRANDA RIGHTS" FORM, SIGNED BY DEFENDANT ON 11-14- 01-----	11/5/04	I	SEPARATE EXHIBIT
S-28-"PERMISSION FOR SEARCH AND SEIZURE" FORM, SIGNED BY DEFENDANT-----	11/5/04	I	SEPARATE EXHIBIT

EXHIBIT INDEX

S-29-VIDEO TAPED INTERVIEW OF DEFENDANT-----	11/5/04	V	SEPARATE EXHIBIT
S-30-REDACTED COPY OF S-29-----	11/5/04	V	SEPARATE EXHIBIT
S-31-PHOTOGRAPH OF DEFENDANT'S VEHICLE-----	11/5/04	IV	SEPARATE EXHIBIT
S-32-PHOTOGRAPH OF DEFENDANT'S VEHICLES-----	11/5/04	IV	SEPARATE EXHIBIT
S-33-THROUGH S-40-EVIDENCE ENVELOPES CONTAINING VACUUMED SAMPLES OF EVIDENCE TAKEN FROM DEFENDANT'S AUTOMOBILE-----	11/5/04		RETAINED BY THE CLERK
S-41-ENLARGED MAP OF THE MOSS BLUFF AREA-----	11/5/04		AVAILABLE UPON REQUEST
S-42-THROUGH S-49-PHOTOGRAPHS OF CRIME SCENE-----	11/5/04	IV	SEPARATE EXHIBIT
S-50-VIDEO TAPE OF CRIME SCENE-	11/5/04	IV	SEPARATE EXHIBIT
S-51-VHS COPY OF S-50-----	11/5/04	V	SEPARATE EXHIBIT
S-52-PHOTOGRAPH OF VICTIM-----	11/5/04	IV	SEPARATE EXHIBIT
S-53-PHOTOGRAPH OF VICTIM-----	11/5/04	IV	SEPARATE EXHIBIT
S-54-EVIDENCE ENVELOPE CONTAINING MT. DEW BOTTLE-----	11/5/04		RETAINED BY THE CLERK
S-55-SEXUAL ASSAULT EVIDENCE COLLECTION KIT FROM VICTIM-----	11/5/04		RETAINED BY THE CLERK
S-56-"YOUR MIRANDA RIGHTS" FORM, SIGNED BY DEFENDANT-----	11/5/04	I	SEPARATE EXHIBIT
S-57-VIDEO-TAPED INTERVIEW WITH DEFENDANT-----	11/5/04	IV	SEPARATE EXHIBIT
S-58-VIDEO-TAPED INTERVIEW WITH DEFENDANT-----	11/5/04	IV	SEPARATE EXHIBIT
S-59-VIDEO-TAPED INTERVIEW WITH DEFENDANT-----	11/5/04	III	SEPARATE EXHIBIT
S-60-ENLARGED DRAWING OF LEBLEU CEMETERY-----	11/5/04		AVAILABLE UPON REQUEST
S-61-EVIDENCE BAG CONTAINING DEFENDANT'S TEE-SHIRT-----	11/5/04		RETAINED BY THE CLERK
S-62-EVIDENCE ENVELOPE CONTAINING PALMETTO LEAF-----	11/5/04		RETAINED BY THE CLERK

EXHIBIT INDEX

S-63-IN GLOBO-EVIDENCE ENVELOPE CONTAINING FIVE (5) LATENT PRINT LIFTS-----	11/5/04		RETAINED BY THE CLERK
S-64-BOX CONTAINING VARIOUS CONTAINERS OF EVIDENCE TAKEN FROM VICTIM'S BODY-----	11/5/04		RETAINED BY THE CLERK
S-65-IN GLOBO-CURRICULUM VITAE OF DR. JIMMY OLSON-----	11/5/04	I	SEPARATE EXHIBIT
S-66-IN GLOBO-EVIDENCE BAG CONTAINING HAIR/FIBER PACKETS-----	11/5/04		RETAINED BY THE CLERK
S-67-PACKET TAKEN FROM S-66-IN GLOBO-----	11/5/04		RETAINED BY THE CLERK
S-68-PACKET TAKEN FROM S-66- IN GLOBO-----	11/5/04		RETAINED BY THE CLERK
S-69-IN GLOBO-EVIDENCE BAG CONTAINING MICROSCOPE SLIDES-----	11/5/04		RETAINED BY THE CLERK
S-70-EVIDENCE BAG CONTAINING TWO (2) MICROSCOPE SLIDES & ONE (1) PAPER FOLD-----	11/5/04		RETAINED BY THE CLERK
S-71-BLUE PLASTIC CONTAINER WITH SLIDES-----	11/5/04		RETAINED BY THE CLERK
S-72-THROUGH S-79- PHOTOGRAPHS OF LEBLEU CEMETERY----	11/5/04	III	SEPARATE EXHIBIT
S-80-EVIDENCE ENVELOPE CONTAINING FACIAL SWAB OF DEFENDANT-----	11/5/04		RETAINED BY THE CLERK
S-81-EVIDENCE BAG CONTAINING VICTIM'S CLOTHING-----	11/5/04		RETAINED BY THE CLERK
S-82-IN GLOBO-COPY OF CERTIFICATE OF TRAINING OF MARK HOLMES AND K-9-BO-----	11/5/04	I	SEPARATE EXHIBIT
S-83-COPY OF CERTIFICATE OF PEDIGREE OF MARK'S BO DIDLEY-----	11/5/04	I	SEPARATE EXHIBIT
S-84-IN GLOBO-COPY OF SYNOPSIS OF LAW ENFORCEMENT BLOOD-HOUND TRAINING SEMINAR-----	11/5/04	I	SEPARATE EXHIBIT
S-85-COPY OF CERTIFICATE OF TRAINING OF MARK HOLMES-----	11/5/04	I	SEPARATE EXHIBIT
S-86-EVIDENCE ENVELOPE CONTAINING BLOOD-STAINED CARD OF DEFENDANT-----	11/5/04		RETAINED BY THE CLERK

EXHIBIT INDEX

S-87-EVIDENCE ENVELOPE CONTAINING BLOOD-STAINED CARD OF VICTIM-----	11/5/04		RETAINED BY THE CLERK
S-88-EVIDENCE ENVELOPE CONTAINING SWAB-----	11/5/04		RETAINED BY THE CLERK
S-89-PHOTOGRAPHIC LINE-UP IDENTIFICATION FORM, SIGNED BY RAY LAVIOLET-----	11/5/04	I	SEPARATE EXHIBIT
S-90-PHOTOGRAPH LINE-UP, VIEWED BY RAY LAVIOLET-----	11/5/04	I	SEPARATE EXHIBIT
S-91-THROUGH S-108- PHOTOGRAPHS OF VICTIM, PROVIDED BY DR. WELKE-----	11/5/04	III	SEPARATE EXHIBIT
FOR THE DEFENDANT:			
D-1-IN GLOBO-DR. MARC ZIMMERMAN'S VITA-----	11/5/04	I	SEPARATE EXHIBIT
EVIDENCE INTRODUCED AT TRIAL:	11/8/04		
FOR THE STATE:			
SP-1-DEFENDANT'S ADJUDICATION RECORDS-----	11/8/04	I	SEPARATE EXHIBIT
SP-2- & SP-2A-FINGERPRINT CARD OF DEFENDANT, WITH LEAVE TO SUBSTITUTE A COPY OF ORIGINAL-----	11/8/04	I	SEPARATE EXHIBIT
SP-3-COPY OF DEFENDANT'S DOC RECORDS-----	11/8/04	II	SEPARATE EXHIBIT
SP-4-DEFENDANT'S PEN PACKET----	11/8/04	I	SEPARATE EXHIBIT
SP-5-BILL OF INFORMATION AND MINUTES OF DEFENDANT'S CONVICTION 5/13/96-----	11/8/04	I	SEPARATE EXHIBIT
SP-6-BILL OF INFORMATION AND MINUTES OF DEFENDANT'S CONVICTION 5/5/97-----	11/8/04	I	SEPARATE EXHIBIT
SP-7-COPY OF DEFENDANT'S FINGERPRINTS CARD-----	11/8/04	I	SEPARATE EXHIBIT
SP-8-"YOUR MIRANDA RIGHTS" FORM, SIGNED BY DEFENDANT-----	11/8/04	I	SEPARATE EXHIBIT
SP-9-THROUGH SP-14- PHOTOGRAPHS OF VICTIM-----	11/8/04	III	SEPARATE EXHIBIT

EXHIBIT INDEX

SP-15-THROUGH SP-19-
PHOTOGRAPHS OF ANGOLA STATE
PRISON-----

11/8/04

III

SEPARATE
EXHIBIT

SP-20-MARKED, NOT OFFERED-----

SP-21 THROUGH SP-44-
PHOTOGRAPHS OF ANGOLA STATE
PRISON-----

11/8/04

III

SEPARATE
EXHIBIT

SEALED DOCUMENTS INDEX

DATE	DOCUMENT	ENV	PAGE
3/8/04	MOTION TO STAY PROCEEDINGS FOR LACK OF FUNDS TO PROVIDE A COMPETENT DEFENSE-----	VI	SEPARATE ENVELOPE
3/25/04	MOTION TO STAY PROCEEDINGS FOR LACK OF FUNDS TO PROVIDE A COMPETENT DEFENSE-----	VI	SEPARATE ENVELOPE
6/22/04	MINUTES-----	VI	SEPARATE ENVELOPE
6/22/04	TRANSCRIPT OF EX-PARTE STATUS CONFERENCE-----	VII	SEPARATE ENVELOPE
6/29/04	MINUTES -----	VI	SEPARATE ENVELOPE
6/29/04	TRANSCRIPT-----	VII	SEPARATE ENVELOPE
7/19/04	EX-PARTE ORDER-----	VI	SEPARATE ENVELOPE
8/5/04	EX-PARTE ORDER-----	VI	SEPARATE ENVELOPE
8/6/04	MINUTES-----	VI	SEPARATE ENVELOPE
8/6/04	TRANSCRIPT-----	VIII	SEPARATE ENVELOPE
8/6/04	THIRD FUNDING IN-CAMERA PROCEEDING HELD EX-PARTE-----	VIII	SEPARATE ENVELOPE
9/3/04	MOTIONS-----	VI	SEPARATE ENVELOPE
9/3/04	TRANSCRIPT OF EX-PARTE STATUS CONFERENCE-----	VIII	SEPARATE ENVELOPE
9/15/04	EX-PARTE HEARING TRANSCRIPT-----	IX	SEPARATE ENVELOPE
9/15/04	EX-PARTE HEARING MINUTES-----	VI	SEPARATE ENVELOPE
9/15/04	TRANSCRIPT OF EX-PARTE HEARING-----	IX	SEPARATE ENVELOPE

SEALED DOCUMENTS INDEX

9/17/04	EX-PARTE MOTION-----	VI	SEPARATE ENVELOPE
9/17/04	TRANSCRIPT OF EX-PARTE HEARING-----	IX	SEPARATE ENVELOPE
9/17/04	EX-PARTE MINUTES-----	VI	SEPARATE ENVELOPE
9/17/04	EX-PARTE TRANSCRIPT-----	IX	SEPARATE ENVELOPE
9/29/04	SECOND FUNDING IN-CAMERA PROCEEDING HELD EX-PARTE-----	VII	SEPARATE ENVELOPE
10/25/04	TRANSCRIPT OF EX-PARTE HEARING-----	IX	SEPARATE ENVELOPE
12/7/04	UNIFORM CAPITAL SENTENCE REPORT-----	X	SEPARATE ENVELOPE
12/10/04	CAPITAL SENTENCE INVESTIGATION-----	X	SEPARATE ENVELOPE

1 issue to yo?
2 MR. PUGH:
3 No, sir.
4 THE COURT:
5 All right. Anything from the State?
6 MRS. KILLINGSWORTH:
7 No, Your Honor.
8 THE COURT:
9 Anything from Defense?
10 MR. WARE:
11 No, sir.
12 THE COURT:
13 All right. Then you, too, are excused
14 at this time, Mr. Pugh, and then we will
15 bring you back in shortly and let you know.
16 [PROSPECTIVE JUROR 30-320, MR. THOMAS PUGH, EXITS
17 THE JURY ROOM]
18 THE COURT:
19 Do y'all need to take a break, I mean,
20 do you need a couple of minutes to look over
21 those?
22 MR. WARE:
23 Yes, please, Judge.
24 THE COURT:
25 All right. Y'all look at those, y'all
26 discuss them, --
27 [Recess]
28 THE COURT:
29 Is the State ready?
30 MR. FREY:
31 Yes, Your Honor.
32 THE COURT:

1 Is Defense ready?
2 MR. WARE:
3 No, sir.
4 THE COURT:
5 What?
6 MR. WARE:
7 No, sir.
8 [Recess]
9 THE COURT:
10 Are you ready to go?
11 MR. WARE:
12 Yes, sir.
13 THE COURT:
14 All right. We did take a quick break,
15 just so the record's clear, put it back in
16 session, Mr. Day.
17 MR. DAY:
18 The Court comes back to order, please.
19 THE COURT:
20 All right. At this time the jurors
21 have been allowed to leave, both the State
22 and Defense have had an opportunity to
23 review their notes and we're to make the
24 final challenges, the Court perceives to be
25 the final challenges, based on the numbers
26 and just the possibility of having a final
27 jury. At this time we had 10 jurors that
28 were tentatively accepted up to this point,
29 the Defense has exercised 8 peremptories up
30 to this point and the State has exercised 9
31 peremptories up to this point. Initially, I
32 would ask if the State has any challenges

1 for cause out of the existing panel.
2 MR. FREY:
3 No, Your Honor, we do not.
4 THE COURT:
5 And I would ask if the Defense has any
6 challenges for cause.
7 MR. WARE:
8 Yes, sir, we do, Your Honor, in that
9 we would challenge Ms. Rissler for cause
10 because of her responses, and the concerns
11 she expressed about the effect that the
12 graphic images, photographic and other
13 images, would have on her ability to serve
14 on this jury. Your Honor, I think that her
15 responses indicated that she's -- she's
16 prevented, or at the very least
17 substantially impaired, from discharging her
18 duties as required by law in connection with
19 this case. And I offer the following. Your
20 Honor, one of the first things she said in
21 response to the State's questioning, no
22 reason I can't be impartial, but for the
23 graphic photos, I have a problem with that,
24 that was her discussion, but she maintained
25 that throughout the discussion, she never
26 wavered and says that -- she never wavered,
27 she said that that would be a problem. Then
28 in response to my questioning she said
29 things such as she wasn't sure if she was a
30 proper person for this case because of the
31 photos. She wouldn't -- wouldn't want
32 someone with her present state of mind on

1 her jury because of the photos, and she said
2 -- and this is quite significant, Judge,
3 that, you know, her daughter -- she has two
4 daughters, one suffers from anorexia and
5 obsessive compulsive disorder and another --
6 and another mental illness, I didn't catch
7 that third one, with the one particular
8 daughter; but she said that she has another
9 daughter that suffers from obsessive
10 compulsive disorder, and she felt that it
11 was probably hereditary and then she says
12 now that she thinks she's sure that she
13 suffers from it and that she would be so
14 obsessed with these pictures that they would
15 last in her -- the images would last in her
16 mind for quite some time and she used the
17 word concern, I'm really concerned about it.
18 It's not something that just -- that caused
19 her some concern just recently. And I guess
20 you could phrase it in the term that lawyers
21 talk, and is recent fabrication, this is not
22 a product of recent fabrication, this is
23 something that she put on the questionnaire
24 at the very very beginning, it would be
25 disturbing.

26 THE COURT:

27 Mr. Ware, --

28 MR. WARE:

29 Yes, sir.

30 THE COURT:

31 -- I'm going to interrupt you because
32 I'm just going to see if -- I agree with you

1 at this point. I'm going to see if the
2 State can convince me otherwise, and then
3 you'll have a chance for rebuttal.

4 MR. WARE:

5 Yes, sir.

6 THE COURT:

7 But I've had the opportunity to
8 evaluate up to this point and would ask the
9 State their specific position for the
10 record.

11 MR. FREY:

12 Well, Your Honor, and my specific
13 position is that she's responding
14 emotionally, number one, when she does not
15 know what she is going to see. As I asked
16 her, sometimes your imagination is worse
17 than reality; sometimes the reality is worse
18 than imagination. She does not know, and
19 actually a lot of these pictures are not
20 really gruesome, they are graphic, but not
21 gruesome, so she does not know exactly what
22 she's going to see, but she's afraid of what
23 she's going to see. It's an emotional
24 response. She did say that she could
25 consider all of the evidence, not just the
26 photographs. She said -- she did not say
27 she could not serve on this jury. She said
28 she was just worried about that, and I think
29 when you look at the totality of her
30 answers, every -- any person looking at
31 these pictures should be disturbed by them,
32 I think you would be abnormal if you were

1 not, even prosecutors like Mr. Bryant and
2 Ms. Killingsworth and myself who have
3 participated in many many many first degree
4 murder trials, many second degree murder
5 trials, have seen pictures far more gruesome
6 and graphic than these pictures that we have
7 here. We're affected by these pictures, so
8 it's gonna have that effect on any human
9 being and it should have that effect on any
10 human being. And her answers were not such
11 to render her unfit to serve on this jury,
12 just as all the other -- all the other
13 prospective jurors that were asked about
14 these pictures said they could consider it
15 for the purposes for which that it was
16 offered, just as Ms. Rissler said.

17 THE COURT:

18 Rebuttal?

19 MR. WARE:

20 Your Honor, she said that she's not a
21 proper person for this case. She wouldn't
22 want someone -- she didn't think anyone with
23 her present state of mind -- she made a
24 broad reference to the others, I don't --
25 not only to herself, she wouldn't think
26 anyone with her state of mind should sit on
27 this jury or -- right, sit on this jury, it
28 wouldn't be fair. And it would affect her
29 impartiality. It bothers me, it disturbs
30 me, she just went on and on, Judge, to the
31 extent that at the very least she's
32 substantially impaired.

1 THE COURT:

2 At this time the Court reviews the
3 challenge for cause as to Ms. Rissler, Juror
4 No. -- Panel "X", No. 324. The Court has
5 heard from both the State and the Defense,
6 and noting that she has made inconsistent
7 statements throughout, one that she could
8 view those, it would be difficult, but could
9 be fair and impartial. On the Defense
10 questioning, difficult to view these
11 materials, don't know if I can separate it,
12 I might lose my impartiality. She was
13 rehabilitated by the State upon asking
14 questions as to whether or not she could
15 consider all of the evidence, and she stated
16 she could. But what the Court finds to be
17 more significant than any of the actual
18 answers in the totality was the actual
19 demeanor of Ms. Rissler, her tone of voice
20 had increased in octaves in the last
21 questioning by the Defense, she was
22 obviously anxious and concerned. She
23 specifically gave a background of her own
24 environment, that she stays away from
25 anything that pertains to violence,
26 specifically things that would have to do
27 with television, radio, movies, magazines,
28 all of that, she keeps that out of her life
29 because of the difficulty she has in
30 conjunction with possibly the psychological
31 defects that they may have, a genetic trait
32 that she talked about she has and her

1 daughters have. While no one can say what
2 they see, the Court has had some touching --
3 and there's no way that these photographs
4 could not be considered non-violent, the way
5 that the Court has viewed or understand that
6 they are -- that they display images.
7 Again, the Court, and what seemed to push
8 Ms. Rissler over the edge had to do with
9 some what the Court would consider, again,
10 some inappropriate references by the
11 Defense, which the Court called down, that
12 going into specifics such as autopsy photos,
13 video, photos in the woods, which was not
14 done after the Court advised Mr. Ware not to
15 go in that direction, subject to his
16 objection; but, however, she is aware of
17 that and, in fact, that does appear to be
18 what the photos are going to be --
19 demonstrate at the trial. The totality of
20 hers is such that even with inconsistent
21 answers and not taking one or more, the
22 Court views the juror and finds that she has
23 significant -- I can't think of the word --

24 MR. WARE:

25 Impairment.

26 THE COURT:

27 -- impairment, thank you, to her
28 impartiality, and for those reasons will
29 grant the challenge for cause as to Ms.
30 Rissler.

31 [PROSPECTIVE JUROR X-324, MRS. DOROTHY RISSLER,
32 CHALLENGED FOR CAUSE BY DEFENSE; GRANTED]

1 THE COURT:
2 Any other challenges for cause by the
3 Defense?
4 MR. WARE:
5 No, sir.
6 THE COURT:
7 Now, we would move to Juror No. Y-345,
8 Mr. Ronnie Todd, would tender to the State.
9 MR. BRYANT:
10 We accept, Your Honor.
11 THE COURT:
12 Would tender to the Defense.
13 MR. WARE:
14 Your Honor, we'd thank but excuse.
15 [PROSPECTIVE JUROR Y-345, MR. RONNIE TODD,
16 EXCUSED PEREMPTORILY BY DEFENSE]
17 THE COURT:
18 With regard to Panel "Y", No. 334,
19 Charlotte Smith, would tender to the State.
20 MR. BRYANT:
21 We accept, Your Honor.
22 THE COURT:
23 Tender to the Defense.
24 MR. WARE:
25 We'll accept, Your Honor.
26 THE COURT:
27 At this time we have tentatively 11
28 jurors, 10 that have been sworn, one that
29 has not yet been sworn. If we have another
30 juror accepted by both, we will have a jury.
31 I would ask, are there any backstrikes at
32 this time by the State?

1 MR. BRYANT:
2 Yes, we're going to strike, Your
3 Honor, K-32, Mable Brown.
4 [JUROR K-32, MRS. MABLE BROWN, PEREMPTORILY
5 EXCUSED BY THE STATE]
6 THE COURT:
7 All right. Then we're back to 10
8 jurors at this time. Juror Y-279, would
9 tender to the State, Ms. Barbara Linder.
10 MR. BRYANT:
11 We accept, Your Honor.
12 THE COURT:
13 Would tender to the Defense.
14 MR. WARE:
15 Your Honor, we'll accept.
16 [PROSPECTIVE JUROR Y-279, MRS. BARBARA LINDER
17 ACCEPTED BY BOTH STATE AND DEFENSE]
18 THE COURT:
19 As before, we are back at 11 jurors.
20 The State has exercised 10 peremptories; the
21 Defense, 9. Does the State wish to exercise
22 any backstrikes?
23 MR. BRYANT:
24 Excuse me, Your Honor, could I have
25 just a second?
26 THE COURT:
27 Or it may be appropriate for me to
28 tender the witness (sic) and then you make a
29 decision as to accept, but I'm just letting
30 you know that if you accept that's the 12th.
31 MR. BRYANT:
32 We accept Mr. Whiteoak, Your Honor.

1 THE COURT:
2 Then at this -- The Court would tender
3 I-77, being the 12th juror, to the State,
4 Richard Whiteoak. The State accepts; is
5 that correct?
6 MR. BRYANT:
7 Yes, Your Honor.
8 THE COURT:
9 All right. I just shifted gears.
10 And then I would tender -- Richard Whiteoak
11 will be the 12th juror if accepted by the
12 Defense, unless there is a backstrike or if
13 they excuse Mr. Whiteoak. To the Defense?
14 MR. WARE:
15 Your Honor, we would exercise a
16 backstrike with respect to Mr. Daniel
17 Norton.
18 THE COURT:
19 Juror Panel "Y", No. 305, Mr. Norton,
20 is excused by the Defense.
21 [JUROR Y-305, MR. DANIEL NORTON, PEREMPTORILY
22 BACKSTRUCK BY DEFENSE]
23 THE COURT:
24 And with regard to Mr. Whiteoak? I
25 know you exercised a backstrike, but he had
26 been tendered to you.
27 MR. WARE:
28 And, Your Honor, if accepted, of
29 course, I want to make sure I'm right, this
30 would be the 11th juror; is that correct?
31 THE COURT:
32 Mr. Whiteoak will become the 11th

1 juror if accepted by the Defense.
2 MR. WARE:
3 Accepted, Your Honor.
4 [PROSPECTIVE JUROR I-177, MR. RICHARD WHITEOAK,
5 ACCEPTED BY BOTH STATE AND DEFENSE]
6 THE COURT:
7 At this time M-67, Carlon Francois,
8 again, if accepted by the State would be the
9 12th juror, but would tender to the State at
10 this time, noting that they have the
11 opportunity to backstrike.
12 MR. BRYANT:
13 We accept, Your Honor.
14 THE COURT:
15 Then would tender Mr. Carlon Francois
16 under the same terms and conditions to the
17 Defense.
18 MR. WARE:
19 Your Honor, may we have a moment?
20 [Counsel conferring]
21 THE COURT:
22 Any question where you stand, Mr.
23 Ware?
24 MR. WARE:
25 No, sir. [Counsel conferring]
26 Backstrike, Your Honor.
27 THE COURT:
28 And who would that be, Mr. Ware?
29 MR. WARE:
30 That would be Mr. John Frederickson.
31 THE COURT:
32 Panel "L", No. 69, Mr. John

1 Frederickson. If I understand correctly,
2 that is the 11th peremptory exercised by the
3 Defense.
4 MR. WARE:
5 Yes, sir.
6 THE COURT:
7 You have one remaining.
8 MR. WARE:
9 Yes, sir.
10 [JUROR L-69, MR. JOHN FREDERICKSON, PEREMPTORILY
11 BACKSTRUCK BY THE DEFENSE]
12 THE COURT:
13 We are back down to now with regard to
14 Mr. Carlon Francois.
15 MR. WARE:
16 Accept.
17 THE COURT:
18 Then Mr. Francois will become the 11th
19 juror.
20 [PROSPECTIVE JUROR M-67, MR. CARLON FRANCOIS,
21 ACCEPTED BY BOTH STATE AND DEFENSE]
22 THE COURT:
23 At this time the Court would tender
24 Juror Panel "31", No. 314, Mr. Craig
25 Phillips to the State.
26 MR. BRYANT:
27 We accept, Your Honor.
28 THE COURT:
29 If accepted, then that would be the
30 12th juror. Mr. Ware, you have one
31 peremptory.
32 MR. WARE:

1 Yes, Your Honor.
2 THE COURT:
3 If it's exercised, the next juror
4 accepted by the State will be the 12th
5 juror.
6 MR. WARE:
7 Yes, sir. All right. Backstrike,
8 Your Honor.
9 THE COURT:
10 All right. MR. Ware?
11 MR. WARE:
12 Yes, sir.
13 THE COURT:
14 Who do you backstrike at this point?
15 MR. WARE:
16 Ms. Linder.
17 THE COURT:
18 Ms. who?
19 MR. WARE:
20 Barbara Linder, No. --
21 THE COURT:
22 Oh, backstrike. All right. That was
23 Panel "Y", No. 279. The State (sic)
24 exercises its final peremptory with regard
25 to Ms. Linder.
26 [JUROR Y-279, MRS. BARBARA LINDER, PEREMPTORILY
27 BACKSTRUCK BY DEFENSE]
28 THE COURT:
29 Now, with regard to Mr. Phillips, I
30 gather he will be accepted.
31 MR. WARE:
32 Yes, sir, that's correct.

1 THE COURT:
2 Mr. Phillips is now the 12th juror --
3 I mean, the 11th juror, excuse me. With
4 regard to Panel "L", No. 99, Mr. Ian Joseph,
5 would tender to the State, would be the 12th
6 juror if accepted.
7 MR. BRYANT:
8 We excuse, Your Honor.
9 [PROSPECTIVE JUROR L-99, MR. IAN JOSEPH,
10 PEREMPTORILY EXCUSED BY THE STATE]
11 THE COURT:
12 The State exercising it's 11th
13 peremptory at this time. With regard to
14 Panel "X", No. 276, Ms. Tammy Lamana, tender
15 to the State.
16 MR. BRYANT:
17 We excuse, Your Honor.
18 [PROSPECTIVE JUROR X-276, MRS. TAMMY LAMANA,
19 PEREMPTORILY EXCUSED BY THE STATE]
20 THE COURT:
21 You have that as the 12th peremptory,
22 --
23 MR. BRYANT:
24 Yes, Your Honor.
25 THE COURT:
26 -- Mr. Bryant?
27 MR. BRYANT:
28 Yes, I do.
29 THE COURT:
30 Then there's been no challenges for
31 cause, all parties would agree that Panel
32 "30", No. 330, Mr. Donald Schneider, will be

1 the 12th juror to make up the initial 12.
2 MR. FREY:
3 Correct, Your Honor.
4 THE COURT:
5 Mr. Ware?
6 MR. WARE:
7 That is correct, Your Honor.
8 THE COURT:
9 All right. Then let the record so
10 reflect. Now, each of you have one
11 peremptory with regard - we have some jurors
12 left - with regard to the first alternate,
13 you each have one peremptory with regard to
14 the first alternate. If you use it, or you
15 lose it. If you accept Mr. Pugh and Mr.
16 Pugh's accepted by the Defense, Mr. Pugh
17 will become first alternate, there will be
18 only one peremptory as we go to the next
19 one, there's no carryover. I want to make
20 certain all the parties understand.
21 MR. FREY:
22 Yes, Your Honor.
23 MR. WARE:
24 Yes, sir.
25 MR. BRYANT:
26 Your Honor, we -- the State would ask
27 that -- I know the Court has indicated four
28 --
29 MR. FREY:
30 One perempt per seat.
31 MR. BRYANT:
32 No, no; no, no, that's not what I'm

1 talking about. There are four alternates,
2 Your Honor. I would -- I would state that
3 I've never used more than one in 20 years,
4 and I would ask that at the very least we
5 reduce that number to three perhaps. I
6 don't even understand -- I know the law
7 allows up to four, but it's not mandatory
8 that we have four, it's within the Court's
9 discretion, but I would ask, you know,
10 personally I think two is plenty, but we'd
11 be satisfied with three. I don't see the
12 necessity for four alternates and I would --
13 I would just make that suggestion, Your
14 Honor.

15 THE COURT:

16 And actually just depending on how we
17 got there, again, that's the way the statute
18 provided, I'll tell the parties right now
19 that if these three individuals were to be
20 accepted as alternates as first, second, and
21 third, then as far as I'm concerned, we
22 don't need to go any further with regard to
23 voir dire, we can -- that gives me three. I
24 do have concern if I get down to two,
25 because of the length of the case and some
26 of the illnesses that have been going around
27 just what I've seen here at the courthouse
28 and within the jury pool that we've lost
29 because of illness.

30 MR. BRYANT:

31 Well, I'm sure we'll be going to the
32 next panel, regardless, Your Honor, I was

1 just --
2 THE COURT:
3 And I -- but, I mean, if I seat enough
4 to get to four, I don't necessarily know --
5 MR. BRYANT:
6 I understand. We're going to
7 interview enough jurors to get there, and if
8 we have enough jurors, it's only -- it's a
9 matter of accepting or rejecting, so I don't
10 have a problem with that.
11 THE COURT:
12 All right. And I would tender Thomas
13 Pugh, though, to the State, with regard to
14 being first alternate.
15 MR. BRYANT:
16 We excuse, Your Honor.
17 [PROSPECTIVE JUROR 30-320, MR. THOMAS PUGH,
18 PEREMPTORILY EXCUSED BY THE STATE]
19 THE COURT:
20 Then with regard to Juror Panel "H",
21 No. 84, Arlette Henderson, the Defense has
22 the opportunity to accept being the first
23 alternate, the State having a mandatory
24 exception -- acceptance, not exception --
25 mandatory acceptance because of their
26 exercise of their first peremptory. So, I
27 tender Arlette Henderson to the Defense.
28 MR. WARE:
29 No, sir.
30 MR. FREY:
31 Arlette Henderson.
32 MR. WARE:

1 Judge, I think that it goes to the
2 State first, each --
3 THE COURT:
4 Well, I indicated that the State does
5 not have a peremptory left with regard to
6 that. If you want to hear them say the word
7 accept, then I'll tender to the State.
8 MR. WARE:
9 No, no, no, no. Wait a -- Please.
10 They've challenged -- they've used a
11 peremptory on Mr. Pugh.
12 THE COURT:
13 That is correct, the one peremptory
14 they have for first alternate.
15 MR. WARE:
16 Okay. And, Judge, as I understand the
17 rule, then that obviously -- that Mr. Pugh
18 is gone; then the question becomes do they
19 accept Ms. Henderson.
20 MR. FREY:
21 We don't have --
22 THE COURT:
23 But they do not have a challenge for
24 Ms. Henderson.
25 MRS. KILLINGSWORTH:
26 I don't think Mr. Ware understands
27 what we're doing here, or else he wouldn't
28 be saying that.
29 MR. FREY:
30 That's what I was explaining before,
31 you have one challenge per seat.
32 THE COURT:

1 There's no carryover. Because they've
2 exercised their peremptory for the first
3 alternate, they had one.

4 MR. WARE:
5 Right.

6 THE COURT:
7 They've extinguished all the
8 peremptories that they have for the first
9 alternate.

10 MR. WARE:
11 I see what you're saying, and I don't
12 know if I agree with it. I see what you're
13 saying.

14 THE COURT:
15 Otherwise you could juggle the
16 alternates in an illegal fashion, and the
17 Court finds that the alternates must be
18 brought in sequence because they are each
19 individually determined and not in the
20 aggregate.

21 MR. WARE:
22 And let me ask this question, Judge.
23 And there's no backstriking in the alternate
24 -- in the selection of the alternates?

25 THE COURT:
26 No, there is not.

27 MR. WARE:
28 Exactly, that's my understanding and
29 appreciation and I have no problem with
30 that. Also, now that Mr. Pugh has been
31 struck by the State peremptorily, then that
32 means that the Defense has three, one per

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alternate.

THE COURT:

They have one peremptory with regard -
- if you excuse Ms. Henderson, Mr. Davis
will be first alternate. If you accept Ms.
Henderson, she is first alternate, and then
I will tender Mr. Davis to the State for
second alternate.

MR. WARE:

And, Judge, I just think that's
improper. I think each individual juror,
whether or not they're alternate, has to be
presented to the State first. Now, if we --
now that the State has used the peremptory
against Mr. Pugh, that means -- that does
not mean that the Defense has four left.

THE COURT:

No.

MR. WARE:

Right.

THE COURT:

The Defense has one. They exercise it
or they lose it. It's the same as if we
pick 12 jurors, you either use all 12 or you
lose whatever was left, you do not carry
them to the alternate. The alternate is to
be evaluated individually, and the
alternates are to be evaluated with only one
peremptory per each alternate that is given
to the jurors -- I mean, to the Defense and
the State.

MR. WARE:

1 Judge, each individual juror must be
2 tendered -- each individual juror must be
3 tendered to the State first.
4 THE COURT:
5 Okay. I tender Arlette Henderson to
6 the State, Panel "H", 84.
7 MR. BRYANT:
8 We accept.
9 MRS. KILLINGSWORTH:
10 We accept.
11 THE COURT:
12 I tender to the Defense.
13 MR. WARE:
14 We accept.
15 THE COURT:
16 All right. Then Ms. Henderson will be
17 the first alternate.
18 [PROSPECTIVE JUROR H-84, MRS. ARLETTE HENDERSON,
19 ACCEPTED BY BOTH STATE AND DEFENSE]
20 THE COURT:
21 Now, you do not have four peremptory
22 challenges left; you understand that?
23 MR. WARE:
24 I understand that, Your Honor.
25 THE COURT:
26 All right. Now, for the second, I
27 would tender Mr. Larry Davis, Panel "30",
28 No. 220, to the State for second alternate.
29 MR. BRYANT:
30 We accept, Your Honor.
31 THE COURT:
32 I would tender to the Defense.

1 MR. WARE:
2 We'll thank but excuse.
3 [PROSPECTIVE JUROR 30-220, MR. LARRY DAVIS,
4 PEREMPTORILY EXCUSED BY DEFENSE]
5 THE COURT:
6 Let me qualify that before you say
7 that because you don't know the next panel.
8 The next juror will become the second
9 alternate, by default, you need to be aware
10 of that. They've exercised their peremptory
11 for the second alternate.
12 MR. FREY:
13 But we still have one.
14 THE COURT:
15 But the State has not.
16 MR. FREY:
17 Right.
18 THE COURT:
19 If the State accepts, you do not have
20 a peremptory left for the second alternate,
21 if you exercise it on Mr. Davis. I'm just
22 letting you know that. I want to make sure
23 there's not a question.
24 MR. WARE:
25 Judge, excuse me.
26 THE COURT:
27 And I don't -- I'm just letting you
28 know that before because I know you've done
29 some initial work -- Huh? I didn't hear
30 you.
31 THE CLERK:
32 (Unintelligible, not near microphone)

1 --
2 THE COURT:
3 Hasn't been selected yet. If they
4 exercise it, then they've been excused and I
5 have to retender. I don't have anything for
6 them -- they don't -- because they still
7 have a chance to exercise one if -- because
8 they haven't exercised anything up to this
9 point, they've accepted. So they get one
10 for each -- one for each alternate. They've
11 accepted. If they exercise it, they still
12 have a peremptory because there's no one
13 left for them to consider, and they would
14 consider the next one either accept or
15 reject. If they accept, it's the second
16 alternate. If they reject, then it would
17 automatically go by both defaults to Ms.
18 Monroe, based on the next panel.
19 MR. WARE:
20 And, Judge, I don't agree with that.
21 As I see it, the State has exercised a
22 peremptory against Mr. Pugh.
23 THE COURT:
24 They have.
25 MR. WARE:
26 Right.
27 THE COURT:
28 And we already have a first alternate.
29 Now, that jury selection's over.
30 MR. WARE:
31 Where's Ms. Henderson?
32 THE COURT:

1 New jury selection --
2 MR. WARE:
3 Judge, --
4 THE COURT:
5 -- second alternate.
6 MR. WARE:
7 We have one alternate.
8 MR. FREY:
9 Correct.
10 MR. WARE:
11 The first alternate.
12 THE COURT:
13 Correct.
14 MR. WARE:
15 It's Ms. Henderson.
16 MR. FREY:
17 Correct.
18 THE COURT:
19 Correct.
20 MR. WARE:
21 I understand that. Now, we're in the
22 process of selecting a second alternate.
23 THE COURT:
24 Correct.
25 MR. WARE:
26 Okay.
27 THE COURT:
28 I just wanted you to be aware that if
29 you exercise your peremptory, second
30 alternate peremptory, you only have one,
31 you've extinguished all your peremptories.
32 We still do not have a second alternate. I

1 have to tender back to the State the next
2 juror that qualifies.

3 MR. WARE:

4 And I object to that process, Judge.
5 That's why I'm stating the obvious, for the
6 record.

7 THE COURT:

8 And the basis?

9 MR. WARE:

10 Each juror, whether -- even --

11 THE COURT:

12 And I will tender to the State, but it
13 -- you don't have a peremptory, so what good
14 would it do me to tender No. 12 to you if
15 you had no peremptories, which we've just
16 done with Mr. Schneider.

17 MR. WARE:

18 No, Judge, my objection is that each
19 juror should be tendered to the State first.

20 THE COURT:

21 And it has been.

22 MR. WARE:

23 And --

24 THE COURT:

25 And each juror will be tendered to the
26 State first.

27 MR. WARE:

28 And we're in the process of selecting
29 a second alternate, I know that.

30 THE COURT:

31 Okay. I tendered to the State; they
32 accepted. It's your decision.

1 MR. WARE:
2 Oh, no, no, no. I -- I -- I thanked
3 but excused Mr. Davis.
4 THE COURT:
5 All right. Then, that's all you need
6 to worry about.
7 MR. WARE:
8 I'm trying to make my objection,
9 Judge.
10 THE COURT:
11 We don't -- we'll go to the next one.
12 MR. WARE:
13 Okay. And I object --
14 THE COURT:
15 You don't have an objection at this
16 point until you get to the point that you
17 feel that you've lost a right.
18 MR. WARE:
19 I think I've lost a right.
20 THE COURT:
21 You just excused Mr. Davis.
22 MR. WARE:
23 Okay.
24 THE COURT:
25 What right have you lost?
26 MR. WARE:
27 Okay, let's --
28 THE COURT:
29 You have to wait until we get to the
30 next juror --
31 MR. WARE:
32 Yeah, you're right.

1 THE COURT:
2 -- because I know where you're going,
3 but let's make it at the right time.
4 MR. WARE:
5 Okay.
6 THE COURT:
7 All right. We only have one alternate
8 so we will need to bring in -- have you
9 taken roll with regard to the second -- I
10 guess I need to bring in the first group.
11 Let's go ahead and bring these other jurors
12 back so I can give them their instructions.
13 We can take them and we can start making
14 arrangements for the three backstrikes.
15 [Discussion between the Court and Mr. Day,
16 bailiff, on releasing jurors]
17 MR. WARE:
18 Judge, before we go any further, --
19 MR. FREY:
20 I was going to ask what we're doing
21 now.
22 MR. WARE:
23 -- I'd like to make a **Batson** challenge
24 to the State's exercising of peremptories.
25 THE COURT:
26 And the basis? You have to establish
27 to the Court a prima facie case of
28 discrimination.
29 MR. WARE:
30 Now, the State has exercised 12 -- all
31 12 of its peremptory challenges with respect
32 to the jury, and I say that meaning -- we're

1 not talking about alternate jury, but the
2 actual jury.

3 THE COURT:

4 First of all, the fact that we've gone
5 in and accepted a first alternate, is there
6 an argument that we have not accepted the
7 final jury without objection, there was not
8 a contemporaneous objection made at the time
9 that the final 12, or the initial 12, was
10 accepted.

11 MR. FREY:

12 Not only that, there was an agreement,
13 Your Honor, not just no objection, but he
14 agreed that Mr. Schneider became the 12th
15 juror.

16 MR. WARE:

17 Excuse me, Judge. I don't have a
18 response necessarily to the fact -- to what
19 you just asked me, now that we've chosen the
20 actual jury, the question is, does that
21 operate as a waiver to now make a **Batson**
22 challenge. I don't think it does, Judge. I
23 think we can make a **Batson** challenge before
24 the jury is empaneled, and that's the basis
25 on which we make the challenge.

26 THE COURT:

27 Mr. Bryant, and I'm just looking at it
28 from a procedural standpoint, initially, not
29 the argument but the timing or when a **Batson**
30 challenge is appropriate.

31 MR. BRYANT:

32 Well, that's correct, Your Honor, I

1 mean, if Mr. Ware -- what he proposes were
2 to happen, we'd have to reopen jury
3 selection which has been completed as far as
4 the 12 jurors go. I mean, I think -- I
5 don't think there's a **Batson** challenge that
6 has merit, but I think as far as asking for
7 a **Batson** challenge after we've already
8 selected the first alternate would mean we
9 go back and if -- theoretically if we were
10 not able to show, you know, that's not a
11 legitimate **Batson** challenge, we'd have to
12 start this process again. And I think it
13 could have been done at any time up until
14 the time we had our 12th juror. That was
15 accepted and both sides agreed that we have
16 12 good jurors and we go forward. I would
17 - That's to the procedure. I have other
18 arguments as to the **Batson** challenge itself,
19 Your Honor. I guess I would also -- well, I
20 guess I'll wait, if we get by that, Your
21 Honor. To save time, Your Honor, to go
22 directly to the issue, our records reflect
23 there were seven black jurors challenged by
24 the State and five white jurors. **Batson**
25 requires some pattern of discrimination.
26 How seven blacks and five whites can show a
27 pattern of discrimination is beyond me, even
28 if we were to accept that there was a **Batson**
29 challenge. It's certainly not numerically -
30 - fits the criteria for **Batson**, there's been
31 no pattern, five and seven is about as --
32 the only thing better than that would be six

1 and six, so I would suggest, Your Honor,
2 that even if we were to allow Mr. Ware to
3 make that argument, there's no pattern shown
4 by the State to even get into that issue.
5 And you have to have a prima facie showing,
6 Your Honor, to get to that point, and prima
7 facie, it shows five white challenges and
8 seven black challenges.

9 THE COURT:

10 And, Mr. Ware, at this point I would
11 have to agree that since they have not been
12 sworn as the tentative jurors, that you
13 always have the potential to make
14 adjustments if things so -- with regard, can
15 you establish a prima facie case that the
16 prosecutor has exercised peremptory
17 challenges on the basis of race?

18 MR. WARE:

19 Seven out of twelve is the number; is
20 that correct, Judge?

21 THE COURT:

22 And I assume the numbers given to me
23 by the State is correct, but

24 MR. WARE:

25 Your Honor, I think that in itself
26 establishes a pattern, and

27 THE COURT:

28 And on what basis?

29 MR. WARE:

30 And I'm trying to think of the -- the
31 racial percentage -- the makeup of the
32 entire venire, and I don't have that

1 information. Your Honor, I would just stand
2 on that alone.

3 MR. BRYANT:

4 And I would also point out, Your
5 Honor, the State could have filed a **Batson**
6 challenge, Mr. Ware has challenged 11 white
7 jurors and 1 black juror, and we certainly
8 can file a reverse **Batson** challenge on Mr.
9 Ware, which we didn't do, and that's a
10 pattern.

11 MR. WARE:

12 I'm not going to defend it but
13 Judge, let me --

14 THE COURT:

15 I'm just looking at the numbers with
16 regard to establish whether or not a prima
17 facie showing's been seen. From what I
18 have, we've had 28 -- we went through 37
19 jurors to get our 12 jurors.

20 MR. WARE:

21 37, Judge?

22 THE COURT:

23 That's -- we had -- no, 36, because
24 one panel only had -- we were missing -- we
25 had that panel of 13 today, that one doesn't
26 count, we had two 14s, and then the bottom
27 row and up through Mr. Schneider, is where
28 I'm up to.

29 MRS. KILLINGSWORTH:

30 No, Your Honor, we had one gone from
31 the second panel, too.

32 THE CLERK:

1 Yes.
2 THE COURT:
3 Oh, Ms. Armwood. All right.
4 MR. WARE:
5 And, Judge, we had 14 --
6 THE COURT:
7 So we had 36 jurors that we have
8 interviewed for the 12.
9 MR. WARE:
10 Judge, excuse me, let me get my
11 numbers straight, and, please, I may need
12 your help. We had 14 on the first panel;
13 and then we had 13 on the second.
14 THE COURT:
15 Correct.
16 MR. WARE:
17 And we had how many this time? 13
18 again.
19 THE COURT:
20 No, I'm talking about getting to our
21 12.
22 MR. WARE:
23 I'm sorry.
24 THE COURT:
25 It can't be based on anything in the
26 future, only up to the 12.
27 MR. WARE:
28 That's right.
29 THE COURT:
30 Which would be Mr. Schneider.
31 MR. WARE:
32 Yes, sir, and how many -- I agree.

1 THE COURT:
2 All right. So you had 27, plus 7,
3 would be 34, the top two would be 35, 36.
4 So there were 36 jurors that were
5 interviewed to get our panel of 12.
6 MR. WARE:
7 Yes, sir.
8 THE COURT:
9 Out of that 36 my records indicate 1,
10 2, 3, 4, 5, 6, 7, 8, 9, 10, -- and you can
11 confirm this. I indicate that there are 12
12 -- there were 12 black jurors in that group
13 of 36 that were interviewed. What do you
14 have, Ms. --
15 THE CLERK:
16 I count 14.
17 THE COURT:
18 Maybe 13. How many do you have?
19 MRS. KILLINGSWORTH:
20 I have 13.
21 THE COURT:
22 So 13 of the 36 of the jurors that
23 were interviewed were black based on a
24 **Batson** challenge that's made at this point.
25 The Court would note that the makeup of the
26 12 jurors is seven white and five black at
27 this point. Just numerically the ratio of
28 the existing jury is higher than that of the
29 entire panel, showing that if anything there
30 was a propensity to be more minority-
31 oriented than less minority-oriented. Do
32 you understand --

1 MR. WARE:
2 Yes, sir.
3 THE COURT:
4 -- my position?
5 MR. WARE:
6 Yes, sir.
7 THE COURT:
8 Now, can you give me any other --
9 anything else that could help the Court with
10 a prima facie showing?
11 MR. WARE:
12 Yes, sir.
13 THE COURT:
14 Because numerically it's not there,
15 Mr. Ware.
16 MR. WARE:
17 Okay. Ms. Ivy Sanford, I don't think
18 that there's any race neutral --
19 MR. BRYANT:
20 Objection, Your Honor, that's a second
21 inquiry. The first one is the prima facie
22 showing.
23 THE COURT:
24 That is correct, and the Court would
25 reference **Plunkett v. Elam**, I only have a
26 West Law cite, 283, 453, which three step --
27 our Louisiana Supreme Court has set forth
28 the three step **Batson** analysis. Also, a
29 number of other cases, but when we talk
30 **Batson** we're talking **Batson v. Kentucky**, 476
31 US 79. It is indicated that the trial
32 court's initial determination is whether a

1 prima facing showing of purposeful
2 discrimination has been established to move
3 to the second step, which then is to have
4 the State articulate a race neutral
5 explanation. Based on just the numerical
6 part, the Court would find that a prima
7 facie showing does not exist at this point,
8 and I don't know what other basis you would
9 have to make that challenge, Mr. Ware.

10 MR. WARE:

11 Your Honor, I would disagree with the
12 State when it says that I can't point to and
13 talk about specific challenges against
14 blacks in this instance as part of the
15 requirement that the Defense or the party
16 making the challenge make a prima facie
17 showing of discrimination. And I think that
18 -- and let me give you the point that I want
19 to make, and you can make the decision. Ms.
20 Ivy Sanford, I think that -- I'm suggesting
21 and part of the challenge and the prima
22 facie case I'm attempting to make I assert
23 that there was no race neutral reason to
24 excuse her, as opposed to -- and, Judge, I'm
25 going to give them one here, Mr. Diamond
26 Lee. I think that's part of -- I think I
27 get to point to specific instances of race
28 being the primary factor in exercising a
29 peremptory challenge as part of the burden
30 that I bear initially in making a prima
31 facie case, and that's -- that's the
32 argument.

1 MR. BRYANT:

2 Well, that's simply not the law, Your
3 Honor. You can't do what you want to do.
4 If the law said we have to do that on an
5 automatic basis when there's no requirement,
6 so be it, but that's not what the law is,
7 and there's been no prima facie showing. In
8 fact, it's the exact opposite. I mean, you
9 may wish the law was a certain way, but
10 that's not what the law is.

11 MR. WARE:

12 Well, and, Judge, it's not wishing
13 that I'm talking about; I'm talking about
14 the law, and I have to make -- and I
15 understand, a defendant alleging
16 discriminating use of a peremptory challenge
17 must make a prima facie showing of
18 discrimination in the prosecutor's use of
19 the strike. The defendant must demonstrate
20 that the challenge was peremptory rather
21 than for cause and was directed at a member
22 of a cognizable group and must show
23 circumstances sufficient to raise an
24 inference that the prosecutor struck the
25 venire person on account of race. And I
26 think it's part of the presentation to
27 establish the prima facie case, specific
28 facts regarding specific prospective jurors
29 can be used and is appropriate.

30 THE COURT:

31 At this time let me give you the
32 standard. The Louisiana Supreme Court has

1 carefully set out a proper three -- the
2 proper three-step **Batson** analysis. One, the
3 defendant must make a prima facie showing
4 that the prosecutor has exercised peremptory
5 challenges on the basis of race. The burden
6 is on the defendant, and if he is unable to
7 make out a prima facie case of racial
8 discrimination, then the **Batson** challenge
9 fails and it is not necessary for the
10 prosecutor to articulate race neutral
11 explanations for his strikes; the inquiry
12 terminates and the **Batson** challenge is
13 denied. The intent of the prosecutor at the
14 time that he exercised peremptory strikes is
15 the sole focus. Such facts include a
16 pattern of strikes by the prosecution
17 against members of a suspect class,
18 statements or actions of the prosecutor
19 which would support the inference, and the
20 exercise of peremptory strikes was motivated
21 by impermissible considerations, the
22 composition of the venire and of the jury
23 finally empaneled in any other disparate
24 impact upon the suspect class which is
25 alleged to be the victim of purposeful
26 discrimination.

27 MR. WARE:

28 Is that **State versus Jacobs**?

29 THE COURT:

30 I believe it was enumerated from what
31 I have here in my book, it's actually under
32 -- from **State v. Green**, which was at 655

1 So.2d 272, Supreme Court, where they
2 reversed a 4th Circuit Court of Appeal in
3 **Batson** and tightened up and clarified the
4 jurisprudence.

5 MR. WARE:
6 I have that case, Your Honor, and I
7 understand that case. The point I'm making
8 is that when it says that the defendant may
9 offer any facts relevant to the question of
10 the prosecutor's discriminatory intent to
11 satisfy this burden, the initial burden of
12 establishing a prima facie case.

13 THE COURT:
14 But you were asking that the State
15 articulate. You need to articulate facts to
16 show that there was discrimination of a
17 suspect class.

18 MR. WARE:
19 Your Honor, that's what I was doing,
20 and Mr. Bryant said that that was premature.
21 I can articulate some facts with respect to
22 a particular juror, that being Ms. Ivy
23 Sanford.

24 MR. BRYANT:
25 It's not a pattern, Your Honor, and
26 secondly, there's no need to have the second
27 phase of **Batson** if you can go in and go
28 through the jurors to begin with, there's no
29 need to have the second phase.

30 THE COURT:
31 Well, I'm asking, if he can tell me --
32 one of the tests is statements or actions of

1 the prosecutor that would support the
2 inference. And that's what I'm asking if he
3 can establish.
4 MR. WARE:
5 Yes.
6 THE COURT:
7 What is the statement of inference
8 from the prosecution? I don't believe
9 anything was said when there was a
10 backstrike of Ms. Sanford other than I
11 backstrike Ms. Sanford.
12 MR. WARE:
13 Your Honor, and my point is with
14 respect to Ms. Sanford, there was no
15 hardship issue, there was no wavering on
16 death qualification, there was no publicity
17 issue, and I can't think of any issue that
18 would support the legitimate exercise of a
19 peremptory challenge by the State with
20 respect to Ms. Sanford.
21 THE COURT:
22 Well, it's not whether you can think
23 of anything, it's whether you can give me
24 something to get me across the burden so the
25 State would have to articulate something.
26 There's nothing that the Court has that it
27 can assume that there was purposeful
28 discrimination. The numbers are clearly in
29 the totality, the pattern of strikes was not
30 strictly towards a suspect class.
31 MR. WARE:
32 Judge, I don't think -

1 THE COURT:
2 I have no statements or actions which
3 support an inference that you can give me.
4 The composition of the venire is actually
5 greater than the composition of the
6 evaluated panel.
7 MR. WARE:
8 The action was the exercise of the
9 peremptory challenge.
10 THE COURT:
11 One challenge without a reason does
12 not a pattern make.
13 MR. WARE:
14 Okay. I would offer the same thing
15 with respect to Mr. Isadore, and, Judge, you
16 can -- if you feel a need to cut me off, but
17 that's the -- the pattern, or that's the
18 offering I make to the Court, to allow me --
19 THE COURT:
20 Well, the Court feels one, Mr. Isadore
21 slept through a good bit of the voir dire
22 and will make that notice for the record at
23 this time.
24 MR. FREY:
25 And Mr. Ware --
26 MR. WARE:
27 Mable Brown, there was nothing --
28 again, no hardship issue, no equivocation
29 about the **Witherspoon** issues, there was no
30 publicity issue. And the action was to
31 strike her and she is a member of the
32 cognizable class that we're talking about.

1 But I think just to exercise a peremptory
2 alone is -- is an action that -- statement
3 or action by the -- of the suspect class by
4 the prosecution, which supports the
5 inference that the peremptories was
6 motivated by race. Nasthasia Webb --

7 THE COURT:

8 And, Mr. Ware, you can go through each
9 of the minority jurors or suspect class that
10 have been excused, but there's nothing to
11 show a pattern to take us to the next step.

12 MR. WARE:

13 And, Judge, --

14 THE COURT:

15 The fact that they have been excused
16 without request or without any prior **Batson**
17 challenge or any articulation from the State
18 gives the Court nothing to move to the next
19 step.

20 MR. WARE:

21 And, Judge, and I didn't -- I'm not
22 insisting that I continue. I'm just
23 insisting that you make a ruling because
24 that's what -- that's how I would proceed
25 with this issue.

26 THE COURT:

27 I understand, and the Court is guided
28 and does not find that there has been a
29 prima facie showing that the specific
30 numbers lean in favor of the State on their
31 surface and there's been no articulable
32 definition from the Defense to show any

1 statement or action that would support an
2 inference, being in favor as the composition
3 of the venire is the pattern of strikes or
4 lack thereof, and the Court would deny the
5 **Batson** challenge based on the Supreme
6 Court's directive in evaluating the three-
7 step approach.

8 MR. WARE:

9 Yes, sir. And, Judge, I would object
10 to the Court's ruling. I would ask that it
11 be noted for the record and the basis for
12 the objection being all of the reasons
13 previously asserted and accepted and
14 understood, as well as State versus Batson
15 (sic), the U.S. Supreme Court case.

16 THE COURT:

17 I think it's **Batson v. Kentucky**.

18 MR. WARE:

19 What did I say?

20 THE COURT:

21 State v. Batson.

22 MR. WARE:

23 It is **Batson versus Kentucky**. Thank
24 you. I'd like to add that as part of the --
25 and **State versus Jacobs**, which is a
26 Louisiana Supreme Court case found at 803
27 So.2d 933, and **State versus Green**, which the
28 Court has just made reference to, found at
29 655 So.2d 272, and their progeny. That's
30 the basis for the objection, and, Judge, I
31 would like the record reflect the method by
32 which I intended or offered to establish the

1 prima facie case, the Court has -- if I
2 interpreted the Court's ruling correctly and
3 understand the ruling, that even if that was
4 done -- you -- the Court did not feel that
5 that was a proper method by which to make
6 the prima facie case, as I understand it.
7 THE COURT:
8 I think I gave you the facts that the
9 Court would consider.
10 MR. WARE:
11 Right.
12 THE COURT:
13 And the Court had not noted that it
14 has received anything within those
15 guidelines.
16 MR. WARE:
17 Should I go through each one of these
18 strikes?
19 THE COURT:
20 I mean, it's your record, Mr. Ware, at
21 this point. The Court has made its
22 decision. You can proffer what you feel is
23 appropriate, but the Court would not
24 consider it since you were not able to
25 MR. WARE:
26 And, Judge, let me just rest on this.
27 I object to the Court's ruling without
28 having heard me go by -- go through each
29 individual prospective juror that was --
30 where the State exercised a peremptory
31 challenge.
32 THE COURT:

1 Well, I don't think that's a very
2 appropriate statement for the record. I've
3 just indicated that you could submit
4 whatever information you wish.

5 MR. WARE:
6 By way of --

7 THE COURT:
8 That the Court had made a ruling. If
9 you wish the record to reflect more than
10 what it shows with regard to the voir dire,
11 which is rather extensive, if you wish the
12 record to show your position more than the
13 three or four individuals that you talked
14 about and not having an understanding as to
15 why they were excused, in your mind, which,
16 again, doesn't show anything or any
17 inference that the prosecution was doing
18 anything improper, --

19 MR. WARE:
20 Yes, sir.

21 THE COURT:
22 -- then you are welcome to do so. But
23 not that the Court would not hear you to put
24 in the record what you want in the record.

25 MR. WARE:
26 And should that be done by way of a
27 proffer?

28 THE COURT:
29 If the Court has ruled, I asked if you
30 had anything else. You gave me four or five
31 individuals. There's only seven, I think
32 that have been excused, isn't it?

1 MR. WARE:

2 Lance Guidry, Your Honor. No hardship
3 issues, no publicity issues, no equivocation
4 about the relevant issues, Witt issues,
5 again, this person presented himself as a
6 race neutral prospective juror. I mean,
7 excuse me, without any significant -- with
8 no impairments, let me say that, with no
9 impairments, and was struck by the State.

10 THE COURT:

11 Mr. Ware, if there was an impairment
12 there would have been a challenge for cause.

13 MR. WARE:

14 And I agree with that, and that's -- I
15 agree with that, Judge, yes. Your Honor,
16 Mr. Lee Diamond, there was a challenge for
17 cause.

18 THE COURT:

19 Correct, and it was denied.

20 MR. WARE:

21 And it was denied. And the Court
22 denied it based on its finding that he was
23 not impaired by way of his hearing -- the
24 problems that he had with hearing. The
25 Court noted that when it -- that hearing
26 impairment was a question, or his hearing
27 was in question, we were in the adjoining
28 courtroom, or the next courtroom, where
29 everyone agreed that the acoustics were bad,
30 and Mr. Diamond wasn't the only one
31 experiencing some hearing difficulties. But
32 once we got here, into this courtroom, that

1 problem on longer persisted or manifested
2 itself, and the Court properly denied the
3 State's challenge for cause.

4 Mr. Ian Joseph, there was no pre-trial
5 publicity issue, there was no Witt,
6 Witherspoon issue, no hardship issue, no
7 other issue. The man had served -- was a
8 juror in a murder case on a previous
9 occasion where a life sentence, which
10 obviously means that there was a conviction
11 in the case, the record reflect whether or
12 not he joined in, that I don't have an
13 instant recollection of that, whether or not
14 he was -- he agreed with the verdict. The
15 verdict was obviously guilty as -- guilty.
16 In fact, there was a -- that was a capital
17 prosecution. And if I recall correctly, he
18 did join in the verdict -- in the verdict
19 for conviction. He also joined in the
20 unanimous verdict for a recommendation or a
21 determination that life sentence -- life was
22 appropriate in that case. Judge, I think
23 I've talked about all five, or I've touched
24 on -- seven, excuse me. Yes, sir. And I
25 rest, Your Honor.

26 THE COURT:

27 And that will be made part of the
28 record, the Court has made its ruling with
29 regard to the Batson challenge, and
30 specifically noting that the rationale that
31 was given by the Defense is clearly why
32 there was never a hardship granted, why

1 there was not a challenge for cause granted,
2 and why it was appropriate, if one
3 individual felt that that person was
4 improper, to use a peremptory, which is what
5 they are for. But without any type of
6 pattern, disparate composition, or anything
7 that could be enunciated to specifically
8 take the Court to question the prosecution's
9 answer, the prima facie showing falls, and
10 the denial will be maintained. It is noted
11 that you've previously objected and it is
12 noted for the record.

13 MR. WARE:
14 Thank you.

15 THE COURT:
16 We're ready --

17 MR. BRYANT:
18 Yes, Your Honor.

19 THE COURT:
20 -- to bring --

21 MR. WARE:
22 May I have a break, Your Honor?

23 THE COURT:
24 Sir?

25 MR. WARE:
26 I need a break.

27 THE COURT:
28 Well, I need to dismiss these people,
29 and I need to put them in sequestration.

30 MR. WARE:
31 Okay.

32 THE COURT:

1 We've got people to move around.
2 MR. WARE:
3 That's fine.
4 THE COURT:
5 And then we will -- we're going to
6 work on the other alternates, I'm probably
7 going to only seat seven, I think, maybe --
8 I think I should be able to get -- let's see
9 -- I think I will be able to get I think at
10 least two more, maybe all three, that I need
11 so I'm going to only seat seven for the
12 other three alternates that are remaining.
13 MR. WARE:
14 Judge, I agree with you for the most
15 part. What would happen if there was a rash
16 of valid cause challenges?
17 THE COURT:
18 Then I would come back tomorrow
19 morning and bring back the other seven and
20 fill up the panel. I just have not seen it
21 out of 42 jurors.
22 MR. WARE:
23 I know. The odds are against it, I
24 recognize that.
25 THE COURT:
26 All right. I need to bring these
27 jurors back in from Panel #3.
28 [PROSPECTIVE JURORS FROM PANEL #3 RETURNED TO THE
29 COURTROOM AND SEATED IN JURY BOX]
30 THE COURT:
31 All right, Ladies and Gentlemen, at
32 this time we've completed discussing each of

1 you and the possibility of serving as a
2 juror in this matter, or being excused. If
3 you are excused, then I know I speak on
4 behalf of both the State and the Defense
5 when we do thank you for the time that
6 you've given to the court system, that I
7 know you've taken away and -- a good bit of
8 time, even though we haven't even got to the
9 actual evidence phase, but you've taken away
10 from your families, you've taken away from
11 your work, and you've taken away from your
12 own private time in order to give something
13 back. So, we do thank you for that. I
14 think that the way East Baton Rouge treats
15 it, even if you're not selected, you've
16 satisfied your jury obligation for a period
17 of two years and you could exercise that
18 exemption if you were called within the next
19 two years if you so desired.

20 As I call your name you will be
21 allowed to leave. If I do not call your
22 name then you are to remain in the courtroom
23 because then you will be taken into custody
24 and then we will make arrangements and
25 accommodations for you. But at this time
26 the Court would like to thank and excuse
27 Panel "Y", No. 345, Mr. Todd; Panel "Y", No.
28 279, Ms. Linder; Panel "L", No. 99, Mr.
29 Joseph; Panel "X", No. 276, Ms. Lamana;
30 Panel "30", No. 320, Mr. Pugh; Panel "30",
31 No. 220, Mr. Davis; and Panel "X", No. 324,
32 Ms. Rissler. We would like to thank each

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and everyone one of you for what you've
given back to us.

[PROSPECTIVE JURORS Y-345, MR. RONNIE TODD; Y-
279, MRS. BARBARA LINDER; L-99, MR. IAN JOSEPH;
X-276, MRS. BARBARA LAMANA; 30-320, MR. THOMAS
PUGH; 30-220, MR. LARRY DAVIS; X-324, MRS.
DOROTHY RISSLER, EXIT THE COURTROOM]

THE COURT:

At this time I would ask that the six
of you stand and be sworn. Just so that
you're aware, Ms. Henderson, you are first
alternate at this point. The balance of you
are -- will be maintained as the original 12
jurors, you're to be placed under oath and
the Court would note that it is 19 minutes
until the hour of 5:00 on October the 27th,
2004, at which time you are being placed
under sequestration for the trial that you
have been sworn in to tell the truth about
the questioning under voir dire. If you'd
put them under oath?

THE CLERK:

Raise your right hand, please.

PROSPECTIVE JURORS:

[HANDS RAISED]

THE CLERK:

Do each of you solemnly swear that you
will try the case wherein the State of
Louisiana is plaintiff and Jason Reeves is
defendant in a just and impartial manner to
the best of your judgment and render a
verdict according to the law and the

1 evidence so help you God.
2 PROSPECTIVE JURORS:
3 [I do.]
4 THE CLERK:
5 You may be seated.
6 PROSPECTIVE JURORS:
7 [Seated]
8 THE COURT:
9 All right, Ladies and Gentlemen, at
10 this time you will be I guess taken to the
11 jury room for now and arrangements will be
12 made in order to secure your person. I
13 would advise at this time, Mr. Day, that you
14 advise that K-32, Mable Brown; L-69, John
15 Frederickson; and Y-305, Daniel Norton, be
16 excused.
17 MR. DAY:
18 Yes, sir.
19 THE COURT:
20 And that they be returned back to
21 their homes.
22 MR. DAY:
23 Yes, sir.
24 THE COURT:
25 All right, Ladies and Gentlemen, we're
26 still going -- we have some more work that
27 we're going to be doing tonight, because we
28 still have to get some more -- other -- some
29 other alternates to make certain we don't
30 have a problem and we will be dealing with
31 that. They're going to be making
32 arrangements for transfer, and hopefully you

1 have an idea this was going to happen, a bag
2 either packed or at least where everything
3 is at so things can be gathered up in a
4 rather quick manner. No cell phones, no
5 beepers, those things are not to be allowed.
6 If you have any type of books or other
7 entertainment, if you'd advise the bailiff
8 once you get there, whatever, they will
9 review those items to make certain that
10 they're not prohibited. Certain issues are
11 something for instance, a newspaper, you
12 might not be able to have at this point, if
13 it were to have something that we would
14 consider contraband, so to speak. You may
15 receive newspapers with areas cut out while
16 you're under sequestration, but you will be
17 allowed to keep up with most of what's going
18 on, just certain information that we feel is
19 inappropriate pursuant to a rule that's been
20 -- an order that's actually been filed. And
21 that order will be gone over with you right
22 now while you are in the jury room and
23 arrangements are made for your
24 transportation. All right. You're ready to
25 take them?

26 MR. DAY:

27 Yes, sir.

28 [JURORS Y-334, MRS. CHARLOTTE SMITH; I-177, MR.
29 RICHARD WHITEOAK; -67, MR. CARLON FRANCOIS; 31-
30 3143, MR. CRAIG PHILLIPS; 30-330, MR. DONALD
31 SCHNEIDER; AND H-84, MRS. ARLETTE HENDERSON, EXIT
32 THE COURTROOM]

1 THE COURT:

2 Now, I need to take roll and see if I
3 have -- Mr. Ware, we will -- you take five
4 minutes and then we'll return, I'm going to
5 seat the bottom seven and we're going to
6 discuss them and get hopefully maybe four,
7 maybe three, we will see.

8 [Recess]

9 THE COURT:

10 At this time we've been called back
11 into session. I need to put this on the
12 record. In conjunction with the jury
13 selection involved in this matter, the Court
14 has obtained a copy of Xerox copies of each
15 and every 3-by-5 card, having to do with
16 each of the jurors that were considered for
17 the entirety of the panels here, and I will
18 offer and file that into the record of these
19 proceedings at this time, as per the request
20 of Defense counsel. Whether the form is the
21 form that was requested by Defense counsel I
22 would defer, but it is noted that each juror
23 that was considered and was submitted by the
24 jury pool as responding to the
25 questionnaires and ultimately interviewed
26 have been filed in the record at this time.
27 Anything, Mr. Ware?

28 MR. WARE:

29 Yes, sir. Your Honor, you said
30 earlier that my objection -- you thought it
31 was premature, but I want to make sure that
32 my objection to this "use it or lose it"

1 process is -- is made timely and
2 contemporaneous to the extent that the Court
3 has a chance to correct it -- it should --
4 and that's the purpose of a contemporaneous
5 objection, give the Court the opportunity at
6 the time to correct --

7 THE COURT:

8 Right. And at this time there is no
9 agreement. You've asked that the second
10 alternate that was tendered be dismissed and
11 they have been. The next person that will
12 be submitted as the second alternate,
13 depending on the actions taken by the State
14 and the Defense will determine whether or
15 not you have an objection or not.

16 MR. WARE:

17 Okay. And, Judge, I -- believe me, I
18 understand that, but I -- I think that I
19 need to make the record now that I object to
20 the "use it or lose it" method that the
21 Court is employing with the selection of the
22 alternator jurors.

23 THE COURT:

24 Well, and I don't know that I like the
25 reference to that, if we could be more
26 specific. The Court has specifically given
27 one peremptory exception for each alternate
28 that is to be selected. Each alternate is
29 to be selected on their own merit, and once
30 selected, then there will be no further
31 peremptories carried over. Then we will
32 start a new process for the second

1 alternate. Each will be given one
2 peremptory. If once that individual --
3 either there's no peremptories or that
4 individual is selected, then all of those
5 peremptories that were not used will be
6 eliminated, there will be no carryover, and
7 each will get one more peremptory to move
8 into the next third alternate, until we have
9 all of the alternates that will be
10 available.

11 MR. WARE:
12 Yes, sir.

13 THE COURT:
14 Now, --

15 MR. WARE:
16 And, Your Honor, I object to that
17 process.

18 MR. FREY:
19 And for the record the State has no
20 objection. We have used that procedure on
21 probably the last three capital cases and
22 other non-capital cases.

23 MR. WARE:
24 And, Your Honor, I understand that
25 we're selecting four alternates, and each
26 side has four peremptory challenges in the
27 selection of the four alternates, and --

28 THE COURT:
29 First, it is noted that the Court has
30 discretion on the number of alternates, and
31 as such the number of alternates each
32 individual gets one peremptory for each

1 alternate. If the Court only had one
2 alternate, then each would only have one,
3 therefore, when it goes to two, the
4 rationale would be that they are
5 individually assessed and that's the Court's
6 interpretation for which the Defense objects
7 at this point.

8 MR. WARE:

9 Yes, sir, and I'd like my objection be
10 noted for the record. And, Your Honor, I
11 just kind of wanted -- at least I do want
12 to, suggest how I think the process should
13 go. That under Article 783 of the Code of
14 Criminal Procedure -- I'm sorry, 788 of the
15 Code of Criminal Procedure deals with
16 tendering of jurors. After the examination
17 provided by Article 786 a prospective juror
18 may be tendered first to the State which
19 shall accept or challenge them. If the
20 State accepts a prospective juror, he shall
21 be tendered to the defendant, who shall
22 accept or challenge him. And that's the
23 order that the prospective jurors are
24 tendered, first to the State and then to
25 Defense, and I think that's -- well, I
26 submit that that should happen, that's the
27 way the law requires it be done in each
28 individual case, in each individual -- with
29 respect to each individual prospective
30 juror, and that is the procedure that has
31 been followed, employed, throughout this
32 jury selection. Then Article 789 references

1 alternate jurors, and indicates inter alia,
2 alternate jurors shall be drawn in the same
3 manner, shall have the same qualification,
4 shall be subject to the same examination and
5 challenge for cause and shall have the same
6 oath and shall have the same functions,
7 powers, facilities, and privileges as the
8 principal jurors, and there's additional
9 language found in that Article 789, but
10 that's the pertinent, relevant, language
11 that I submit to the Court.

12 THE COURT:

13 I disagree, Mr. Ware. The pertinent
14 is if the Court determines that alternate
15 jurors are desirable the Court will
16 determine the number to be chosen.

17 MR. WARE:

18 I'm not questioning the number, Judge.

19 THE COURT:

20 I know. The regular peremptory
21 challenges shall not be used for alternate
22 jurors. The Court shall determine how many
23 additional peremptory challenges shall be
24 allowed, and each defendant will have an
25 equal number of such challenges.

26 MR. WARE:

27 Yes.

28 THE COURT:

29 The State shall have as many
30 challenges as the Defense.

31 MR. WARE:

32 I agree with all of that.

1 THE COURT:
2 The additional peremptory challenges
3 may be used only against alternate jurors.
4 MR. WARE:
5 I agree with that, Judge.
6 THE COURT:
7 Okay.
8 MR. WARE:
9 And, Judge, the Court has selected,
10 without objection from either side, that the
11 number four -- that we have four alternate
12 jurors.
13 THE COURT:
14 Well, the Court has not made that
15 final decision yet. The Court may decide on
16 less alternate jurors, depending on this
17 panel.
18 MR. WARE:
19 Okay.
20 THE COURT:
21 And then you -- if you are --
22 MR. WARE:
23 I don't challenge the Court's decision
24 on what the number should be.
25 THE COURT:
26 I understand.
27 MR. WARE:
28 But whatever the number, whatever
29 number is selected, each -- the State and
30 the Defense are given like number -- a like
31 number of peremptory challenges.
32 THE COURT:

1 That is correct.

2 MR. WARE:

3 If it's two, then we each have two

4 apiece.

5 THE COURT:

6 Incorrect. You have each one each for

7 each alternate.

8 MR. WARE:

9 And, Judge, I'm -- okay.

10 THE COURT:

11 And it's a big difference in the way

12 that you state it. You will have one each

13 for each alternate selected.

14 MR. FREY:

15 And that is the State's understanding,

16 Your Honor, and we have no objections.

17 MR. WARE:

18 Well, I object to that, because I

19 think that we should have a -- if we're

20 going to select two alternates, the Defense

21 and the State should have two total

22 peremptory challenges to exercise at their

23 discretion in the selection of the two

24 alternates.

25 THE COURT:

26 And I understand your interpretation,

27 and that is not how the Court's doing it.

28 MR. WARE:

29 Okay.

30 THE COURT:

31 And your objection is noted.

32 MR. WARE:

1 Thank you. And I'd ask that it be --
2 I make the objection, Judge, and ask that it
3 be noted for the record.
4 THE COURT:
5 So ordered. All right. Let's bring
6 them in. If you'll look on Panel 4,
7 Counsel, you should note that the bottom row
8 will be what will be seated from Panel 4.
9 [PROSPECTIVE JURORS FROM PANEL #4 33-204, MRS.
10 LAURA STAMAND; 33-147, MRS. VANESSA MONROE; 33-
11 46, MR. TED DUNHAM; 34-134, MR. ALLEN MIKA; 32-
12 31, MRS. DORIS BUTLER; 33-64, MR. ROBERT GOODEN;
13 AND 33-258, MRS. PENNY ALBERT ENTERS THE
14 COURTROOM AND SEATED IN JURY BOX FOR GENERAL VOIR
15 DIRE AS ALTERNATES]
16 THE COURT:
17 Ms. Laura Stamand, first seat; Vanessa
18 Monroe, second seat; Ted Dunham, third seat;
19 Allen Mika, fourth seat; Doris Butler, next
20 seat; Robert Gooden, the next seat; and Ms.
21 Albert, the end seat.
22 THE CLERK:
23 If you will remain standing and raise
24 your right hands.
25 PROSPECTIVE JURORS:
26 [HANDS RAISED]
27 THE CLERK:
28 Do each of you solemnly swear that you
29 will true answers give to such questions as
30 may be propounded to you touching on your
31 qualifications to serve as jurors in the
32 case where the State of Louisiana is

1 plaintiff and Jason Reeves is defendant so
2 help you God.

3 **PROSPECTIVE JURORS:**

4 I do.

5 **THE CLERK:**

6 You may be seated.

7 **PROSPECTIVE JURORS:**

8 [Seated]

9 **THE COURT:**

10 Good afternoon, Ladies and Gentlemen.

11 **PROSPECTIVE JURORS:**

12 Good afternoon.

13 **THE COURT:**

14 We've actually shortened this panel
15 for the purposes of time because of the --
16 and we've had a number of matters today that
17 have helped us to go through the day, I know
18 y'all have been probably up here since 1:30,
19 and I do thank you for being here. As you
20 know this is phase four, which means if you
21 were to be selected at this phase you would
22 be taken into custody and then we would
23 sequester you and make arrangements,
24 probably traveling back tomorrow to Lake
25 Charles and commencing the trial the
26 following day. Just to give you an idea of
27 the time frame that's involved. We've been
28 through talking about -- when I say phases,
29 the first one had to do with talking about
30 hardships; the other one has to do with any
31 maybe pre-trial publicity issues; the third
32 having to do with the penalty phase that was

1 discussed. Now we have the opportunity and
2 what's usually -- what you're going to find
3 is that your questionnaires have been gone
4 over in some detail and there will be some
5 personal discussions about your past life
6 experiences and such that -- to determine
7 whether you'd be a proper juror in this
8 case. I tell you that because if there's
9 some areas that you feel -- that you feel
10 you have a privacy concern, if you would
11 indicate that when you're asked a specific
12 question, if that is your wish, we will make
13 arrangements and talk with you in private.
14 We do not seek to embarrass or bring out
15 anything that anyone wishes to keep private,
16 but, again, the more things that you're
17 comfortable with the quicker this process
18 goes along. You've all been placed under
19 oath and as I've indicated there's no right
20 or wrong answers in this process, it's our
21 opportunity in the limited window, even
22 though it's going to be our third or fourth
23 time to visit, to try and get to know you a
24 little better and to find out if you'd be a
25 proper juror in this case. So, please don't
26 try to look for a correct answer or just say
27 something that would either please us just
28 for that reason. Be as -- there's no --
29 like I said, be as honest and open as you
30 can.

31 I have a little bit of information.

32 As I've indicated before, whenever we meet I

1 will always ask you if there's been anything
2 that you've heard, either since we've met
3 last, in this courtroom, in the lobby, the
4 elevator, or anywhere, in the media that you
5 feel would have something to do with this
6 case or you feel that there's something that
7 we have not been made aware of before that
8 you need to make us aware of having to do
9 with this matter that would affect your
10 ability to be a fair and impartial juror.

11 PROSPECTIVE JURORS:

12 [NO HANDS RAISED]

13 THE COURT:

14 All right. Seeing none, then I will
15 move on. And if I seem like I'm talking
16 fast, I'm -- 5:00 o'clock and I'm on about
17 my 10th cup of coffee, so we're working on
18 caffeine here, so any time you see or feel
19 that I've said something you're not certain
20 about, raise your hand, we'll get a
21 microphone to you and that's what this is
22 about, question and answers. It's going to
23 be one of the only times you get to ask
24 questions of the attorneys, that'll be one
25 of the only times that they get to ask these
26 type of questions of you, so this is a very
27 informal process, even though it's a very
28 serious matter and a lot of things that we
29 have to go through.

30 Now, Ladies and Gentlemen, if you were
31 to be chosen as jurors in this matter, you'd
32 be obligated and you'd have the duty to

1 accept the law as I give it to you at the
2 end of this case. It's my job to tell you
3 what the law in this case will be, and that
4 will be after the evidence is all heard and
5 that you've heard all of the argument of
6 counsel. But at the present I would like to
7 give you these instructions just as a basic
8 to make certain we're all on the same page.
9 In this case, as in every other criminal
10 case, a person who is charged with
11 committing a crime is presumed to be
12 innocent until their guilt is established by
13 competent evidence provided by the State to
14 your satisfaction beyond a reasonable doubt.
15 A defendant does not have to prove his
16 innocence in this case or in any other
17 criminal case, the burden of proof is on the
18 State of Louisiana. Do all of you
19 understand that? If you do not, raise your
20 hand.

21 PROSPECTIVE JURORS:

22 [NO HANDS RAISED]

23 THE COURT:

24 They've all indicated they understand.
25 In addition, Ladies and Gentlemen, the
26 defendant has an absolute right to remain
27 silent during the trial and he is not
28 required to take the witness stand or to
29 call any witnesses or produce any evidence.
30 If the defendant chooses not to testify or
31 produce any evidence, this cannot be held
32 against him by the jury. No presumption of

1 guilt may be raised and no inference of any
2 kind may be drawn from the fact that the
3 defendant chooses not to testify because
4 there may be creditable reasons why the
5 defendant or his attorneys have decided he
6 should not take the witness stand. Do all
7 of you understand that? If you do not,
8 raised your hand.

9 **PROSPECTIVE JURORS:**

10 [NO HANDS RAISED]

11 **THE COURT:**

12 They've indicated they understand.
13 The mere fact that the defendant is charged
14 with a crime by a bill of indictment or a
15 bill of information is to be considered by
16 the jury only as an accusation and not to be
17 considered as evidence of the guilt of the
18 defendant. The jurors must not let that
19 fact influence them in any way. Is there
20 anyone that does not understand that?

21 **PROSPECTIVE JURORS:**

22 [NO HANDS RAISED]

23 **THE COURT:**

24 Just to give you a little bit of a
25 reference point, because we've said it
26 throughout these proceedings, reasonable
27 doubt means exactly what it says. While the
28 State must prove guilt beyond a reasonable
29 doubt, it does not have to prove guilt
30 beyond all possible doubt. Reasonable doubt
31 is doubt based on reason and common sense
32 and is present when after you have carefully

1 considered all of the evidence you cannot
2 say that you are firmly convinced of the
3 truth of the charge. Do all of you
4 understand that? If you do not, raise your
5 hand.

6 PROSPECTIVE JURORS:

7 [NO HANDS RAISED]

8 THE COURT:

9 All indicated they understand. Now,
10 Ladies and Gentlemen, I have just briefly
11 described some of the principals for which
12 this case is going to be based. My
13 instructions at the end of the trial will be
14 quite lengthy and much more detailed, but at
15 this point I ask this question, do any of
16 you feel that you would have any reluctance
17 whatsoever to apply the law as I've just
18 explained to you? If you have any
19 reluctance, raise your hand.

20 PROSPECTIVE JURORS:

21 [NO HANDS RAISED]

22 THE COURT:

23 They've all indicated that they could
24 apply the law. At this time I would tender
25 to the State, they will have the opportunity
26 to speak to you first, and after that the
27 Defense will have the opportunity to ask you
28 questions; again, no right or wrong answers,
29 be honest, candid, be comfortable, and we'll
30 get through this. All right, Mr. Frey.

31 MR. FREY:

32 Your Honor, if I could ask, before I

1 begin, did you talk to them about alternate
2 jurors or not? Did you mention that?
3 THE COURT:
4 I have not.
5 MR. FREY:
6 I'll cover that. Ladies and
7 Gentlemen, first of all, I want to thank you
8 for the time that you've given us this two
9 and a half weeks here, because your roll is
10 very important in the criminal justice
11 system. We are at that stage of the process
12 now and I think I can tell you this, we have
13 selected a jury of 12 to hear this case, and
14 we're trying to select a total of 4
15 alternate jurors so that in the event one of
16 the 12 who have been seated become ill or
17 have some family emergency, et cetera, have
18 to be excused, one of the alternates can
19 step in to take their place in the order in
20 which they're selected, and the trial can
21 continue and we won't have wasted, you know,
22 three and a half weeks or whatever. So, we
23 are now in the process of trying to fill out
24 those alternate's positions, we have one,
25 and we're looking to attempt to get there
26 more at this point in time.
27 First of all, I need you to understand
28 that an alternate juror is just as important
29 as a regular juror. Does everybody
30 understand that?
31 PROSPECTIVE JURORS:
32 [NO HANDS RAISED]

1 MR. FREY:

2 Okay. Everybody understands. And the
3 reason I say that is this, is because you
4 never will know until the very last minute
5 when you might be called upon to as I like
6 to say, get up off of the bench and go on
7 into the game, because that problem for that
8 regular juror could come the first thing in
9 the morning or it could come the last thing
10 the last day of trial, and that's why it's
11 just as important that you pay just as much
12 attention as they do, you listen just as
13 carefully, you look at the evidence just as
14 they do, so that if you're called upon
15 you'll be up to speed and could go into that
16 jury room and take their place and
17 deliberate, if you have to. And sometimes
18 it has to be done, and sometimes it doesn't,
19 but we're actually picking four in this case
20 because these cases are such a long process
21 that we want to make sure that in the event
22 something does happen that we have enough
23 alternates hopefully to let the trial go to
24 a complete jury decision. Does everybody
25 understand that? If you don't, please raise
26 your hand.

27 PROSPECTIVE JURORS:

28 [NO HANDS RAISED]

29 MR. FREY:

30 No hands are raised. The second thing
31 I need to tell you about alternates in this
32 case, which is a little bit different from

1 alternates in other cases, because as we've
2 all discussed, this case itself is a little
3 bit different. At the end of the normal
4 trial when that jury of 12 leaves to go into
5 the jury room and deliberate, the judge
6 would turn to the one or sometimes two
7 alternates and say, Mr. or Mrs. Alternate,
8 we thank you for your service, I've got a
9 certificate here of jury service for you,
10 and that exempts you from jury service for
11 the next two years, we appreciate it, you're
12 free to stay with us until the jury comes
13 back, or you're free to go home if you want
14 to, it's up to you.

15 In this case that will not happen,
16 okay, and I'm telling you that right now.
17 In this case when we finish the first part
18 of the trial, which is called the guilt
19 phase, when we finish that, and that jury of
20 12 goes in to deliberate, whether the
21 defendant has been proven by the State to be
22 guilty of first degree murder as charged, or
23 they have a lesser offense of second degree
24 murder and manslaughter, or not guilty,
25 those are the four verdicts they'll be
26 considering, when they go into that jury
27 room to deliberate the guilt or innocence
28 phase, the four alternates, or however many
29 we have, the four alternates, let's talk
30 four just for convenience purpose, those
31 four alternates will not go with them, as
32 they have throughout the whole trial, but

1 they will not go home either. They're going
2 to go to another room where they will await
3 the decision of the jury. And when the jury
4 decides, the alternates are normally brought
5 back in to hear the jury verdict. If the
6 verdict is not guilty or manslaughter or
7 second degree murder, then all 16 go home
8 and the trial is over and the Judge'll take
9 over the sentencing process. However, if
10 the verdict is guilty of first degree
11 murder, those 16 will come back, after a 12-
12 hour delay, and they will hear the second
13 part of the trial, which you've heard us
14 refer to as the penalty phase, and those 16
15 will listen to all the evidence that is
16 presented at the penalty phase, the
17 aggravating factors that we talked with you
18 earlier about, the mitigating factors that
19 Defense talked with you earlier about, if
20 they choose to put those on, the law as
21 Judge Canaday will explain it, and then
22 those 12 jurors will go into deliberate.
23 However, if one of them has become disabled
24 in the interim, then the 11 will go into
25 deliberate along with the first alternate.
26 Does everybody understand that?

27 PROSPECTIVE JURORS:

28 [NO HANDS RAISED]

29 MR. FREY:

30 So, your job is not finished at the
31 end of the guilt phase, you don't get to go
32 home like in the other cases, you have to

1 stay available for the verdict; and if we go
2 to a penalty phase, again, it's just like
3 the regular trial, you have to pay just as
4 much attention, you have to examine the
5 evidence, you have to be prepared to step
6 in, because here's the trick, not a trick,
7 that's not the right word, even when those
8 12 go back into that jury room to
9 deliberate, you don't get to go home. You
10 go to that separate room again until that
11 jury deliberates and reaches a verdict, or
12 is unable to reach a verdict, one of the
13 two. But until they're finished. Because
14 if one of those 12 jurors gets sick or,
15 again, has an emergency, so that they can't
16 serve while deliberating, then the Judge is
17 going to pick the first alternate and say,
18 okay, you're on deck, now go on in. And
19 what he's going to tell the 12 to do now is
20 okay, because you've got somebody in here
21 before who didn't hear what y'all had to say
22 before, start deliberating all over again on
23 the penalty phase. And the jury can
24 continue to deliberate until the close of
25 business. Does everybody understand that?
26 Anybody have a problem with that? If you
27 do, raise your hand.

28 PROSPECTIVE JURORS:

29 [NO HANDS RAISED]

30 MR. FREY:

31 No hands are raised. Okay. Just a
32 couple of general precepts, and the good

1 thing is I'm not going to talk very long.
2 Believe me, if you think you're tired, you
3 don't know how tired we are because we've
4 been doing this with a lot of other people,
5 too. General precepts. Does anybody in
6 this panel have a religious or personal
7 conviction that would not allow them to sit
8 in judgment of another person? If you do,
9 raise your hand.

10 PROSPECTIVE JURORS:

11 [NO HANDS RAISED]

12 MR. FREY:

13 No hands are raised. And do each of
14 you understand that if you're called upon to
15 sit on this jury that's exactly what you'll
16 be called upon to do, to listen to the
17 evidence, examine the evidence, listen to
18 the law, and then go into the jury room and
19 decide guilt or innocence; and if guilty of
20 first degree murder, to go back and decide
21 the penalty of life or death. Does
22 everybody understand that?

23 PROSPECTIVE JURORS:

24 [NO HANDS RAISED]

25 MR. FREY:

26 Everybody does. Is there anybody here
27 who cannot do that if they're called upon to
28 do so? If so, please raise your hand.

29 PROSPECTIVE JURORS:

30 [NO HANDS RAISED]

31 MR. FREY:

32 Okay. Let's talk a little bit about

1 evidence, and I'm not going to tell you all
2 kinds of things about what witnesses we're
3 going to present, or anything like that,
4 you'll hear that later, but let's talk about
5 evidence. When witnesses come in -- I'm
6 going to tell you right now that we are
7 going to present evidence, okay, we have
8 numerous witnesses, we have numerous pieces
9 of physical evidence that is going to be
10 presented here, or actually down the road,
11 but going to be presented to the jury and
12 the alternates. And you'll get a chance to
13 examine it, you'll get a chance to listen to
14 the testimony.

15 When witnesses testify they generally
16 fall into three categories. The first of
17 those categories are what we call lay
18 witnesses, people just like you, who happen
19 to be someplace and see something or hear
20 something that is relevant to the crime
21 that's on trial. You saw the robber coming
22 out of the bank with the gun in one hand and
23 the bag of money in the other. A lay
24 witness. The way I like to put it, is
25 somebody is either in the right place at the
26 right time or they're in the wrong place at
27 the wrong time. The second type of
28 witnesses you have, law enforcement
29 witnesses, police officers who come in and
30 testify. It may be the first officers who
31 responded to the crime scene. It may be the
32 detectives who did the follow-up

1 investigation and took statements from
2 witnesses and things like that. It may be
3 the crime scene technicians who came out and
4 gathered up evidence at the scene and took
5 pictures. And they're going to testify.
6 And the third type of witnesses that we have
7 that we're going to present are called
8 expert witnesses. These are people who are
9 a little bit different from other kind of
10 witnesses, and the reasons are very simple.
11 They're different because by their either
12 training or by their special knowledge, they
13 have some kind of talent or expertise that
14 we ordinarily don't have. For instance, a
15 chemist, I don't know if -- I haven't looked
16 at all of your occupations, but I don't
17 think we have any chemists in here on this
18 panel of seven, so you can't go --

19 MR. WHITE:

20 Mr. Gooden.

21 MR. FREY:

22 You do. Well, you've got one then.
23 There you go. The six of you can't go in
24 and mix chemicals and know what you're
25 doing. But a chemist can. My dad's a
26 chemist. A coroner, a coroner is a medical
27 doctor, and the coroner that's going to
28 testify in this case has special training in
29 forensic pathology, and he's going to
30 testify, once qualified, once we establish
31 to the Court that he is, in fact, an expert,
32 he's going to testify, and at some point

1 he's going to relate his opinion concerning
2 cause of death and the manner of death.
3 We're going to have an expert come in in DNA
4 and testify as to test results performed on
5 samples, and I'm not going to go into big
6 detail on it, but they're going to give you
7 their opinion concerning what those test
8 results indicate. The Defense may have some
9 experts. The Defense may have lay
10 witnesses, the Defense may have law
11 enforcement witnesses, the Defense may have
12 no witnesses. Remember, the defendant
13 doesn't have to do anything. The burden is
14 ours. Does everybody understand that?

15 PROSPECTIVE JURORS:

16 [NO HANDS RAISED]

17 MR. FREY:

18 Okay. Now, here's what my question --
19 here's the question I'm leading up to, I
20 guess, and I know it was a long
21 introduction, but I'm trying to make this as
22 short as possible, so I thought if I gave
23 you a longer introduction it would make your
24 understanding a little bit better. When law
25 enforcement witnesses testify, is there any
26 member of this panel that's going to give
27 them a little bit more weight or tend to
28 believe them a little bit more just because
29 they're a law enforcement officer? If so,
30 would you raise your hand.

31 PROSPECTIVE JURORS:

32 [NO HANDS RAISED]

1 MR. FREY:

2 No hands are raised. Can each of you
3 agree that you will listen to the testimony
4 of that law enforcement officer just as you
5 would any other witness and you'll give it
6 whatever weight you feel it deserves? Can
7 you do that? If anybody can't, would you
8 raise your hand?

9 PROSPECTIVE JURORS:

10 [NO HANDS RAISED]

11 MR. FREY:

12 No hands. Okay. The same thing with
13 expert witnesses, sometimes experts have
14 different opinions, and the Judge will
15 instruct you at some point in his
16 instructions that as far as you're concerned
17 an expert witness, although they can give
18 you an opinion, is to be treated just like
19 any other witness, and you can accept or
20 reject their testimony as you're impressed
21 by it. Does everybody understand that and
22 can you accept that?

23 PROSPECTIVE JURORS:

24 [NODS IN THE AFFIRMATIVE]

25 MR. FREY:

26 Everybody's shaking their heads yes.
27 Okay. And sometimes in cases you've got one
28 expert that says it's "A" and the other
29 expert says it's "Z", and you've got to
30 decide which opinion you're going to give
31 how much credibility to. And another thing
32 the Judge is going to tell you is this. You

1 look at them, how they testify, you watch
2 their demeanor as they sit on the witness
3 stand, and I'm pointing to Mr. Day, he's not
4 a witness, but he's sitting there, but
5 there'll be witnesses on the stand. You
6 watch them just like you do in your normal
7 everyday life. You listen to what they had
8 to say. How they had to say it. What their
9 opinion was based on. And you can choose to
10 give it as much credibility as you choose,
11 all the way from a hundred percent to zero
12 percent or anyplace in between. Does
13 everybody understand that, and can you
14 accept that?

15 PROSPECTIVE JURORS:

16 [NODS IN THE AFFIRMATIVE]

17 MR. FREY:

18 Everybody can, they're shaking their
19 heads yes. Now, the Court will also
20 instruct you that in your role as a juror
21 you are free to accept part of the testimony
22 if you're impressed by it, and reject
23 another part of that same witness' testimony
24 if you're not impressed by it. Does
25 everybody understand that?

26 PROSPECTIVE JURORS:

27 [NODS IN THE AFFIRMATIVE]

28 MR. FREY:

29 Everybody does. Do each of you feel
30 that you're a good enough judge of human
31 nature, the human experience, that you can
32 fulfill that role? If you don't feel you

1 can, please raise your hand.

2 PROSPECTIVE JURORS:

3 [NO HANDS RAISED]

4 MR. FREY:

5 No hands are raised. And that's good,
6 because you know what, you do that every day
7 in your normal everyday lives you do that.
8 I want you to think about this. Have you
9 ever had the experience in your life, or
10 maybe if you haven't, know somebody who's
11 had that experience, where you're talking to
12 somebody and you're shaking their hand,
13 you're grinning and nodding and all the time
14 you're thinking, I don't believe a word this
15 so-and-so is saying. That ever happen to
16 anybody?

17 PROSPECTIVE JURORS:

18 [NODS IN THE AFFIRMATIVE]

19 MR. FREY:

20 I see several people nodding their
21 heads. You do it every day in your normal
22 everyday lives. All a juror does is do it
23 in a more formal setting and, of course, the
24 stakes are a lot higher. Does anybody have
25 a problem with doing that?

26 PROSPECTIVE JURORS:

27 [NO HANDS RAISED]

28 MR. FREY:

29 No one does. Okay. You've heard
30 several times, and I think you're probably
31 going to hear it at least one more time when
32 I sit down, that the burden of proof is on

1 the State of Louisiana. Does anybody have a
2 problem with that? If you do, raise your
3 hands.

4 PROSPECTIVE JURORS:

5 [NO HANDS RAISED]

6 MR. FREY:

7 And I'm going to tell you that the
8 burden of proof that's on the State of
9 Louisiana is proof beyond a reasonable
10 doubt, and you'll hear a definition for
11 that, you've already heard a partial
12 definition, but you'll hear more. But
13 basically that's a doubt that you could give
14 a reason for having, such as would affect
15 you in your normal everyday lives. It's the
16 toughest burden that exists on any lawyer
17 anywhere in the world. Will each of you
18 promise that you will hold me to my burden
19 that the law places on me? If you won't
20 hold me to my burden, because I want you to,
21 if you won't hold me to my burden, please
22 raise your hand.

23 PROSPECTIVE JURORS:

24 [NO HANDS RAISED]

25 MR. FREY:

26 No hands. Good. At the same time the
27 Judge is going to tell you another phrase,
28 probably, or it'll come up maybe in your
29 discussions, beyond a shadow of a doubt, or
30 beyond all doubt. The Court will tell you I
31 don't have to do that, I don't have to do
32 that. I have to rule out in your mind every

1 reasonable doubt. And the example I like to
2 use is this. One thing I don't have to
3 prove is that there wasn't some spaceship up
4 there in outer space with a cloaking device
5 on it so that no radar or anything could see
6 it or know it was there and that it beamed
7 down some kind of particle beam and created
8 something that doesn't exist that looks just
9 like Jason Reeves and that's who actually
10 committed the crime. I don't have to prove
11 that spaceship is not up there, that's not
12 reasonable. Can anybody -- Does anybody
13 disagree with that? If you do, raise your
14 hands.

15 PROSPECTIVE JURORS:

16 [NO HANDS RAISED]

17 MR. FREY:

18 Okay. We're cool on that. I've got a
19 couple of questions, if we'll get the
20 microphone, and we'll start at the end, and
21 that'd be the easiest way to do that. I'm
22 not going to jump around like some of them
23 do, it's just easier to go bing, bing, bing.
24 So we'll start with Ms. Stamand.

25 [PROSPECTIVE JUROR 33-204, MRS. LAURA STAMAND]

26 MR. FREY:

27 The only question I have to ask you,
28 Ms. Stamand, and, again, let me remind you
29 of this, I don't know necessarily what's
30 sensitive to you and what's not sensitive to
31 you, so if I start going in a direction and
32 it's something that you're not comfortable

1 talking about in front of everybody else,
2 just say so and we'll make arrangements to
3 do that, I promise, I won't ask you anything
4 else in front of anybody, and we'll probably
5 wait until the end and do you individually
6 and talk about whatever's sensitive.
7 Sometimes that happens and I'm not trying to
8 embarrass you but I've got no way of knowing
9 -- I don't know any of you and I've got no
10 way of knowing if a certain issue might be
11 sensitive or not. I know it might be, but I
12 don't know that it is, so that's why I'm
13 doing this. The question I'm asking you is
14 on Page 8 you responded that you had a
15 friend who was a murder victim.
16 MRS. STAMAND:
17 That's right.
18 MR. FREY:
19 And in that case no one was caught.
20 MRS. STAMAND:
21 That's right.
22 MR. FREY:
23 And no one went to court. First of
24 all, can you tell me was this a close
25 friend?
26 MRS. STAMAND:
27 Yes, it was.
28 MR. FREY:
29 Lifelong friend?
30 MRS. STAMAND:
31 No, probably four years, six years,
32 college and past college.

1 MR. FREY:
2 But there's no question that this
3 friend was murdered, it wasn't an accidental
4 death or anything like that?
5 MRS. STAMAND:
6 No question.
7 MR. FREY:
8 Okay. Two basic areas I need to ask
9 you about that. Number one, is that going
10 to cause you any special problems serving as
11 a juror in this murder case as opposed to a
12 drug case or a burglary case or, you know,
13 sometimes that just hits too close to home.
14 MRS. STAMAND:
15 Well, I thought about that a lot in
16 the last couple of weeks, it certainly has
17 brought a lot of things back for me to
18 remember. There aren't a whole lot of
19 similarities based on just what you -- the
20 charges that you've read. Certainly the
21 issue of the penalty phase has come up for
22 me over and over again, but I do not believe
23 that -- that it would make a difference.
24 MR. FREY:
25 Okay. And that's all -- there's no
26 right or wrong --
27 MRS. STAMAND:
28 And that's the best answer I can give
29 you.
30 MR. FREY:
31 There's no right --
32 MRS. STAMAND:

1 Other than that, I don't really know.
2 MR. FREY:
3 -- there are no right or wrong
4 answers, just say what you think. If you do
5 that, nobody will have any problems, I
6 promise. The second part of that, I think I
7 know your answer, but I'm going to ask the
8 question anyway. Do you bear any ill will
9 against law enforcement for not being able
10 to solve that case, because your answer says
11 they did the best they could but were
12 unsuccessful.
13 MRS. STAMAND:
14 Uh-huh.
15 MR. FREY:
16 And the question is, for me, --
17 MRS. STAMAND:
18 Uh-huh.
19 MR. FREY:
20 -- are you going to hold that against
21 law enforcement in this case?
22 MRS. STAMAND:
23 No, I don't believe so.
24 MR. FREY:
25 Okay. Would you pass the microphone
26 next to you, please, to Ms. Monroe.
27 [PROSPECTIVE JUROR 33-147, MRS. VANESSA MONROE]
28 MR. FREY:
29 Ms. Monroe, your husband -- I'm sorry,
30 your husband is a certified medical
31 assistant.
32 MRS. MONROE:

1 Yes, he is.

2 MR. FREY:

3 Tell me -- explain to me exactly what

4 that is, because I haven't heard that

5 specific term before. Is he like an EMT or

6 does he assist in a hospital, or what?

7 MRS. MONROE:

8 He works for a group home.

9 MR. FREY:

10 For a group home, okay.

11 MRS. MONROE:

12 For the mentally retarded.

13 MR. FREY:

14 And helps care for patients who are

15 either --

16 MRS. MONROE:

17 Mentally retarded.

18 MR. FREY:

19 -- mentally retarded, okay. And I

20 also notice on another page that you said

21 your spouse had education or training in the

22 field of criminal justice.

23 MRS. MONROE:

24 Yes, he did.

25 MR. FREY:

26 First of all, is that the same spouse?

27 MRS. MONROE:

28 Yes.

29 MR. FREY:

30 Okay. What exactly did he do as far

31 as training in criminal justice. Did he go

32 to school or did he go to a police academy

1 or --
2 MRS. MONROE:
3 He worked for Dixon Correctional.
4 MR. FREY:
5 He worked for Dixon Correctional
6 Institute. That's one of the prisons in the
7 state prison system.
8 MRS. MONROE:
9 Correct.
10 MR. FREY:
11 How long did he work for them?
12 MRS. MONROE:
13 About four years.
14 MR. FREY:
15 And did he have any unusual
16 experiences working with them?
17 MRS. MONROE:
18 Not that I know of.
19 MR. FREY:
20 I mean, he didn't -- there wasn't a
21 riot or something like that, or some inmate
22 or a guard get killed while he was there or
23 anything?
24 MRS. MONROE:
25 No.
26 MR. FREY:
27 Okay. Did he leave on good terms?
28 MRS. MONROE:
29 Yes.
30 MR. FREY:
31 Any problem then with his criminal
32 justice training that that would cause you

1 serving fair and impartially here?
2 MRS. MONROE:
3 No.
4 MR. FREY:
5 There will also be some testimony
6 presented, as I've already indicated, from
7 the coroner and he's a doctor, your husband
8 works in that field, not as a doctor, but in
9 that field. Is that going to cause you any
10 problems with listening to this coroner and
11 what he has to say and judging his testimony
12 as you deem fit?
13 MRS. MONROE:
14 No.
15 MR. FREY:
16 Okay. Would you pass the microphone
17 down to you next to Mr. Dunham.
18 [PROSPECTIVE JUROR 33-46, MR. TED DUNHAM]
19 MR. FREY:
20 Mr. Dunham, two things. The first one
21 I know is not a sensitive issue. The
22 question indicated you were going back to
23 school in January, and I assume you mean
24 January of '05; is that right?
25 MR. DUNHAM:
26 Correct.
27 MR. FREY:
28 Okay. Where are you going to school
29 and what are you going to be studying?
30 MR. DUNHAM:
31 I'm going to be going to Baton Rouge
32 Community College.

1 MR. FREY:
2 Okay.
3 MR. DUNHAM:
4 And I'm going to be studying whatever
5 they'll let me because I dropped out of high
6 school.
7 MR. FREY:
8 So, sort of a general course study?
9 MR. DUNHAM:
10 Yes.
11 MR. FREY:
12 Okay. Good. Second, and it may be,
13 again, if this is sensitive, you tell me,
14 and we'll save it for later and do it in
15 private, but on Page 8 there was a question
16 about if you or a close family member ever
17 had an experience with a law enforcement
18 officer in which you felt were treated, and
19 you checked unfairly.
20 MR. DUNHAM:
21 Yeah.
22 MR. FREY:
23 And it says something about father and
24 Jackson, I don't understand it exactly, so I
25 was going to ask you if you could explain
26 that a little bit, and if you want to do it
27 in private, we can.
28 MR. DUNHAM:
29 I'd rather do it in private.
30 MR. FREY:
31 That's fine. Just hang on and pass
32 the microphone on down.

1 [PROSPECTIVE JUROR 34-134, MR. ALLEN MIKA]
2 MR. FREY:
3 Mr. Mika, the only questions I have
4 for you, you indicated that your spouse has
5 been hired as a medical expert witness.
6 MR. MIKA:
7 Right.
8 MR. FREY:
9 What -- first of all, what is her
10 expertise, what field of medicine, as best
11 you can explain it.
12 MR. MIKA:
13 Well, she's currently working in the
14 capacity of a surgical director at Earl K.
15 Long Hospital.
16 MR. FREY:
17 So she's an M.D.?
18 MR. MIKA:
19 No.
20 MR. FREY:
21 No? Okay. So, okay, --
22 MR. MIKA:
23 She is basically in charge of all the
24 operating room personnel for only the
25 exception of the medical interns; in other
26 words, she's in control of staffing and
27 scheduling all the -- basically all the
28 operating rooms every day.
29 MR. FREY:
30 And does she do that -- I'm trying to
31 think of the best way to ask this. Does she
32 do that because she has had experience in

1 nursing or because she has experience in
2 management?
3 MR. MIKA:
4 Actually both.
5 MR. FREY:
6 Both. That's good. That's good.
7 That's fine. Sounds like a perfect answer.
8 Thank you. Oh, no, the next question. Is
9 that going to affect you in judging
10 testimony that would be put on from any
11 medical doctors, that includes
12 psychiatrists, if any? Is that going to
13 have any effect on you?
14 MR. MIKA:
15 None at all.
16 MR. FREY:
17 Okay. Next, Ms. Butler.
18 [PROSPECTIVE JUROR 32-31, MS. DORIS BUTLER]
19 MR. FREY:
20 Ms. Butler, you first of all lived in
21 Lake Charles at one point in time.
22 MRS. BUTLER:
23 That's correct.
24 MR. FREY:
25 You go back to Lake Charles on a
26 regular basis, aside from this trip, I'm
27 talking about?
28 MRS. BUTLER:
29 I was home last weekend for my
30 husband's class reunion, and I hadn't been
31 home since March, so maybe twice a year, if
32 nothing's going on.

1 MR. FREY:
2 Okay. And do you -- and let me
3 explore that just a little bit, --
4 MRS. BUTLER:
5 Uh-huh.
6 MR. FREY:
7 -- because you used the word twice,
8 home. You still consider Lake Charles your
9 home base? I know you live in Baton Rouge.
10 MRS. BUTLER:
11 I live in Baton Rouge, but, yeah,
12 that's -- when I say home, Lake Charles is
13 home.
14 MR. FREY:
15 That's where you grew up?
16 MRS. BUTLER:
17 Yes, that's where I grew up.
18 MR. FREY:
19 And I grew up in Baton Rouge, and I've
20 only been in Lake Charles for 25 years. Do
21 you still have family back in Lake Charles?
22 MRS. BUTLER:
23 Yes, I do.
24 MR. FREY:
25 And I take it you are in touch with
26 them on a regular basis?
27 MRS. BUTLER:
28 Yes.
29 MR. FREY:
30 Is that going to cause you any
31 problems with being in a jury in this case?
32 MRS. BUTLER:

1 No.
2 MR. FREY:
3 You understand that going back to Lake
4 Charles you're not going to be visiting them
5 while the case is going on; you're going to
6 be in a hotel room and --
7 MRS. BUTLER:
8 I understand.
9 MR. FREY:
10 Okay. And I'm not asking is that okay
11 with you, but can you handle that?
12 MRS. BUTLER:
13 Yes, I can.
14 MR. FREY:
15 Knowing you're so close to home but
16 you can't see them?
17 MRS. BUTLER:
18 Exactly; that's fine, I can handle
19 that.
20 MR. FREY:
21 The next question, and the last
22 question, basically, except unless I need to
23 follow up on it. You indicated you have a
24 bachelor's degree in criminal justice.
25 MRS. BUTLER:
26 That's correct.
27 MR. FREY:
28 Where did you get the degree from?
29 MRS. BUTLER:
30 McNeese.
31 MR. FREY:
32 Cowboys. And did you -- once you

1 obtained that degree, did you do any type of
2 work in the criminal justice field?
3 MRS. BUTLER:
4 I went out to the prisons and took the
5 test and at the same time I was looking
6 other places for jobs, and just so happened
7 LSU called me first, so I took that job so I
8 never went into anything with my criminal
9 justice degree.
10 MR. FREY:
11 So you've never done anything working
12 in the criminal justice field?
13 MRS. BUTLER:
14 No.
15 MR. FREY:
16 Again, you know a little bit more
17 maybe than the average person does about the
18 criminal justice field; is that going to
19 affect your service as a juror in this case?
20 MRS. BUTLER:
21 No.
22 MR. FREY:
23 Pass the microphone. I told you I was
24 going to be brief.
25 [PROSPECTIVE JUROR 33-64, MR. ROBERT GOODEN]
26 MR. FREY:
27 Mr. Gooden, you were a security guard
28 in the military?
29 MR. GOODEN:
30 Yes, I was.
31 MR. FREY:
32 Is that going to -- you received, I'm

1 sure, some kind of training for that; they
2 didn't just give you a gun and stick an MP
3 badge on your shoulder.
4 MR. GOODEN:
5 It was basically on-the-job training.
6 MR. FREY:
7 Okay.
8 MR. GOODEN:
9 I was in the Marines barracks unit.
10 MR. FREY:
11 How long did you serve as an MP,
12 ballpark?
13 MR. GOODEN:
14 About a couple months out of the time
15 I served for a year in the Marines barracks,
16 and about a month of that, you know, as a
17 military police.
18 MR. FREY: .
19 Is that experience going to cause you
20 any problems serving as a juror in this
21 case?
22 MR. GOODEN:
23 I don't think so.
24 MR. FREY:
25 Okay. Specifically, because if I
26 don't ask you they're going to ask you,
27 believe me, and they may ask you anyway, are
28 you going to treat police officers who come
29 in here and testify any differently than
30 you're going to treat any other witness?
31 MR. GOODEN:
32 No, I won't.

1 MR. FREY:

2 Okay. And I do note, because you are
3 a chemist, I forgot that, but I've got it
4 written down here, expert witnesses, are you
5 going to be able to judge their testimony
6 just as you would anyone else's, listening
7 to them and give them whatever weight or
8 lack of weight you deem they deserve as
9 you're impressed or not impressed by them?

10 MR. GOODEN:

11 Yes.

12 MR. FREY:

13 Pass the microphone if you would.

14 [PROSPECTIVE JUROR 33-268, MRS. PENNY ALBERT]

15 MR. FREY:

16 Ms. Albert, the only question really I
17 want to clarify -- you to clarify for me.
18 The first question I asked when I got up
19 here today was do any of you have any
20 religious or personal convictions that would
21 prevent you from judging another person.
22 And we may have asked that to you when we
23 talked to you before. And nobody raised
24 their hands. However, there's one question
25 on the questionnaire, and I realized you
26 filled this out almost three weeks back, so
27 -- and it's a long questionnaire and the
28 Judge has already taken responsibility for
29 it so it's not an issue at that point, but
30 one question says, what does your religion
31 say about sitting in judgment of others as
32 you would be required to do at trial. And

1 you wrote in, it's God's decision to judge.
2 And I understand that perfectly. However,
3 in a worldly sense, do you think that your
4 religion will allow you to sit and judge the
5 guilt or innocence of Jason Reeves in this
6 case?

7 MRS. ALBERT:

8 No, my religion would not. I should
9 have a question right above that, or next to
10 it, behind it, somewhere around it, --

11 MR. FREY:

12 There's one right above that that
13 says, choir director. There's one below
14 that that says in what way, if any, might
15 your religious views affect your service as
16 a juror, and it just said I'm very open-
17 minded, at least I try to be.

18 MRS. ALBERT:

19 And that's the same answer I'm about
20 to give you right now.

21 MR. FREY:

22 Okay.

23 MRS. ALBERT:

24 I'm real open-minded; and they also
25 had a question on there that asked,
26 something about how strong I am with my
27 religion, am I --

28 MR. FREY:

29 And I've already got that.

30 MRS. ALBERT:

31 -- I put the medium one, which I do
32 believe in God, I do believe that it's God's

1 right to judge. I also believe in the death
2 penalty and I also believe in life in
3 prison. Now, I do go to church, faithfully,
4 but, you know, if I'm appointed to serve on
5 a jury then, you know, I know my duty. It
6 also says that as a person of this nation
7 you should abide by the laws of the land, in
8 the Bible, so

9 MR. FREY:

10 And specifically you listed your
11 religion as non-denominational.

12 MRS. ALBERT:

13 Yes.

14 MR. FREY:

15 And then the question that you were
16 referring to says how important would you
17 say religion is in your life. And you had
18 three choices. Very important, somewhat
19 important, not at all important. And it
20 looks like what you did was you checked off
21 very important and then you scratched it out
22 and checked off --

23 MRS. ALBERT:

24 Because I didn't want to lie to you.

25 MR. FREY:

26 You thought about it, yeah.

27 MRS. ALBERT:

28 Yeah.

29 MR. FREY:

30 Okay. So, you're telling me that you
31 could serve as a juror in this case and
32 reach a decision?

1 MRS. ALBERT:
2 Uh-huh.
3 MR. FREY:
4 Ladies and Gentlemen, let me ask this
5 question. Is there anything about any one
6 of you seven individuals, and remember I
7 don't know you, except for the contact we've
8 had since you've been up here, is there
9 anything about any one of you that if I
10 stood here and talked until Halloween, which
11 I'm not going to do, that I would never have
12 any way of hitting upon that would affect in
13 your opinion your ways -- your ability to
14 serve as a fair and impartial juror? If
15 there is, would you please raise your hand.
16 PROSPECTIVE JURORS:
17 [NO HANDS RAISED]
18 MR. FREY:
19 No hands are raised. Your Honor,
20 respectfully, that's all the questions I
21 have with the understanding that we need to
22 talk to Mr. Dunham, and we can do that after
23 the Defense -- if that's acceptable, if
24 that's what everybody else wants to do.
25 Thank you.
26 THE COURT:
27 Mr. White?
28 MR. WHITE:
29 Thank you, Your Honor. Evening. I
30 know y'all are tired, and I'm not going to
31 be nearly as long-winded as I would be if it
32 were 9:00 o'clock in the morning. What time

1 did y'all get here today; how long y'all
2 been here?

3 PROSPECTIVE JURORS:

4 1:30.

5 MR. WHITE:

6 1:30. Okay. So you're holding up
7 better than we are. I'm going to make my
8 introductory comments pretty brief. Y'all
9 all understand that right now you're being
10 considered to be alternate jurors and the
11 way the process works -- well, remember, we
12 told you in the beginning we'd be honest
13 with you and we wanted you to be honest with
14 us. The truth is, is we may not get all the
15 way down to you, even going through the
16 selection process, but we're going to go
17 ahead and cover this whole panel, and we may
18 not even get as far as you, Mr. Gooden, but
19 I'm going to speak with all of you, and I'm
20 going to give you some brief introductory
21 remarks, just to ask for a couple of
22 kneejerk responses. But I've got to tell
23 you, I already know all of you somewhat,
24 right, we've had a lot better chance to
25 learn about you than you have about us.
26 But, for those two or three of y'all who go
27 with us to Lake Charles and watch us work,
28 you're going to know us pretty well, too, so
29 by the end of this thing we're going to be
30 old friends, or worse, I don't know.

31 Is there any of you among you who
32 believe that criminals have too many rights,

1 you're just disturbed with the American
2 system?
3 PROSPECTIVE JURORS:
4 [NO HANDS RAISED]
5 MR. WHITE:
6 That's a no for everybody. And is
7 there any one of you who believe that
8 criminals too often get off on legal
9 technicalities?
10 PROSPECTIVE JURORS:
11 [NO HANDS RAISED]
12 MR. WHITE:
13 That's a no for everyone. And any of
14 you who think that we as defense lawyers are
15 going to try and trick you?
16 PROSPECTIVE JURORS:
17 [NO HANDS RAISED]
18 MR. WHITE:
19 Okay. And how about any of you who
20 believe that people who are indicted in the
21 U.S. are more than likely guilty going in?
22 I mean, the State's spent a lot of money
23 getting just to the point of indictment.
24 Are there any of you who walk in presuming
25 the defendant to be something other than
26 innocent?
27 PROSPECTIVE JURORS:
28 [NO HANDS RAISED]
29 MR. WHITE:
30 The answer is no, and y'all can all
31 embrace that presumption of innocence
32 standard, right?

1 PROSPECTIVE JURORS:

2 [NO HANDS RAISED]

3 MR. WHITE:

4 Folks, there are two areas that I'm
5 going to cover in kind of an outline form,
6 because there's going to be some testimony
7 involving DNA and there's going to be some
8 testimony involving confessions, but I'm not
9 going to do it in my introductory remarks,
10 I'm going to bring it up as I talk to y'all
11 individually. And I want to tell you in
12 advance, I can only discuss these areas in
13 the most general terms, I can't get into
14 talking about specific evidence. So, if it
15 seems to you that I'm leaving you short,
16 it's because I'm required to do so, I have
17 to dance a certain dance up here. And I'm
18 going to go ahead and I'm going to do the
19 same thing that Mr. Frey did and I'm going
20 to send -- Mr. Day, could we send it down to
21 Ms. Stamand.

22 [PROSPECTIVE JUROR 33-204, MRS. LAURA STAMAND]

23 MR. WHITE:

24 That is a bizarre story, you actually
25 had a friend who was murdered, and, I mean,
26 I can't imagine what that would be like,
27 I've never had any experience like that.
28 How long ago was this?

29 MRS. STAMAND:

30 It was in 1986.

31 MR. WHITE:

32 Okay. You know, I'm not going to

1 spend a lot of time with you, but I guess
2 you can -- you can kind of see where I'm
3 going, the fact that no one was caught, did
4 you think you know who did it?
5 MRS. STAMAND:
6 Well, early on everybody has a theory.
7 MR. WHITE:
8 Right. Right. And looking back on it
9 now 18 years later, do you think that your
10 theory was probably accurate?
11 MRS. STAMAND:
12 I really don't know.
13 MR. WHITE:
14 You don't know. Okay.
15 MRS. STAMAND:
16 I don't know.
17 MR. WHITE:
18 Where I'm going with this is that
19 Jason as he sits here, and he is presumed
20 innocent, --
21 MRS. STAMAND:
22 Uh-huh.
23 MR. WHITE:
24 -- and I don't -- I don't have any
25 concerns about somewhere in the back of your
26 mind you thinking, well, you know, that one
27 got away but this one ain't, right?
28 MRS. STAMAND:
29 I wouldn't do that.
30 MR. WHITE:
31 I know that, and I believe that about
32 you. I think it would probably be more

1 problematic with you, just listening to you
2 speak earlier and looking at you now, is
3 that is this going to be too painful an
4 experience for you? You've kind of
5 toughened yourself up for this thing,
6 haven't you?
7 MRS. STAMAND:
8 Yes, I have.
9 MR. WHITE:
10 Can you think of any reason why you
11 wouldn't be able to serve on this jury?
12 MRS. STAMAND:
13 My biggest concern is my profession,
14 actually, rather than my --
15 MR. WHITE:
16 Right.
17 MRS. STAMAND:
18 -- than my experience with my friend
19 being murdered.
20 MR. WHITE:
21 Tell me what you mean by that. I'm
22 going to let you go, but you've got me
23 curious.
24 MRS. STAMAND:
25 Well, I mean, my friend was murdered
26 almost 20 years ago.
27 MR. WHITE:
28 Right.
29 MRS. STAMAND:
30 It certainly has -- there were a lot
31 of issues for me that I have dealt with. I
32 still am good friends with some people in

1 her family, so anytime anything goes on we
2 think about her and what happened and that
3 we don't know, you know, who did it, so
4 that's all -- but it's been 20 years ago, so
5 I don't look for any answers now.

6 MR. WHITE:

7 Okay.

8 MRS. STAMAND:

9 So I've kind of resolved some of that.

10 MR. WHITE:

11 Right.

12 MRS. STAMAND:

13 But my issue for me here that I
14 struggle with the most is my profession, I
15 work for child protection, I don't know if
16 there was any involvement with child
17 protection in this case, because I don't
18 recognize the case.

19 MR. WHITE:

20 Oh, yeah. Okay.

21 MRS. STAMAND:

22 So that's my -- the concern that I
23 have had over the last couple of weeks is,
24 you know, did I hear about the case, but I
25 don't recognize it, because I wouldn't have
26 heard any names. So that would be my area
27 of concern.

28 MR. WHITE:

29 Well, look, you seem like a pensive,
30 and I mean that, you know, in a good way,
31 you seem like a thoughtful person, and
32 you've thought this through, you've prepared

1 yourself for this possible experience,
2 right?
3 MRS. STAMAND:
4 Yes.
5 MR. WHITE:
6 Because you know this line moves from
7 you down there, so the chances of you being
8 an alternate are pretty good.
9 MRS. STAMAND:
10 I figured that out.
11 MR. WHITE:
12 Okay. All right. Well, if it comes
13 to that, we look forward to working with
14 you. Nothing else you want to add, right?
15 MRS. STAMAND:
16 No, that's it.
17 [PROSPECTIVE JUROR 33-147, MRS. VANESSA MONROE]
18 MR. WHITE:
19 Ms. Monroe, okay, I gotta tell you
20 this, I'm reading an abstract, I'm not
21 reading your actual questionnaire, and the
22 way it read on my abstract was "victim of
23 robbery, caught same evening, whelp of
24 neighbors." It's "with help of neighbors",
25 I think.
26 MRS. MONROE:
27 Yes.
28 MR. WHITE:
29 So they didn't like catch some little
30 kid that belonged to the neighbor's house.
31 What happened; tell me about it.
32 MRS. MONROE:

1 The guy -- well, where I live is like
2 they stay on an empty lot over there, they
3 just stay there or whatever, and he was
4 hanging around there and he came back later
5 on that evening and someone from over there
6 knocked on our door.
7 MR. WHITE:
8 Okay.
9 MRS. MONROE:
10 And let us know that he was out there.
11 MR. WHITE:
12 Okay. How was that resolved, was this
13 guy prosecuted?
14 MRS. MONROE:
15 I don't know what happened.
16 MR. WHITE:
17 So I guess what I'm getting at is you
18 didn't have any bad experiences with any
19 criminal defense lawyers --
20 MRS. MONROE:
21 No.
22 MR. WHITE:
23 Okay. How about you, have you -- what
24 was the first -- you first came here two --
25 three Thursdays ago; were you one of those
26 folks?
27 MRS. MONROE:
28 I was here last Monday.
29 MR. WHITE:
30 Last Monday was your first time? And
31 have you thought about this process, have
32 you thought about the fact that you in all

1 likelihood could very well be chosen as a
2 juror?
3 MRS. MONROE:
4 Yes.
5 MR. WHITE:
6 And I -- you know, body language is
7 everything, I take it that you're not 100%
8 enthusiastic about this?
9 MRS. MONROE:
10 No, I'm not.
11 MR. WHITE:
12 Well, I mean, nobody is; who would be.
13 Now's your last chance, is there any reason
14 that you want to give me as to why you can't
15 serve on this jury, and I'm focusing on your
16 ability to be a fair and impartial juror.
17 Are you able to give my guy a fair shake?
18 MRS. MONROE:
19 Yes, I can.
20 MR. WHITE:
21 You'll keep an open mind?
22 MRS. MONROE:
23 -- [No audible response] --
24 MR. WHITE:
25 And you understand this line moves
26 left to right?
27 MRS. MONROE:
28 Correct.
29 MR. WHITE:
30 So you're way up there, and we like
31 you. All right. Go ahead and pass -- I
32 tell you what I'm going to do, if that's

1 okay, is just wait on Mr. Dunham, and I'm
2 going to go to you, Mr. Mika.
3 [PROSPECTIVE JUROR 34-134, MR. ALLEN MIKA]
4 MR. WHITE:
5 Your wife does things like -- she does
6 staffing for medical interns and residents,
7 or are there any residents at that hospital?
8 MR. MIKA:
9 It's a teaching hospital, basically,
10 for LSU.
11 MR. WHITE:
12 And so she was -- when she was called
13 as an expert witness, it was to testify as
14 to her knowledge of how that process is --
15 or how that system is conducted, that type
16 of system?
17 MR. MIKA:
18 That's correct. It would -- it
19 pertained to a particular medical procedure
20 on a patient at an earlier hospital that she
21 worked at here in town.
22 MR. WHITE:
23 It had something to do with whether or
24 not a certain specialist was available or
25 something like that? I'm trying to imagine
26 what --
27 MR. MIKA:
28 Probably in regards to the procedures
29 that are typically followed for that, let's
30 say, category of surgery.
31 MR. WHITE:
32 Right.

1 MR. MIKA:
2 Yeah.
3 MR. WHITE:
4 Well, the fact that your wife works in
5 a hospital, she works with doctors every
6 day, talks to doctors every day, right?
7 MR. MIKA:
8 Right.
9 MR. WHITE:
10 That means you probably know a lot
11 more about medicine than the rest of us. I
12 mean, some of it's got to rub off on you,
13 right?
14 MR. MIKA:
15 Right.
16 MR. WHITE:
17 And you've got a technical background,
18 right?
19 MR. MIKA:
20 That's correct.
21 MR. WHITE:
22 You got your bachelor's degree in
23 Science, or -- I guess it sounds like
24 engineering management or something like
25 that, or --
26 MR. MIKA:
27 That's correct.
28 MR. WHITE:
29 Okay. Where did you go to school?
30 MR. MIKA:
31 LSU and Southeastern Louisiana.
32 MR. WHITE:

1 Okay. So, you're going to hear -- you
2 will hear some technical experts, I can't
3 really get into the meat of their --
4 MR. MIKA:
5 Right.
6 MR. WHITE:
7 -- testimony. Some of them, at least
8 one of them, may testify on the subject of
9 DNA. Do you have any peculiarly --
10 MR. MIKA:
11 None at all.
12 MR. WHITE:
13 -- strong knowledge of DNA?
14 MR. MIKA:
15 No, sir.
16 MR. WHITE:
17 Well, let me ask you this. Do you
18 understand that DNA, and I'm going to ask
19 Mr. Gooden about this as well, DNA results
20 sometimes hinge on the human factor as well,
21 not just the pure science. You follow me?
22 MR. MIKA:
23 Correct.
24 MR. WHITE:
25 And the results will, I assume,
26 ordinarily be no better than the technicians
27 performing the necessary operations, right?
28 MR. MIKA:
29 Right.
30 MR. WHITE:
31 I just want to make sure that you have
32 that understanding. You -- you're not going

1 to supplant or substitute any knowledge that
2 you have for what you hear on the stand from
3 experts; you'll be able to listen to them,
4 respect them, and weigh their testimony?
5 MR. MIKA:
6 Absolutely.
7 MR. WHITE:
8 Okay. Is there anything that you want
9 to add, any -- you're halfway down the line
10 so you've got a chance of getting off this
11 thing. Is there anything you want to add,
12 anything you want to tell me?
13 MR. MIKA:
14 Not --
15 MR. WHITE:
16 How many times have you been
17 questioned by lawyers in this process?
18 MR. MIKA:
19 This is, I think, the third go around.
20 MR. WHITE:
21 Well, you've had enough of this. Pass
22 it down, please.
23 [Laughter]
24 [PROSPECTIVE JUROR 32-31, MRS. DORIS BUTLER]
25 MR. WHITE:
26 Ms. Butler, the thing that I think
27 would be tough for you in serving on this
28 jury is that you grew up in Lake Charles.
29 MRS. BUTLER:
30 Yes.
31 MR. WHITE:
32 Do you -- it might be tough for you

1 leading up to this point to insulate
2 yourself from the press. You've got folks
3 calling you back from Lake Charles telling
4 you what's in the paper and that kind of
5 thing?
6 MRS. BUTLER:
7 No.
8 MR. WHITE:
9 Okay. So you haven't had any exposure
10 to the media's take on these events?
11 MRS. BUTLER:
12 No, because I tell them I could not
13 hear anything so don't tell me anything --
14 MR. WHITE:
15 That works with your relatives?
16 MRS. BUTLER:
17 -- until once I get off then I'll call
18 and find out.
19 MR. WHITE:
20 Okay.
21 MRS. BUTLER:
22 But up into that point I refuse to
23 listen to anything.
24 MR. WHITE:
25 Well, I can't shut my relatives up
26 that easy.
27 MRS. BUTLER:
28 And they respect me.
29 MR. WHITE:
30 Okay.
31 MRS. BUTLER:
32 They've respected that.

1 MR. WHITE:
2 Well, another thing that I think is an
3 issue with you, is you've got kids who are
4 nine and seven.
5 MRS. BUTLER:
6 That's correct.
7 MR. WHITE:
8 And you understand that if the State
9 were to prove its case beyond a reasonable
10 doubt you would -- well, you know, you're
11 going to hear some testimony involving a 4
12 year old child, right.
13 MRS. BUTLER:
14 That's correct.
15 MR. WHITE:
16 How sensitive an issue is that for
17 you?
18 MRS. BUTLER:
19 That wouldn't be a factor, I wouldn't,
20 you know, see it as I'm looking at --
21 thinking of my child while I'm thinking
22 that, I'm just listening to all the
23 evidence.
24 MR. WHITE:
25 Okay. Because that's a tough order.
26 I mean, --
27 MRS. BUTLER:
28 Yes, that is, you know, but I'm just
29 here to listen to all the evidence before I
30 can come to a complete verdict on it, so
31 it's not -- I'm not feeling very sensitive
32 because it's a child; no, I'm not feeling

1 that.
2 MR. WHITE:
3 Okay. And you understand there'll be
4 some relatively graphic photographs
5 introduced into evidence here, and the State
6 does it because they have to do it, not
7 because they're trying to outrage you, --
8 MRS. BUTLER:
9 Yes.
10 MR. WHITE:
11 -- but it's --
12 MRS. BUTLER:
13 I understand that.
14 MR. WHITE:
15 How about that, I mean, you're talking
16 about graphic pictures of a child. Is that
17 going to cause you any concern considering
18 that you have such young children?
19 MRS. BUTLER:
20 No.
21 MR. WHITE:
22 Okay. Also, and I can't get into this
23 in any great detail, but there very likely
24 will be some testimony involving a
25 confession. Do you think that confessions
26 are always reliable? I'm asking you that
27 question because you did your bachelor's
28 degree in criminology and you have studied
29 interrogation techniques, haven't you?
30 MRS. BUTLER:
31 That was quite sometime ago since I've
32 been in the classroom and remembering

1 everything, so this'll bring it to light for
2 me, because even though I do have a
3 bachelor's degree in criminal justice,
4 throughout my studies we were never asked to
5 go into the courtroom.

6 MR. WHITE:
7 Okay.

8 MRS. BUTLER:
9 So this is going to be a first time
10 for me to ever hear a case.

11 MR. WHITE:
12 What about interrogation techniques,
13 were you -- were you schooled in that area?

14 MRS. BUTLER:
15 No, I can't remember. If I did have a
16 semester of it, I don't remember it.

17 MR. WHITE:
18 Okay. I mean, every juror brings
19 their personal experience to the
20 deliberation room and you might be the one
21 person who watches -- who views some sort of
22 evidence of an interrogation, maybe in the
23 form of a video tape, and you might actually
24 be sitting there critiquing it, thinking
25 back to your studies, thinking what you
26 learned. But, it sounds to me like you
27 don't have any real clear memory of those
28 studies.

29 MRS. BUTLER:
30 No, I don't.

31 MR. WHITE:
32 You see, not paying attention does pay

1 off.
2 MRS. BUTLER:
3 [Laughing]
4 MR. WHITE:
5 That's okay. So you're good to go. I
6 mean, you think that you can be fair and
7 balanced and you understand --
8 MRS. BUTLER:
9 I'm good to go?
10 [Laughter]
11 THE COURT:
12 No, no, no, no.
13 [Laughter]
14 THE COURT:
15 I'm only the one that can tell you
16 when you're good to go.
17 [Laughter]
18 MRS. BUTLER:
19 Okay. No, I'm good to go.
20 MR. WHITE:
21 All right. All right. And you
22 understand, this is a -- it's literally a
23 deadly serious case, and as we sit here
24 Jason is presumed innocent.
25 MRS. BUTLER:
26 That's correct.
27 MR. WHITE:
28 And we're taking kind of a
29 lighthearted approach because y'all have
30 been here way too long and a couple of y'all
31 are going to be here a whole lot longer, and
32 we're trying -- we're trying to accommodate

1 y'all. But, anyway, I appreciate it, and if
2 you would pass the microphone to Mr. Gooden.
3 [PROSPECTIVE JUROR 33-64, MR. ROBERT GOODEN]
4 MR. WHITE:
5 Mr. Gooden who lives in the world of
6 stoic geometry and stearically balanced
7 equations and maybe Bose-Einstein
8 condensates. How about you, you're going to
9 know a whole lot more than most of your
10 other jurors about the subject of chemistry
11 and, of course, the subject of DNA is
12 inextricably intertwined with the subject of
13 general chemistry.
14 MR. GOODEN:
15 Yes, and especially in my expertise,
16 which is organic chemistry.
17 MR. WHITE:
18 Well, there you go. And did I get
19 that right, sterically balanced equations,
20 isn't that first semester organic?
21 MR. GOODEN:
22 Yes.
23 MR. WHITE:
24 Okay. You're going to have experts up
25 there who - one or more - who will testify
26 on the subject of DNA and they'll go through
27 lab procedures and that sort of thing,
28 possibly. Some of them might not have as
29 much education as you. Are you going to be
30 able to afford them the respect that the
31 Court affords them?
32 MR. GOODEN:

1 Oh, certainly.

2 MR. WHITE:

3 You might even see a former student up

4 there. I guess I would think -- and I'm

5 going to tell you in advance, you very well

6 may be more qualified, you know, in some --

7 at least in the area of organic chemistry

8 than some of the experts who might be

9 testifying on the subject of DNA, but you're

10 able to listen and to weigh their evidence?

11 MR. GOODEN:

12 Yes.

13 MR. WHITE:

14 And you will -- you also understand

15 that Jason is innocent -- presumed innocent

16 as we sit here.

17 MR. GOODEN:

18 Yes.

19 MR. WHITE:

20 And you're able to afford him that

21 presumption throughout these proceedings?

22 MR. GOODEN:

23 Yes, I will.

24 MR. WHITE:

25 And you're someone I'd like to have on

26 the jury, but as I said, the line moves that

27 way and I don't know if we'll get to you.

28 Is there anything that you'd like to tell

29 me, any reason why you would like to be --

30 would like to not serve on this jury, and,

31 again, I'm trying to focus your comments on

32 your ability to be impartial.

1 MR. GOODEN:
2 There's nothing that I think that
3 would keep me from being impartial in
4 serving on a jury.
5 MR. WHITE:
6 You teach first semester organic?
7 MR. GOODEN:
8 I teach general chemistry for nursing
9 majors, I teach general organic,
10 intermediate, advanced organic, and --
11 MR. WHITE:
12 So y'all break under trimesters?
13 MR. GOODEN:
14 No, semester system.
15 MR. WHITE:
16 Okay. And do you also teach -- do
17 you teach either biochemistry or physical
18 chemistry?
19 MR. GOODEN:
20 No.
21 MR. WHITE:
22 Is physical chemistry possible, I
23 mean, can anybody learn that? Isn't that
24 the toughest -- that's the toughest
25 undergraduate subject, I think.
26 MR. GOODEN:
27 It was my toughest one also, but it's
28 the one that I have the greatest admiration
29 for.
30 MR. WHITE:
31 Yeah, me, too, and I admire them from
32 a distance. That's like third semester

1 calculus, base plus differential equations
2 and like four semesters of chemistry before
3 you can even think about taking it, right?
4 MR. GOODEN:
5 Yes.
6 MR. WHITE:
7 Okay. Well, I won't see you there.
8 You can pass it down.
9 [Laughter]
10 [PROSPECTIVE JUROR 33-258, MRS. PENNY ALBERT]
11 MR. WHITE:
12 Ms. Albert, you're so safe, which is
13 really -- you're so arithmetically safe, but
14 I'm going to talk to you anyway because you
15 don't sit here since 1:30 without being
16 cross-examined.
17 MRS. ALBERT:
18 I'm glad I'm at the end. I'm at
19 right, remember, left to right, left to
20 right.
21 MR. WHITE:
22 What? Say it again.
23 MRS. ALBERT:
24 You remember you said left to right,
25 left to right.
26 MR. WHITE:
27 You know what, I'm not going to sit
28 here and cross you on your -- Is there -- no
29 additions or corrections or anything you
30 want to make to your questionnaire, right?
31 MRS. ALBERT:
32 No, I don't think so. I know I don't.

1 MR. WHITE:
2 So you took both microbiology and you
3 sing, you're a choir director?
4 MRS. ALBERT:
5 No, I'm not a choir director, baby.
6 MR. WHITE:
7 What are you?
8 MRS. ALBERT:
9 I sang --
10 MR. WHITE:
11 You're a choir something.
12 MRS. ALBERT:
13 -- they said what have you done, not
14 what do you do.
15 MR. WHITE:
16 Okay.
17 MRS. ALBERT:
18 I sang, sang, past tense, in the
19 choir.
20 MR. WHITE:
21 Musical skills and microbiological
22 skills.
23 MRS. ALBERT:
24 Yes.
25 MR. WHITE:
26 There's no musical element to this
27 case.
28 MRS. ALBERT:
29 No, it isn't. I wish it was.
30 MR. WHITE:
31 Well, can you think of any reason why
32 you wouldn't be able to serve on this jury

1 say, you know, for some reason we did get
2 down to you?
3 MRS. ALBERT:
4 Nope.
5 MR. WHITE:
6 Okay. I tell you what, anybody else
7 want to add anything?
8 PROSPECTIVE JURORS:
9 [No responses]
10 MR. WHITE:
11 Okay. That's it.
12 MRS. ALBERT:
13 No more questions for me?
14 MR. WHITE:
15 No, ma'am.
16 MRS. ALBERT:
17 Okay.
18 MR. WHITE:
19 Unless you can think of something you
20 want me to ask.
21 MRS. ALBERT:
22 No, sir.
23 THE COURT:
24 Anything, Mr. Frey?
25 MR. FREY:
26 No, Your Honor, except for Mr. Dunham.
27 THE COURT:
28 Sir?
29 MR. FREY:
30 Mr. Dunham.
31 THE COURT:
32 Ladies and Gentlemen, I need to let

1 you go out to the lobby, you may as well
2 remain out there until about 20 after, or
3 you can do whatever you need to do, if you
4 need to take a break, but be back by a
5 quarter to twenty after in the lobby,
6 actually a quarter after, I don't think we
7 will be too long. And then -- Mr. Dunham,
8 you remain the courtroom, we do have a few
9 questions for you, sir.

10 [PROSPECTIVE JURORS EXCEPT MR. DUNHAM EXIT THE
11 COURTROOM]

12 [PROSPECTIVE JUROR 33-46, MR. TED DUNHAM]

13 THE COURT:

14 If you'd give Mr. Dunham the
15 microphone. I don't know exactly what the
16 area was, Mr. Frey, so I'm going to defer to
17 you.

18 MR. FREY:

19 What I asked you about was the
20 question about bad experience with law
21 enforcement, somebody being treated
22 unfairly, and you said your father, and your
23 answer wasn't exactly clear, but I'm sort of
24 suspecting from the answer that maybe he was
25 convicted of something?

26 MR. DUNHAM:

27 Yeah, he had to plead -- well, he was
28 convinced to plead insanity and he kind of
29 lost all his rights and pretty much his
30 life, you know, I mean, he's just sitting in
31 a mental institution with a good brain in
32 his head, and I feel like institutions are a

1 waste of -- a waste of talent.

2 MR. FREY:

3 Okay. And let me ask you, and, again,

4 nobody's trying to embarrass you, that's why

5 we're doing this here in private, but what

6 crime was he accused of?

7 MR. DUNHAM:

8 Some kind of assault charge.

9 MR. FREY:

10 And your questionnaire said something

11 about four years. What -- does that mean

12 that he's been in this institution for four

13 years?

14 MR. DUNHAM:

15 That single one. There's -- he went

16 to parish prison.

17 MR. FREY:

18 And from the parish prison until there

19 was a bed available, and then they

20 transferred him. Do you get to visit him?

21 MR. DUNHAM:

22 Yeah.

23 MR. FREY:

24 And it sounded like from what you

25 said, and you correct me if I'm wrong, I'm

26 not trying to put words in your mouth, I'm

27 trying to make it sort as easy as possible

28 for you, but it sounded like you felt he was

29 treated unfairly because maybe his attorney

30 convinced him to plead insanity; is that

31 right?

32 MR. DUNHAM:

1 [NODS IN THE AFFIRMATIVE]
2 MR. FREY:
3 And he's shaking his head yes.
4 MR. DUNHAM:
5 [Crying]
6 MR. FREY:
7 Again -- I'm sorry.
8 THE COURT:
9 You need a break, Mr. Dunham?
10 MR. DUNHAM:
11 [Crying]
12 MR. WHITE:
13 We don't have anything, Your Honor.
14 MR. FREY:
15 I don't think I have any need to put
16 him through anything more, Your Honor, and,
17 again, I didn't intend to hurt you in this
18 case, Mr. Dunham.
19 MR. DUNHAM:
20 That's okay.
21 THE COURT:
22 All right. Anything? All right, Mr.
23 Dunham, if you'd wait out in the lobby we'll
24 let you know something here shortly, sir.
25 [PROSPECTIVE JUROR 33-46, MR. TED DUNHAM, EXITS
26 THE COURTROOM]
27 THE COURT:
28 Are we ready to proceed?
29 MR. FREY:
30 Yes, Your Honor, the State's ready.
31 THE COURT:
32 Mr. Ware, is Defense ready?

1 MR. WARE:
2 Yes, sir.
3 THE COURT:
4 Mr. White?
5 MR. WHITE:
6 I'm waiting to --
7 MR. WARE:
8 We're ready to proceed.
9 MR. WHITE:
10 Okay, yes, sir.
11 THE COURT:
12 All right. At this time I'd ask if
13 the State has any challenges for cause with
14 regard to those potential alternate jurors.
15 MR. FREY:
16 Your Honor, with regard to Mr. Dunham,
17 I would challenge him for cause, not for my
18 sake, but for his sake. I think what
19 happened just now is sort of obvious that I
20 don't think he'd be a fit juror for this
21 particular case, and maybe no particular
22 case, at least currently.
23 MR. WHITE:
24 No argument, Your Honor.
25 THE COURT:
26 It did appear that he had some
27 emotional issues to deal with, noting that
28 this would be a very serious and emotional
29 trial, and the Court will excuse him for
30 cause without objection at this time, that's
31 Panel "33", No. 46. Treat it as a joint
32 motion or do you want to treat it as State's

1 motion without objection?
2 MR. WHITE:
3 Joint motion, Your Honor.
4 THE COURT:
5 Let the record so reflect.
6 [PROSPECTIVE JUROR 33-46, MR. TED DUNHAM, JOINTLY
7 EXCUSED FOR CAUSE BY BOTH STATE AND DEFENSE]
8 THE COURT:
9 With regard to -- any other challenges
10 for cause from the State?
11 MR. FREY:
12 No, Your Honor.
13 THE COURT:
14 Any challenge for cause from the
15 Defense?
16 MR. WHITE:
17 No, sir.
18 THE COURT:
19 Then at this time with regard to Juror
20 Panel "33", No. 204, Laura Stamand, would
21 tender to the State as second alternate.
22 MR. FREY:
23 The State exercises a perempt.
24 [PROSPECTIVE JUROR 33-204, MRS. LAURA STAMAND,
25 PEREMPTORILY EXCUSED BY THE STATE]
26 THE COURT:
27 At this time both parties have
28 exercised a peremptory with regard to the
29 second alternate. I would tender to the
30 State Ms. Vanessa Monroe, Panel "33", No.
31 147.
32 MR. FREY:

1 We have no perempts; we accept.
2 THE COURT:
3 And to the Defense, just for
4 procedural purposes.
5 MR. WHITE:
6 We accept, Your Honor. Well, --
7 MR. WARE:
8 Per the Court's process we have no
9 alternative to accept -- if the Court
10 understands what I'm talking about.
11 MR. FREY:
12 Continuing objection, Your Honor.
13 MR. WARE:
14 Continuing objection.
15 THE COURT:
16 As to the process. Ms. Vanessa Monroe
17 will be maintained as the second alternate.
18 [PROSPECTIVE JUROR 33-147, MRS. VANESSA MONROE,
19 SECOND ALTERNATE]
20 THE COURT:
21 Panel No. "34", No. 134, Mr. Allen
22 Mika, as third alternate, would tender to
23 the State.
24 MR. FREY:
25 The State accepts Mr. Mika.
26 THE COURT:
27 Would tender to the Defense.
28 MR. WHITE:
29 Accept, Your Honor.
30 THE COURT:
31 Mr. Mika will become the third
32 alternate.

1 [PROSPECTIVE JUROR 34-134, MR. ALLEN MIKE,
2 ACCEPTED AS THIRD ALTERNATE BY BOTH STATE AND
3 DEFENSE]
4 THE COURT:
5 At this time the Court would tender
6 Panel No. "32", Juror No. 31, Doris Butler,
7 to the State as fourth alternate.
8 MR. FREY:
9 The State accepts.
10 MR. WHITE:
11 Your Honor, we thankfully excuse Ms.
12 Butler.
13 THE COURT:
14 Ms. Butler will be excused.
15 [PROSPECTIVE JUROR 32-31, MRS. DORIS BUTLER,
16 PEREMPTORILY EXCUSED BY DEFENSE]
17 THE COURT:
18 At this time Panel "33", Juror No. 64,
19 Robert Gooden, would tender to the State.
20 MR. FREY:
21 The State accepts.
22 THE COURT:
23 And the Defense?
24 MR. WHITE:
25 We accept, Your Honor.
26 THE COURT:
27 Noting that he would have been
28 maintained and the continuing objection as
29 to the procedure as previously outlined.
30 [PROSPECTIVE JUROR 33-64, MR. ROBERT GOODEN,
31 ACCEPTED AS FOURTH ALTERNATE BY BOTH STATE AND
32 DEFENSE]

1 THE COURT:
2 Ms. Albert, by default, will be
3 excused. We have our four alternates,
4 Ladies and Gentlemen. There will be no
5 additional panels. I would ask Mr. Dorsey
6 to notify the jury pool room, if we see him,
7 to let them know that all of the potential
8 jurors remaining should be called and
9 released. We will make arrangements for
10 transport. I will bring these jurors in.
11 We will excuse those that have been excused
12 and take custody of the three that will be
13 maintained as second, third, and fourth
14 alternates, respectively. Anything from the
15 State at this point?
16 MR. FREY:
17 Not that I can think of, Your Honor.
18 THE COURT:
19 Anything from Defense?
20 MR. WARE:
21 Not anything I can think of, Your
22 Honor.
23 MR. FREY:
24 Just to clarify, we're going to -- the
25 jury will be transported tomorrow? We'll do
26 something in court --
27 THE COURT:
28 They're sequestered, correct, I've
29 indicated to -- that they're making
30 arrangements because it will be some time
31 before they get the balance of the other
32 jurors in place, and with the three that we

1 have here, it would be late tonight before
2 they're all, and they will spend the night
3 in Baton Rouge, they've made phone calls,
4 we've made arrangements for their luggage
5 and they will be transported tomorrow
6 morning and relocated in Lake Charles. The
7 defendant, an order has been signed with
8 regard to the defendant at this point,
9 noting that all the jurors, while not being
10 sworn, I've asked the clerk to hold it until
11 such time as they are sworn and then once
12 all the jurors are in place, the order to be
13 implemented, ordering that the defendant be
14 transported tomorrow on the 28th in
15 conjunction with being ready for trial. I
16 anticipate the trial starting as to the jury
17 Friday morning at 9:00 A.M. They will be
18 transported to the courthouse for those
19 purposes with opening statements to begin at
20 that time. I tentatively have scheduled at
21 this point at 2:00 P.M. tomorrow afternoon a
22 procedural hearing in order to deal with
23 some motions that have been, while not in
24 writing, have been indicated by the Defense
25 that they wish to make, noting that they are
26 not in their usual locale and that they are
27 going to be supplemented by written motion
28 in conjunction with both the request that
29 exhibits be dealt with. Further, that there
30 should be an order that -- to reurge the
31 Motion in Limine that was previously heard,
32 and, thirdly, the Court has asked for an

1 order to return exhibits to the defendant so
2 that the record is clear with regard -- in
3 the first trial that any exhibits can be
4 returned to the defendant for custody
5 purposes to see if they wish to be
6 resubmitted. If they are not, then they
7 will be turned back over to the clerk to be
8 held in the first proceeding. Is that
9 understood, Mr. Ware?
10 MR. WARE:
11 Yes, sir.
12 THE COURT:
13 All right.
14 MR. FREY:
15 One more thing, Judge. Will you
16 arrange with the sheriff's department to
17 have Mr. Reeves present in court at 2:00
18 o'clock, because we won't have time to send
19 a docket or anything.
20 THE COURT:
21 Correct. We need to make certain when
22 we note, Mr. Day, I'll ask you at this
23 point, when we transport him tomorrow, that
24 it be made known that he's to appear in
25 court at 2:00 P.M. tomorrow afternoon for
26 some proceedings.
27 MR. DAY:
28 Yes, sir.
29 THE COURT:
30 All right. At this time we will
31 return the jurors.
32 [PROSPECTIVE JURORS RETURNED TO THE COURTROOM]

1 THE COURT:

2 All right, Ladies and Gentlemen, at
3 this time we've had the opportunity to go
4 through and discuss and we have selected the
5 additional three alternates that we need in
6 this matter that will remain in this case
7 and will be sequestered, taken to Lake
8 Charles tomorrow. They will be accommodated
9 tonight at a hotel here in the Baton Rouge
10 area, and those specific instructions will
11 be given to you later, but for those of you
12 that are fixing to be excused, I would ask
13 that you report back to the jury pool room,
14 mainly because they can finalize your
15 paperwork for the services that you've given
16 up to this point, and as well as give you
17 any last minute instructions or parking
18 validation, whatever is needed on that.
19 Also, I speak on behalf of the State and the
20 Defense when we thank you for the time that
21 you've given. Many of you have spent more
22 time in the jury selection process than many
23 people actually serve on a jury because of
24 the matter, it's so serious and the
25 ramifications are so great it's necessary
26 that we go through these safeguards.
27 Hopefully you have a much better feel, even
28 if you're not selected, for our system and
29 the safeguard that we have in place for the
30 individuals which is unique in the world.
31 But I would like to thank and excuse at this
32 time Panel No. 33, Juror No. 204, Ms. Laura

1 Stamand; Panel No. 33, Juror No. 46, Mr. Ted
2 Dunham; Panel No. 32, Juror NO. 31, Ms.
3 Doris Butler; and Panel No. 33, Juror No.
4 258, Ms. Penny Albert. I do thank each and
5 every one of you for the time that you've
6 given us. All right.
7 [PROSPECTIVE JURORS 33-204, MRS. LAURA STAMAND;
8 33-46, MR. TED DUNHAM; 32-31, MRS. DORIS BUTLER;
9 AND 33-258, MRS. PENNY ALBERT EXCUSED AND EXIT
10 THE COURTROOM]
11 THE COURT:
12 Ladies and Gentlemen those that are
13 remaining at this time, I would ask that you
14 stand and be sworn, and let the record
15 reflect that it is 17 minutes after the hour
16 of 6:00 o'clock on October the 27th, 2004,
17 and you are being sworn at this time to be
18 final jurors in the matter that you have
19 been tendered in.
20 THE CLERK:
21 Raise your right hands, please.
22 PROSPECTIVE JURORS:
23 [HANDS RAISED]
24 THE CLERK:
25 Do each of you solemnly swear that you
26 will try the case wherein the State of
27 Louisiana is plaintiff and Jason Reeves is
28 defendant in a just and impartial manner to
29 the best of your judgment and render a
30 verdict according to the law and the
31 evidence, so help you God.
32 PROSPECTIVE JURORS:

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I do.

THE COURT:

All right. Ladies and Gentlemen, at this time I'm going to put you in the custody of Mr. Day. He's going to take you back there in the jury pool room and go over the sequestration order that'll give you a little more specific idea of what you can expect. If there's any questions, he can answer them; if not, then he will get ahold of me and we will address those. I have some correspondence or letters that I've prepared, if you need, that we can fax to your employer, telling them that you have been selected as a juror and in all probability will be needed until November the 13th, that being Saturday approximately two weeks from now, from this upcoming Saturday. We will transport you tomorrow, you'll make arrangements, get comfortable, and then we will start the trial on Friday morning. We will be working six days a week -- six day weeks until we get it concluded so while it may be -- we don't want to waste any of your time by having longer weekends, so we will work through, other than Sundays, so that you can go to church and have a little bit of time of rest if you so desire and will make whatever accommodations we can to help you in anything you need specifically. All right. Anything before I release them?

1 MR. FREY:
2 No, Your Honor.
3 MR. WHITE:
4 No, sir.
5 THE COURT:
6 All right. Y'all may go with Mr. Day.
7 MR. DAY:
8 Come with me, please.
9 [JURORS EXIT THE COURTROOM]
10 THE COURT:
11 At this time while we're still on the
12 record I will put in force the -- noting
13 that all of the jurors and four alternates
14 have now been selected, the order
15 transferring the defendant is to be put in
16 place, notification will be given to the
17 sheriff's office of Calcasieu Parish to make
18 arrangements for transportation. Mr. Ware,
19 in conjunction with the transport of the
20 defendant as well as making available for
21 court tomorrow afternoon at 2:00 o'clock,
22 the clothing that has been provided for Mr.
23 Reeves?
24 MR. WARE:
25 Right, yes, sir.
26 THE COURT:
27 Do you have possession of those items?
28 MR. WARE:
29 No, sir, but I've talked to the
30 deputies and I've been advised to stay,
31 which we will, and take possession or
32 repossession of them.

1 THE COURT:
2 All right. So you're going to take
3 possession of those this evening and have
4 them available for Friday morning?
5 MR. WARE:
6 Yes, sir. Yes, sir.
7 THE COURT:
8 I don't know that we'll need them
9 tomorrow, it'll be out of the hearing of the
10 jury.
11 MR. WARE:
12 They're going to be in my constant
13 possession, available to Mr. Reeves.
14 THE COURT:
15 All right. Do I have anything at this
16 time before we adjourn to reconvene tomorrow
17 afternoon at 2:00 o'clock in Calcasieu
18 Parish? Anything, Mr. Frey?
19 MR. FREY:
20 No, Your Honor.
21 THE COURT:
22 Anything, Mr. Ware?
23 MR. WARE:
24 No, sir.
25 THE COURT:
26 All right. All right, Ladies and
27 Gentlemen, we will be adjourned until
28 tomorrow morning at 2:00 o'clock in
29 Calcasieu Parish, Courtroom "F".
30 MR. FREY:
31 Tomorrow afternoon, Your Honor.
32 THE COURT:

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What'd I say?

MR. FREY:

You said tomorrow morning.

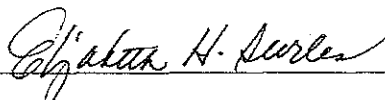
THE COURT:

Tomorrow afternoon.

[COURT ADJOURNED]

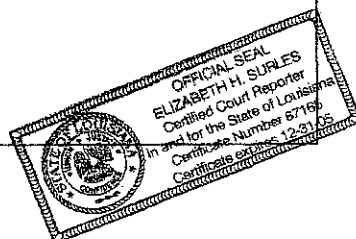
* * * * *

I DO HEREBY certify that the foregoing 447
pages of typewritten matter constitutes a true and
correct translation of my stenographic notes and
recording of the proceedings taken in the above
numbered and entitled cause at the time and place
set forth on page one hereof.



ELIZABETH H. SURLES
OFFICIAL COURT REPORTER
PENWRITER
CERTIFICATE #87165

DATE FILED



Elizabeth H. Surles, CCR
Official Court Reporter
P.O. Box 3210, Lake Charles, LA 70602
(337) 437-3530

IN THE FOURTEENTH JUDICIAL DISTRICT COURT
IN AND FOR THE PARISH OF CALCASIEU
STATE OF LOUISIANA

STATE OF LOUISIANA

VS.

NO. 20179-01

JASON MANUEL REEVES

MOTIONS

Evidence adduced and proceedings had in the above-numbered and entitled matter held on October 28, 2004, commencing at 2:00 o'clock, P.M., before the Honorable G. Michael Canaday, Judge for the Fourteenth Judicial District Court, in and for the Parish of Calcasieu, State of Louisiana.

APPEARANCES:

Mrs. Cynthia Killingsworth
Mr. F. Wayne Frey
Assistant District Attorney
Lake Charles, LA 70601

Counsel for the State

Mr. Ron Ware
Public Defenders' Office
Lake Charles, LA
Mr. Charlie St. Dizier
Attorney at Law
Lake Charles, LA

Counsel for the Defendant

Defendant present in Court

1 PROCEEDINGS:

2 THE COURT:

3 Good afternoon, Ladies and Gentlemen.
4 Be it ever so humble, it's nice to be back.
5 Ms. Killingsworth, if you'd call the case,
6 please.

7 MRS. KILLINGSWORTH:

8 Sure. Docket number 20179-01, State
9 of Louisiana versus Jason Manuel Reeves
10 wherein the defendant is charged with first
11 degree murder.

12 THE COURT:

13 And for the record I see Mr. Ware and
14 Mr. St. Dizier, the defendant is also
15 present. With regard to Mr. White, Mr.
16 Ware?

17 MR. WARE:

18 With regard to Mr. White, we'll move
19 the Court to grant us leave, waive his
20 appearance at this proceeding today. It's
21 with our knowledge and consent and everybody
22 agrees to that on the Defense team.

23 THE COURT:

24 All right. Let the record so reflect.
25 Actually I had this hearing scheduled today,
26 Mr. Ware, based on some I guess more
27 informal or oral motions made by the
28 defendant, noting that the trial with the
29 jury was going to start tomorrow and rather
30 than inconvenience and interrupt that
31 proceeding asked if we could hear these
32 matters today. Have you had the opportunity

1 to prepare any written motions in conformity
2 with those requested orally?
3 MR. WARE:
4 Yes, sir, and I'm making some
5 amendments, Judge.
6 THE COURT:
7 Have you given copies to the State?
8 MR. WARE:
9 Yes, sir.
10 THE COURT:
11 Sir?
12 MR. WARE:
13 Yes, sir. Here is a Motion to Release
14 Evidence admitted during the first trial of
15 this case, the original and a copy, and,
16 Your Honor, I initialed my amendments I
17 think on the original.
18 MR. FREY:
19 And as I understand it, the amendment
20 is to request the release of items that are
21 marked D-1 through D-8.
22 CLERK:
23 No, sir, D-2.
24 MR. FREY:
25 D-2 through D-8.
26 THE COURT:
27 Is that correct, Mr. Ware?
28 MR. WARE:
29 Yes, sir. And, Your Honor, in the
30 body of the motion I -- I amended it or
31 changed it, altered it in the prayer, but I
32 need to go back up to the body, too.

1 THE COURT:
2 I'm making the adjustments in the
3 body. And then striking the proffers that
4 are referenced?
5 MR. WARE:
6 Yes, sir.
7 MRS. KILLINGSWORTH:
8 Mr. Ware, I have D-2, you can have it.
9 CLERK:
10 And do you have those others, too?
11 MRS. KILLINGSWORTH:
12 I only brought certain things to look
13 at the stamps. I can look and see if we
14 have them in that -- Mr. Ware -- it's a
15 picture of the defendant.
16 MR. WARE:
17 For the record, Your Honor, I have D-
18 2.
19 THE COURT:
20 You have D-2?
21 MR. WARE:
22 I have D-2.
23 THE COURT:
24 So that would be --
25 MR. FREY:
26 We have received that in some way,
27 shape, or form, and have tendered it to Mr.
28 Ware.
29 THE COURT:
30 All right. So actually you
31 specifically reference from the clerk D-3
32 through D-8?

1 MR. WARE:
2 Yes, sir.
3 THE COURT:
4 Does the State have any objection or -
5 -
6 MR. FREY:
7 No, Your Honor.
8 MRS. KILLINGSWORTH:
9 Oh, look at here, I found some more.
10 CLERK:
11 I thought you did.
12 MRS. KILLINGSWORTH:
13 I have --
14 MR. WARE:
15 That's why I'm making the amendments,
16 Judge, I'm finding out --
17 MRS. KILLINGSWORTH:
18 Here is a proffer -- yeah, that is
19 ours. You need D-3, which is Mr. Shields'
20 CV.
21 CLERK:
22 Correct.
23 MRS. KILLINGSWORTH:
24 D-4, which is a something.
25 CLERK:
26 Right, time log.
27 MRS. KILLINGSWORTH:
28 D-6 is Mr. Zimmerman's CV.
29 CLERK:
30 Correct.
31 MRS. KILLINGSWORTH:
32 And D-7 is a psychological evaluation

1 of defendant.
2 CLERK:
3 Uh-huh. D-5 was that fingerprint,
4 palm print and footprints that was checked
5 out earlier by somebody to give --
6 MRS. KILLINGSWORTH:
7 I believe that went to -- that will be
8 back. No, it's in evidence at the
9 sheriff's office.
10 CLERK:
11 We don't have it. Here's 8, Mr. Ware.
12 MR. WARE:
13 Judge, let me just --
14 CLERK:
15 So really the only one I don't have is
16 -- since it's already been checked out is D-
17 5, but that's been checked out previously.
18 MRS. KILLINGSWORTH:
19 Correct.
20 MR. WARE:
21 This is --
22 CLERK:
23 8.
24 MR. WARE:
25 -- D-8.
26 CLERK:
27 So that's all I have.
28 THE COURT:
29 So where are we at, Mr. Ware?
30 MR. WARE:
31 Your Honor, I have D-2. I have D-2,
32 D-3, D-4, D-6, D-7, D-8. The only thing I

1 don't have is D-5.
2 CLERK: .
3 And it's already been checked out.
4 MR. WARE:
5 By?
6 CLERK:
7 That's that fingerprint, footprint,
8 palm print card.
9 MRS. KILLINGSWORTH:
10 We checked that out for you, Mr. Ware.
11
12 MR. WARE:
13 I recall that.
14 MRS. KILLINGSWORTH:
15 We had -- you -- Judge Canaday -- the
16 expert was coming in and you needed it all
17 in one spot and we asked the Judge to
18 release it so that your expert could have
19 access to it as -- as I understand it, they
20 have had access to it.
21 MR. WARE:
22 Your Honor, I would move to dismiss
23 that motion to release.
24 THE COURT:
25 All right. At this time we will
26 vacate or remove the original motion
27 requesting those, noting that all of the
28 exhibits other than one that is not
29 accounted for at this time but believed to
30 be in the possession of the defendant has
31 been satisfied that it is not, but you will
32 have the right to return if you are unable

1 to locate the exhibit if it is in the
2 possession of the clerk and/or the State.
3 CLERK:
4 Judge, I believe I still need an order
5 to let him have it. Is that not correct?
6 MR. WARE:
7 How about just an order from the -- I
8 don't know about a written order, just an
9 order, reflected in the minutes?
10 MRS. KILLINGSWORTH:
11 And, Mr. Ware, if you find that you
12 are missing something that you are in need
13 of, feel free to give me a call and I'll
14 look through our things.
15 THE COURT:
16 Mr. Ware, what I'm doing just to cover
17 this, and I have the original motion here
18 and it just basically says that the
19 defendant prays that the Court grants this
20 motion and orders that Defense exhibit
21 evidence admitted during the first trial be
22 released from the custody and the possession
23 of the 14th JDC clerk and return to Mr.
24 Reeves and his attorneys. That way it
25 covers all Defense exhibits. If you do not
26 have them, then they can be -- it'll be
27 sufficient for the clerk to take care of it.
28 I did not note an order. I just indicated
29 considering the above relief requested is
30 granted, signed it, by the court at this
31 time, dated it on this 28th day of October,
32 2004.

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MR. WARE:

May we be given a copy?

CLERK:

Do you have a copy I can conform?

THE COURT:

You can conform that one if you can get through it. Mr. Ware, one of the other matters had to do with a concern possibly of exhibits that were filed in the trial, while we're on that subject, as far as the tagging and information. I have had the State, who checked out exhibits earlier, bring some by my chambers so I could review and see exactly the type of stamps that were on it, noting that the State's exhibits do not reference any date, just an "S" and a number, and I believe Ms. Killingsworth has indicated that -- is the State going to use the same system or --

MRS. KILLINGSWORTH:

Your Honor, I'm going to use the same system but I'm going to use a different label and I'm going to place our label on top of our old label, is the plan.

THE COURT:

So that the only thing that would be of concern would be the clerk's stamps themselves, some exhibits which have multiple stamps, depending on whether they have been submitted in pre-trial hearings and also whether they were submitted into the trial. The only references that they

1 show the official stamp of the clerk of
2 court and a date, and I don't know if you --
3 there's some there that -- the same ones
4 that -- you're welcome to review those.

5 MR. WARE:
6 What is the -- I'd like the date
7 blotted out or not revealed. Can we do
8 that? Can we white it out?

9 MRS. KILLINGSWORTH:
10 I don't think we can.

11 MR. FREY:
12 It's part of the record of the first
13 trial.

14 THE COURT:
15 Where there would be some that would
16 be whited out and some that would not be,
17 which would call more attention to them
18 because of pre-trial introduction.

19 MRS. KILLINGSWORTH:
20 Might we suggest, Judge, that an
21 admonition, if Mr. Ware is wanting that, to
22 let the jury know that we have -- this case
23 is a serious case therefore has been through
24 many pre-trial procedures and things
25 introduced at other pre-trial procedures
26 which would, you know, take away from a
27 potential interpretation of a prior trial.
28 I mean, I don't know anything else to do.
29 Those are official clerk of court evidence
30 stamps. I mean, the ones that the State has
31 identified with, that's not a problem, but
32 the official record is.

1 MR. WARE:
2 Could they be duplicated?
3 MRS. KILLINGSWORTH:
4 No.
5 THE COURT:
6 Could what be duplicated, the
7 exhibits?
8 MR. WARE:
9 Those exhibits, or the face sheet.
10 MR. FREY:
11 We only use the originals at the
12 trial.
13 MRS. KILLINGSWORTH:
14 We need to use the originals at the
15 trial, Judge, I mean, otherwise you leave
16 people wondering about where are the
17 originals and if they have been tampered
18 with and whether or not we're using the best
19 evidence. I don't want a jury wondering.
20 MR. WARE:
21 Your Honor, I think that could be
22 resolved or solved, but I'm thinking about
23 not even going to that extent. What was the
24 admonition or the instruction, would be that
25 this case has had -- has been -- there've
26 been --
27 THE COURT:
28 We could have a pre-trial admonition,
29 we could have one at the middle of the trial
30 or at the end of the trial if you felt it
31 was a concern, as opposed to balancing --
32 drawing attention to them looking at

1 something that may be published to them. So
2 I have no problems with the admonition. I
3 think the question was, Ladies and
4 Gentlemen, you may note that there may be
5 some dates that are different from today's
6 date, but it is noted that this is a very
7 serious case, it's been ongoing for three
8 years and there have been a number of
9 hearings that have been had up to the point
10 of entering the trial, which is commonplace.
11 So please disregard any of the markings on
12 there, on the back, they are for
13 recordkeeping purposes only.

14 MR. WARE:

15 And of no significance to you.

16 MRS. KILLINGSWORTH:

17 Right.

18 MR. FREY:

19 And if Mr. Ware wants that, that's
20 fine, but, you know, I've been doing this 25
21 years and I've found that jurors, they don't
22 look at those stamps, they look at the
23 picture or the document itself. You may be
24 calling their attention to it instead of
25 drawing it away from it.

26 MR. WARE:

27 I'm wondering that exact thing.

28 THE COURT:

29 And that's why I asked you to think
30 about it, if you wanted it pre, middle
31 trial, or the end of the trial. I will
32 indicate this, if you wish to have an

1 admonition I will give them one. I am not
2 going to give them one until you formally
3 tell me that that's what you would like to
4 have done and at what time frame.
5 MR. WARE:
6 Okay.
7 THE COURT:
8 Satisfactory?
9 MR. WARE:
10 I'm satisfied with that.
11 THE COURT:
12 All right. The Court would reference
13 that it's taken the actions in conjunction
14 with Article 857 of the Code of Criminal
15 Procedure, indicates that the retrial of any
16 case is with as little prejudice to either
17 party as if it had never been tried. All
18 right, Mr. Ware, at this time I have the
19 Supplemental to Exclude Evidence of Jason
20 Reeves' presence and conduct at St.
21 Theodore's Holy Family Catholic School.
22 It's my understanding and I've gone through
23 and read the gist of the motion, that
24 basically you are reurging the three
25 elements that were presented previously,
26 that of relevancy, that of prejudice and
27 probative value evaluation and ultimately
28 res gestae determination as was submitted by
29 Mr. Cuccia --
30 MR. WARE:
31 Yes.
32 THE COURT:

1 -- on behalf of the defendant in a
2 motion in limine that was believed presented
3 and argued August 12th, 2002 in this court;
4 is that correct?
5 MR. WARE:
6 That is correct, Your Honor.
7 THE COURT:
8 At this time I have received the
9 original motion signed by the defendant. It
10 has no order to fix it; it is being heard,
11 it's no surprise, that it's being fixed
12 basically instanter in conjunction with the
13 written motions but all parties have been
14 placed on notice as of I believe yesterday
15 of the Defense's intent to do so but because
16 of the location and inability to have
17 secretarial staff it was the -- the written
18 motion is supplementing the oral indications
19 given to both the Court and the State. Any
20 objection from the State?
21 MR. FREY:
22 No, Your Honor.
23 THE COURT:
24 All right. All right, Mr. Ware.
25 MR. WARE:
26 Your Honor, I don't have evidence and
27 I don't have argument; I'm going to submit
28 the motion as it is.
29 MR. FREY:
30 And, Your Honor, then we will submit
31 that these arguments have already been
32 heard, they've been ruled on and there's

1 nothing new so there's no reason to disturb
2 the ruling of the Court that is already in
3 place.

4 THE COURT:

5 Does either party know if this matter
6 was taken up on writs? I do note from the
7 minutes that there were a number of matters
8 that were taken up on writs from the ruling
9 that day. I don't know if has previously
10 been reviewed by the 3rd Circuit.

11 MR. FREY:

12 I think it was, but Mr. Lupo says it
13 was, and although I don't always rely on Mr.
14 Lupo's reporting, in this case I will. I
15 could check for you, if you'd like, though.

16 THE COURT:

17 I just was asking if it had been taken
18 up. Mr. Ware, do you have any familiarity
19 with the extent --

20 MR. WARE:

21 Your Honor, to the best of my --

22 THE COURT:

23 -- or you're asking that -- preserve
24 the record for these proceedings more than
25 anything?

26 MR. WARE:

27 Yes, sir, and my information, my best
28 information, is that it was not taken up on
29 writs.

30 MRS. KILLINGSWORTH:

31 As -- that's what Ms. Carla Sigler
32 says as well, and she's the one that does

the appeals from our office, so I think she might know.

THE COURT:

Well, the Court notes that there was a prior decision by Judge Minaldi who was the initial division that this case was assigned to. At that time the Motion in Limine to Exclude was, in fact, denied. The Court has received no new information but has done some independent research and at this time the Court would confirm the decision of the prior judge but would add to sustain the **State v. Taylor**, 838 So.2d 729, specifically looking at the res gestae issue that an integral act or res gestae evidence incorporates a rule of narrative completeness which without the State's case would lose its narrative momentum and cohesiveness with power not only to support conclusions but to sustain the willingness of jurors to draw the inferences, whatever they may be, necessary to reach an honest verdict, also referencing Code of Evidence Article 404, Subsection "B" "1" as a cross-reference. In addition, the Court has pulled for review with regard to this matter another analysis out of the **State v. Taylor** case which indicates any evidence of other acts which this would be an act based on this, not necessarily a crime or a wrong, may be introduced when it relates to the conduct referred to as res gestae that

1 constitutes an integral part of the act or
2 transaction that is the subject of the
3 present proceeding. Res gestae events
4 constituting other acts are deemed
5 admissible because they are so nearly
6 connected to the charged offense that the
7 State could not accurately present its case
8 without reference to them. A close
9 proximity in time and location is required
10 between the charged offense and the other
11 act evidence to ensure the purpose served by
12 the admission of other act evidence is not
13 to depict the defendant as a bad man but to
14 -- but rather to complete the story of a
15 crime on trial by providing its immediate
16 context of happenings near time and place.
17 In reviewing the discussions by Judge
18 Minaldi that was clearly the basis for her
19 prior decision, noting that in fact this
20 activity is what led, I believe, based on
21 the reading of the transcript, Mr. Reeves to
22 be a suspect in the ultimate offense for
23 which he has now been charged and is on
24 trial for. The totality and the proximity
25 from both time and date the Court would find
26 that the res gestae clearly applies and that
27 the testimony will be allowed to proceed.
28 With regard to the relevancy and the 404 --
29 or 403, the Court does not find that the --
30 any significant prejudicial value but the
31 probative value to be much more significant
32 than any prejudicial value and so would rule

1 in the analysis based on the specifics
2 associated with the St. Theodore Catholic
3 School testimony and events, and in addition
4 the relevancy, the Court obviously finds
5 that it does tend to establish tendency to
6 make the existence of any fact that is of
7 consequence to the determination either more
8 or less probable so therefore it is
9 obviously relevant and finds the probative
10 value to be in excess of any prejudicial
11 value and clearly within the definition of
12 res gestae as defined herein.

13 MR. WARE:

14 Yes, sir, and, Your Honor, I
15 respectfully object to the Court's ruling
16 and ask that my objection be noted for the
17 record.

18 THE COURT:

19 So ordered.

20 MR. WARE:

21 For all the reasons contained in the
22 motions and have been previously asserted
23 and accepted and understood by the parties
24 and the Court.

25 THE COURT:

26 Understood. Noted, in that capacity.

27 MR. FREY:

28 And, Your Honor, just to complete the
29 record, in addition to Judge Minaldi ruling
30 that this was res gestae, I quote from the
31 transcript: Furthermore I believe if we
32 went through a full-blown other crimes

1 hearing, other bad acts hearing, it would
2 come in even under that heightened scrutiny,
3 unquote.
4 THE COURT:
5 Anything, Mr. Ware?
6 MR. WARE:
7 No, sir.
8 THE COURT:
9 The transcript speaks for itself, let
10 it be noted for the record of these
11 proceedings. Did you have anything else to
12 present at this time?
13 MR. WARE:
14 Judge, one thing, and I understand
15 from talking with Mr. Frey, that you're
16 aware of what I'm about to talk about and
17 have decided -- you've decided to address it
18 tomorrow morning, and that concerns
19 Alternate #2, Ms. Vanessa Monroe.
20 THE COURT:
21 Yes. As a matter of fact, I wanted to
22 bring you up to date on a situation that
23 occurred after the parties left, the Court
24 had been adjourned. She was being held in
25 the jury pool room, I mean, the jury room,
26 waiting for transportation to go pick up her
27 clothes so that she could be taken to the
28 hotel. Mr. Wayne Day approached me and
29 indicated that she had a problem, he -- and,
30 again, this is all hearsay, but he related
31 to me, and I could see her sitting on a
32 chair some distance away crying, that she

1 said she couldn't go, that she had two
2 children at home and was unable to serve,
3 and I said, how old are her children; seven
4 and nine; and I said, where's the father;
5 he's at work. And why did she not tell us
6 that. He said he didn't know. But for some
7 reason when asked about why that she didn't
8 make the court aware of any problems or
9 hardships she might have, she indicated I
10 put it in the questionnaire that I had two
11 kids. And that was pretty much the gist of
12 it. I advised -- at that time I stepped
13 aside from Mr. Day, directly addressed the
14 juror and said, "Ms. Monroe, you need to
15 make arrangements, you will be given access
16 to a telephone call, please call someone to
17 take custody of your children. Nothing can
18 be done at this point, you will be brought
19 to Lake Charles and it will be handled in
20 open court."

21 MR. WARE:

22 And, Judge, as we were leaving the
23 courthouse Wednesday evening, just yesterday
24 evening, Ms. Gordon, Mr. White, and I
25 noticed a deputy talking to Ms. Monroe and
26 she was very distraught, in tears, having
27 problems, obviously, and as we didn't -- as
28 we passed by I -- it was obvious that she
29 had some problems with -- with serving.

30 THE COURT:

31 Well, at this time -- then upon
32 reflection I advised Mr. Day that if, in

1 fact, the deputy, when he took her to her
2 home to get her items or possession, if she
3 did not have someone there to take the
4 children, that they were to go with her to
5 the motel so that they would not be left
6 alone and we would make arrangements this
7 morning. It was my understanding that she
8 made the phone call, someone came, took the
9 kids, she has been transported to Lake
10 Charles, she is currently under
11 sequestration and until we have her on the
12 stand or can bring her in to discuss the
13 matter, I don't know of any remedy we can
14 make unless all parties are in a certain
15 type of agreement.

16 MR. WARE:

17 And, Judge, when I came to court just
18 now, I approached Mr. Frey and discussed
19 what I just told you, with him, and he said
20 that he was aware of the situation and that
21 there had been some communication made to
22 him that the Court was aware of the
23 situation and planned to take it up tomorrow
24 morning. We will take the position right
25 now that we're not opposed to her release.

26 THE COURT:

27 Well, I would like to find out before
28 -- I understand you're not opposed to it,
29 but I need to -- she may have made
30 arrangements for the entirety of the time.
31 She may be passed that situation.

32 MR. WARE:

1 Yes.
2 THE COURT:
3 And it just may have been something of
4 immediate concern to her.
5 MR. WARE:
6 Right, --
7 THE COURT:
8 But I do understand that she has not
9 been distraught, she's been interacting with
10 the other jurors, and I cannot give you any
11 other information until we can actually
12 speak to her. And that's why I said we
13 would address it tomorrow because she wasn't
14 going to be brought today; but I did want to
15 bring you up to date on the information or
16 the things that had occurred last night with
17 regard to Ms. Monroe.
18 MR. WARE:
19 And that's all I have.
20 THE COURT:
21 The State also understands?
22 MR. FREY:
23 Yes, Your Honor. That's the way we'd
24 like to handle it, too. I'm not saying
25 we're opposed either, but we'd like to talk
26 to her first.
27 MR. WARE:
28 Right. If everything's resolved, then
29 that's fine, but -- and that's all that I
30 have, Your Honor.
31 THE COURT:
32 All right. Then there being nothing

1 else today then we are going to be adjourned
2 until tomorrow morning at 9:00 o'clock. The
3 parties -- is the Defense going to be making
4 an opening statement?
5 MR. WARE:
6 Yes, sir.
7 THE COURT:
8 Okay. Because generally I go through
9 and I give them some introductory remarks
10 about what to expect, just the order of a
11 trial in general, and I usually state that
12 the Defense doesn't have to but can make an
13 opening statement. I would leave that part
14 of it out; if you were going to tell me that
15 you are, I'll just indicate that there will
16 be opening statements first by the State and
17 then the Defense.
18 MR. WARE:
19 Your Honor, I would prefer that you
20 give them the standard instructions, Defense
21 doesn't have to.
22 THE COURT:
23 Fair enough. Done.
24 MR. WARE:
25 But may.
26 THE COURT:
27 Then we will be here tomorrow morning
28 with all 16 jurors and we will proceed with
29 the trial.
30 MR. WARE:
31 Mr. Reeves is being kept in intake and
32 I understand that he will be -- he will

1 remain in intake during the balance of the
2 trial, and we'd like to talk with you now or
3 tomorrow or -- about that, because we would
4 prefer that he not be kept in intake.

5 THE COURT:

6 I don't know the distinction, I mean,
7 to be quite candid, but I don't have a
8 problem with visiting and trying to discuss
9 if there's any type of differential
10 treatment that's not part of their policy or
11 something along those lines.

12 MR. FREY:

13 And, Judge, I don't have a problem
14 with that either, but I think visit isn't
15 the issue, but I think if we do that, in all
16 fairness, Mr. McCorquodale should be here
17 and maybe Mr. Alcede or Mr. Salvador from
18 the correctional facility.

19 MR. WARE:

20 Mr. Nugent is the --

21 MR. FREY:

22 Scott Nugent's fine. I mean, whoever
23 the sheriff's office wants here. I'm
24 talking just a representative, a uniformed
25 officer, with some authority from the
26 correctional facility themselves in case you
27 have any questions, Mr. Ware has any
28 questions, as to why he's being kept there
29 and what the distinction is. I know one
30 distinction I believe is that he's in a cell
31 by himself as opposed to being in a pod with
32 a bunch of other people. But I don't know

1 of any other distinction.
2 THE COURT:
3 Do y'all want this handled on the
4 record?
5 MR. FREY:
6 It's up to Mr. Ware.
7 MR. WARE:
8 Not right now. I agree with Mr. Frey,
9 we need to bring the other authorities in
10 and --
11 THE COURT:
12 The reason I say this is we maybe can
13 go up and make some phone calls -
14 MR. FREY:
15 We can do that right now. I have no
16 problem with that.
17 THE COURT:
18 And maybe we can get it addressed, if
19 you're satisfied -- happy with it being done
20 informally. I don't know that it's anything
21 necessary for the record, it doesn't go to
22 any substantive issues, it's really only
23 either a courtesy or a transportation issue
24 or security issue.
25 MR. WARE:
26 I agree with the Court.
27 THE COURT:
28 All right. Then we will be adjourned
29 until tomorrow morning at 9:00 o'clock.
30 [COURT ADJOURNED]
31
32

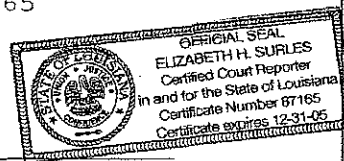
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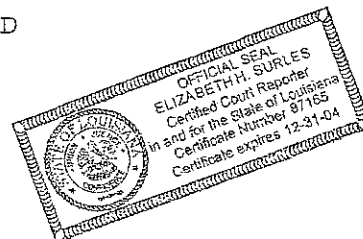
I DO HEREBY certify that the foregoing 26
pages of typewritten matter constitutes a true and
correct translation of my stenographic notes and
recording of the proceedings taken in the above
numbered and entitled cause at the time and place
set forth on page one hereof.

Elizabeth H. Surles

ELIZABETH H. SURLES
OFFICIAL COURT REPORTER
PENWRITER
CERTIFICATE #87165



DATE FILED



IN THE FOURTEENTH JUDICIAL DISTRICT COURT
IN AND FOR THE PARISH OF CALCASIEU
STATE OF LOUISIANA

STATE OF LOUISIANA

VERSUS

NO. 20179-01

JASON MANUEL REEVES

TRIAL

Evidence adduced and proceedings had in the above-numbered and entitled matter held on October 29, 2004 commencing at 9:00 a.m., before the Honorable G. Michael Canaday, Judge for the Fourteenth Judicial District Court, in and for the Parish of Calcasieu, State of Louisiana.

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1	<u>STATE OF LOUISIANA VS. NO. 20179-01 JASON REEVES</u>	
2	<u>OCTOBER 29, 2004</u>	
3		<u>Page</u>
4		
5	<u>STATE'S WITNESSES:</u>	
6	<u>RICHARD JAMES MCGUIRE</u>	
7	Direct Examination -----	41
8	Cross-Examination -----	43
9	Redirect Examination -----	45
10	<u>JAMES MCGEE</u>	
11	Direct Examination -----	46
12	<u>CARIN THIGPEN</u>	
13	Direct Examination -----	79
14	Cross-Examination -----	96
15	<u>CINNAMON SALVADOR</u>	
16	Direct Examination -----	106
17	Cross-Examination -----	112
18	<u>ALLEN CORMIER</u>	
19	Direct Examination -----	114
20	Cross-Examination -----	120
21	<u>ERIC JAMES BREAU</u>	
22	Direct Examination -----	128
23	Cross-Examination -----	133
24	<u>EMILY DANIELLE LAFLERU</u>	
25	Direct Examination -----	134
26	Cross-Examination -----	138
27	<u>OLIVIA PAIGE ST. CYR</u>	
28	Direct Examination -----	139
29	Cross-Examination -----	143
30	<u>ERIN ALEXANDER SCHREPFER</u>	
31	Direct Examination -----	144
32	Cross-Examination -----	149

1	<u>MICHELLE ROGERS</u>	
2	Direct Examination -----	151
3	<u>JANICE DURASO</u>	
4	Direct Examination -----	160
5	<u>SHANNON DAUGHENBAUGH</u>	
6	Direct Examination -----	164
7	Cross-Examination -----	169
8	<u>MICHAEL CARPENTER</u>	
9	Direct Examination -----	173
10	Cross-Examination -----	185
11	<u>VIC SALVADOR</u>	
12	Direct Examination -----	201
13	Cross-Examination -----	211
14		
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STATE OF LOUISIANA VS. NO. 20179-01 JASON REEVES

OCTOBER 29, 2004

E X H I B I T S

Page

STATE'S EXHIBITS:

S-1 and S-2 -----	48
S-3 -----	111
S-7 through S-10 -----	172

1 PROCEEDINGS:

2 [COURT OPENED]

3 THE COURT:

4 All right. Would someone from the
5 State's team, would they call the case this
6 morning.

7 MS. KILLINGSWORTH:

8 Your Honor, this is Docket No. 20179-01,
9 State of Louisiana versus Jason Manuel
10 Reeves, wherein defendant is charged with
11 First-Degree Murder.

12 THE COURT:

13 Is the State ready to proceed?

14 MS. KILLINGSWORTH:

15 The State's ready to proceed.

16 THE COURT:

17 Is the defense team present and ready to
18 proceed?

19 MS. KILLINGSWORTH:

20 Your Honor, there's one exception. We
21 are still trying to locate an exhibit that's
22 in the clerk's record that was introduced at
23 a pretrial hearing on June 28th of this
24 year. We have to have that for our third
25 witness.

26 THE COURT:

27 All right.

28 MS. KILLINGSWORTH:

29 And the first two are short. We have to
30 have it.

31 THE COURT:

32 But other than that, I mean, we will

1 be -- we may have it by the break, but it's
2 being looked for at this time, Ms. Miller?
3 **MADAM CLERK:**
4 Yes, sir.
5 **THE COURT:**
6 I'm sorry?
7 **MADAM CLERK:**
8 They're having trouble finding it.
9 **THE COURT:**
10 All right. And what did it have to do
11 with?
12 **MR. FREY:**
13 It's a photo line-up.
14 **MR. BRYANT:**
15 A photo line-up. A vehicle photo
16 line-up, Your Honor.
17 **THE COURT:**
18 All right.
19 **MR. BRYANT:**
20 And it's early in the presentation of
21 the State's case, and our first witnesses
22 should be very brief.
23 **THE COURT:**
24 All right.
25 **MR. WARE:**
26 Your Honor, I have something I'd like to
27 put on the record.
28 **THE COURT:**
29 All right. First of all, Mr. Ware, is
30 the defense team present?
31 **MR. WARE:**
32 The defense team is present. Lead

1 counsel, Ron Ware. Second chair,
2 Mr. Charlie St. Dizier. Associate Counsel,
3 Mr. Richard White, and Jason Reeves is also
4 present.
5 **THE COURT:**
6 All right. Let the record so reflect.
7 And you're ready to proceed this morning?
8 **MR. WARE:**
9 We're ready to proceed, Your Honor.
10 **THE COURT:**
11 All right.
12 **MR. WARE:**
13 Your Honor, on yesterday we took up a
14 motion to exclude Mr. Reeves' presence and
15 conduct at the St. Theodore's Holy Family
16 Catholic Church, and in the motion, I
17 specifically named some of the witnesses
18 that testified at the last trial concerning
19 those events. And I checked the record or
20 the transcripts last night, and I found out
21 that one name was not listed, as it normally
22 would, on who testified on that day in the
23 sequence that they did, and the name was
24 Erin, E-r-i-n Alexander. I'm going to spell
25 the last name S-c-h-r-e-p-f-e-r. She was
26 called as a witness and testified to those
27 events as well, so I'd like to incorporate
28 this witness and her name into the motion.
29 **MR. FREY:**
30 No objection, Judge. It's already been
31 ruled on.
32 **THE COURT:**

1 All right. And I understand basically
2 it just goes to the totality of the request
3 to exclude any testimony or evidence from
4 the immediate time prior to the latest
5 disappearance of the child. And the St.
6 Theodore Catholic information, all those
7 witnesses, as well as -- and I don't believe
8 there's any surprise to the State, so --
9 MR. FREY:
10 No, Your Honor.
11 THE COURT:
12 -- I think that the Court will recognize
13 that that witness was also inclusive in that
14 motion that was asked for re-urging, Mr.
15 Ware.
16 MR. FREY:
17 And, Your Honor, we can make a report to
18 you in Chambers concerning what we talked
19 about yesterday after court.
20 THE COURT:
21 All right.
22 MR. WARE:
23 Mr. Frey, we can do it at the Bench, if
24 you'd like to.
25 THE COURT:
26 And I did have --
27 MR. FREY:
28 I'm just -- whatever you want, Mr. Ware.
29 THE COURT:
30 Before we bring the Jurors in, I wanted
31 to -- I've brought you up to date with
32 regard to a potential problem that one of

1 the Jurors may have had, that being the
2 second alternate, Ms. Vanessa Monroe. I was
3 anticipating on bringing her in this
4 morning, out of the presence of the other
5 Jurors, so that we could address that
6 specifically. Are y'all ready to proceed
7 with that?

8 **MR. FREY:**
9 Yes, Your Honor.

10 **THE COURT:**
11 All right. Mr. Ware?

12 **MR. WARE:**
13 Yes, sir.

14 **THE COURT:**
15 All right. Mr. Day, if you'd bring in
16 Ms. Monroe.

17 **THE BAILIFF:**
18 Yes, sir.

19 **THE COURT:**
20 Ms. Monroe, I'm going to ask that you be
21 sworn in typically as a witness, because I
22 have some questions I need you to answer
23 under oath. You've already been sworn under
24 voir dire previously as well as a juror in
25 this matter.

26 **MADAM CLERK:**
27 Do you solemnly swear the testimony
28 you're about to give will be the truth, the
29 whole truth, and nothing but the truth, So
30 Help You God?

31 **MS. MONROE:**
32 Yes.

1 **MADAM CLERK:**
2 You may be seated.
3 **THE COURT:**
4 The 27th, Ms. Monroe, you were selected
5 as the second alternate in this case; you
6 recall that?
7 **MS. MONROE:**
8 Yes, sir.
9 **THE COURT:**
10 And at that time you were placed under
11 sequestration, put in the custody of law
12 enforcement. And it was brought to the
13 Court's attention, after court had been
14 adjourned, that you had a problem that had
15 not been relayed to the Court with regard to
16 your minor children.
17 **MS. MONROE:**
18 Correct.
19 **THE COURT:**
20 Since then, I need to find out, have
21 arrangements been made for the care of your
22 two children?
23 **MS. MONROE:**
24 Yes, sir.
25 **THE COURT:**
26 All right. Is that situation, will that
27 be good for two to two-and-a-half weeks?
28 **MS. MONROE:**
29 Yes, sir.
30 **THE COURT:**
31 All right. At this time I need to make
32 certain. Is there any problem with you

1 being able to continue on and serve as a
2 juror in this matter?
3 **MS. MONROE:**
4 No, sir.
5 **THE COURT:**
6 All right. And you're ready to proceed?
7 **MS. MONROE:**
8 Yes, sir.
9 **THE COURT:**
10 And you won't be distracted because of
11 the concern that you would have for your
12 children, you will be able to focus on the
13 trial and the evidence?
14 **MS. MONROE:**
15 No, I won't be distracted.
16 **THE COURT:**
17 All right. Do I have anything from the
18 State?
19 **MR. BRYANT:**
20 No, Your Honor.
21 **THE COURT:**
22 Anything from Defense?
23 **MR. WARE:**
24 No, sir.
25 **THE COURT:**
26 All right. Thank you, Ms. Monroe.
27 **[Ms. Monroe exits the courtroom.]**
28 **THE COURT:**
29 Also, I have some introductory remarks
30 that I would give. I want the entire panel
31 that were piecemeal sworn in to be re-sworn
32 here in Calcasieu Parish.

1 And I will also have the entirety of the
2 indictment and the defendant's plea read to
3 the Jury before we commence with opening
4 statements.
5 If y'all would all stand, please.
6 [JURY SEATED IN THE COURTROOM.]
7 MADAM CLERK:
8 Raise your right hands, please.
9 THE JURY:
10 (Comply with request.)
11 MADAM CLERK:
12 Do each of you solemnly swear that you
13 will try the case wherein the State of
14 Louisiana is plaintiff and Jason Reeves is
15 defendant in a just and impartial manner to
16 the best of your judgment and render a
17 verdict according to the law and the
18 evidence, So Help You God.
19 THE JURY:
20 (Respond in the affirmative.)
21 MADAM CLERK:
22 You may be seated.
23 THE BAILIFF:
24 Please be seated, Ladies and Gentlemen.
25 THE COURT:
26 Good morning, Ladies and Gentlemen.
27 THE JURY:
28 Good morning, Your Honor.
29 THE COURT:
30 Have you been able to acclimate to some
31 extent to the change -- we're just a little
32 further west from where you're used to, so,

1 hopefully, it won't be too much of a change
2 or drastic. We're making alterations as we
3 speak, in order to help accommodate you, so
4 that's just kind of an evolution, so you can
5 be aware that everything is not just
6 absolutely set in stone. What may happen
7 today, as we find a more convenient way to
8 make it easier for you, we will make
9 adjustments as we can.

10 Ladies and Gentlemen, as members of the
11 Jury, you've now been sworn and we're about
12 to begin the trial of the case, which you've
13 heard some of the details when we went
14 through the process of jury selection.
15 Before the trial begins, there's some
16 instructions I want to give to you so you
17 will understand basically what's going to be
18 presented before you and how you should
19 conduct yourselves during the trial.

20 As the Jurors, you are the sole judges
21 of the facts in this case. It is important
22 that you listen carefully and apply yourself
23 diligently to the determination of those
24 facts.

25 Under Louisiana law, I am not permitted
26 to comment on or express any opinion about
27 the evidence that's going to be presented to
28 you. Accordingly, if it does appear that I
29 express any opinion of the facts during the
30 course of this trial, or even in my final
31 instructions at the close of this trial, you
32 should disregard that opinion; it is not

1 evidence. Similarly, the arguments that you
2 -- that will be addressed to you by the
3 attorneys are not evidence. Your
4 determination of the facts will be based on
5 the testimony that you hear and the other
6 evidence that is submitted. You are the
7 exclusive judges of the facts, and in that
8 field, neither I nor anyone else may
9 interfere. On the other hand, and with
10 equal emphasis, I would instruct you that
11 you will be bound to accept the rules of law
12 as I give them to you at the close of the
13 trial, whether you agree with them or not.

14 During the course of this trial you will
15 undoubtedly hear objections. Some of them
16 may be made in the presence of the Jury,
17 some may be made at the Bench or outside of
18 your presence. And just so that you are
19 aware, it's the duty of the lawyers on each
20 side to object when they feel that one side
21 is offering testimony or evidence which they
22 believe may not be properly admissible, or
23 that a rule of procedure is not being
24 followed. You should not draw any inference
25 against or show any prejudice against a
26 lawyer or his clients because of making an
27 objection. If I should decide to allow the
28 evidence to be admitted, this is not an
29 expression of an opinion on my part as to
30 the weight the evidence should be given in
31 your minds. I repeat again, that you are
32 the sole judges of the facts in this matter

1 and what weight is to be given is within
2 your province.

3 If I should sustain an objection to a
4 question that goes to a witness, you must
5 disregard the question entirely and draw no
6 inference from the wording of it or to
7 speculate as to what that witness might have
8 said if permitted to answer. At other times
9 during the trial I may direct that certain
10 evidence be stricken from the record and
11 will instruct you to disregard that
12 evidence. You will then not consider such
13 evidence, since your verdict must be based
14 solely on legally admissible evidence.

15 Additionally, it's the duty of the Court
16 to admonish an attorney, who, out of zeal
17 for the representation of his client, does
18 something in not keeping with the rules of
19 evidence or procedure. As before, you
20 should draw no inference and do not hold
21 anything against that attorney to whom an
22 admonition of the Court may be addressed
23 during the trial of this matter.

24 Other than voir dire, which is now over,
25 Louisiana law does not permit Jurors to ask
26 questions of any witnesses or any lawyers.
27 Therefore, do not interrupt the attorneys
28 during the presentation and the questioning
29 of the witnesses. However, if for some
30 reason something arises and you need a
31 break, or specifically, if you cannot hear,
32 please make it be known to the Court and we

1 will make sure that that's remedied.
2 As before, the bailiffs are the eyes and
3 ears of the Court. If you need to
4 communicate with the Court, then you need to
5 contact one of the bailiffs, they will
6 transfer the information to me. You do need
7 to be aware that if they come to me with a
8 case-related problem, it will only -- it can
9 only be addressed in Open Court before all
10 the parties.
11 Now, all of you remember the admonition
12 that was given. No discussion of this case,
13 any legal cases that are on-going, any of
14 the parties, the State, the Defense,
15 basically anything having to do with issues
16 of law, I would tell you to stay away from.
17 Talk about sports, talk about food, talk
18 about the weather; that's the type of things
19 that we need to make certain and that way we
20 don't ever have a question as to the
21 discussions that are being made.
22 In addition, you've been told before
23 that the parties aren't being rude if they
24 ignore you if they come into some proximity,
25 and, again, that's still in force, and
26 probably more so now that we are in this
27 area and that you're being sequestered. So,
28 do not hold that against anyone, that they
29 are only obeying orders of the Court, in not
30 speaking or trying to be friendly with you.
31 You are not to receive any information
32 or any advice from anyone but the Court, and

1 then only in the presence of the State and
2 the accused. If, in fact, you do make some
3 phone calls, make certain that that is clear
4 to anyone that is trying to talk to you,
5 from your relatives. The phones calls are
6 monitored. But regardless, we don't want
7 anything blurted out. Hopefully that's been
8 made clear to any of your relatives before,
9 and that may be a good way to preface any
10 phone call that the Court does allow you to
11 make.

12 You will not be permitted to take notes.
13 You must pay close attention and rely on
14 your memory. We've given you some
15 instructions, and I know it may sound a
16 little like back in high school or whatever,
17 about who you follow in line, but while
18 these courtrooms are set up and they're very
19 comfortable and they work well when we are
20 in Court in trial, entry and exit are
21 sometimes difficult because of just the
22 close proximity of people. So, if you can
23 remember that, the way that you came in and
24 out and do that consistently, we'll be a lot
25 more efficient and it'll be a lot more
26 comfortable for all of you.

27 As before, our normal work day is from
28 9:00 a.m. till noon, and then from 1:30 to
29 5:00. There will be a 15-minute recess
30 about every hour-and-a-half. I do try not
31 to break in the middle of a witness for
32 reasons that are obvious, so sometimes it

1 could be an hour-and-fifteen minutes, it
2 might be an hour-and-forty-five, but we will
3 try to do it as close to those time frames
4 as we can. If something arises, some people
5 may have some other issues, make sure the
6 bailiffs know about it, they will keep me
7 informed and we will work within those
8 parameters.

9 At this time I would ask if the clerk
10 will read the indictment as well as the
11 defendant's plea with regard to the charge
12 that's before you today.

13 **MADAM CLERK:**

14 The Fourteenth Judicial District Court,
15 for the Parish of Calcasieu, State of
16 Louisiana. State of Louisiana versus
17 Jason Manuel Reeves. On this the 13th day
18 of December, 2001, the Grand Jury of the
19 Parish of Calcasieu, State of Louisiana,
20 charges that on or about November 12th,
21 2001, at and in the parish, district and
22 state aforesaid, Jason Manuel Reeves
23 committed the offense of First-Degree
24 Murder, one count, violating L.S.A.
25 R.S.14:30, in that Jason Manuel Reeves
26 committed the offense of First-Degree
27 Murder, in that he killed MJT, a female
28 juvenile, whose date of birth was March
29 25th, 1997, with the specific intent to kill
30 or inflict great bodily harm upon MJT and
31 was engaged in the perpetration or attempted
32 perpetration of aggravated rape, and/or MJT

1 was under the age of 12 years, contrary to
2 the law of the State of Louisiana and
3 against the peace and dignity of the same.
4 Rick Bryant, District Attorney, Fourteenth
5 Judicial District of Louisiana. State of
6 Louisiana versus Jason Manuel Reeves,
7 indictment, First-Degree Murder, one count,
8 a true bill by Kristi Needham, Foreman. To
9 which charge the defendant has entered a
10 plea of not guilty.

11 **THE COURT:**

12 All right. Ladies and Gentlemen, that's
13 the formal charge and the formal plea from
14 the defendant. At this time the case has
15 previously been called before you were
16 brought into Court this morning and both
17 parties have indicated that they're ready to
18 proceed. Just to give you a little
19 background, initially the parties will have
20 the opportunity to make opening statements.
21 The State is required to make an opening
22 statement. The defendant may, but is not
23 required to make an opening statement.

24 After opening statements are had, the
25 State will then put on its evidence and its
26 case in chief. After the State has
27 presented its evidence, the defendant may
28 present evidence but is not obligated to do
29 so. The burden is always on the State to
30 prove each and every element of the offense
31 charged beyond a reasonable doubt. The
32 defendant does not have the burden of

1 calling any witnesses or introducing any
2 evidence, as been previously noted to you.
3 If the defendant does put on evidence, the
4 State does have the opportunity, under
5 certain circumstances, to adduce evidence in
6 an attempt to rebut the defendant's evidence
7 or testimony.

8 At the conclusion of all of the
9 evidence, each party has the opportunity to
10 present an oral argument in support of their
11 case, a summation or a closing remark. What
12 is said in either opening statements or
13 closing remarks is not evidence. The
14 arguments are designed to present the
15 contentions of each side as to what the
16 evidence will show or has shown and what
17 inferences may be drawn. The burden being
18 on the State, the State has the right to
19 open first and they will close last.

20 Lastly, I will then instruct you on the
21 applicable law that you will apply to this
22 case, then you will retire and consider your
23 verdict.

24 Under our law, you, as the Jurors, are
25 the sole judges of the facts and it would be
26 your duty to consider and weigh the evidence
27 and decide all questions of fact.

28 At this time we will move into the
29 opening statement phase. Are you ready to
30 proceed, Mr. Bryant?

31 **MR. BRYANT:**

32 Yes, Your Honor.

1 THE COURT:
2 All right.
3 MR. BRYANT:
4 Welcome to Lake Charles. I know this is
5 not the way in which you wish to come to
6 Lake Charles. I know it's not the trip that
7 you wanted to make, but I can assure you
8 that your visit here will be the most
9 important visit that you ever make to Lake
10 Charles because of the requirements and
11 duties that you have in front of you over
12 the next several days. It's an experience
13 that many Jurors go through. I know we've
14 taken you from your homes, but it is an
15 important experience for all of us in
16 Calcasieu Parish. The decision that you
17 make during the next few days, at the end of
18 this trial, are very important to many
19 people.
20 The law requires, as the Judge has
21 indicated, that the State make an opening
22 statement, and the reason is because we have
23 the burden of proof. We must prove a
24 defendant's guilt beyond a reasonable doubt.
25 And what we do in order to get to that point
26 is to present evidence through various
27 forms, whether that be testimony -- that you
28 will hear witnesses who testify. You will
29 also hear and see physical evidence that
30 will be presented. There will be expert
31 witnesses who will testify. This is an
32 opportunity during opening statement to tell

1 you what we must prove, what we will prove,
2 and how we intend to prove it, in this
3 particular case.

4 The defendant doesn't have to make an
5 opening statement, just as he doesn't have
6 to put on a case, the burden rests with the
7 State. I would echo Judge Canaday's
8 sentiments when I say, what I say is not
9 law, what I say is not evidence. You've
10 listened to many of us speak during jury
11 selection over a lengthy period of time. A
12 lot of statements have been made. A lot of
13 remarks have been brought to your attention
14 during that period of time, but now we get
15 down to the real trial itself, when your
16 decision will be based, not on what I say or
17 Defense Counsel says, but on the evidence
18 that you're going to hear during this trial.

19 Very shortly witnesses will be taking
20 the stand and you will be listening to the
21 evidence and giving it the credibility or
22 lack of credibility that you think it
23 deserves, and that's what you determine this
24 case on.

25 Also, at the conclusion of this case,
26 you'll have to make a decision based on the
27 law, and the law will come to you from Judge
28 Canaday. But during opening statements,
29 during closing arguments, I, representing
30 the State, have the opportunity to tell you
31 what we intend to prove and I have the
32 opportunity to tell you what the evidence

1 will be, and, again, what I say is not
2 evidence.

3 First-degree murder. The defendant is
4 charged with the crime of first-degree
5 murder. The State must prove what? We must
6 prove that the defendant had the specific
7 intent to kill or inflict great bodily harm
8 on Mary Jean Thigpen, the victim in this
9 case, and that she was under the age of 12.

10 We also must prove and will prove that
11 the defendant committed -- with the specific
12 intent to kill and inflict great bodily harm
13 on Mary Jane Thigpen and it was during the
14 perpetration of an aggravated rape. We will
15 prove that a first-degree murder was
16 committed in this particular case.

17 Let me begin by saying that all of us
18 have a common bond, whether we live in Lake
19 Charles, or Austin, Texas, or New York City,
20 or Baton Rouge, Louisiana, and that bond is
21 that we want to live in a community with our
22 families where we feel safe and secure.
23 That's very important to all of us. As
24 parents -- as parents, we want to protect
25 our children, hold them close and protect
26 them from all the evil that exists in the
27 world. Carin and John Thigpen are no
28 different than you or I. They had the same
29 hopes and dreams for their children. Carin
30 and John Thigpen are not wealthy. They
31 lived in a small trailer park north of Lake
32 Charles, north of the interstate. They

1 lived there with five children, five young
2 children. Kaleb was one when this event
3 occurred. Samantha was two; John was six;
4 Allena was eight, and the middle child was a
5 precocious four-year-old by the name of Mary
6 Jean Thigpen. And these five children lived
7 with their parents, going about their day-
8 to-day activities, and living in a trailer,
9 as I indicated, north of Lake Charles.

10 I want to take you back to the date of
11 this offense, November the 12th, 2001. That
12 was Veteran's Day, the public schools were
13 closed on that date; the Catholic schools
14 were open, but the public schools were
15 closed and the children were home that day.
16 And Mary Jean, along with her brothers and
17 sisters, except for the young ones who were
18 too young to play, were playing. They were
19 playing inside the trailer, outside the
20 trailer, different parts of the trailer
21 park; played with the other children; this
22 is something they did on a daily basis.
23 They did what children normally do.

24 On November 12th, Mary Jean and her
25 sister, Allena, who were home on that
26 particular date, played together most of the
27 day. Allena at the time, as I told you, was
28 eight years old. And their mother was home,
29 named Carin. John Thigpen, who is the
30 father of Mary Jean, saw her on that date
31 around 3:00 o'clock, a little earlier on
32 that date, and left the trailer park, and he

1 happened to see her and she asked to go with
2 him and he turned her down. And to this day
3 that haunts her (sic) because he left
4 without her on that particular date. You
5 won't be hearing from John Thigpen because
6 unfortunately just a few months ago --
7 **MR. WARE:**
8 Your Honor, excuse me, may we approach.
9 **MR. BRYANT:**
10 -- he was killed by a drunk driver, so
11 he will not be testi...
12 **[BENCH CONFERENCE]**
13 **MR. WARE:**
14 I object to Mr. Bryant telling the Jury
15 that Mr. Thigpen was killed in an accident
16 by a drunk driver.
17 **MR. BRYANT:**
18 Oh, give me a break. That's why he's
19 not here.
20 **MR. WARE:**
21 Your Honor, I think it was to arouse the
22 passions and the emotions of this Jury.
23 **THE COURT:**
24 Mr. Ware, it wasn't pursuant -- there's
25 been no motion in limine, there's been
26 nothing filed to ask the Court to review
27 this. This was some time ago.
28 **MR. WARE:**
29 And, Your Honor, I did want to talk to
30 the Court this morning, and intended to talk
31 the Court --
32 **THE COURT:**

1 But you had the opportunity, --
2 MR. WARE:
3 No, no, no --
4 THE COURT:
5 -- from a factual standpoint, there was
6 nothing that was said -- I know what the
7 Defense's connotation is to the -- alcohol
8 relation. I would indicate that it was just
9 a traffic accident, something that's not
10 specific facts, and I am going to overrule
11 it, and he is allowed to explain the
12 circumstances as to why he may not be here,
13 and what's going on in that family's life
14 because it may affect the entirety of any
15 testimony that could occur, --
16 MR. WARE:
17 Yes, sir.
18 THE COURT:
19 -- and it is going to be something that
20 obviously will come out at some point, and I
21 don't think it's prejudicial.
22 MR. WARE:
23 Your Honor, my position is that Mr.
24 Thigpen did not testify in the guilt phase
25 of the trial --
26 THE COURT:
27 I didn't hear that part.
28 MR. WARE:
29 Mr. Thigpen did not testify in the guilt
30 phase of the previous trial.
31 THE COURT:
32 Did he testify in the penalty phase?

1 MR. WARE:
2 No.
3 THE COURT:
4 He didn't testify in the penalty phase
5 the last time?
6 MR. WARE:
7 No, sir.
8 THE COURT:
9 Okay.
10 MR. WARE:
11 And, you know, I don't know what
12 happened -- but I do know that he didn't
13 testify. But I don't think that his absence
14 at this trial is relevant to these
15 proceedings. The State has already
16 interjected an arbitrary factor in these
17 proceedings.
18 THE COURT:
19 Has there been a determination on the
20 culpability of the accident? Is that still
21 pending, or has that been determined? I
22 don't know. That's why I'm asking.
23 MR. BRYANT:
24 I don't have any problem saying it was a
25 traffic accident, Your Honor.
26 THE COURT:
27 I just didn't know if it was over.
28 MR. BRYANT:
29 I think it is. I think there's been a
30 determination.
31 MR. FREY:
32 I have not seen the report --

1 COURT REPORTER:
2 I can't hear you, Mr. Frey.
3 MR. FREY:
4 I have not seen the report physically,
5 but I have been told that we have verbal
6 confirmation of the impairment of alcohol
7 and drugs. That's the best I can say it. I
8 don't have a report in hand.
9 THE COURT:
10 Was the driver killed in the accident?
11 MR. FREY:
12 Yes.
13 THE COURT:
14 And there hasn't been any kind of
15 judicial determination --
16 MS. KILLINGSWORTH:
17 No, Judge.
18 MR. BRYANT:
19 No.
20 MS. KILLINGSWORTH:
21 There's not going to be.
22 MR. BRYANT:
23 He's dead.
24 THE COURT:
25 The only thing I will say, is either the
26 Court can do it, or you can rephrase it, and
27 say that he wasn't killed by a drunk driver,
28 but it was an alcohol-related accident,
29 which I think -- because the test results
30 aren't of issue. And I can either say it --
31 MR. BRYANT:
32 I don't know -- I don't know what the

1 difference is.

2 MR. WARE:

3 There is no difference, Judge, and I

4 would ask that the alcohol-related not be

5 allowed.

6 THE COURT:

7 Because I don't have that information

8 before me, then we can move forward. You

9 can say with regard to a traffic accident,

10 and we'll leave it at that.

11 I hate interruptions in opening, --

12 MR. WARE:

13 Yes, sir.

14 THE COURT:

15 -- and I hate interruptions in closing,

16 unless they're absolutely appropriate.

17 MR. WARE:

18 Yes, sir.

19 THE COURT:

20 I mean, obviously you knew that that

21 issue was out there. If you would have

22 considered it --

23 MR. WARE:

24 Yes, sir.

25 MR. BRYANT:

26 It's going to come up through the

27 mother.

28 MR. WARE:

29 I object to that coming up in opening,

30 and they're going to have to resolve the

31 issues.

32 MR. BRYANT:

1 Your Honor, in opening statements, I
2 have the -- I have the right to bring up
3 what evidence when we go to trial. She's
4 going to testify that her husband was
5 killed, and then that's going to come out
6 during the trial.

7 **MR. WARE:**

8 And, Judge --

9 **THE COURT:**

10 And I have that it was a drunk driver
11 related accident, but it hasn't been
12 established that it was a drunk driver.

13 **MR. FREY:**

14 I mean, there's not going to be a
15 Prosecution -- or an investigation because
16 the accused is deceased.

17 **THE COURT:**

18 I want to give the admonishment as to
19 that issue, that a determination has not
20 been made; we only know that he has been
21 killed in a traffic accident. And the Court
22 can admonish the Jury if you so desire.

23 **MR. FREY:**

24 And the driver in the other car was
25 killed.

26 **COURT REPORTER:**

27 What did you say, Mr. Frey?

28 **MR. FREY:**

29 And the driver of the other car was
30 killed.

31 **THE COURT:**

32 I'm just giving the facts -- that's

1 factual, and it's going to be allowed. But
2 no reference of the alcohol, since we don't
3 have that fact at this time, at least I
4 don't.

5 **MR. BRYANT:**

6 Well, you never would. No Judge ever
7 would because he's dead.

8 **THE COURT:**

9 And unless a document was submitted, an
10 autopsy, those kinds of things -- if a
11 hearing would have been requested --

12 **MR. BRYANT:**

13 If you're suggesting that I talk about a
14 traffic accident as opposed to it being a
15 drunk driver --

16 **MR. WARE:**

17 That's inflammatory, Judge, and it's not
18 relevant. And, Judge, I will submit --

19 **THE COURT:**

20 And the charge will contain - at the end
21 of the trial - that they are not to be
22 influenced by any bias, sympathy. They have
23 been previously charged with that and
24 they've been told. That's going to all be
25 covered. Your objection with regard to the
26 statements of the father's death has been
27 overruled. With regard to rephrasing it,
28 the statement for future reference, Mr.
29 Bryant, I think you understand where the
30 Court's at now.

31 **MR. BRYANT:**

32 That's fine.

1 THE COURT:
2 All right.
3 MR. WARE:
4 And, Your Honor, I would argue that the
5 father's death is irrelevant. We can take
6 it up later, but I want to put you on notice
7 now that that's my position.
8 THE COURT:
9 It's argument at this time, it's not
10 evidence.
11 MR. WARE:
12 Right.
13 THE COURT:
14 Opening statements is to get them
15 familiar with the parties, the family. The
16 family process is something that should be a
17 consideration here. The facts of the case
18 can't be discussed.
19 MR. WARE:
20 Which I don't think necessarily that
21 opening is the time necessarily to introduce
22 to the Jury --
23 THE COURT:
24 I'll give you an opportunity to object
25 and to review that at a later time when we
26 don't have the Jury in here, if you would
27 like to, before I make a formal ruling on
28 it.
29 MR. WARE:
30 Yes, sir. I move for a mistrial, Judge.
31 MR. BRYANT:
32 Your Honor, we've spent ten minutes on

1 this -- I mean, I guess I'm going to object
2 during Mr. Ware's opening and bring up
3 every --
4 **MR. WARE:**
5 You have already interjected an
6 arbitrary fact.
7 **THE COURT:**
8 I'm going to finish with opening. We're
9 going to have to take a break because of an
10 evidentiary matter, and I'll give you an
11 opportunity to argue, and your motion will
12 be preserved at that time.
13 **MR. WARE:**
14 Yes, sir.
15 **THE COURT:**
16 Now, we'll handle it then, so that we
17 can go forward with opening.
18 **MR. WARE:**
19 Yes, sir.
20 **MR. WARE:**
21 Another thing, Judge, I respect the
22 State of Louisiana and its Prosecutors. I
23 made the objection -- I didn't use the
24 technical for an objection, "but may we
25 approach," and that's been the standard
26 practice that we indicated as to an
27 objection. And Mr. Bryant kept talking more
28 or less before we could get here, and
29 continued to talk and blurted it out. And I
30 think that he anticipated what my objection
31 would be, and the reason I asked and wanted
32 to approach the Bench. And I would ask that

1 that not happen again.

2 **THE COURT:**

3 Do you understand what he's talking

4 about?

5 **MR. BRYANT:**

6 I don't have a clue what he's talking

7 about. I was in the middle of my closing

8 (sic) arguments.

9 **MR. FREY:**

10 Opening.

11 **MR. BRYANT:**

12 Opening statement. Whatever.

13 **THE COURT:**

14 When he said, "May we approach," you

15 finished the sentence that you were in the

16 middle of, and he wanted to break --

17 **MR. BRYANT:**

18 I didn't even hear -- I didn't hear

19 anything until Your Honor had said

20 something.

21 **THE COURT:**

22 Well, it will be noted, at any time that

23 the Court is brought in, we should cease

24 immediately at that point. All right.

25 **[BENCH CONFERENCE CONCLUDED]**

26 **THE COURT:**

27 Are you ready, Mr. Bryant.

28 **MR. BRYANT:**

29 Yes, Your Honor.

30 Again, Ladies and Gentlemen, going back

31 to November the 12th, of 2001, as I

32 indicated, the children were home on that

1 particular date. At about 3:30 on that
2 afternoon, that was the -- Carin Thigpen was
3 home with her children. She saw Allena, she
4 saw Mary Jean, as they left her trailer and
5 they were gone. They went out to play.
6 While Allena came back, Mary Jean never did.
7 She was gone in the blink of an eye, never
8 again to be seen by her mother or her
9 father, her siblings, her grandparents. She
10 was gone. And it's that disappearance and
11 what happened to Mary Jean on that November
12 12th date that brings us here today and in
13 the trial of this particular case here in
14 Calcasieu Parish.

15 In the courtroom today there are Jurors,
16 there's the Judge, there are the
17 prosecutors, there's the defense team, there
18 are people in the audience, and there is
19 also a murderer among us, Jason Reeves, that
20 sits in that chair, committed the murder of
21 Mary Jean Thigpen, and he sits there today.

22 The State will prove that that defendant
23 that sits at that table was the person who
24 was seen in that particular area earlier
25 that day, and it's the person that on that
26 November 12th date went to McFatter Trailer
27 Park. And it's the person who enticed a
28 trusting four-year-old child into his
29 vehicle and drove off with her, to later
30 murder her.

31 When Carin Thigpen and John Thigpen,
32 later that afternoon, went to search for

1 their daughter, they could not find her.
2 Worry turned to fear, fear turned to panic.
3 They were searching high and low throughout
4 the trailer park looking for their child.
5 They couldn't find her. They didn't know
6 where she was. Other people in the trailer
7 park were assisting as they looked. A
8 massive search began when word got out that
9 this four-year-old child was missing, not
10 knowing if she had wandered off, not knowing
11 if she had drowned, not knowing what had
12 happened to her. People from all over the
13 community, civilian volunteers, law
14 enforcement officers, family members,
15 friends, all were searching for this child,
16 not knowing where this child was at that
17 particular period of time, not knowing that
18 she was in the vehicle of Jason Reeves.
19 The State will show how quickly
20 suspicion turned to Jason Reeves, how
21 quickly he was brought in for questioning by
22 the Calcasieu Parish Sheriff's Office. A
23 car similar to the one that the defendant
24 drove was observed at a school, Holy Family
25 School - that's about three miles from the
26 trailer park - around 3:30 that afternoon.
27 He was seen driving, speaking to some
28 children who were at the school in an area
29 where the vehicle should not have been on
30 that particular date. And due to the alert
31 actions of one of the teachers who observed
32 this and was concerned and saw this vehicle

1 where it shouldn't have been, she took down
2 the license plate number on that particular
3 date. He rapidly became a suspect. They
4 ran the license plate. The license plate
5 came back to a vehicle owned by Jason
6 Reeves. Jason Reeves was then brought into
7 the Calcasieu Parish Sheriff's Office and he
8 was questioned over a period of days. There
9 was questioning concerning what he knew and
10 what happened during this particular case.
11 And you will hear and see videotapes that
12 were -- will be presented to you during this
13 trial. You will hear about statements that
14 were made. Some were not on videotape, they
15 were made to Calcasieu Parish Sheriff's
16 deputies. While the Calcasieu Parish
17 Sheriff's Office was interviewing this
18 defendant, while this was going on, during
19 that period of time, two deputies of the
20 Calcasieu Parish Sheriff's Office, who were
21 near a place called LeBleu Cemetery -- it
22 was a cemetery in a secluded area, a few
23 miles away from where Mary Jean had lived,
24 they found a gruesome discovery. They found
25 little Mary Jean Thigpen. The search was
26 over. She was near the cemetery, in a
27 wooded area. When Mary Jean was last seen,
28 she was wearing a purple sweatsuit and white
29 tennis shoes. Two deputies who found her in
30 the wooded area found this tiny little body.
31 Mary Jean was about three-and-a-half feet
32 tall and weighed 38 pounds, was lying on her

1 back in the woods. She had no bottom on,
2 she had no tennis shoes on. All she had was
3 the top of her purple sweatsuit. And she
4 was obviously dead, from the observations of
5 the deputies that saw her. The coroner will
6 testify that this baby, this child, had been
7 stabbed 16 times. That her throat had been
8 cut from ear to ear. Scientific evidence
9 will show that in her anus was found semen,
10 intact spermatozoa from the perpetrator of
11 that particular crime. That this DNA sample
12 was taken from this child and was sent to
13 the Louisiana Crime Lab in North Louisiana.
14 They also took evidence from the suspect,
15 Jason Reeves, to match or compare and see if
16 it came up to be the same person who left
17 his semen in this child. You will hear
18 scientific testimony and evidence that there
19 was a match between the defendant and the
20 person who committed this crime.

21 The State will produce numerous
22 witnesses, law enforcement officers,
23 civilian -- civilians, experts, who will
24 testify and tell you what role they played
25 in this case. You will hear many witnesses
26 throughout this trial. They are not paid
27 for their testimony, they come in to give
28 you information as to what occurred during
29 the time of this particular incident. Now,
30 some of these people get nervous; some of
31 these people testify for their first time;
32 some people testified numerous times, but I

1 ask you to listen to each one of them and
2 judge their testimony and credibility as you
3 would any other person that you deal with in
4 life. Listen to what they have to say. You
5 cannot take notes so you must listen to what
6 they have to say.

7 You know, it's truly a sad day for all
8 of us to be here to have a trial, and it's
9 sad because I wish that Mary Jean were alive
10 today, but she is not. I wish that her only
11 concern today was going out and picking
12 up -- or deciding what Halloween costume she
13 was going to wear on Sunday night. But she
14 is not here today to do that and that's the
15 reason we are all here today, to determine
16 what happened to her.

17 I ask you to use your common sense. I
18 ask you to listen to the case. I ask you to
19 listen to the evidence that you're going to
20 hear. This is not a TV show. And I know
21 it's a sacrifice for all of you, but it's
22 also about justice for Mary Jean Thigpen.

23 When the indictment was first read to
24 you, we always listened to the term MJT,
25 MJT, that's because she's a juvenile and you
26 can't put her name into an indictment, but
27 she was a real, living human being. And
28 we're here today to bring justice to Mary
29 Jean Thigpen for what was done to her on
30 that November 12th date. And Mary Jean is
31 more than just a name. This is Mary Jean
32 Thigpen.

1 (Photograph shown to the Jury.)

2 MR. BRYANT:

3 This is the child that was murdered by
4 Jason Manuel Reeves. And we are going to
5 ask you at the end of this case to find
6 justice for Mary Jean. Thank you.

7 THE COURT:

8 Mr. Ware, does the Defense wish to make
9 an opening statement?

10 MR. WARE:

11 We do, Your Honor. Thank you.

12 May it please the Court, may it please
13 the State, may it please you, Jason Reeves,
14 and your defense team, and most certainly
15 may it please you, Ladies and Gentlemen of
16 the Jury. Good morning to you. I want to
17 welcome you to Lake Charles. I wish that
18 you could enjoy your visit here under less
19 strenuous circumstances. We took a long
20 time to select this Jury and a lot of hard
21 work on both sides being done. Maybe I
22 should say on all four sides. The Court
23 worked hard, the State worked hard, the
24 Defense worked hard and the Jurors worked
25 hard. And as you know, there's no such
26 thing as a perfect system. But this system
27 -- criminal justice system that we have here
28 in the United States is the best in world.
29 And I'm proud of that system, I'm proud to
30 be a part of that system, and I'm proud to
31 have you on this Jury.

32 Ladies and Gentlemen, Jason Reeves is

1 charged with the commission of first-degree
2 murder, the most serious offense which could
3 be tried in this or any other court. This
4 places upon each one of you the awesome
5 responsibility to weigh the evidence fairly,
6 to make sure that you arrive at a verdict
7 which does justice to my client and to the
8 judicial system.

9 You've just heard an eloquent statement
10 from the Prosecutor, however, I must caution
11 you, that nothing that he has said or will
12 say during the course of this trial is
13 evidence in this case, just as nothing I
14 will say is evidence. The only evidence
15 which you can consider will come -- will
16 come from and through the witness stand,
17 from the witnesses called and give
18 testimony, and who are subject -- subjected
19 to cross-examination. Similarly, the
20 indictment read to you can never be
21 considered as evidence. It is no more than
22 a piece of paper and not proof of anything.
23 Each of you are the sole judges of the
24 facts, what they mean to you and whether
25 they establish Jason -- Jason Reeves' guilt
26 of the charged offense or a lesser offense,
27 beyond all reasonable doubt, or whether they
28 establish his innocence.

29 The Prosecutor has given you his version
30 of what he will try to prove to you. We do
31 not agree with what has -- he has said, and
32 submit to you there will be contradicting --

1 contradictions in the evidence you will hear
2 that will cause you to be unable to find
3 Jason Reeves guilty beyond all reasonable
4 doubt. This case must be decided by the
5 facts as you find them to exist and not by
6 the eloquence of the Prosecutor or the
7 indictment that was read. I submit to each
8 of you that the truth is in the details,
9 which I trust each of you will examine very
10 closely and very carefully. Thank you.

11 **THE COURT:**

12 Are you ready to call your first
13 witness, Mr. Bryant?

14 **MR. BRYANT:**

15 Yes, Your Honor.

16 **MR. WARE:**

17 Your Honor, may we approach the Bench,
18 please.

19 **[BENCH CONFERENCE - WITHOUT REPORTER]**

20 **MR. BRYANT:**

21 We call James McGuire, Your Honor.

22 **THE COURT:**

23 All right.

24 **MR. MCGUIRE:**

25 Richard McGuire.

26 **MR. BRYANT:**

27 I'm sorry.

28 **MR. MCGUIRE:**

29 Richard James McGuire.

30 **MR. BRYANT:**

31 Richard James. I'm sorry.

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RICHARD JAMES MCGUIRE,

being called as a witness on behalf of the
State, after first being duly sworn, was
examined and testified as follows:

THE COURT:

Ladies and Gentlemen, as far as the room
is concerned, can you hear okay? If you
can't, make sure you let me know.

DIRECT EXAMINATION

BY MR. BRYANT:

Q Please state your name for the record.

A Richard James McGuire.

Q Your current occupation?

A I'm the Assistant Director for the Calcasieu
Parish Communications District.

Q And what does that entail?

A It entails the operation of the local 911 service,
and then also dispatching for volunteer fire
departments.

Q All right. Those calls come through your
operation; is that correct?

A Yes, sir, they do. All 911 calls that -- that
originate in Calcasieu Parish come through our center.

Q All right, sir. Did I ask you to obtain a copy of
a 911 call that you received on November the 12th of
2001?

A Yes, sir. I received your letter on March 19th,
2002.

Q All right, sir. And did you in fact obtain the
information I was seeking?

A Yes, sir. We placed it on an audio cassette and
sent it to your office.

1 Q All right. Well, if I were to show you the audio
2 cassette, could you identify it, sir?
3 A Yes, sir, I could.
4 Q I show you State's Exhibit 1.
5 A That is the tape that we provided the District
6 Attorney's Office.
7 Q Did I also ask that you review this tape and
8 compare it to -- let me strike that. How are the
9 calls that come in through 911, how are they
10 preserved?
11 A They are preserved on electronic media. They're
12 in a proprietary format, that necessitates us making
13 copies and not bringing in the original. The original
14 is stored in our office in a locked cabinet inside of
15 a locked storage room. When we go back and review
16 these tapes, we put the original tape in, play the
17 original tape and record it to an audio recorder.
18 Q All right. And by proprietary, you mean it's real
19 big?
20 A It's real big and it's compressed. They take it
21 into a computer compression and compress it down into
22 a tape, to where you can take hundreds of hours of
23 actual talking and radio transmission and put it on a
24 small tape.
25 Q All right. And did I ask you to compare the tape
26 that was brought to court today to the original that
27 you have within your office?
28 A Yes, you did.
29 Q And are they -- is it the exact same information
30 that you have in your office?
31 A Yes, sir, it is an accurate reflection.
32 Q All right.

1 MR. BRYANT:
2 I tender, Your Honor.
3 CROSS-EXAMINATION
4 BY MR. WARE:
5 Q Mr. McGuire, were you working there on November
6 12th, 2001?
7 A No, sir, I was working for the Office of Emergency
8 Preparedness with Calcasieu Parish.
9 Q When did you begin -- when did you begin your
10 employment with the -- and you are the Assistant
11 Director of the Calcasieu Parish Public Safety
12 Commissions District, is that the formal --
13 A Calcasieu Parish Public Safety Communications
14 District. It's a mouthful.
15 Q Public Safety Communications District.
16 A I was hired on February 18th, 2002, and at that
17 point, I was named the Custodian of Records. And the
18 request for this tape came in on March, 2002. So I
19 had been employed with the district for two months at
20 the time of the request of the tape.
21 Q Sir, and what time did the call come in, do you
22 recall? You have a record of that?
23 A I have a copy of the call record for that. The
24 call came in at 5:02 and 25 seconds.
25 Q 5:02:25 seconds.
26 A Yes, sir.
27 Q And, sir, I just want to make sure --
28 A That's p.m. Excuse me.
29 Q I beg your pardon?
30 A That's 5:02 p.m.
31 Q Yes, sir. And I just want to make sure I
32 understand. You -- your agency or this communications

1 district is the what -- is it -- can it be described
2 as the intermediary between the caller and who is
3 ultimately -- after receiving the call -- your
4 district receives the call and then the call is
5 transmitted to --
6 A Yes, sir. The technical name for that is the
7 Public Safety Answering Point. We're at the
8 designated point for Calcasieu Parish. We receive all
9 incoming 911 calls. We take the calls, process it,
10 ascertain what department has jurisdiction, and then
11 we transfer that call to that department.
12 Q Do you recall what time that you transmitted the
13 call to law enforcement?
14 A Based on our CAD entry for the day, that call was
15 routed to the sheriff's office, it looks like right at
16 5:02.
17 Q I'm sorry?
18 A About 30 seconds after the call came in, it was
19 routed to the sheriff's office.
20 Q It was still -- and I understand what you said, it
21 was still -- I guess it was 5:02:55?
22 A Yes, sir, thereabouts.
23 Q And, sir, is this your only involvement in this
24 case?
25 A Yes, it is.
26 Q Okay.
27 MR. WARE:
28 Thank you. I have no further
29 questions.
30 MR. BRYANT:
31 One other question.
32

REDIRECT EXAMINATION

BY MR. BRYANT:

Q There's a gap in this tape -- let me strike that. Do you also record the conversation that goes on between the person that you forward to the sheriff's office and the sheriff's office itself?

A The only time we record that is if the operator is trying to get further information to complete her card. The way our system works, when we receive the phone call, it opens up a line with Bell South and we record the phone line even before the phone starts to ring. When it comes into our office, we take the information, we enter it into our computer-aided dispatch, which is CAD. As we're typing it there -- in this case it was an in-progress, and we transferred that call to the sheriff's office while she was still typing the information in. The CAD, the electronic information, was then transmitted to the sheriff's office for their own dispatcher.

Q But I noticed it stops almost in mid sentence.

A Yes, sir. That's when our -- what we record is our portion of the conversation that our dispatcher has, and when you transfer it over, it's like a conference call. So, essentially, what she does, is you have one line on, she transfers the call to the sheriff's office. She ensures that the sheriff's office has picked it up and completes all the information that she needs to get. That is why a few seconds after it's transferred, you're still hearing the conversation, she is still finishing her card before she transfers it.

MR. BRYANT:

1 Thank you. No other questions, Your
2 Honor.
3 THE COURT:
4 You may step down, sir.
5 [Witness excused.]
6 MR. BRYANT:
7 I call James McGee, Your Honor.
8 JAMES MCGEE,
9 being called as a witness on behalf of the
10 State, after first being duly sworn, was
11 examined and testified as follows:
12 DIRECT EXAMINATION
13 BY MR. BRYANT:
14 Q Please state your name for the record, sir.
15 A James McGee.
16 Q Your current occupation?
17 A I'm the Enforcement Division Commander for the
18 Calcasieu Sheriff's Office.
19 Q All right. Are you also the custodian of the
20 records at the Calcasieu Parish Sheriff's Office?
21 A Of the communications records, yes.
22 Q All right. How long have you been in that
23 capacity, sir?
24 A Three months.
25 Q All right. As custodian of the records, did we
26 make a request of you to obtain a 911 transfer call to
27 the Calcasieu Parish Sheriff's Office on November the
28 12th of 2001?
29 A Yes.
30 Q All right. And did you in fact locate that tape
31 for us?
32 A Yes.

1 Q If you were to see it again, could you identify
2 it?
3 A Yes.
4 Q I'm going to show you an item that I have marked
5 as S-2 for identification. Do you recognize that
6 item, sir?
7 A Yes.
8 Q All right. And what is this item?
9 A It is a tape with the 911 conversation.
10 Q How are the -- how are the original tapes kept in
11 the Calcasieu Parish Sheriff's Office?
12 A The original tapes are kept in a -- in a locked,
13 secure room.
14 Q All right. And was there any way to bring the
15 original tapes to the courtroom, sir?
16 A No.
17 Q Why is that?
18 A It's -- with -- logistically, it would be almost
19 impossible with the -- with the way that the tape is
20 recorded and the way the tape is read -- is played.
21 It's played through a computer and it's pretty
22 difficult.
23 Q All right. Did I ask you when you brought this --
24 were providing this tape, did I ask you to compare it
25 to the original tape that's contained at the Calcasieu
26 Parish Sheriff's Office?
27 A Yes.
28 Q And did you do so?
29 A Yes.
30 Q And this is the exact information that was
31 received on that November 12th date?
32 A Yes.

1 Q All right.
2 MR. BRYANT:
3 Tender, Your Honor.
4 THE COURT:
5 Mr. Ware?
6 MR. WARE:
7 I don't have any questions. Thank you.
8 THE COURT:
9 All right, sir, you may step down.
10 [Witness excused.]
11 MR. BRYANT:
12 We'd introduce at this point S-1 and S-2
13 in the record and ask that they be played to
14 the Jury.
15 MR. WARE:
16 There's no objection, Your Honor.
17 THE COURT:
18 All right. At this time the Court will
19 receive S-1, offered and filed into the
20 record of these proceedings and have it
21 marked accordingly, as well as S-2 be
22 received, both without objection, and filed
23 into the record of these proceedings.
24 [STATE'S EXHIBITS 1 AND 2 RECEIVED AS EVIDENCE.]
25 THE COURT:
26 You asked that they be published at this
27 time?
28 MR. BRYANT:
29 Yes. I have a device.
30 THE COURT:
31 All right. And you're asking that
32 publication be in sequential, S-1 --

1 MR. BRYANT:
2 Yes, Your Honor. The first one will be
3 S-1, the second will be S-2.
4 THE COURT:
5 All right. If you can't hear, make sure
6 you raise your hand and let me know. And,
7 Ms. Monroe, you'll probably be one of my --
8 since -- because you're at the furthest
9 point.
10 [911 TAPE PLAYED.]
11 THE COURT:
12 That was S-1 in its entirety?
13 MS. KILLINGSWORTH:
14 Yes, sir.
15 MR. BRYANT:
16 Yes, Your Honor.
17 MS. KILLINGSWORTH:
18 S-2.
19 [911 TAPE PLAYED.]
20 THE COURT:
21 And that's the entirety of S-2, Mr.
22 Bryant?
23 MR. BRYANT:
24 Yes, Your Honor.
25 THE COURT:
26 The record will reflect that S-1 and
27 S-2, in their entirety, have now been
28 published to the Jury.
29 All right. Ladies and Gentlemen, at
30 this time I'm going to give you a break.
31 You'll be allowed to return back to that
32 room. I think they've made some -- have

1 some things in there if you need them,
2 whatever, but they'll be able to keep up
3 with you with the bailiffs. They can keep
4 me informed. If y'all would stand and let
5 the Jury be excused.
6 **THE BAILIFF:**
7 All rise, please.
8 **[JURY EXITS THE COURTROOM.]**
9 **[RECESS]**
10 **THE COURT:**
11 You may be seated. I didn't give a
12 specific time because there's a number of
13 matters that we need to take up before we
14 bring the Jury back, so I didn't recess for
15 a specific time, but we'll know where they
16 are at, so.
17 Mr. Bryant, it's my understanding with
18 regard to the next witness, we are currently
19 missing an exhibit that was submitted in
20 conjunction with a pretrial hearing.
21 **MR. BRYANT:**
22 That's my understanding, Your Honor. I
23 didn't do a lot of pretrial hearings, so
24 I'll let Ms. Killingsworth --
25 **THE COURT:**
26 All right.
27 **MS. KILLINGSWORTH:**
28 Okay. What, Your Honor?
29 **MR. BRYANT:**
30 They had a pretrial hearing on the --
31 **MS. KILLINGSWORTH:**
32 Yes, sir, it occurred on June 28, 2004.

1 It was a motion to determine whether or not
2 the vehicle line-up shown by Cinnamon
3 Salvador to Carin Thigpen would be
4 admissible in court. The ruling was on June
5 28th as was the hearing. Since the Defense
6 bore the burden of proof, we allowed them to
7 use the original photograph used in that
8 line-up, and it was introduced by the
9 defense as Defense Exhibit 1.

10 **THE COURT:**

11 As Defense?

12 **MS. KILLINGSWORTH:**

13 Yes.

14 **THE COURT:**

15 All right. Mr. Ware, you recall --
16 because, in fact, you filed a motion to
17 suppress the photographic line-up after the
18 State had placed you on notice of their
19 intent to use that information. That's when
20 the hearing was had and the documents
21 reviewed. The Court made a decision and
22 those were introduced into evidence.

23 **MR. WARE:**

24 Yes, sir. I've just sent Mr. Decloutte
25 to retrieve our file. We're keeping
26 individual files on each individual motion
27 that is filed by either side. And Mrs.
28 Killingsworth asked me whether or not we had
29 the photograph, and I told her I didn't
30 think we did, but we would check. And I
31 called my office before court convened and
32 all and had someone look into that one

1 particular file folder, and we do not have
2 the original of that photograph. I recall
3 the original being displayed and used during
4 the hearing on that issue. We don't have
5 it, and I know -- I will say that I know
6 that it existed at one time because it was
7 entered into the court's records.

8 THE COURT:

9 And I received word, informally, at this
10 time, that the clerk's office does not have
11 it in the record of these proceedings, and
12 at this point it's not been located. Do we
13 have duplicate originals --

14 MS. KILLINGSWORTH:

15 No, sir, --

16 THE COURT:

17 -- of the photograph?

18 MS. KILLINGSWORTH:

19 -- not to my knowledge.

20 MR. FREY:

21 We are at this time having a duplicate
22 printed. It has not been done yet. But we
23 have contacted the sheriff's office to have
24 the reproduction of the picture that we
25 showed Ms. Thigpen. It will not have on it
26 where she's initialed or indicated anything,
27 but it will be an exact reproduction of the
28 picture that was introduced into the record.
29 I can't tell you how long that's going to
30 take, either. I can try to find out, but
31 it's being done at this moment.

32 THE COURT:

1 I note that there were -- I think I had
2 xerox copies with the notice of intent, --
3 MS. KILLINGSWORTH:
4 Correct.
5 THE COURT:
6 -- of actually three photos that were
7 submitted to the Defense initially. I'm not
8 certain which one it was. I believe from
9 what --
10 MS. KILLINGSWORTH:
11 I've got it marked.
12 THE COURT:
13 -- the notes, the only -- the top
14 one --
15 MS. KILLINGSWORTH:
16 Yeah.
17 THE COURT:
18 Correct.
19 MS. KILLINGSWORTH:
20 That's my handwriting, Judge.
21 THE COURT:
22 All right.
23 MS. KILLINGSWORTH:
24 But since there were more, I wanted to
25 make sure the Defense had all of them.
26 THE COURT:
27 All right. How long do you expect for
28 that file to be here, Mr. Ware?
29 MR. WARE:
30 Five minutes or less.
31 THE COURT:
32 In the interim, also there's been a

1 request that the rule of sequestration be
2 invoked by the Defense.

3 The Court notes at this time that the
4 parties had indicated that any witnesses
5 that were present were going to be remaining
6 out of the courtroom, but the Court would
7 put each of the parties on notice to notify
8 their respective witnesses that they are,
9 unless they are exempt for one of the
10 various reasons, of which the burden will be
11 on the party making that exemption, --

12 MS. KILLINGSWORTH:
13 We are.

14 THE COURT:
15 -- that they be kept out of the
16 courtroom and out of the presence of the
17 testimony, so that they will be called.

18 MR. BRYANT:
19 The only exception to the rule, Your
20 Honor, we'd ask that both sides'
21 investigators be allowed to speak to the
22 witnesses.

23 [Ms. Killingsworth speaking with Mr. Bryant.]

24 MR. BRYANT:
25 We'd just ask that the investigators be
26 allowed to have contact with the various
27 witnesses on both sides.

28 THE COURT:
29 Mr. Ware?

30 MR. WARE:
31 Yes, sir. And I would join that.

32 THE COURT:

1 All right. Then the Court -- other than
2 the attorneys, the investigators will also
3 be allowed to communicate with the
4 witnesses, but they will be advised, amongst
5 themselves, not to talk about the case, not
6 to talk about any testimony; only to deal
7 with the parties and the investigators
8 representing the various entities.

9 MR. WARE:
10 Right. And, Your Honor, I would request
11 that --

12 THE COURT:
13 And because I don't have them all here,
14 do we need to state them for the record, or
15 are the parties comfortable that they will
16 be able to handle that?

17 MS. KILLINGSWORTH:
18 We can handle it.

19 MR. WARE:
20 The same here, Judge.

21 THE COURT:
22 All right.

23 MR. WARE:
24 And, Your Honor, of course, I would ask
25 that the investigators or no one be
26 permitted to tell the sequestered witnesses
27 what's happened and been said and done in
28 the courtroom.

29 MS. KILLINGSWORTH:
30 Well, that's part of the sequestration,
31 Mr. Ware. We understood that.

32 MR. WARE:

1 And I understand that.

2 **THE COURT:**

3 Understood. And the record's clear with

4 regard to that.

5 Now, also, during the course of the

6 State's opening, an objection was made,

7 specifically referenced by Mr. Bryant, that

8 the father was -- would not be here because

9 he was killed by a drunk driver. There had

10 been an objection made. Discussion was made

11 at the Bench. Quite often those recordings

12 are poorly made. I would ask at this time,

13 Mr. Ware, that you would re-urge, out of the

14 hearing of the Jury, your specific position.

15 **MR. WARE:**

16 Your Honor, obviously the Defense knew

17 that Mr. Thigpen was killed four to six

18 weeks ago - I've lost track of time, it

19 seems - in an automobile accident, and there

20 was some evidence of alcohol being involved

21 on the part of the -- not Mr. Thigpen, but

22 the other driver. As I understand it, and

23 remember it, it was a three-vehicle

24 accident, and the driver that actually

25 caused the accident was suspected to have

26 been under the influence of alcohol at the

27 time of the accident. But, Your Honor, I

28 don't think -- it's my position, that Mr.

29 John Thigpen's death is, of course, a tragic

30 event, and just further, you know, stress

31 and distress on the family. I certainly

32 realize that, and I'm sensitive to that.

1 But I don't think his absence at this trial
2 is relevant to these proceedings, and by the
3 State talking about that or telling the Jury
4 about his death, it interjected an arbitrary
5 factor into these proceedings at the opening
6 statement. It was designed to elicit
7 passion and emotion, the Jury's passion and
8 emotion, and I -- it's improper.

9 Your Honor, I move for a mistrial, based
10 on the State's statements that we're talking
11 about -- talking about Mr. Thigpen's death.
12 I think it was totally unnecessary. And I
13 knew that it would be something we would
14 have to deal with at some point. I
15 certainly didn't anticipate or expect the
16 State to make that statement part of their
17 opening statement. And I will note that Mr.
18 Thigpen did not testify in the guilt phase
19 of the first trial, and I had no reason --
20 and, of course, I knew that he wouldn't
21 testify in the guilt phase or even the
22 penalty phase of this trial. But I just
23 think that it was an intentional attempt to
24 evoke the passions and emotions of this
25 Jury, and to prejudice Mr. Reeves.

26 THE COURT:

27 Response, Mr. Bryant?

28 MR. BRYANT:

29 First, Your Honor, the fact that
30 Mr. Thigpen did not testify at the first
31 trial, I'll state for the record, he was
32 incapable of testifying at the first trial.

1 He was more than an emotional wreck, he
2 simply could not even stay in the courtroom.
3 We certainly wanted him to testify at the
4 first trial because he saw his daughter as
5 he exited from the trailer park; we wanted
6 to use that testimony. It's been some two
7 or three years since then, John has been --
8 went to the Legislature and stuff about
9 rights for children and that type of thing,
10 and there's been a dramatic turn. He was
11 going to testify for us. The fact of the
12 matter that he's not here, I think the
13 Jury's entitled to know, and that's why I
14 brought it up. The manner of his death, you
15 know, I guess I could have said traffic
16 accident, killed over a drunk driver, but
17 the fact that he is deceased is designed to
18 show why he would not be testifying.
19 Jurors, in their mind, may wonder why the
20 father is not even going to testify when he
21 last saw his child. We're going to bring
22 that up during the case through his wife.
23 It's going to come out. It's evidence
24 that's going to be presented during the
25 trial itself. The fact that he was killed,
26 how that in some way prejudices the
27 defendant's rights, I don't know, since it's
28 going to come up during the -- during the
29 testimony of our next witness, who is going
30 to testify to that. We'll certainly
31 instruct her not to -- I think Your Honor
32 made it clear, since there's not a judicial

1 finding of intoxication, even though the
2 State is well aware, through verbal
3 communications, that that did exist, that we
4 will instruct her that she can only give
5 that limited information as to the cause of
6 his death. But that would be no different,
7 Your Honor, from having an -- having
8 someone in the lab who died or moved away,
9 or someone who is a witness who could
10 testify is no longer present. We're always
11 allowed to indicate why they're not here.
12 And the fact of the matter is, I brought it
13 up in the closing -- I mean, the opening
14 statements, Your Honor, basically because it
15 is in fact -- it is true. And we're talking
16 about, during opening statements, the
17 initial part, mother, father, children,
18 they're missing, why they're not there, why
19 they're not testifying. That is the only
20 witness who was missing who would not be
21 able to testify, and that's why that
22 information was brought up at that time,
23 and, again, it's going to be brought up
24 during the trial. I don't see anything
25 objectionable about mentioning that the
26 father in this particular case was killed.

27 **MR. WARE:**

28 Your Honor, I would object. Part of my
29 objection is the way that it was
30 sensationalized. We've had cases where
31 witnesses were unavailable because of death,
32 and that was how it was presented to a Jury.

1 And that could have been done very easily in
2 this case. But the way it was
3 sensationalized, even though I made an
4 objection, and throughout the course of
5 these proceedings, up to this time, we've
6 always -- both sides have said, you know,
7 indicated to the Court, that if we had an
8 objection, by advising the Court or asking
9 the Court, "Your Honor, may we approach?"
10 We've done that for the last twelve days
11 that we've been selecting this Jury, and
12 that's the way it's been done, and that's
13 the way I did it here today.

14 Mr. Bryant talked past me making that
15 comment to the Court and made sure that he
16 told this Jury that Mr. Thigpen was killed
17 by a drunk driver. Now, that is
18 sensationalism without question. And, Your
19 Honor -- and it does elicit or heighten the
20 compassion and emotions that this Jury may
21 have for this family. That's how it affects
22 Mr. Reeves. This family has suffered two
23 great tragic loses. Mr. Reeves had nothing
24 to do with the second loss, or the loss of
25 Mr. John Thigpen. But, Your Honor, it's
26 going to have a carry-over effect such that
27 it will impact Mr. Reeves. I wish neither
28 of these events, these deaths, had taken
29 place, but they have. And, Judge, to
30 sensationalize Mr. Thigpen's death is beyond
31 the -- way over the top, and it was done
32 with an intended effect, and that's what --

1 that's what has happened. And, Your Honor,
2 I would suggest to the Court that a mistrial
3 is in order. The State has interjected an
4 arbitrary factor into the proceedings
5 already. And I know that the Court will
6 instruct the Jury, in due time, that they
7 are not to decide this case based on emotion
8 and passion. Well, that's fine, but they
9 get to sit here with all those things until
10 that time, and I don't know if that can be
11 overcome, but I'd move for a mistrial.

12 THE COURT:

13 All right. Counsel, first, there's a
14 number of matters that the Court's called
15 upon to rule upon.

16 Initially, it is noted, that based on
17 the -- at least the factual content, as the
18 Court's aware of it, the father was one of
19 the last parties to see the victim alive.
20 He is not going to be here. The Court finds
21 it very relevant that the Jury understand
22 why he is not going to be here.

23 Therefore, with regard to the
24 argument -- the statements with regard to
25 the father's death, I do find that they are
26 relevant..

27 And now moving on to Article 403 of the
28 Code of Evidence. It's noted that the Court
29 would evaluate whether any probative value
30 or any prejudicial value would outweigh any
31 probative value.

32 The Court finds that it is appropriate

1 to explain his absence, and that the
2 explanation of him dying in a car wreck
3 would exceed any prejudicial or emotional
4 effect of the father's death being
5 accumulated with regard to this family's
6 grief.

7 I do not find the prejudicial value to
8 exceed the probative value, so, therefore,
9 find that the evidence is appropriate.

10 I do not have any information
11 specifically before the Court, nor has it
12 been introduced, nor has any objections ever
13 been made by the Defense with regard to a
14 motion in limine, nor a notice of intent to
15 submit that information, that he was killed
16 as a result of a drunk driver. It is
17 obvious that he was in a traffic accident.
18 The newspapers, as well as all of the
19 information that the Court received on an
20 informal basis, did indicate that alcohol
21 was involved, and the accident was of no
22 fault at all to the decedent, the father.
23 However, the Court would -- at this time
24 would indicate that if the defendant so
25 requires, it will re-urge, indicating that
26 while the father was killed approximately
27 two months ago in a traffic accident, that
28 the specific cause of that accident is not
29 of concern to you and not to be considered
30 in this case. If they request that
31 admonition, the Court will give it. It will
32 also re-urge that the father was killed, and

1 the proximity that he was killed, but that
2 will be the defendant's position.

3 With regard to the mistrial, the Court
4 reviews Article 770 of the Code of Criminal
5 Procedure, Article 771 of the Code of
6 Criminal Procedure, and 775, noting that the
7 mandatory mistrial elements are not --
8 clearly not contained in this. The question
9 is whether or not the statement would be --
10 it would be impossible for the defendant to
11 obtain a fair trial. The Court finds that
12 there is no surprise. There have been
13 discussions. Obviously, it was known that
14 this was going to come about at some point.
15 Nothing was asked that it be peremptorily
16 addressed by the Court, and only when
17 explained to the Jury the absence of the
18 father, was the issue raised by the
19 defendant.

20 I would deny the mistrial, finding that
21 there is nothing established that would show
22 that the defendant cannot receive a fair
23 trial in this matter. Specifically also
24 noting that each of these Jurors have had
25 extensive voir dire. They've all indicated
26 that they would accept the law as given to
27 them by the Court as part of the final
28 instructions specifically that will apply to
29 this case: As Jurors, you will not be
30 influenced by sympathy, passion, prejudice,
31 bias or public opinion. You are expected to
32 reach a just verdict. These Jurors, as I've

1 indicated before, have been through an
2 extensive amount of voir dire. Their
3 fairness is not at issue. Their
4 impartiality is not at issue. Therefore,
5 the Court finds that in the totality, there
6 is no argument to sustain the defendant's
7 inability to obtain a fair trial in this
8 matter, based on the statement of the
9 father's absence.

10 MR. WARE:

11 Your Honor, we would respectfully object
12 to the Court's ruling and ask that our
13 objection be noted for the record. And I've
14 got to make sure that the bases for the
15 objections are still continuing and
16 recognized by the Court and understood by
17 all parties and the Court and the Clerk,
18 obviously. I'd like to get that assurance.

19 THE COURT:

20 If you would want to re-urge them
21 formally at this point, then we'll note that
22 that would be your continuing grounds, if
23 you want to reference the appropriate
24 amendments. We'll make certain we didn't
25 leave anything in Baton Rouge, Mr. Ware.

26 MR. WARE:

27 I don't think I did, Judge. I've got
28 all my clothing articles and items and other
29 things. Excuse me one --

30 MR. BRYANT:

31 Your Honor, may I step out of the
32 courtroom. There's another witness that has

1 to be here. I think Mr. Frey can handle it.
2 THE COURT:
3 That's fine.
4 MR. FREY:
5 Sure. And for the Court's information,
6 that photograph that I mentioned, the
7 duplication of the line-up that was shown to
8 Ms. Thigpen, I am told has been printed and
9 is being picked up and is on its way to court
10 at this moment, --
11 THE COURT:
12 All right.
13 MR. FREY:
14 -- if the clerk can't locate the
15 original.
16 THE COURT:
17 Very good.
18 MR. FREY:
19 They'll have to agree on what we are
20 going to do with it and how we're going to
21 handle it, but I'm just letting you know for
22 a time frame.
23 THE COURT:
24 All right. I do understand also, Mr. Ware,
25 I think we need to be clear, while
26 many of the objections will be carried over
27 to the full extent, if you have some
28 specific jurisprudence -- because much of
29 the jurisprudence that was contained in
30 prior objections had to do with voir dire
31 and challenges --
32 MR. WARE:

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Yes, sir.

THE COURT:

-- and evaluations which may not apply to other issues. But I do understand the Federal Constitution, the amendments and the Louisiana counterparts, if you would like to state those for the record.

MR. WARE:

Yes, sir. The objection's made pursuant to the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the United State -- United States Constitution. And Article One, Sections Two, Three, Five, Thirteen, Fourteen, Sixteen, Seventeen, Twenty, Twenty-two and Twenty-four of the Louisiana Constitution.

THE COURT:

So noted.

MR. WARE:

And, Your Honor, I would also -- I would ask the Court to advise the Jury to disregard the remarks of Mr. Bryant regarding alcohol-related death.

THE COURT:

All right. The statement I read, is that appropriate, Ladies and Gentlemen? "I'm here to advise that the father was killed approximately two months ago in a traffic accident. The specific cause of that is not of any concern to you and you should disregard any reference by the State as to the cause of that accident."

1 MR. WARE:
2 That's fine.
3 MR. FREY:
4 It's Acceptable.
5 MR. WARE:
6 Judge, I didn't hear Mr. Frey's comments
7 about the photographs, but just let me say
8 this for the record. We have pulled our
9 file and we don't -- it's here in court, and
10 we don't have that photograph in our
11 possession.
12 MR. FREY:
13 And, Mr. Ware, my comments on the
14 photograph were, I am informed that the
15 sheriff's department has reprinted, from
16 their negatives, an exact copy of the photo
17 line-up that was shown to Ms. Thigpen that
18 was introduced here in Court. Obviously it
19 won't have any comments or indications that
20 were on the original because those were not
21 on the negative, and it is on its way to
22 court at this time. So it should be here
23 within the next five to ten minutes, it is
24 my understanding.
25 MR. WARE:
26 And, Your Honor --
27 MR. FREY:
28 And I also indicated we'd have to
29 discuss how we're gonna handle that because
30 it is obviously not the one that she looked
31 at and initialed. And we'll have to discuss
32 how the Court and the Defense want to handle

1 that. If you want to tell the Jury it's
2 been misplaced, we can do that.

3 MR. WARE:
4 Your Honor -

5 MR. FREY:
6 We'll discuss all that.

7 MR. WARE:
8 Well, let's do that. I'm prepared to
9 address it.

10 MR. FREY:
11 Okay.

12 MR. WARE:
13 Your Honor, it appears to me, and
14 correct me if I'm wrong, that this will come
15 in as a duplicate original.

16 MR. FREY:
17 It is a duplicate original, except that
18 it does not contain any comments,
19 signatures, dates.

20 THE COURT:
21 Witness notations that occurred during
22 the pretrial hearing.

23 MR. WARE:
24 Exactly. And I don't object to that. I
25 don't object to the Court or the State -
26 well, I'd prefer the Court to do it -
27 advising the Jury that the original that has
28 been used and presented in court on other
29 occasions has been misplaced, and that this
30 is -- you're to consider this as the
31 original, and things along that line, and I
32 don't mind that.

1 MR. FREY:

2 And, Judge, I wouldn't want to try to
3 embarrass the clerk's office, either. You
4 don't have to say misplaced, as far as I'm
5 concerned. If you want to just say it's not
6 available, or whatever.

7 MR. WARE:

8 That's fine.

9 THE COURT:

10 Mr. Ware, this is what I would suggest,
11 and this may be the appropriate time for it,
12 the Court to give an admonition, that with
13 regard to many of the exhibits -- many, if
14 not all of the exhibits, have come through
15 the court system in pretrial hearings
16 previously, and as such, may have either
17 markings on them or whatever, and because of
18 our familiarity and they're filed into the
19 record at those times, many of those will
20 come before the Jury. However, one of the
21 exhibits at this point cannot be located and
22 we're using a duplicate original, without
23 objection. That way we can bring in the
24 other concern you had with regard to the
25 evidentiary matter without drawing immediate
26 attention to those areas. Are you satisfied
27 with that, Mr. Ware?

28 MR. WARE:

29 I'm satisfied with that, Your Honor.

30 MR. FREY:

31 And with regard to the -- I'm satisfied
32 with that. But I would suggest, with regard

1 to the duplicate original, that prior to us
2 doing that, I'll show it to Mr. Ware and the
3 defense team and Ms. Thigpen, and you can
4 indicate to the Court that both sides have
5 agreed that it is a duplicate of what was
6 originally shown to Ms. Thigpen, if, in
7 fact, that is --
8 **MR. WARE:**
9 That's fine.
10 **MR. FREY:**
11 -- the consensus we come to.
12 **MR. WARE:**
13 And that I have no problem with, Your
14 Honor; I agree with that.
15 **THE COURT:**
16 So noted. At this time, I guess, let's
17 take a 15-minute break for staff. We should
18 have everything. When it comes in, if y'all
19 would look at the photograph and see if you
20 can informally agree as to its content, and
21 then we will move forward.
22 [RECESS]
23 **THE COURT:**
24 Mr. Bryant, it's my understanding we
25 obtained a duplicate original of the
26 photograph, less any specific notations made
27 by the witness during the course of the
28 pretrial hearing.
29 **MR. BRYANT:**
30 That's my understanding, Your Honor. If
31 I may, Ms. --
32 **THE COURT:**

1 And I think the defense team has seen
2 it.
3 **MR. WARE:**
4 That's correct, Your Honor.
5 **THE COURT:**
6 Is there any objection to that being
7 submitted through the next witness?
8 **MR. WARE:**
9 No, sir.
10 **THE COURT:**
11 All right. I was going to give you an
12 indication and see if there's any objection,
13 this is what I plan on stating, but not
14 until it's fixing to be offered, at that
15 point. But it would be: As with any trial,
16 specifically one of this seriousness, many,
17 if not all, of the exhibits have been
18 previously reviewed and introduced for
19 various reasons at pretrial hearings, and
20 the markings on those items should be
21 disregarded, since it's only their
22 acceptance in this trial and the reasons
23 that they are submitted that should be of
24 concern to them. I tell you this because
25 one of the earlier exhibits has been --
26 let's see -- is unavailable, that's why.
27 Because one of the other exhibits is
28 unavailable and a duplicate original has
29 been substituted, without objection, at this
30 time for your consideration.
31 **MR. FREY:**
32 Your Honor, --

1 **THE COURT:**
2 Sufficient?
3 **MR. FREY:**
4 Well, I thought we had agreed that you
5 would tell them that it was stipulated that
6 it is a duplicate original, because the
7 defense team has stipulated to that, and Ms.
8 Thigpen has identified it as a duplicate
9 original of the photo line-up that she
10 looked at that was previously introduced
11 that cannot now be located.
12 **MR. WARE:**
13 We would so stipulate.
14 **THE COURT:**
15 All right. In addition, the Court will
16 give the admonishment with regard to the
17 other issue having to do with the opening
18 statement.
19 **MR. WARE:**
20 No, sir.
21 **THE COURT:**
22 No, sir?
23 **MR. WARE:**
24 I'm sorry. What did you ask me? Do I
25 have anything else to --
26 **THE COURT:**
27 No. I said, in addition to that, when
28 it becomes appropriate, on the photograph,
29 the Court will initially, when they're
30 brought in, give the admonishment with
31 regard to the opening statement --
32 **MR. WARE:**

1 Oh, yeah.
2 THE COURT:
3 -- issue as to the cause of Mr.
4 Thigpen's death.
5 MR. WARE:
6 Well, Judge, are you going to do it as
7 soon as they get back in, is that what
8 you're saying, --
9 THE COURT:
10 Correct.
11 MR. WARE:
12 -- or before the next witness is called?
13 THE COURT:
14 Correct.
15 MR. WARE:
16 Yes, sir. That's part -- that's --
17 THE COURT:
18 And then I didn't plan on doing the
19 other one until it actually became pertinent
20 with regard to that photograph, --
21 MR. WARE:
22 Right.
23 THE COURT:
24 -- so that they could understand --
25 take it in context.
26 MR. WARE:
27 I thought you asked -- I thought you
28 asked, did I have any problem with that one?
29 And the answer is, no, sir, I don't.
30 THE COURT:
31 No, no, I just want to make certain that
32 you -- after you thought about that other

1 admonition, you wished for me to go ahead
2 and make that originally when they come back
3 in.
4 MR. WARE:
5 Yes, sir.
6 THE COURT:
7 All right. That'll be done. We're
8 ready to proceed?
9 MR. BRYANT:
10 Yes, Your Honor.
11 THE COURT:
12 If you'll bring the Jury back in.
13 Mr. Bryant, who is our next witness?
14 MR. BRYANT:
15 Ms. Thigpen, Your Honor.
16 THE COURT:
17 Do you anticipate her going in excess of
18 an hour?
19 MR. BRYANT:
20 No, not for our examination.
21 THE COURT:
22 Understood.
23 [JURY SEATED IN THE COURTROOM.]
24 THE COURT:
25 Does that room seem small with all 16 of
26 you in there sometimes?
27 [Laughter].
28 THE COURT:
29 At least you have a window, so that's
30 nice. See, the courtroom doesn't have a
31 window because I don't think it -- we don't
32 want anybody looking off. That may be for

1 the Court more than anyone else, to daydream
2 and wish they were outside and about.
3 I do have something I'd like to say
4 before we call our next witness, Ladies and
5 Gentlemen.
6 Early on, I told you that there would be
7 maybe some things that I tell you to
8 disregard and not to consider. I am here to
9 advise you that the father of the victim was
10 killed in a traffic accident approximately
11 two months ago, but the specific cause of
12 that accident is not of any concern to you,
13 and any references to that accident should
14 be disregarded as to causation, other than
15 to explain the absence of the father. All
16 right. Are we ready to proceed, Mr. Bryant?
17 MR. BRYANT:
18 Yes, Your Honor.
19 THE COURT:
20 Mr. Ware?
21 MR. WARE:
22 Yes, sir, we are.
23 THE COURT:
24 All right. If you'd call your next
25 witness, please, sir.
26 MR. BRYANT:
27 We call Carin Thigpen, Your Honor.
28 CARIN THIGPEN,
29 being called as a witness on behalf of the
30 State, after first being duly sworn, was
31 examined and testified as follows:
32 THE COURT:

1 Before we commence, can Counsel
2 approach, please. I just need to clarify
3 something.

4 [BENCH CONFERENCE - WITHOUT REPORTER]

5 THE COURT:

6 Ladies and Gentlemen, from an exercise
7 standpoint, I need you to go back to the
8 room for a few minutes. It will not be very
9 long, but there is something I need to take
10 up.

11 [JURY TAKEN OUT OF THE COURTROOM.]

12 THE COURT:

13 Ladies and Gentlemen -- and I apologize,
14 because it's the Court's - you may have a
15 seat - the Court's fault that it's not been
16 taken care of up to this point.

17 It's noted the rule of sequestration has
18 been invoked, however, there's some unique
19 matters to this case that I want to make
20 sure that the record specifically speaks of.

21 Under Article 615 of our Code of
22 Evidence, it indicates that on motion of any
23 party, the witnesses will be excluded from
24 the courtroom or placed where they can see
25 or hear the proceedings and refrain from
26 discussing the facts of the case with anyone
27 other than counsel, and in this instance,
28 with respective investigators, and then only
29 if they so desire. It is also noted, that
30 not only will they not be allowed to discuss
31 the facts, but the witnesses are to be
32 advised that there should be no comments

1 that this is a second trial or that there
2 was, in fact, a mistrial that occurred
3 previously. And there has also been a
4 specific order entered with regard to
5 references to either the Public Defenders'
6 Office or an Indigent Defender being
7 appointed or being involved in the
8 representation of the defendant. And all
9 witnesses are to be advised of those factors
10 in addition to the facts of this case, not
11 to speak of that when they are on the
12 witness stand. Does that sound
13 satisfactory, Mr. Bryant?

14 **MR. BRYANT:**

15 Yes, Your Honor. I will -- we'll do a
16 general instruction, and as each Juror (sic)
17 comes in, I'll step up to them and remind
18 them before they take the witness stand.

19 **THE COURT:**

20 All right. Mr. Ware, you can advise
21 your witnesses?

22 **MR. WARE:**

23 Your Honor, I've just noticed that I
24 have been derelict. Ms. Reeves is in the
25 courtroom and she may be a fact witness in
26 this portion of the trial. I anticipate the
27 likelihood of her being called in the
28 penalty phase of this trial, and I would ask
29 that she be excused right now --

30 **THE COURT:**

31 All right.

32 **MR. WARE:**

1 -- from the courtroom, and that she not
2 be denied the right to testify.
3 **THE COURT:**
4 Mr. Bryant, any objection?
5 **MR. BRYANT:**
6 I didn't hear the request, Your Honor.
7 **THE COURT:**
8 They request she not be disallowed
9 from --
10 **MR. BRYANT:**
11 No.
12 **THE COURT:**
13 -- testifying, since she was present
14 with regard to the --
15 **MR. BRYANT:**
16 No objection.
17 **THE COURT:**
18 All right. And, Ms. Reeves, you
19 understand the rule of sequestration, the
20 purpose of it, and as such, you would be
21 excused from the courtroom at this time from
22 this point forward. And you will be -- if
23 you are called as a witness, you'll be
24 brought in under the same rules and
25 conditions as all the other witnesses, but
26 you will not be allowed to sit in the
27 courtroom while this matter is -- while we
28 are ongoing and taking testimony. And you
29 can talk to the attorneys and/or their
30 investigators but not about testimony that's
31 heard, but only about your position with
32 regard to these matters. Anyone else, Mr.

1 Ware?
2 MR. WARE:
3 No, sir.
4 THE COURT:
5 All right. Are you satisfied with that
6 sequestration and the inclusion -- including
7 the matters that you were concerned with
8 previously during voir dire?
9 MR. WARE:
10 Yes, sir, I'm satisfied.
11 THE COURT:
12 All right. And it is noted that under
13 Article 615, the parties that are exempt
14 from that rule are specifically enumerated,
15 and the Court acknowledges that. And each
16 party, if they feel that they have a witness
17 that is excludable, the burden would be on
18 them to establish they fall within one of
19 those exemptions.
20 All right. If we could bring our Jury
21 back now.
22 [JURY SEATED IN THE COURTROOM.]
23 THE COURT:
24 You placed the witness under oath?
25 MADAM CLERK:
26 Yes, sir.
27 THE COURT:
28 All right. You're under oath, Ms.
29 Thigpen. Mr. Bryant.
30 DIRECT EXAMINATION
31 BY MR. BRYANT:
32 Q Please state your name for the record.

1 A Carin Thigpen.
2 Q And, Carin, where do you live at this time?
3 A I live in Ragley, Louisiana.
4 Q Ragley?
5 A Uh-huh (yes).
6 Q You probably need to speak up because you're very
7 soft-spoken and everybody cannot hear you. Okay?
8 A Okay.
9 THE COURT:
10 And I need "yes's or no's," please.
11 A Yes, sir.
12 Q How long have you lived there?
13 A Not quite a year.
14 Q Okay.
15 A Just under a year.
16 Q That's good. Okay. I want to ask you and call
17 your attention to November of 2001. Where were you
18 living at that time?
19 A I was living in a trailer park in Moss Bluff.
20 Q Okay. And as of November the 12th of 2001, how
21 long had you lived in that trailer park?
22 A Not very long. We had recently moved back here
23 from Texas, maybe a month or two.
24 Q Okay. And who lived with you in the trailer
25 park, --
26 A Ah --
27 Q -- in the trailer itself? I'm sorry.
28 A I did, my husband, and my five children. My
29 mother and my sister were staying there also.
30 Q Okay. What was your husband's name?
31 A John Thigpen.
32 Q Okay. And you recently lost John about two months

1 ago; is that correct?
2 A Yes, sir.
3 Q Okay. You indicated that there were other adults
4 in the trailer; is that correct?
5 A Yes, sir, my mother and my sister.
6 Q And what are their names?
7 A Alice Dalton and Christine Pratt.
8 Q Okay. And you had five children; is that correct?
9 A Yes, sir.
10 Q Okay. And, again, you've got to speak loud. That
11 does not amplify.
12 A Okay.
13 Q If you can, going back to 2001, can you give me
14 their names and ages at that time?
15 A My daughter -- my oldest daughter, Allena, was
16 eight. My oldest son, John, the III, was six. I
17 believe Samantha had just turned three in October that
18 year. And my son -- youngest son, Kaleb, was one.
19 Q And what about Mary Jean?
20 A She was four.
21 Q Okay. Now, did you work at this time?
22 A Yes, I did.
23 Q Where did you work?
24 A Sonic Drive-in.
25 Q Okay. And on that particular November the 12th
26 day, were you working on that date?
27 A No, I was not.
28 Q Why not?
29 A I had the day off.
30 Q Okay. What about your children, were they in
31 school that day?
32 A No, they were not.

1 Q Why not?
2 A It was a holiday.
3 Q Were they home with you?
4 A Yes, they were.
5 Q All five children?
6 A Yeah.
7 Q I want to refer specifically to Mary Jean. At
8 this time was she attending school?
9 A No.
10 Q So she was at home with you; is that correct?
11 A Yes.
12 Q I want to go into the afternoon hours. Can you
13 tell me what she was doing during the afternoon on the
14 November 12th date?
15 A She was playing.
16 Q And where did she normally play?
17 A Normally, they would play in the front yard. Or
18 they would go down and visit a friend at another
19 trailer home, on occasion they would.
20 Q Okay. And on that particular date, was she
21 playing with any of the other children?
22 A Yes.
23 Q Who was that?
24 A She -- at different times of the day she would
25 play with -- each one at different points in time.
26 She was playing with my daughter, Allena, the last
27 time I seen her.
28 Q Okay. Now, you said the last time you saw her on
29 that -- can you tell me approximately what time it was
30 the last time you saw her?
31 A I believe it was sometime around 3:30 that
32 afternoon.

1 Q Okay. And where was John at this time?
2 A He was not at home. He had -- he had went to my
3 brother's home.
4 Q Which is located where?
5 A In Moss Bluff.
6 Q Okay. And when you last saw Mary Jean, what was
7 she doing?
8 A She had come in the house. She was thirsty. She
9 asked for something to drink, and I got up to fix her
10 something. She was also hungry. She asked for a
11 snack. I fixed it for her.
12 Q Okay.
13 A At that time she -- she took a few minutes to
14 drink her drink, eat a few chips I gave her, and she
15 asked to go back outside.
16 Q You let her go back outside?
17 A Yes, sir.
18 Q Okay. Was she with anybody at that point?
19 A Not -- inside the house, she was with me. When
20 she went outside, my daughter, Allena, was out there.
21 Q And did you see Allena?
22 A Yes, I did.
23 Q How did you see her?
24 A She was in the front yard with a friend.
25 Q Okay. How did you view them, was it -- did you
26 have to go outside, or could you see her from the
27 inside?
28 A No. I opened the front door. I was on the steps,
29 standing there. I believe I even said something to
30 her.
31 Q Were there other children in the trailer park that
32 day?