

DUPLICATE A

COPY
CAPITAL
CASE

No. 06 KA 2419

COPY

SUPREME COURT
STATE OF LOUISIANA

Volume No. XXXVII of XXXXIV

Filed _____

Clerk

State of Louisiana

Plaintiff and APPELLEE

VERSUS

JASON MANUEL REEVES

DEFENDANT AND APPELLEE

REC 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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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:

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Is Defense ready?

MR. WARE:

No, sir.

THE COURT:

What?

MR. WARE:

No, sir.

[Recess]

THE COURT:

Are you ready to go?

MR. WARE:

Yes, sir.

THE COURT:

All right. We did take a quick break, just so the record's clear, put it back in session, Mr. Day.

MR. DAY:

The Court comes back to order, please.

THE COURT:

All right. At this time the jurors have been allowed to leave, both the State and Defense have had an opportunity to review their notes and we're to make the final challenges, the Court perceives to be the final challenges, based on the numbers and just the possibility of having a final jury. At this time we had 10 jurors that were tentatively accepted up to this point, the Defense has exercised 8 peremptories up to this point and the State has exercised 9 peremptories up to this point. Initially, I would ask if the State has any challenges

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for cause out of the existing panel.

MR. FREY:

No, Your Honor, we do not.

THE COURT:

And I would ask if the Defense has any challenges for cause.

MR. WARE:

Yes, sir, we do, Your Honor, in that we would challenge Ms. Rissler for cause because of her responses, and the concerns she expressed about the effect that the graphic images, photographic and other images, would have on her ability to serve on this jury. Your Honor, I think that her responses indicated that she's -- she's prevented, or at the very least substantially impaired, from discharging her duties as required by law in connection with this case. And I offer the following. Your Honor, one of the first things she said in response to the State's questioning, no reason I can't be impartial, but for the graphic photos, I have a problem with that, that was her discussion, but she maintained that throughout the discussion, she never wavered and says that -- she never wavered, she said that that would be a problem. Then in response to my questioning she said things such as she wasn't sure if she was a proper person for this case because of the photos. She wouldn't -- wouldn't want someone with her present state of mind on

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

THE COURT:

Mr. Ware, --

MR. WARE:

Yes, sir.

THE COURT:

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

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

MR. WARE:

Yes, sir.

THE COURT:

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

MR. FREY:

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

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

THE COURT:

Rebuttal?

MR. WARE:

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

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THE COURT:

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

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

MR. WARE:

Impairment.

THE COURT:

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

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

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THE COURT:
Any other challenges for cause by the
Defense?
MR. WARE:
No, sir.
THE COURT:
Now, we would move to Juror No. Y-345,
Mr. Ronnie Todd, would tender to the State.
MR. BRYANT:
We accept, Your Honor.
THE COURT:
Would tender to the Defense.
MR. WARE:
Your Honor, we'd thank but excuse.
[PROSPECTIVE JUROR Y-345, MR. RONNIE TODD,
EXCUSED PEREMPTORILY BY DEFENSE]
THE COURT:
With regard to Panel "Y", No. 334,
Charlotte Smith, would tender to the State.
MR. BRYANT:
We accept, Your Honor.
THE COURT:
Tender to the Defense.
MR. WARE:
We'll accept, Your Honor.
THE COURT:
At this time we have tentatively 11
jurors, 10 that have been sworn, one that
has not yet been sworn. If we have another
juror accepted by both, we will have a jury.
I would ask, are there any backstrikes at
this time by the State?

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

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THE COURT:
Then at this -- The Court would tender I-77, being the 12th juror, to the State, Richard Whiteoak. The State accepts; is that correct?
MR. BRYANT:
Yes, Your Honor.
THE COURT:
All right. I just shifted gears. And then I would tender -- Richard Whiteoak will be the 12th juror if accepted by the Defense, unless there is a backstrike or if they excuse Mr. Whiteoak. To the Defense?
MR. WARE:
Your Honor, we would exercise a backstrike with respect to Mr. Daniel Norton.
THE COURT:
Juror Panel "Y", No. 305, Mr. Norton, is excused by the Defense.
[JUROR Y-305, MR. DANIEL NORTON, PEREMPTORILY BACKSTRUCK BY DEFENSE]
THE COURT:
And with regard to Mr. Whiteoak? I know you exercised a backstrike, but he had been tendered to you.
MR. WARE:
And, Your Honor, if accepted, of course, I want to make sure I'm right, this would be the 11th juror; is that correct?
THE COURT:
Mr. Whiteoak will become the 11th

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juror if accepted by the Defense.

MR. WARE:

Accepted, Your Honor.

[PROSPECTIVE JUROR I-177, MR. RICHARD WHITEOAK,
ACCEPTED BY BOTH STATE AND DEFENSE]

THE COURT:

At this time M-67, Carlon Francois,
again, if accepted by the State would be the
12th juror, but would tender to the State at
this time, noting that they have the
opportunity to backstrike.

MR. BRYANT:

We accept, Your Honor.

THE COURT:

Then would tender Mr. Carlon Francois
under the same terms and conditions to the
Defense.

MR. WARE:

Your Honor, may we have a moment?

[Counsel conferring]

THE COURT:

Any question where you stand, Mr.
Ware?

MR. WARE:

No, sir. [Counsel conferring]

Backstrike, Your Honor.

THE COURT:

And who would that be, Mr. Ware?

MR. WARE:

That would be Mr. John Frederickson.

THE COURT:

Panel "L", No. 69, Mr. John

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Frederickson. If I understand correctly,
that is the 11th peremptory exercised by the
Defense.

MR. WARE:
Yes, sir.

THE COURT:
You have one remaining.

MR. WARE:
Yes, sir.

[JUROR L-69, MR. JOHN FREDERICKSON, PEREMPTORILY
BACKSTRUCK BY THE DEFENSE]

THE COURT:
We are back down to now with regard to
Mr. Carlon Francois.

MR. WARE:
Accept.

THE COURT:
Then Mr. Francois will become the 11th
juror.

[PROSPECTIVE JUROR M-67, MR. CARLON FRANCOIS,
ACCEPTED BY BOTH STATE AND DEFENSE]

THE COURT:
At this time the Court would tender
Juror Panel "31", No. 314, Mr. Craig
Phillips to the State.

MR. BRYANT:
We accept, Your Honor.

THE COURT:
If accepted, then that would be the
12th juror. Mr. Ware, you have one
peremptory.

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.

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THE COURT:
Mr. Phillips is now the 12th juror --
I mean, the 11th juror, excuse me. With
regard to Panel "L", No. 99, Mr. Ian Joseph,
would tender to the State, would be the 12th
juror if accepted.
MR. BRYANT:
We excuse, Your Honor.
[PROSPECTIVE JUROR L-99, MR. IAN JOSEPH,
PEREMPTORILY EXCUSED BY THE STATE]
THE COURT:
The State exercising it's 11th
peremptory at this time. With regard to
Panel "X", No. 276, Ms. Tammy Lamana, tender
to the State.
MR. BRYANT:
We excuse, Your Honor.
[PROSPECTIVE JUROR X-276, MRS. TAMMY LAMANA,
PEREMPTORILY EXCUSED BY THE STATE]
THE COURT:
You have that as the 12th peremptory,
--
MR. BRYANT:
Yes, Your Honor.
THE COURT:
-- Mr. Bryant?
MR. BRYANT:
Yes, I do.
THE COURT:
Then there's been no challenges for
cause, all parties would agree that Panel
"30", No. 330, Mr. Donald Schneider, will be

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the 12th juror to make up the initial 12.

MR. FREY:

Correct, Your Honor.

THE COURT:

Mr. Ware?

MR. WARE:

That is correct, Your Honor.

THE COURT:

All right. Then let the record so reflect. Now, each of you have one peremptory with regard - we have some jurors left - with regard to the first alternate, you each have one peremptory with regard to the first alternate. If you use it, or you lose it. If you accept Mr. Pugh and Mr. Pugh's accepted by the Defense, Mr. Pugh will become first alternate, there will be only one peremptory as we go to the next one, there's no carryover. I want to make certain all the parties understand.

MR. FREY:

Yes, Your Honor.

MR. WARE:

Yes, sir.

MR. BRYANT:

Your Honor, we -- the State would ask that -- I know the Court has indicated four --

MR. FREY:

One perempt per seat.

MR. BRYANT:

No, no; no, no, that's not what I'm

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

THE COURT:

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

MR. BRYANT:

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

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just --

THE COURT:

And I -- but, I mean, if I seat enough
to get to four, I don't necessarily know --

MR. BRYANT:

I understand. We're going to
interview enough jurors to get there, and if
we have enough jurors, it's only -- it's a
matter of accepting or rejecting, so I don't
have a problem with that.

THE COURT:

All right. And I would tender Thomas
Pugh, though, to the State, with regard to
being first alternate.

MR. BRYANT:

We excuse, Your Honor.

**[PROSPECTIVE JUROR 30-320, MR. THOMAS PUGH,
PEREMPTORILY EXCUSED BY THE STATE]**

THE COURT:

Then with regard to Juror Panel "H",
No. 84, Arlette Henderson, the Defense has
the opportunity to accept being the first
alternate, the State having a mandatory
exception -- acceptance, not exception --
mandatory acceptance because of their
exercise of their first peremptory. So, I
tender Arlette Henderson to the Defense.

MR. WARE:

No, sir.

MR. FREY:

Arlette Henderson.

MR. WARE:

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Judge, I think that it goes to the State first, each --

THE COURT:

Well, I indicated that the State does not have a peremptory left with regard to that. If you want to hear them say the word accept, then I'll tender to the State.

MR. WARE:

No, no, no, no. Wait a -- Please. They've challenged -- they've used a peremptory on Mr. Pugh.

THE COURT:

That is correct, the one peremptory they have for first alternate.

MR. WARE:

Okay. And, Judge, as I understand the rule, then that obviously -- that Mr. Pugh is gone; then the question becomes do they accept Ms. Henderson.

MR. FREY:

We don't have --

THE COURT:

But they do not have a challenge for Ms. Henderson.

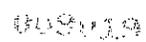
MRS. KILLINGSWORTH:

I don't think Mr. Ware understands what we're doing here, or else he wouldn't be saying that.

MR. FREY:

That's what I was explaining before, you have one challenge per seat.

THE COURT:



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

MR. WARE:

Right.

THE COURT:

They've extinguished all the peremptories that they have for the first alternate.

MR. WARE:

I see what you're saying, and I don't know if I agree with it. I see what you're saying.

THE COURT:

Otherwise you could juggle the alternates in an illegal fashion, and the Court finds that the alternates must be brought in sequence because they are each individually determined and not in the aggregate.

MR. WARE:

And let me ask this question, Judge. And there's no backstriking in the alternate -- in the selection of the alternates?

THE COURT:

No, there is not.

MR. WARE:

Exactly, that's my understanding and appreciation and I have no problem with that. Also, now that Mr. Pugh has been struck by the State peremptorily, then that 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:

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Judge, each individual juror must be
tendered -- each individual juror must be
tendered to the State first.

THE COURT:

Okay. I tender Arlette Henderson to
the State, Panel "H", 84.

MR. BRYANT:

We accept.

MRS. KILLINGSWORTH:

We accept.

THE COURT:

I tender to the Defense.

MR. WARE:

We accept.

THE COURT:

All right. Then Ms. Henderson will be
the first alternate.

**[PROSPECTIVE JUROR H-84, MRS. ARLETTE HENDERSON,
ACCEPTED BY BOTH STATE AND DEFENSE]**

THE COURT:

Now, you do not have four peremptory
challenges left; you understand that?

MR. WARE:

I understand that, Your Honor.

THE COURT:

All right. Now, for the second, I
would tender Mr. Larry Davis, Panel "30",
No. 220, to the State for second alternate.

MR. BRYANT:

We accept, Your Honor.

THE COURT:

I would tender to the Defense.

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MR. WARE:

We'll thank but excuse.

[PROSPECTIVE JUROR 30-220, MR. LARRY DAVIS,
PEREMPTORILY EXCUSED BY DEFENSE]

THE COURT:

Let me qualify that before you say
that because you don't know the next panel.
The next juror will become the second
alternate, by default, you need to be aware
of that. They've exercised their peremptory
for the second alternate.

MR. FREY:

But we still have one.

THE COURT:

But the State has not.

MR. FREY:

Right.

THE COURT:

If the State accepts, you do not have
a peremptory left for the second alternate,
if you exercise it on Mr. Davis. I'm just
letting you know that. I want to make sure
there's not a question.

MR. WARE:

Judge, excuse me.

THE COURT:

And I don't -- I'm just letting you
know that before because I know you've done
some initial work -- Huh? I didn't hear
you.

THE CLERK:

(Unintelligible, not near microphone)

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THE COURT:

Hasn't been selected yet. If they exercise it, then they've been excused and I have to retender. I don't have anything for them -- they don't -- because they still have a chance to exercise one if -- because they haven't exercised anything up to this point, they've accepted. So they get one for each -- one for each alternate. They've accepted. If they exercise it, they still have a peremptory because there's no one left for them to consider, and they would consider the next one either accept or reject. If they accept, it's the second alternate. If they reject, then it would automatically go by both defaults to Ms. Monroe, based on the next panel.

MR. WARE:

And, Judge, I don't agree with that. As I see it, the State has exercised a peremptory against Mr. Pugh.

THE COURT:

They have.

MR. WARE:

Right.

THE COURT:

And we already have a first alternate. Now, that jury selection's over.

MR. WARE:

Where's Ms. Henderson?

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

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

MR. WARE:

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

THE COURT:

And the basis?

MR. WARE:

Each juror, whether -- even --

THE COURT:

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

MR. WARE:

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

THE COURT:

And it has been.

MR. WARE:

And --

THE COURT:

And each juror will be tendered to the State first.

MR. WARE:

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

THE COURT:

Okay. I tendered to the State; they 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.

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THE COURT:
-- because I know where you're going,
but let's make it at the right time.
MR. WARE:
Okay.
THE COURT:
All right. We only have one alternate
so we will need to bring in -- have you
taken roll with regard to the second -- I
guess I need to bring in the first group.
Let's go ahead and bring these other jurors
back so I can give them their instructions.
We can take them and we can start making
arrangements for the three backstrikes.
[Discussion between the Court and Mr. Day,
bailiff, on releasing jurors]
MR. WARE:
Judge, before we go any further, --
MR. FREY:
I was going to ask what we're doing
now.
MR. WARE:
-- I'd like to make a **Batson** challenge
to the State's exercising of peremptories.
THE COURT:
And the basis? You have to establish
to the Court a prima facie case of
discrimination.
MR. WARE:
Now, the State has exercised 12 -- all
12 of its peremptory challenges with respect
to the jury, and I say that meaning -- we're

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not talking about alternate jury, but the actual jury.

THE COURT:

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

MR. FREY:

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

MR. WARE:

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

THE COURT:

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

MR. BRYANT:

Well, that's correct, Your Honor, I

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

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

THE COURT:

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

MR. WARE:

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

THE COURT:

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

MR. WARE:

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

THE COURT:

And on what basis?

MR. WARE:

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

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

MR. BRYANT:

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

MR. WARE:

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

THE COURT:

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

MR. WARE:

37, Judge?

THE COURT:

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

MRS. KILLINGSWORTH:

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

THE CLERK:

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Yes.

THE COURT:

Oh, Ms. Armwood. All right.

MR. WARE:

And, Judge, we had 14 --

THE COURT:

So we had 36 jurors that we have interviewed for the 12.

MR. WARE:

Judge, excuse me, let me get my numbers straight, and, please, I may need your help. We had 14 on the first panel; and then we had 13 on the second.

THE COURT:

Correct.

MR. WARE:

And we had how many this time? 13 again.

THE COURT:

No, I'm talking about getting to our 12.

MR. WARE:

I'm sorry.

THE COURT:

It can't be based on anything in the future, only up to the 12.

MR. WARE:

That's right.

THE COURT:

Which would be Mr. Schneider.

MR. WARE:

Yes, sir, and how many -- I agree.

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

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MR. WARE:
Yes, sir.

THE COURT:
-- my position?

MR. WARE:
Yes, sir.

THE COURT:
Now, can you give me any other --
anything else that could help the Court with
a prima facie showing?

MR. WARE:
Yes, sir.

THE COURT:
Because numerically it's not there,
Mr. Ware.

MR. WARE:
Okay. Ms. Ivy Sanford, I don't think
that there's any race neutral --

MR. BRYANT:
Objection, Your Honor, that's a second
inquiry. The first one is the prima facie
showing.

THE COURT:
That is correct, and the Court would
reference **Plunkett v. Elam**, I only have a
West Law cite, 283, 453, which three step --
our Louisiana Supreme Court has set forth
the three step **Batson** analysis. Also, a
number of other cases, but when we talk
Batson we're talking **Batson v. Kentucky**, 476
US 79. It is indicated that the trial
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.

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MR. BRYANT:

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

MR. WARE:

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

THE COURT:

At this time let me give you the 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

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

MR. WARE:

I have that case, Your Honor, and I understand that case. The point I'm making is that when it says that the defendant may offer any facts relevant to the question of the prosecutor's discriminatory intent to satisfy this burden, the initial burden of establishing a prima facie case.

THE COURT:

But you were asking that the State articulate. You need to articulate facts to show that there was discrimination of a suspect class.

MR. WARE:

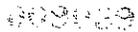
Your Honor, that's what I was doing, and Mr. Bryant said that that was premature. I can articulate some facts with respect to a particular juror, that being Ms. Ivy Sanford.

MR. BRYANT:

It's not a pattern, Your Honor, and secondly, there's no need to have the second phase of **Batson** if you can go in and go through the jurors to begin with, there's no need to have the second phase.

THE COURT:

Well, I'm asking, if he can tell me -- one of the tests is statements or actions of



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the prosecutor that would support the inference. And that's what I'm asking if he can establish.

MR. WARE:
Yes.

THE COURT:
What is the statement of inference from the prosecution? I don't believe anything was said when there was a backstrike of Ms. Sanford other than I backstrike Ms. Sanford.

MR. WARE:
Your Honor, and my point is with respect to Ms. Sanford, there was no hardship issue, there was no wavering on death qualification, there was no publicity issue, and I can't think of any issue that would support the legitimate exercise of a peremptory challenge by the State with respect to Ms. Sanford.

THE COURT:
Well, it's not whether you can think of anything, it's whether you can give me something to get me across the burden so the State would have to articulate something. There's nothing that the Court has that it can assume that there was purposeful discrimination. The numbers are clearly in the totality, the pattern of strikes was not strictly towards a suspect class.

MR. WARE:
Judge, I don't think -

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THE COURT:

I have no statements or actions which support an inference that you can give me. The composition of the venire is actually greater than the composition of the evaluated panel.

MR. WARE:

The action was the exercise of the peremptory challenge.

THE COURT:

One challenge without a reason does not a pattern make.

MR. WARE:

Okay. I would offer the same thing with respect to Mr. Isadore, and, Judge, you can -- if you feel a need to cut me off, but that's the -- the pattern, or that's the offering I make to the Court, to allow me --

THE COURT:

Well, the Court feels one, Mr. Isadore slept through a good bit of the voir dire and will make that notice for the record at this time.

MR. FREY:

And Mr. Ware --

MR. WARE:

Mable Brown, there was nothing -- again, no hardship issue, no equivocation about the **Witherspoon** issues, there was no publicity issue. And the action was to strike her and she is a member of the cognizable class that we're talking about.

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

THE COURT:

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

MR. WARE:

And, Judge, --

THE COURT:

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

MR. WARE:

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

THE COURT:

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

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

MR. WARE:

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

THE COURT:

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

MR. WARE:

What did I say?

THE COURT:

State v. **Batson**.

MR. WARE:

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

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prima facie case, the Court has -- if I interpreted the Court's ruling correctly and understand the ruling, that even if that was done -- you -- the Court did not feel that that was a proper method by which to make the prima facie case, as I understand it.

THE COURT:

I think I gave you the facts that the Court would consider.

MR. WARE:

Right.

THE COURT:

And the Court had not noted that it has received anything within those guidelines.

MR. WARE:

Should I go through each one of these strikes?

THE COURT:

I mean, it's your record, Mr. Ware, at this point. The Court has made its decision. You can proffer what you feel is appropriate, but the Court would not consider it since you were not able to

MR. WARE:

And, Judge, let me just rest on this. I object to the Court's ruling without having heard me go by -- go through each individual prospective juror that was -- where the State exercised a peremptory challenge.

THE COURT:

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

MR. WARE:

By way of --

THE COURT:

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

MR. WARE:

Yes, sir.

THE COURT:

-- then you are welcome to do so. But not that the Court would not hear you to put in the record what you want in the record.

MR. WARE:

And should that be done by way of a proffer?

THE COURT:

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

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MR. WARE:

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

THE COURT:

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

MR. WARE:

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

THE COURT:

Correct, and it was denied.

MR. WARE:

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

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

MR. WARE:

Thank you.

THE COURT:

We're ready --

MR. BRYANT:

Yes, Your Honor.

THE COURT:

-- to bring --

MR. WARE:

May I have a break, Your Honor?

THE COURT:

Sir?

MR. WARE:

I need a break.

THE COURT:

Well, I need to dismiss these people, and I need to put them in sequestration.

MR. WARE:

Okay.

THE COURT:

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We've got people to move around.

MR. WARE:

That's fine.

THE COURT:

And then we will -- we're going to work on the other alternates, I'm probably going to only seat seven, I think, maybe -- I think I should be able to get -- let's see -- I think I will be able to get I think at least two more, maybe all three, that I need so I'm going to only seat seven for the other three alternates that are remaining.

MR. WARE:

Judge, I agree with you for the most part. What would happen if there was a rash of valid cause challenges?

THE COURT:

Then I would come back tomorrow morning and bring back the other seven and fill up the panel. I just have not seen it out of 42 jurors.

MR. WARE:

I know. The odds are against it, I recognize that.

THE COURT:

All right. I need to bring these jurors back in from Panel #3.

[PROSPECTIVE JURORS FROM PANEL #3 RETURNED TO THE COURTROOM AND SEATED IN JURY BOX]

THE COURT:

All right, Ladies and Gentlemen, at this time we've completed discussing each of

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

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

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evidence so help you God.

PROSPECTIVE JURORS:

[I do.]

THE CLERK:

You may be seated.

PROSPECTIVE JURORS:

[Seated]

THE COURT:

All right, Ladies and Gentlemen, at this time you will be I guess taken to the jury room for now and arrangements will be made in order to secure your person. I would advise at this time, Mr. Day, that you advise that K-32, Mable Brown; L-69, John Frederickson; and Y-305, Daniel Norton, be excused.

MR. DAY:

Yes, sir.

THE COURT:

And that they be returned back to their homes.

MR. DAY:

Yes, sir.

THE COURT:

All right, Ladies and Gentlemen, we're still going -- we have some more work that we're going to be doing tonight, because we still have to get some more -- other -- some other alternates to make certain we don't have a problem and we will be dealing with that. They're going to be making arrangements for transfer, and hopefully you

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

MR. DAY:

Yes, sir.

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

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THE COURT:

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

[Recess]

THE COURT:

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

MR. WARE:

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

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

THE COURT:

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

MR. WARE:

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

THE COURT:

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

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

MR. WARE:

Yes, sir.

THE COURT:

Now, --

MR. WARE:

And, Your Honor, I object to that
process.

MR. FREY:

And for the record the State has no
objection. We have used that procedure on
probably the last three capital cases and
other non-capital cases.

MR. WARE:

And, Your Honor, I understand that
we're selecting four alternates, and each
side has four peremptory challenges in the
selection of the four alternates, and --

THE COURT:

First, it is noted that the Court has
discretion on the number of alternates, and
as such the number of alternates each
individual gets one peremptory for each

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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

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

THE COURT:

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

MR. WARE:

I'm not questioning the number, Judge.

THE COURT:

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

MR. WARE:

Yes.

THE COURT:

The State shall have as many challenges as the Defense.

MR. WARE:

I agree with all of that.

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THE COURT:
The additional peremptory challenges
may be used only against alternate jurors.
MR. WARE:
I agree with that, Judge.
THE COURT:
Okay.
MR. WARE:
And, Judge, the Court has selected,
without objection from either side, that the
number four -- that we have four alternate
jurors.
THE COURT:
Well, the Court has not made that
final decision yet. The Court may decide on
less alternate jurors, depending on this
panel.
MR. WARE:
Okay.
THE COURT:
And then you -- if you are --
MR. WARE:
I don't challenge the Court's decision
on what the number should be.
THE COURT:
I understand.
MR. WARE:
But whatever the number, whatever
number is selected, each -- the State and
the Defense are given like number -- a like
number of peremptory challenges.
THE COURT:

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That is correct.

MR. WARE:

If it's two, then we each have two
apiece.

THE COURT:

Incorrect. You have each one each for
each alternate.

MR. WARE:

And, Judge, I'm -- okay.

THE COURT:

And it's a big difference in the way
that you state it. You will have one each
for each alternate selected.

MR. FREY:

And that is the State's understanding,
Your Honor, and we have no objections.

MR. WARE:

Well, I object to that, because I
think that we should have a -- if we're
going to select two alternates, the Defense
and the State should have two total
peremptory challenges to exercise at their
discretion in the selection of the two
alternates.

THE COURT:

And I understand your interpretation,
and that is not how the Court's doing it.

MR. WARE:

Okay.

THE COURT:

And your objection is noted.

MR. WARE:

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Thank you. And I'd ask that it be --
I make the objection, Judge, and ask that it
be noted for the record.

THE COURT:

So ordered. All right. Let's bring
them in. If you'll look on Panel 4,
Counsel, you should note that the bottom row
will be what will be seated from Panel 4.

[PROSPECTIVE JURORS FROM PANEL #4 33-204, MRS.
LAURA STAMAND; 33-147, MRS. VANESSA MONROE; 33-
46, MR. TED DUNHAM; 34-134, MR. ALLEN MIKA; 32-
31, MRS. DORIS BUTLER; 33-64, MR. ROBERT GOODEN;
AND 33-258, MRS. PENNY ALBERT ENTERS THE
COURTROOM AND SEATED IN JURY BOX FOR GENERAL VOIR
DIRE AS ALTERNATES]

THE COURT:

Ms. Laura Stamand, first seat; Vanessa
Monroe, second seat; Ted Dunham, third seat;
Allen Mika, fourth seat; Doris Butler, next
seat; Robert Gooden, the next seat; and Ms.
Albert, the end seat.

THE CLERK:

If you will remain standing and raise
your right hands.

PROSPECTIVE JURORS:

[HANDS RAISED]

THE CLERK:

Do each of you solemnly swear that you
will true answers give to such questions as
may be propounded to you touching on your
qualifications to serve as jurors in the
case where the State of Louisiana is

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plaintiff and Jason Reeves is defendant so
help you God.

PROSPECTIVE JURORS:

I do.

THE CLERK:

You may be seated.

PROSPECTIVE JURORS:

[Seated]

THE COURT:

Good afternoon, Ladies and Gentlemen.

PROSPECTIVE JURORS:

Good afternoon.

THE COURT:

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

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

I have a little bit of information.
As I've indicated before, whenever we meet I

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

PROSPECTIVE JURORS:

[NO HANDS RAISED]

THE COURT:

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

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

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

PROSPECTIVE JURORS:

[NO HANDS RAISED]

THE COURT:

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

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

PROSPECTIVE JURORS:

[NO HANDS RAISED]

THE COURT:

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

PROSPECTIVE JURORS:

[NO HANDS RAISED]

THE COURT:

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

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

PROSPECTIVE JURORS:

[NO HANDS RAISED]

THE COURT:

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

PROSPECTIVE JURORS:

[NO HANDS RAISED]

THE COURT:

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

MR. FREY:

Your Honor, if I could ask, before I

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begin, did you talk to them about alternate jurors or not? Did you mention that?

THE COURT:

I have not.

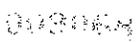
MR. FREY:

I'll cover that. Ladies and Gentlemen, first of all, I want to thank you for the time that you've given us this two and a half weeks here, because your roll is very important in the criminal justice system. We are at that stage of the process now and I think I can tell you this, we have selected a jury of 12 to hear this case, and we're trying to select a total of 4 alternate jurors so that in the event one of the 12 who have been seated become ill or have some family emergency, et cetera, have to be excused, one of the alternates can step in to take their place in the order in which they're selected, and the trial can continue and we won't have wasted, you know, three and a half weeks or whatever. So, we are now in the process of trying to fill out those alternate's positions, we have one, and we're looking to attempt to get there more at this point in time.

First of all, I need you to understand that an alternate juror is just as important as a regular juror. Does everybody understand that?

PROSPECTIVE JURORS:

[NO HANDS RAISED]



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MR. FREY:

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

PROSPECTIVE JURORS:

[NO HANDS RAISED]

MR. FREY:

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

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

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

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

PROSPECTIVE JURORS:

[NO HANDS RAISED]

MR. FREY:

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

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

PROSPECTIVE JURORS:

[NO HANDS RAISED]

MR. FREY:

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

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

PROSPECTIVE JURORS:
[NO HANDS RAISED]

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

PROSPECTIVE JURORS:
[NO HANDS RAISED]

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

PROSPECTIVE JURORS:
[NO HANDS RAISED]

MR. FREY:
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

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

MR. WHITE:

Mr. Gooden.

MR. FREY:

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

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

PROSPECTIVE JURORS:
[NO HANDS RAISED]

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

PROSPECTIVE JURORS:
[NO HANDS RAISED]

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MR. FREY:

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

PROSPECTIVE JURORS:

[NO HANDS RAISED]

MR. FREY:

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

PROSPECTIVE JURORS:

[NODS IN THE AFFIRMATIVE]

MR. FREY:

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

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

PROSPECTIVE JURORS:

[NODS IN THE AFFIRMATIVE]

MR. FREY:

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

PROSPECTIVE JURORS:

[NODS IN THE AFFIRMATIVE]

MR. FREY:

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

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can, please raise your hand.

PROSPECTIVE JURORS:

[NO HANDS RAISED]

MR. FREY:

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

PROSPECTIVE JURORS:

[NODS IN THE AFFIRMATIVE]

MR. FREY:

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

PROSPECTIVE JURORS:

[NO HANDS RAISED]

MR. FREY:

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

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

PROSPECTIVE JURORS:

[NO HANDS RAISED]

MR. FREY:

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

PROSPECTIVE JURORS:

[NO HANDS RAISED]

MR. FREY:

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

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.

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MR. FREY:

But there's no question that this friend was murdered, it wasn't an accidental death or anything like that?

MRS. STAMAND:

No question.

MR. FREY:

Okay. Two basic areas I need to ask you about that. Number one, is that going to cause you any special problems serving as a juror in this murder case as opposed to a drug case or a burglary case or, you know, sometimes that just hits too close to home.

MRS. STAMAND:

Well, I thought about that a lot in the last couple of weeks, it certainly has brought a lot of things back for me to remember. There aren't a whole lot of similarities based on just what you -- the charges that you've read. Certainly the issue of the penalty phase has come up for me over and over again, but I do not believe that -- that it would make a difference.

MR. FREY:

Okay. And that's all -- there's no right or wrong --

MRS. STAMAND:

And that's the best answer I can give you.

MR. FREY:

There's no right --

MRS. STAMAND:

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Other than that, I don't really know.

MR. FREY:

-- there are no right or wrong answers, just say what you think. If you do that, nobody will have any problems, I promise. The second part of that, I think I know your answer, but I'm going to ask the question anyway. Do you bear any ill will against law enforcement for not being able to solve that case, because your answer says they did the best they could but were unsuccessful.

MRS. STAMAND:

Uh-huh.

MR. FREY:

And the question is, for me, --

MRS. STAMAND:

Uh-huh.

MR. FREY:

-- are you going to hold that against law enforcement in this case?

MRS. STAMAND:

No, I don't believe so.

MR. FREY:

Okay. Would you pass the microphone next to you, please, to Ms. Monroe.

[PROSPECTIVE JUROR 33-147, MRS. VANESSA MONROE]

MR. FREY:

Ms. Monroe, your husband -- I'm sorry, your husband is a certified medical assistant.

MRS. MONROE:

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Yes, he is.

MR. FREY:

Tell me -- explain to me exactly what that is, because I haven't heard that specific term before. Is he like an EMT or does he assist in a hospital, or what?

MRS. MONROE:

He works for a group home.

MR. FREY:

For a group home, okay.

MRS. MONROE:

For the mentally retarded.

MR. FREY:

And helps care for patients who are either --

MRS. MONROE:

Mentally retarded.

MR. FREY:

-- mentally retarded, okay. And I also notice on another page that you said your spouse had education or training in the field of criminal justice.

MRS. MONROE:

Yes, he did.

MR. FREY:

First of all, is that the same spouse?

MRS. MONROE:

Yes.

MR. FREY:

Okay. What exactly did he do as far as training in criminal justice. Did he go to school or did he go to a police academy

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or --

MRS. MONROE:

He worked for Dixon Correctional.

MR. FREY:

He worked for Dixon Correctional
Institute. That's one of the prisons in the
state prison system.

MRS. MONROE:

Correct.

MR. FREY:

How long did he work for them?

MRS. MONROE:

About four years.

MR. FREY:

And did he have any unusual
experiences working with them?

MRS. MONROE:

Not that I know of.

MR. FREY:

I mean, he didn't -- there wasn't a
riot or something like that, or some inmate
or a guard get killed while he was there or
anything?

MRS. MONROE:

No.

MR. FREY:

Okay. Did he leave on good terms?

MRS. MONROE:

Yes.

MR. FREY:

Any problem then with his criminal
justice training that that would cause you

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serving fair and impartially here?

MRS. MONROE:

No.

MR. FREY:

There will also be some testimony presented, as I've already indicated, from the coroner and he's a doctor, your husband works in that field, not as a doctor, but in that field. Is that going to cause you any problems with listening to this coroner and what he has to say and judging his testimony as you deem fit?

MRS. MONROE:

No.

MR. FREY:

Okay. Would you pass the microphone down to you next to Mr. Dunham.

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

MR. FREY:

Mr. Dunham, two things. The first one I know is not a sensitive issue. The question indicated you were going back to school in January, and I assume you mean January of '05; is that right?

MR. DUNHAM:

Correct.

MR. FREY:

Okay. Where are you going to school and what are you going to be studying?

MR. DUNHAM:

I'm going to be going to Baton Rouge Community College.

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MR. FREY:

Okay.

MR. DUNHAM:

And I'm going to be studying whatever they'll let me because I dropped out of high school.

MR. FREY:

So, sort of a general course study?

MR. DUNHAM:

Yes.

MR. FREY:

Okay. Good. Second, and it may be, again, if this is sensitive, you tell me, and we'll save it for later and do it in private, but on Page 8 there was a question about if you or a close family member ever had an experience with a law enforcement officer in which you felt were treated, and you checked unfairly.

MR. DUNHAM:

Yeah.

MR. FREY:

And it says something about father and Jackson, I don't understand it exactly, so I was going to ask you if you could explain that a little bit, and if you want to do it in private, we can.

MR. DUNHAM:

I'd rather do it in private.

MR. FREY:

That's fine. Just hang on and pass the microphone on down.

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[PROSPECTIVE JUROR 34-134, MR. ALLEN MIKA]

MR. FREY:

Mr. Mika, the only questions I have for you, you indicated that your spouse has been hired as a medical expert witness.

MR. MIKA:

Right.

MR. FREY:

What -- first of all, what is her expertise, what field of medicine, as best you can explain it.

MR. MIKA:

Well, she's currently working in the capacity of a surgical director at Earl K. Long Hospital.

MR. FREY:

So she's an M.D.?

MR. MIKA:

No.

MR. FREY:

No? Okay. So, okay, --

MR. MIKA:

She is basically in charge of all the operating room personnel for only the exception of the medical interns; in other words, she's in control of staffing and scheduling all the -- basically all the operating rooms every day.

MR. FREY:

And does she do that -- I'm trying to think of the best way to ask this. Does she do that because she has had experience in



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nursing or because she has experience in management?

MR. MIKA:

Actually both.

MR. FREY:

Both. That's good. That's good. That's fine. Sounds like a perfect answer. Thank you. Oh, no, the next question. Is that going to affect you in judging testimony that would be put on from any medical doctors, that includes psychiatrists, if any? Is that going to have any effect on you?

MR. MIKA:

None at all.

MR. FREY:

Okay. Next, Ms. Butler.

[PROSPECTIVE JUROR 32-31, MS. DORIS BUTLER]

MR. FREY:

Ms. Butler, you first of all lived in Lake Charles at one point in time.

MRS. BUTLER:

That's correct.

MR. FREY:

You go back to Lake Charles on a regular basis, aside from this trip, I'm talking about?

MRS. BUTLER:

I was home last weekend for my husband's class reunion, and I hadn't been home since March, so maybe twice a year, if nothing's going on.

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MR. FREY:
Okay. And do you -- and let me
explore that just a little bit, --
MRS. BUTLER:
Uh-huh.
MR. FREY:
-- because you used the word twice,
home. You still consider Lake Charles your
home base? I know you live in Baton Rouge.
MRS. BUTLER:
I live in Baton Rouge, but, yeah,
that's -- when I say home, Lake Charles is
home.
MR. FREY:
That's where you grew up?
MRS. BUTLER:
Yes, that's where I grew up.
MR. FREY:
And I grew up in Baton Rouge, and I've
only been in Lake Charles for 25 years. Do
you still have family back in Lake Charles?
MRS. BUTLER:
Yes, I do.
MR. FREY:
And I take it you are in touch with
them on a regular basis?
MRS. BUTLER:
Yes.
MR. FREY:
Is that going to cause you any
problems with being in a jury in this case?
MRS. BUTLER:

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No.

MR. FREY:

You understand that going back to Lake Charles you're not going to be visiting them while the case is going on; you're going to be in a hotel room and --

MRS. BUTLER:

I understand.

MR. FREY:

Okay. And I'm not asking is that okay with you, but can you handle that?

MRS. BUTLER:

Yes, I can.

MR. FREY:

Knowing you're so close to home but you can't see them?

MRS. BUTLER:

Exactly; that's fine, I can handle that.

MR. FREY:

The next question, and the last question, basically, except unless I need to follow up on it. You indicated you have a bachelor's degree in criminal justice.

MRS. BUTLER:

That's correct.

MR. FREY:

Where did you get the degree from?

MRS. BUTLER:

McNeese.

MR. FREY:

Cowboys. And did you -- once you

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obtained that degree, did you do any type of work in the criminal justice field?

MRS. BUTLER:

I went out to the prisons and took the test and at the same time I was looking other places for jobs, and just so happened LSU called me first, so I took that job so I never went into anything with my criminal justice degree.

MR. FREY:

So you've never done anything working in the criminal justice field?

MRS. BUTLER:

No.

MR. FREY:

Again, you know a little bit more maybe than the average person does about the criminal justice field; is that going to affect your service as a juror in this case?

MRS. BUTLER:

No.

MR. FREY:

Pass the microphone. I told you I was going to be brief.

[PROSPECTIVE JUROR 33-64, MR. ROBERT GOODEN]

MR. FREY:

Mr. Gooden, you were a security guard in the military?

MR. GOODEN:

Yes, I was.

MR. FREY:

Is that going to -- you received, I'm

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sure, some kind of training for that; they didn't just give you a gun and stick an MP badge on your shoulder.

MR. GOODEN:

It was basically on-the-job training.

MR. FREY:

Okay.

MR. GOODEN:

I was in the Marines barracks unit.

MR. FREY:

How long did you serve as an MP, ballpark?

MR. GOODEN:

About a couple months out of the time I served for a year in the Marines barracks, and about a month of that, you know, as a military police.

MR. FREY:

Is that experience going to cause you any problems serving as a juror in this case?

MR. GOODEN:

I don't think so.

MR. FREY:

Okay. Specifically, because if I don't ask you they're going to ask you, believe me, and they may ask you anyway, are you going to treat police officers who come in here and testify any differently than you're going to treat any other witness?

MR. GOODEN:

No, I won't.

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MR. FREY:

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

MR. GOODEN:

Yes.

MR. FREY:

Pass the microphone if you would.

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

MR. FREY:

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

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

MRS. ALBERT:

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

MR. FREY:

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

MRS. ALBERT:

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

MR. FREY:

Okay.

MRS. ALBERT:

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

MR. FREY:

And I've already got that.

MRS. ALBERT:

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

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

MR. FREY:

And specifically you listed your religion as non-denominational.

MRS. ALBERT:

Yes.

MR. FREY:

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

MRS. ALBERT:

Because I didn't want to lie to you.

MR. FREY:

You thought about it, yeah.

MRS. ALBERT:

Yeah.

MR. FREY:

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

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MRS. ALBERT:

Uh-huh.

MR. FREY:

Ladies and Gentlemen, let me ask this question. Is there anything about any one of you seven individuals, and remember I don't know you, except for the contact we've had since you've been up here, is there anything about any one of you that if I stood here and talked until Halloween, which I'm not going to do, that I would never have any way of hitting upon that would affect in your opinion your ways -- your ability to serve as a fair and impartial juror? If there is, would you please raise your hand.

PROSPECTIVE JURORS:

[NO HANDS RAISED]

MR. FREY:

No hands are raised. Your Honor, respectfully, that's all the questions I have with the understanding that we need to talk to Mr. Dunham, and we can do that after the Defense -- if that's acceptable, if that's what everybody else wants to do. Thank you.

THE COURT:

Mr. White?

MR. WHITE:

Thank you, Your Honor. Evening. I know y'all are tired, and I'm not going to be nearly as long-winded as I would be if it were 9:00 o'clock in the morning. What time

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

PROSPECTIVE JURORS:

1:30.

MR. WHITE:

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

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

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you're just disturbed with the American system?

PROSPECTIVE JURORS:

[NO HANDS RAISED]

MR. WHITE:

That's a no for everybody. And is there any one of you who believe that criminals too often get off on legal technicalities?

PROSPECTIVE JURORS:

[NO HANDS RAISED]

MR. WHITE:

That's a no for everyone. And any of you who think that we as defense lawyers are going to try and trick you?

PROSPECTIVE JURORS:

[NO HANDS RAISED]

MR. WHITE:

Okay. And how about any of you who believe that people who are indicted in the U.S. are more than likely guilty going in? I mean, the State's spent a lot of money getting just to the point of indictment. Are there any of you who walk in presuming the defendant to be something other than innocent?

PROSPECTIVE JURORS:

[NO HANDS RAISED]

MR. WHITE:

The answer is no, and y'all can all embrace that presumption of innocence standard, right?

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PROSPECTIVE JURORS:

[NO HANDS RAISED]

MR. WHITE:

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

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

MR. WHITE:

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

MRS. STAMAND:

It was in 1986.

MR. WHITE:

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

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problematic with you, just listening to you speak earlier and looking at you now, is that is this going to be too painful an experience for you? You've kind of toughened yourself up for this thing, haven't you?

MRS. STAMAND:

Yes, I have.

MR. WHITE:

Can you think of any reason why you wouldn't be able to serve on this jury?

MRS. STAMAND:

My biggest concern is my profession, actually, rather than my --

MR. WHITE:

Right.

MRS. STAMAND:

-- than my experience with my friend being murdered.

MR. WHITE:

Tell me what you mean by that. I'm going to let you go, but you've got me curious.

MRS. STAMAND:

Well, I mean, my friend was murdered almost 20 years ago.

MR. WHITE:

Right.

MRS. STAMAND:

It certainly has -- there were a lot of issues for me that I have dealt with. I still am good friends with some people in

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

MR. WHITE:

Okay.

MRS. STAMAND:

So I've kind of resolved some of that.

MR. WHITE:

Right.

MRS. STAMAND:

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

MR. WHITE:

Oh, yeah. Okay.

MRS. STAMAND:

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

MR. WHITE:

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

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yourself for this possible experience,
right?

MRS. STAMAND:
Yes.

MR. WHITE:
Because you know this line moves from
you down there, so the chances of you being
an alternate are pretty good.

MRS. STAMAND:
I figured that out.

MR. WHITE:
Okay. All right. Well, if it comes
to that, we look forward to working with
you. Nothing else you want to add, right?

MRS. STAMAND:
No, that's it.

[PROSPECTIVE JUROR 33-147, MRS. VANESSA MONROE]

MR. WHITE:
Ms. Monroe, okay, I gotta tell you
this, I'm reading an abstract, I'm not
reading your actual questionnaire, and the
way it read on my abstract was "victim of
robbery, caught same evening, whelp of
neighbors." It's "with help of neighbors",
I think.

MRS. MONROE:
Yes.

MR. WHITE:
So they didn't like catch some little
kid that belonged to the neighbor's house.
What happened; tell me about it.

MRS. MONROE:

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The guy -- well, where I live is like they stay on an empty lot over there, they just stay there or whatever, and he was hanging around there and he came back later on that evening and someone from over there knocked on our door.

MR. WHITE:

Okay.

MRS. MONROE:

And let us know that he was out there.

MR. WHITE:

Okay. How was that resolved, was this guy prosecuted?

MRS. MONROE:

I don't know what happened.

MR. WHITE:

So I guess what I'm getting at is you didn't have any bad experiences with any criminal defense lawyers --

MRS. MONROE:

No.

MR. WHITE:

Okay. How about you, have you -- what was the first -- you first came here two -- three Thursdays ago; were you one of those folks?

MRS. MONROE:

I was here last Monday.

MR. WHITE:

Last Monday was your first time? And have you thought about this process, have 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

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okay, is just wait on Mr. Dunham, and I'm going to go to you, Mr. Mika.

[PROSPECTIVE JUROR 34-134, MR. ALLEN MIKA]

MR. WHITE:

Your wife does things like -- she does staffing for medical interns and residents, or are there any residents at that hospital?

MR. MIKA:

It's a teaching hospital, basically, for LSU.

MR. WHITE:

And so she was -- when she was called as an expert witness, it was to testify as to her knowledge of how that process is -- or how that system is conducted, that type of system?

MR. MIKA:

That's correct. It would -- it pertained to a particular medical procedure on a patient at an earlier hospital that she worked at here in town.

MR. WHITE:

It had something to do with whether or not a certain specialist was available or something like that? I'm trying to imagine what --

MR. MIKA:

Probably in regards to the procedures that are typically followed for that, let's say, category of surgery.

MR. WHITE:

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

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to supplant or substitute any knowledge that
you have for what you hear on the stand from
experts; you'll be able to listen to them,
respect them, and weigh their testimony?

MR. MIKA:
Absolutely.

MR. WHITE:
Okay. Is there anything that you want
to add, any -- you're halfway down the line
so you've got a chance of getting off this
thing. Is there anything you want to add,
anything you want to tell me?

MR. MIKA:
Not --

MR. WHITE:
How many times have you been
questioned by lawyers in this process?

MR. MIKA:
This is, I think, the third go around.

MR. WHITE:
Well, you've had enough of this. Pass
it down, please.

[Laughter]
[PROSPECTIVE JUROR 32-31, MRS. DORIS BUTLER]

MR. WHITE:
Ms. Butler, the thing that I think
would be tough for you in serving on this
jury is that you grew up in Lake Charles.

MRS. BUTLER:
Yes.

MR. WHITE:
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.

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MR. WHITE:
Well, another thing that I think is an issue with you, is you've got kids who are nine and seven.

MRS. BUTLER:
That's correct.

MR. WHITE:
And you understand that if the State were to prove its case beyond a reasonable doubt you would -- well, you know, you're going to hear some testimony involving a 4 year old child, right.

MRS. BUTLER:
That's correct.

MR. WHITE:
How sensitive an issue is that for you?

MRS. BUTLER:
That wouldn't be a factor, I wouldn't, you know, see it as I'm looking at -- thinking of my child while I'm thinking that, I'm just listening to all the evidence.

MR. WHITE:
Okay. Because that's a tough order. I mean, --

MRS. BUTLER:
Yes, that is, you know, but I'm just here to listen to all the evidence before I can come to a complete verdict on it, so it's not -- I'm not feeling very sensitive because it's a child; no, I'm not feeling

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that.

MR. WHITE:

Okay. And you understand there'll be some relatively graphic photographs introduced into evidence here, and the State does it because they have to do it, not because they're trying to outrage you, --

MRS. BUTLER:

Yes.

MR. WHITE:

-- but it's --

MRS. BUTLER:

I understand that.

MR. WHITE:

How about that, I mean, you're talking about graphic pictures of a child. Is that going to cause you any concern considering that you have such young children?

MRS. BUTLER:

No.

MR. WHITE:

Okay. Also, and I can't get into this in any great detail, but there very likely will be some testimony involving a confession. Do you think that confessions are always reliable? I'm asking you that question because you did your bachelor's degree in criminology and you have studied interrogation techniques, haven't you?

MRS. BUTLER:

That was quite sometime ago since I've 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

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y'all. But, anyway, I appreciate it, and if you would pass the microphone to Mr. Gooden.

[PROSPECTIVE JUROR 33-64, MR. ROBERT GOODEN]

MR. WHITE:

Mr. Gooden who lives in the world of stoic geometry and stearically balanced equations and maybe Bose-Einstein condensates. How about you, you're going to know a whole lot more than most of your other jurors about the subject of chemistry and, of course, the subject of DNA is inextricably intertwined with the subject of general chemistry.

MR. GOODEN:

Yes, and especially in my expertise, which is organic chemistry.

MR. WHITE:

Well, there you go. And did I get that right, sterically balanced equations, isn't that first semester organic?

MR. GOODEN:

Yes.

MR. WHITE:

Okay. You're going to have experts up there who - one or more - who will testify on the subject of DNA and they'll go through lab procedures and that sort of thing, possibly. Some of them might not have as much education as you. Are you going to be able to afford them the respect that the Court affords them?

MR. GOODEN:

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Oh, certainly.

MR. WHITE:

You might even see a former student up there. I guess I would think -- and I'm going to tell you in advance, you very well may be more qualified, you know, in some -- at least in the area of organic chemistry than some of the experts who might be testifying on the subject of DNA, but you're able to listen and to weigh their evidence?

MR. GOODEN:

Yes.

MR. WHITE:

And you will -- you also understand that Jason is innocent -- presumed innocent as we sit here.

MR. GOODEN:

Yes.

MR. WHITE:

And you're able to afford him that presumption throughout these proceedings?

MR. GOODEN:

Yes, I will.

MR. WHITE:

And you're someone I'd like to have on the jury, but as I said, the line moves that way and I don't know if we'll get to you. Is there anything that you'd like to tell me, any reason why you would like to be -- would like to not serve on this jury, and, again, I'm trying to focus your comments on your ability to be impartial.

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MR. GOODEN:
There's nothing that I think that
would keep me from being impartial in
serving on a jury.

MR. WHITE:
You teach first semester organic?

MR. GOODEN:
I teach general chemistry for nursing
majors, I teach general organic,
intermediate, advanced organic, and --

MR. WHITE:
So y'all break under trimesters?

MR. GOODEN:
No, semester system.

MR. WHITE:
Okay. And do you also teach -- do
you teach either biochemistry or physical
chemistry?

MR. GOODEN:
No.

MR. WHITE:
Is physical chemistry possible, I
mean, can anybody learn that? Isn't that
the toughest -- that's the toughest
undergraduate subject, I think.

MR. GOODEN:
It was my toughest one also, but it's
the one that I have the greatest admiration
for.

MR. WHITE:
Yeah, me, too, and I admire them from
a distance. That's like third semester

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calculus, base plus differential equations
and like four semesters of chemistry before
you can even think about taking it, right?

MR. GOODEN:

Yes.

MR. WHITE:

Okay. Well, I won't see you there.
You can pass it down.

[Laughter]

[PROSPECTIVE JUROR 33-258, MRS. PENNY ALBERT]

MR. WHITE:

Ms. Albert, you're so safe, which is
really -- you're so arithmetically safe, but
I'm going to talk to you anyway because you
don't sit here since 1:30 without being
cross-examined.

MRS. ALBERT:

I'm glad I'm at the end. I'm at
right, remember, left to right, left to
right.

MR. WHITE:

What? Say it again.

MRS. ALBERT:

You remember you said left to right,
left to right.

MR. WHITE:

You know what, I'm not going to sit
here and cross you on your -- Is there -- no
additions or corrections or anything you
want to make to your questionnaire, right?

MRS. ALBERT:

No, I don't think so. I know I don't.

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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

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waste of -- a waste of talent.

MR. FREY:

Okay. And let me ask you, and, again, nobody's trying to embarrass you, that's why we're doing this here in private, but what crime was he accused of?

MR. DUNHAM:

Some kind of assault charge.

MR. FREY:

And your questionnaire said something about four years. What -- does that mean that he's been in this institution for four years?

MR. DUNHAM:

That single one. There's -- he went to parish prison.

MR. FREY:

And from the parish prison until there was a bed available, and then they transferred him. Do you get to visit him?

MR. DUNHAM:

Yeah.

MR. FREY:

And it sounded like from what you said, and you correct me if I'm wrong, I'm not trying to put words in your mouth, I'm trying to make it sort as easy as possible for you, but it sounded like you felt he was treated unfairly because maybe his attorney convinced him to plead insanity; is that right?

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?

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MR. WARE:

Yes, sir.

THE COURT:

Mr. White?

MR. WHITE:

I'm waiting to --

MR. WARE:

We're ready to proceed.

MR. WHITE:

Okay, yes, sir.

THE COURT:

All right. At this time I'd ask if the State has any challenges for cause with regard to those potential alternate jurors.

MR. FREY:

Your Honor, with regard to Mr. Dunham, I would challenge him for cause, not for my sake, but for his sake. I think what happened just now is sort of obvious that I don't think he'd be a fit juror for this particular case, and maybe no particular case, at least currently.

MR. WHITE:

No argument, Your Honor.

THE COURT:

It did appear that he had some emotional issues to deal with, noting that this would be a very serious and emotional trial, and the Court will excuse him for cause without objection at this time, that's Panel "33", No. 46. Treat it as a joint motion or do you want to treat it as State's

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motion without objection?

MR. WHITE:

Joint motion, Your Honor.

THE COURT:

Let the record so reflect.

[PROSPECTIVE JUROR 33-46, MR. TED DUNHAM, JOINTLY
EXCUSED FOR CAUSE BY BOTH STATE AND DEFENSE]

THE COURT:

With regard to -- any other challenges
for cause from the State?

MR. FREY:

No, Your Honor.

THE COURT:

Any challenge for cause from the
Defense?

MR. WHITE:

No, sir.

THE COURT:

Then at this time with regard to Juror
Panel "33", No. 204, Laura Stamand, would
tender to the State as second alternate.

MR. FREY:

The State exercises a perempt.

[PROSPECTIVE JUROR 33-204, MRS. LAURA STAMAND,
PEREMPTORILY EXCUSED BY THE STATE]

THE COURT:

At this time both parties have
exercised a peremptory with regard to the
second alternate. I would tender to the
State Ms. Vanessa Monroe, Panel "33", No.
147.

MR. FREY:

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We have no perempts; we accept.

THE COURT:
And to the Defense, just for procedural purposes.

MR. WHITE:
We accept, Your Honor. Well, --

MR. WARE:
Per the Court's process we have no alternative to accept -- if the Court understands what I'm talking about.

MR. FREY:
Continuing objection, Your Honor.

MR. WARE:
Continuing objection.

THE COURT:
As to the process. Ms. Vanessa Monroe will be maintained as the second alternate. [PROSPECTIVE JUROR 33-147, MRS. VANESSA MONROE, SECOND ALTERNATE]

THE COURT:
Panel No. "34", No. 134, Mr. Allen Mika, as third alternate, would tender to the State.

MR. FREY:
The State accepts Mr. Mika.

THE COURT:
Would tender to the Defense.

MR. WHITE:
Accept, Your Honor.

THE COURT:
Mr. Mika will become the third alternate.

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[PROSPECTIVE JUROR 34-134, MR. ALLEN MIKE,
ACCEPTED AS THIRD ALTERNATE BY BOTH STATE AND
DEFENSE]

THE COURT:

At this time the Court would tender
Panel No. "32", Juror No. 31, Doris Butler,
to the State as fourth alternate.

MR. FREY:

The State accepts.

MR. WHITE:

Your Honor, we thankfully excuse Ms.
Butler.

THE COURT:

Ms. Butler will be excused.

[PROSPECTIVE JUROR 32-31, MRS. DORIS BUTLER,
PEREMPTORILY EXCUSED BY DEFENSE]

THE COURT:

At this time Panel "33", Juror No. 64,
Robert Gooden, would tender to the State.

MR. FREY:

The State accepts.

THE COURT:

And the Defense?

MR. WHITE:

We accept, Your Honor.

THE COURT:

Noting that he would have been
maintained and the continuing objection as
to the procedure as previously outlined.

[PROSPECTIVE JUROR 33-64, MR. ROBERT GOODEN,
ACCEPTED AS FOURTH ALTERNATE BY BOTH STATE AND
DEFENSE]

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THE COURT:

Ms. Albert, by default, will be excused. We have our four alternates, Ladies and Gentlemen. There will be no additional panels. I would ask Mr. Dorsey to notify the jury pool room, if we see him, to let them know that all of the potential jurors remaining should be called and released. We will make arrangements for transport. I will bring these jurors in. We will excuse those that have been excused and take custody of the three that will be maintained as second, third, and fourth alternates, respectively. Anything from the State at this point?

MR. FREY:

Not that I can think of, Your Honor.

THE COURT:

Anything from Defense?

MR. WARE:

Not anything I can think of, Your Honor.

MR. FREY:

Just to clarify, we're going to -- the jury will be transported tomorrow? We'll do something in court --

THE COURT:

They're sequestered, correct, I've indicated to -- that they're making arrangements because it will be some time before they get the balance of the other jurors in place, and with the three that we

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

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order to return exhibits to the defendant so that the record is clear with regard -- in the first trial that any exhibits can be returned to the defendant for custody purposes to see if they wish to be resubmitted. If they are not, then they will be turned back over to the clerk to be held in the first proceeding. Is that understood, Mr. Ware?

MR. WARE:

Yes, sir.

THE COURT:

All right.

MR. FREY:

One more thing, Judge. Will you arrange with the sheriff's department to have Mr. Reeves present in court at 2:00 o'clock, because we won't have time to send a docket or anything.

THE COURT:

Correct. We need to make certain when we note, Mr. Day, I'll ask you at this point, when we transport him tomorrow, that it be made known that he's to appear in court at 2:00 P.M. tomorrow afternoon for some proceedings.

MR. DAY:

Yes, sir.

THE COURT:

All right. At this time we will return the jurors.

[PROSPECTIVE JURORS RETURNED TO THE COURTROOM]

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THE COURT:

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

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Stamand; Panel No. 33, Juror No. 46, Mr. Ted Dunham; Panel No. 32, Juror NO. 31, Ms. Doris Butler; and Panel No. 33, Juror No. 258, Ms. Penny Albert. I do thank each and every one of you for the time that you've given us. All right.

[PROSPECTIVE JURORS 33-204, MRS. LAURA STAMAND; 33-46, MR. TED DUNHAM; 32-31, MRS. DORIS BUTLER; AND 33-258, MRS. PENNY ALBERT EXCUSED AND EXIT THE COURTROOM]

THE COURT:

Ladies and Gentlemen those that are remaining at this time, I would ask that you stand and be sworn, and let the record reflect that it is 17 minutes after the hour of 6:00 o'clock on October the 27th, 2004, and you are being sworn at this time to be final jurors in the matter that you have been tendered in.

THE CLERK:

Raise your right hands, 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 evidence, so help you God.

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?

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MR. FREY:

No, Your Honor.

MR. WHITE:

No, sir.

THE COURT:

All right. Y'all may go with Mr. Day.

MR. DAY:

Come with me, please.

[JURORS EXIT THE COURTROOM]

THE COURT:

At this time while we're still on the record I will put in force the -- noting that all of the jurors and four alternates have now been selected, the order transferring the defendant is to be put in place, notification will be given to the sheriff's office of Calcasieu Parish to make arrangements for transportation. Mr. Ware, in conjunction with the transport of the defendant as well as making available for court tomorrow afternoon at 2:00 o'clock, the clothing that has been provided for Mr. Reeves?

MR. WARE:

Right, yes, sir.

THE COURT:

Do you have possession of those items?

MR. WARE:

No, sir, but I've talked to the deputies and I've been advised to stay, which we will, and take possession or repossession of them.

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THE COURT:

All right. So you're going to take possession of those this evening and have them available for Friday morning?

MR. WARE:

Yes, sir. Yes, sir.

THE COURT:

I don't know that we'll need them tomorrow, it'll be out of the hearing of the jury.

MR. WARE:

They're going to be in my constant possession, available to Mr. Reeves.

THE COURT:

All right. Do I have anything at this time before we adjourn to reconvene tomorrow afternoon at 2:00 o'clock in Calcasieu Parish? Anything, Mr. Frey?

MR. FREY:

No, Your Honor.

THE COURT:

Anything, Mr. Ware?

MR. WARE:

No, sir.

THE COURT:

All right. All right, Ladies and Gentlemen, we will be adjourned until tomorrow morning at 2:00 o'clock in Calcasieu Parish, Courtroom "F".

MR. FREY:

Tomorrow afternoon, Your Honor.

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

ELIZABETH H. SURLLES
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.

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THE COURT:

I'm making the adjustments in the body. And then striking the proffers that are referenced?

MR. WARE:

Yes, sir.

MRS. KILLINGSWORTH:

Mr. Ware, I have D-2, you can have it.

CLERK:

And do you have those others, too?

MRS. KILLINGSWORTH:

I only brought certain things to look at the stamps. I can look and see if we have them in that -- Mr. Ware -- it's a picture of the defendant.

MR. WARE:

For the record, Your Honor, I have D-2.

THE COURT:

You have D-2?

MR. WARE:

I have D-2.

THE COURT:

So that would be --

MR. FREY:

We have received that in some way, shape, or form, and have tendered it to Mr. Ware.

THE COURT:

All right. So actually you specifically reference from the clerk D-3 through D-8?

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MR. WARE:
Yes, sir.
THE COURT:
Does the State have any objection or -
MR. FREY:
No, Your Honor.
MRS. KILLINGSWORTH:
Oh, look at here, I found some more.
CLERK:
I thought you did.
MRS. KILLINGSWORTH:
I have --
MR. WARE:
That's why I'm making the amendments,
Judge, I'm finding out --
MRS. KILLINGSWORTH:
Here is a proffer -- yeah, that is
ours. You need D-3, which is Mr. Shields'
CV.
CLERK:
Correct.
MRS. KILLINGSWORTH:
D-4, which is a something.
CLERK:
Right, time log.
MRS. KILLINGSWORTH:
D-6 is Mr. Zimmerman's CV.
CLERK:
Correct.
MRS. KILLINGSWORTH:
And D-7 is a psychological evaluation

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of defendant.

CLERK:

Uh-huh. D-5 was that fingerprint,
palm print and footprints that was checked
out earlier by somebody to give --

MRS. KILLINGSWORTH:

I believe that went to -- that will be
back. No, it's in evidence at the
sheriff's office.

CLERK:

We don't have it. Here's 8, Mr. Ware.

MR. WARE:

Judge, let me just --

CLERK:

So really the only one I don't have is
-- since it's already been checked out is D-
5, but that's been checked out previously.

MRS. KILLINGSWORTH:

Correct.

MR. WARE:

This is --

CLERK:

8.

MR. WARE:

-- D-8.

CLERK:

So that's all I have.

THE COURT:

So where are we at, Mr. Ware?

MR. WARE:

Your Honor, I have D-2. I have D-2,
D-3, D-4, D-6, D-7, D-8. The only thing I

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don't have is D-5.

CLERK:

And it's already been checked out.

MR. WARE:

By?

CLERK:

That's that fingerprint, footprint,
palm print card.

MRS. KILLINGSWORTH:

We checked that out for you, Mr. Ware.

MR. WARE:

I recall that.

MRS. KILLINGSWORTH:

We had -- you -- Judge Canaday -- the
expert was coming in and you needed it all
in one spot and we asked the Judge to
release it so that your expert could have
access to it as -- as I understand it, they
have had access to it.

MR. WARE:

Your Honor, I would move to dismiss
that motion to release.

THE COURT:

All right. At this time we will
vacate or remove the original motion
requesting those, noting that all of the
exhibits other than one that is not
accounted for at this time but believed to
be in the possession of the defendant has
been satisfied that it is not, but you will
have the right to return if you are unable

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to locate the exhibit if it is in the possession of the clerk and/or the State.

CLERK:

Judge, I believe I still need an order to let him have it. Is that not correct?

MR. WARE:

How about just an order from the -- I don't know about a written order, just an order, reflected in the minutes?

MRS. KILLINGSWORTH:

And, Mr. Ware, if you find that you are missing something that you are in need of, feel free to give me a call and I'll look through our things.

THE COURT:

Mr. Ware, what I'm doing just to cover this, and I have the original motion here and it just basically says that the defendant prays that the Court grants this motion and orders that Defense exhibit evidence admitted during the first trial be released from the custody and the possession of the 14th JDC clerk and return to Mr. Reeves and his attorneys. That way it covers all Defense exhibits. If you do not have them, then they can be -- it'll be sufficient for the clerk to take care of it. I did not note an order. I just indicated considering the above relief requested is granted, signed it, by the court at this time, dated it on this 28th day of October, 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

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

MR. WARE:

What is the -- I'd like the date blotted out or not revealed. Can we do that? Can we white it out?

MRS. KILLINGSWORTH:

I don't think we can.

MR. FREY:

It's part of the record of the first trial.

THE COURT:

Where there would be some that would be whited out and some that would not be, which would call more attention to them because of pre-trial introduction.

MRS. KILLINGSWORTH:

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

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MR. WARE:
 Could they be duplicated?

MRS. KILLINGSWORTH:
 No.

THE COURT:
 Could what be duplicated, the exhibits?

MR. WARE:
 Those exhibits, or the face sheet.

MR. FREY:
 We only use the originals at the trial.

MRS. KILLINGSWORTH:
 We need to use the originals at the trial, Judge, I mean, otherwise you leave people wondering about where are the originals and if they have been tampered with and whether or not we're using the best evidence. I don't want a jury wondering.

MR. WARE:
 Your Honor, I think that could be resolved or solved, but I'm thinking about not even going to that extent. What was the admonition or the instruction, would be that this case has had -- has been -- there've been --

THE COURT:
 We could have a pre-trial admonition, we could have one at the middle of the trial or at the end of the trial if you felt it was a concern, as opposed to balancing -- drawing attention to them looking at

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

MR. WARE:

And of no significance to you.

MRS. KILLINGSWORTH:

Right.

MR. FREY:

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

MR. WARE:

I'm wondering that exact thing.

THE COURT:

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

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admonition I will give them one. I am not going to give them one until you formally tell me that that's what you would like to have done and at what time frame.

MR. WARE:

Okay.

THE COURT:

Satisfactory?

MR. WARE:

I'm satisfied with that.

THE COURT:

All right. The Court would reference that it's taken the actions in conjunction with Article 857 of the Code of Criminal Procedure, indicates that the retrial of any case is with as little prejudice to either party as if it had never been tried. All right, Mr. Ware, at this time I have the Supplemental to Exclude Evidence of Jason Reeves' presence and conduct at St. Theodore's Holy Family Catholic School. It's my understanding and I've gone through and read the gist of the motion, that basically you are reurging the three elements that were presented previously, that of relevancy, that of prejudice and probative value evaluation and ultimately res gestae determination as was submitted by Mr. Cuccia --

MR. WARE:

Yes.

THE COURT:

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-- on behalf of the defendant in a motion in limine that was believed presented and argued August 12th, 2002 in this court; is that correct?

MR. WARE:

That is correct, Your Honor.

THE COURT:

At this time I have received the original motion signed by the defendant. It has no order to fix it; it is being heard, it's no surprise, that it's being fixed basically instanter in conjunction with the written motions but all parties have been placed on notice as of I believe yesterday of the Defense's intent to do so but because of the location and inability to have secretarial staff it was the -- the written motion is supplementing the oral indications given to both the Court and the State. Any objection from the State?

MR. FREY:

No, Your Honor.

THE COURT:

All right. All right, Mr. Ware.

MR. WARE:

Your Honor, I don't have evidence and I don't have argument; I'm going to submit the motion as it is.

MR. FREY:

And, Your Honor, then we will submit that these arguments have already been heard, they've been ruled on and there's

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

THE COURT:

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

MR. FREY:

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

THE COURT:

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

MR. WARE:

Your Honor, to the best of my --

THE COURT:

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

MR. WARE:

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

MRS. KILLINGSWORTH:

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

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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

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

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

MR. WARE:

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

THE COURT:

So ordered.

MR. WARE:

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

THE COURT:

Understood. Noted, in that capacity.

MR. FREY:

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

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hearing, other bad acts hearing, it would
come in even under that heightened scrutiny,
unquote.

THE COURT:

Anything, Mr. Ware?

MR. WARE:

No, sir.

THE COURT:

The transcript speaks for itself, let
it be noted for the record of these
proceedings. Did you have anything else to
present at this time?

MR. WARE:

Judge, one thing, and I understand
from talking with Mr. Frey, that you're
aware of what I'm about to talk about and
have decided -- you've decided to address it
tomorrow morning, and that concerns
Alternate #2, Ms. Vanessa Monroe.

THE COURT:

Yes. As a matter of fact, I wanted to
bring you up to date on a situation that
occurred after the parties left, the Court
had been adjourned. She was being held in
the jury pool room, I mean, the jury room,
waiting for transportation to go pick up her
clothes so that she could be taken to the
hotel. Mr. Wayne Day approached me and
indicated that she had a problem, he -- and,
again, this is all hearsay, but he related
to me, and I could see her sitting on a
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

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

MR. WARE:

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

THE COURT:

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

MR. WARE:

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Yes.

THE COURT:

And it just may have been something of immediate concern to her.

MR. WARE:

Right, --

THE COURT:

But I do understand that she has not been distraught, she's been interacting with the other jurors, and I cannot give you any other information until we can actually speak to her. And that's why I said we would address it tomorrow because she wasn't going to be brought today; but I did want to bring you up to date on the information or the things that had occurred last night with regard to Ms. Monroe.

MR. WARE:

And that's all I have.

THE COURT:

The State also understands?

MR. FREY:

Yes, Your Honor. That's the way we'd like to handle it, too. I'm not saying we're opposed either, but we'd like to talk to her first.

MR. WARE:

Right. If everything's resolved, then that's fine, but -- and that's all that I have, Your Honor.

THE COURT:

All right. Then there being nothing

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else today then we are going to be adjourned until tomorrow morning at 9:00 o'clock. The parties -- is the Defense going to be making an opening statement?

MR. WARE:

Yes, sir.

THE COURT:

Okay. Because generally I go through and I give them some introductory remarks about what to expect, just the order of a trial in general, and I usually state that the Defense doesn't have to but can make an opening statement. I would leave that part of it out; if you were going to tell me that you are, I'll just indicate that there will be opening statements first by the State and then the Defense.

MR. WARE:

Your Honor, I would prefer that you give them the standard instructions, Defense doesn't have to.

THE COURT:

Fair enough. Done.

MR. WARE:

But may.

THE COURT:

Then we will be here tomorrow morning with all 16 jurors and we will proceed with the trial.

MR. WARE:

Mr. Reeves is being kept in intake and I understand that he will be -- he will

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

THE COURT:

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

MR. FREY:

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

MR. WARE:

Mr. Nugent is the --

MR. FREY:

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

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of any other distinction.

THE COURT:

Do y'all want this handled on the record?

MR. FREY:

It's up to Mr. Ware.

MR. WARE:

Not right now. I agree with Mr. Frey, we need to bring the other authorities in and --

THE COURT:

The reason I say this is we maybe can go up and make some phone calls -

MR. FREY:

We can do that right now. I have no problem with that.

THE COURT:

And maybe we can get it addressed, if you're satisfied -- happy with it being done informally. I don't know that it's anything necessary for the record, it doesn't go to any substantive issues, it's really only either a courtesy or a transportation issue or security issue.

MR. WARE:

I agree with the Court.

THE COURT:

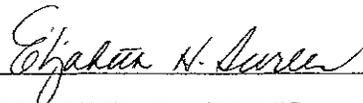
All right. Then we will be adjourned until tomorrow morning at 9:00 o'clock.

[COURT ADJOURNED]

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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
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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STATE OF LOUISIANA VS. NO. 20179-01 JASON REEVES

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PROCEEDINGS:

[COURT OPENED]

THE COURT:

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

MS. KILLINGSWORTH:

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

THE COURT:

Is the State ready to proceed?

MS. KILLINGSWORTH:

The State's ready to proceed.

THE COURT:

Is the defense team present and ready to proceed?

MS. KILLINGSWORTH:

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

THE COURT:

All right.

MS. KILLINGSWORTH:

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

THE COURT:

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

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counsel, Ron Ware. Second chair,
Mr. Charlie St. Dizier. Associate Counsel,
Mr. Richard White, and Jason Reeves is also
present.

THE COURT:

All right. Let the record so reflect.
And you're ready to proceed this morning?

MR. WARE:

We're ready to proceed, Your Honor.

THE COURT:

All right.

MR. WARE:

Your Honor, on yesterday we took up a
motion to exclude Mr. Reeves' presence and
conduct at the St. Theodore's Holy Family
Catholic Church, and in the motion, I
specifically named some of the witnesses
that testified at the last trial concerning
those events. And I checked the record or
the transcripts last night, and I found out
that one name was not listed, as it normally
would, on who testified on that day in the
sequence that they did, and the name was
Erin, E-r-i-n Alexander. I'm going to spell
the last name S-c-h-r-e-p-f-e-r. She was
called as a witness and testified to those
events as well, so I'd like to incorporate
this witness and her name into the motion.

MR. FREY:

No objection, Judge. It's already been
ruled on.

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.

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MADAM CLERK:

You may be seated.

THE COURT:

The 27th, Ms. Monroe, you were selected as the second alternate in this case; you recall that?

MS. MONROE:

Yes, sir.

THE COURT:

And at that time you were placed under sequestration, put in the custody of law enforcement. And it was brought to the Court's attention, after court had been adjourned, that you had a problem that had not been relayed to the Court with regard to your minor children.

MS. MONROE:

Correct.

THE COURT:

Since then, I need to find out, have arrangements been made for the care of your two children?

MS. MONROE:

Yes, sir.

THE COURT:

All right. Is that situation, will that be good for two to two-and-a-half weeks?

MS. MONROE:

Yes, sir.

THE COURT:

All right. At this time I need to make 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.

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And I will also have the entirety of the indictment and the defendant's plea read to the Jury before we commence with opening statements.

If y'all would all stand, please.

[JURY SEATED IN THE COURTROOM.]

MADAM CLERK:

Raise your right hands, please.

THE JURY:

(Comply with request.)

MADAM 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 evidence, So Help You God.

THE JURY:

(Respond in the affirmative.)

MADAM CLERK:

You may be seated.

THE BAILIFF:

Please be seated, Ladies and Gentlemen.

THE COURT:

Good morning, Ladies and Gentlemen.

THE JURY:

Good morning, Your Honor.

THE COURT:

Have you been able to acclimate to some extent to the change -- we're just a little further west from where you're used to, so,

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

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

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

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

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

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

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

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

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

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

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will make sure that that's remedied.

As before, the bailiffs are the eyes and ears of the Court. If you need to communicate with the Court, then you need to contact one of the bailiffs, they will transfer the information to me. You do need to be aware that if they come to me with a case-related problem, it will only -- it can only be addressed in Open Court before all the parties.

Now, all of you remember the admonition that was given. No discussion of this case, any legal cases that are on-going, any of the parties, the State, the Defense, basically anything having to do with issues of law, I would tell you to stay away from. Talk about sports, talk about food, talk about the weather; that's the type of things that we need to make certain and that way we don't ever have a question as to the discussions that are being made.

In addition, you've been told before that the parties aren't being rude if they ignore you if they come into some proximity, and, again, that's still in force, and probably more so now that we are in this area and that you're being sequestered. So, do not hold that against anyone, that they are only obeying orders of the Court, in not speaking or trying to be friendly with you.

You are not to receive any information or any advice from anyone but the Court, and

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

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

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

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

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

MADAM CLERK:

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

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

THE COURT:

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

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

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

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

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

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

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

MR. BRYANT:

Yes, Your Honor.

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THE COURT:

All right.

MR. BRYANT:

Welcome to Lake Charles. I know this is not the way in which you wish to come to Lake Charles. I know it's not the trip that you wanted to make, but I can assure you that your visit here will be the most important visit that you ever make to Lake Charles because of the requirements and duties that you have in front of you over the next several days. It's an experience that many Jurors go through. I know we've taken you from your homes, but it is an important experience for all of us in Calcasieu Parish. The decision that you make during the next few days, at the end of this trial, are very important to many people.

The law requires, as the Judge has indicated, that the State make an opening statement, and the reason is because we have the burden of proof. We must prove a defendant's guilt beyond a reasonable doubt. And what we do in order to get to that point is to present evidence through various forms, whether that be testimony -- that you will hear witnesses who testify. You will also hear and see physical evidence that will be presented. There will be expert witnesses who will testify. This is an opportunity during opening statement to tell

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

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

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

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

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

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

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

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

ENDING

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

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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:**

UNFILED

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

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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

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this -- I mean, I guess I'm going to object during Mr. Ware's opening and bring up every --

MR. WARE:

You have already interjected an arbitrary fact.

THE COURT:

I'm going to finish with opening. We're going to have to take a break because of an evidentiary matter, and I'll give you an opportunity to argue, and your motion will be preserved at that time.

MR. WARE:

Yes, sir.

THE COURT:

Now, we'll handle it then, so that we can go forward with opening.

MR. WARE:

Yes, sir.

MR. WARE:

Another thing, Judge, I respect the State of Louisiana and its Prosecutors. I made the objection -- I didn't use the technical for an objection, "but may we approach," and that's been the standard practice that we indicated as to an objection. And Mr. Bryant kept talking more or less before we could get here, and continued to talk and blurted it out. And I think that he anticipated what my objection would be, and the reason I asked and wanted to approach the Bench. And I would ask that

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that not happen again.

THE COURT:

Do you understand what he's talking about?

MR. BRYANT:

I don't have a clue what he's talking about. I was in the middle of my closing (sic) arguments.

MR. FREY:

Opening.

MR. BRYANT:

Opening statement. Whatever.

THE COURT:

When he said, "May we approach," you finished the sentence that you were in the middle of, and he wanted to break --

MR. BRYANT:

I didn't even hear -- I didn't hear anything until Your Honor had said something.

THE COURT:

Well, it will be noted, at any time that the Court is brought in, we should cease immediately at that point. All right.

[BENCH CONFERENCE CONCLUDED]

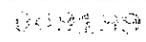
THE COURT:

Are you ready, Mr. Bryant.

MR. BRYANT:

Yes, Your Honor.

Again, Ladies and Gentlemen, going back to November the 12th, of 2001, as I 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

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

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

The Prosecutor has given you his version of what he will try to prove to you. We do not agree with what has -- he has said, and 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

1 REDIRECT EXAMINATION

2 BY MR. BRYANT:

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

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

20 Q But I noticed it stops almost in mid sentence.

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

32 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

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

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

MS. KILLINGSWORTH:

We are.

THE COURT:

-- that they be kept out of the courtroom and out of the presence of the testimony, so that they will be called.

MR. BRYANT:

The only exception to the rule, Your Honor, we'd ask that both sides' investigators be allowed to speak to the witnesses.

[Ms. Killingsworth speaking with Mr. Bryant.]

MR. BRYANT:

We'd just ask that the investigators be allowed to have contact with the various witnesses on both sides.

THE COURT:

Mr. Ware?

MR. WARE:

Yes, sir. And I would join that.

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:

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And I understand that.

THE COURT:

Understood. And the record's clear with regard to that.

Now, also, during the course of the State's opening, an objection was made, specifically referenced by Mr. Bryant, that the father was -- would not be here because he was killed by a drunk driver. There had been an objection made. Discussion was made at the Bench. Quite often those recordings are poorly made. I would ask at this time, Mr. Ware, that you would re-urge, out of the hearing of the Jury, your specific position.

MR. WARE:

Your Honor, obviously the Defense knew that Mr. Thigpen was killed four to six weeks ago - I've lost track of time, it seems - in an automobile accident, and there was some evidence of alcohol being involved on the part of the -- not Mr. Thigpen, but the other driver. As I understand it, and remember it, it was a three-vehicle accident, and the driver that actually caused the accident was suspected to have been under the influence of alcohol at the time of the accident. But, Your Honor, I don't think -- it's my position, that Mr. John Thigpen's death is, of course, a tragic event, and just further, you know, stress and distress on the family. I certainly realize that, and I'm sensitive to that.

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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 --

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

THE COURT:

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

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

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

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

The Court finds that it is appropriate

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

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

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

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

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

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

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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."

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MR. WARE:

That's fine.

MR. FREY:

It's Acceptable.

MR. WARE:

Judge, I didn't hear Mr. Frey's comments about the photographs, but just let me say this for the record. We have pulled our file and we don't -- it's here in court, and we don't have that photograph in our possession.

MR. FREY:

And, Mr. Ware, my comments on the photograph were, I am informed that the sheriff's department has reprinted, from their negatives, an exact copy of the photo line-up that was shown to Ms. Thigpen that was introduced here in Court. Obviously it won't have any comments or indications that were on the original because those were not on the negative, and it is on its way to court at this time. So it should be here within the next five to ten minutes, it is my understanding.

MR. WARE:

And, Your Honor --

MR. FREY:

And I also indicated we'd have to discuss how we're gonna handle that because it is obviously not the one that she looked at and initialed. And we'll have to discuss how the Court and the Defense want to handle

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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.

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MR. FREY:

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

MR. WARE:

That's fine.

THE COURT:

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

MR. WARE:

I'm satisfied with that, Your Honor.

MR. FREY:

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

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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:**

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And I think the defense team has seen
it.
MR. WARE:
That's correct, Your Honor.
THE COURT:
Is there any objection to that being
submitted through the next witness?
MR. WARE:
No, sir.
THE COURT:
All right. I was going to give you an
indication and see if there's any objection,
this is what I plan on stating, but not
until it's fixing to be offered, at that
point. But it would be: As with any trial,
specifically one of this seriousness, many,
if not all, of the exhibits have been
previously reviewed and introduced for
various reasons at pretrial hearings, and
the markings on those items should be
disregarded, since it's only their
acceptance in this trial and the reasons
that they are submitted that should be of
concern to them. I tell you this because
one of the earlier exhibits has been --
let's see -- is unavailable, that's why.
Because one of the other exhibits is
unavailable and a duplicate original has
been substituted, without objection, at this
time for your consideration.
MR. FREY:
Your Honor, --

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THE COURT:

Sufficient?

MR. FREY:

Well, I thought we had agreed that you would tell them that it was stipulated that it is a duplicate original, because the defense team has stipulated to that, and Ms. Thigpen has identified it as a duplicate original of the photo line-up that she looked at that was previously introduced that cannot now be located.

MR. WARE:

We would so stipulate.

THE COURT:

All right. In addition, the Court will give the admonishment with regard to the other issue having to do with the opening statement.

MR. WARE:

No, sir.

THE COURT:

No, sir?

MR. WARE:

I'm sorry. What did you ask me? Do I have anything else to --

THE COURT:

No. I said, in addition to that, when it becomes appropriate, on the photograph, the Court will initially, when they're brought in, give the admonishment with regard to the opening statement --

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

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the Court more than anyone else, to daydream and wish they were outside and about.

I do have something I'd like to say before we call our next witness, Ladies and Gentlemen.

Early on, I told you that there would be maybe some things that I tell you to disregard and not to consider. I am here to advise you that the father of the victim was killed in a traffic accident approximately two months ago, but the specific cause of that accident is not of any concern to you, and any references to that accident should be disregarded as to causation, other than to explain the absence of the father. All right. Are we ready to proceed, Mr. Bryant?

MR. BRYANT:

Yes, Your Honor.

THE COURT:

Mr. Ware?

MR. WARE:

Yes, sir, we are.

THE COURT:

All right. If you'd call your next witness, please, sir.

MR. BRYANT:

We call Carin Thigpen, Your Honor.

CARIN THIGPEN,

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

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.

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Ware?

MR. WARE:

No, sir.

THE COURT:

All right. Are you satisfied with that sequestration and the inclusion -- including the matters that you were concerned with previously during voir dire?

MR. WARE:

Yes, sir, I'm satisfied.

THE COURT:

All right. And it is noted that under Article 615, the parties that are exempt from that rule are specifically enumerated, and the Court acknowledges that. And each party, if they feel that they have a witness that is excludable, the burden would be on them to establish they fall within one of those exemptions.

All right. If we could bring our Jury back now.

[JURY SEATED IN THE COURTROOM.]

THE COURT:

You placed the witness under oath?

MADAM CLERK:

Yes, sir.

THE COURT:

All right. You're under oath, Ms. Thigpen. Mr. Bryant.

DIRECT EXAMINATION

BY MR. BRYANT:

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?