No. ___

IN THE

Supreme Court of the United States

ERIC REID,

Petitioner,

v.

STATE OF ARKANSAS

Respondent

On Petition for Writ of Certiorari to the Arkansas Supreme Court

PETITION FOR A WRIT OF CERTIORARI

WILLARD PROCTOR, JR.
Counsel of Record
2500 SOUTH STATE STREET
LITTLE ROCK, AR 72206-2162
(501) 378-7720
WILLARD@WPJRLAW.COM

****CAPITAL CASE****

QUESTION PRESENTED

Eric Reid was tried by a jury before the Honorable John Homer Wright in the Garland County Circuit Court for the murder of his wife and daughter. Reid was allowed to use the Colorado Method during portions of the *voir dire*; however, Judge Wright did not allow its use in entirety throughout the jury selection process. In a 6 to 1 decision, the Arkansas Supreme Court found that the Circuit Court did not abuse its discretion in limiting Reid's use of hypotheticals during *voir dire*.

The question presented is:

Whether the Arkansas' *voir dire* framework in capital cases conflicts with this Court's ruling in *Morgan v. Illinois*, 504 U.S. 719 (1992).

PARTIES TO THE PROCEEDING

Petitioner is Eric Reid. Mr. Reid was the Defendant in the State Circuit Court and Appellant-Defendant in the Arkansas Supreme Court.

Respondent is the State of Arkansas. It was the Plaintiff in the State Circuit Court and Appellee-Plaintiff in the Arkansas Supreme Court.

LIST OF RELATED PROCEEDINGS

State v. Reid, No. 26CR-15-670, Circuit Court of Garland County , Arkansas
Judgment entered (Mar. 12, 2018) (trial).

Reid v. State, No. CR 18-517, Arkansas Supreme Court,
Judgement entered. (Dec. 5, 2019) (direct appeal).

Reid v. State, No. CR 18-517, Arkansas Supreme Court,
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The order of the Arkansas Supreme Court affirming the Judgment of the Garland County Circuit Court is reported at 588 S.W.3rd 725 (Ark. 2019). (App. A). The Judgment of the Garland County Circuit Court is not reported. (App. B). The order of the Arkansas Supreme Court denying rehearing is unreported. (App. C).

JURISDICTION

The Arkansas Supreme Court issued its opinion on December 5, 2019. The Arkansas Supreme Court denied a timely petition for rehearing on January 23, 2020. On March 19, 2020, this Court extended the deadline to file any petition for a writ of certiorari to 150 days from the date of the lower court judgment, order of discretionary review, or order denying a timely petition for hearing, appeals court denied a timely motion for panel and *en banc* rehearing on August 28, 2019. This Court has jurisdiction under 28 U.S.C. 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourth Amendment to the Constitution of the United States provides, in pertinent part:

"nor shall any State deprive any person of life,

liberty or property, without due process of law."

U.S. CONST. amend IV.

INTRODUCTION

In capital cases, defendants have a constitutionally protected right to an adequate *voir dire*. "The death penalty must be reserved for the worst offenders. Thus, it is imperative that the jurors who must decide this question be able to discern when the ultimate sanction is warranted, as opposed to a severe, but less drastic sanction like life imprisonment." (Hart, J. dissenting, App 20a) Prior to *voir dire* in this case, Mr. Reid was permitted to use a watered down version of the Colorado Method. The Colorado Method is a tried and proven method of ferreting out unqualified jurors who might otherwise be able to mask their true views on the death penalty. Mr. Reid successfully used the Colorado Method to have jurors excluded based on bias. However, before he was able to continue, the State objected to continuing to use the Colorado Method . The State argued that the use of hypotheticals as "opening a can of worms." The circuit court agreed forbidding Mr. Reid from using the Colorado Method it had previously approved. As dissenting Justice Hart noted, "the circuit court eviscerated Mr. Reid's *voir dire* plan, ruling, "I don't mind you asking if someone who is clearly guilty of capital murder what do you think a sentence should be. Okay?" (Hart, J. dissenting, App 21a) The "circuit court's restriction on Mr. Reid's voir dire

questions virtually eliminated any meaningful process for determining whether the remaining jurors in the venire could properly weigh aggravating and mitigating factors." (Hart, J. dissenting, App 21a) Certiorari should be granted.

STATEMENT OF THE CASE

1. The Worst Day of Eric Reid's Life.

On October 19, 2015, Eric Reid lived with his wife of twenty-six (26) years, Laura Reid, his youngest daughter, Heather Reid, his oldest daughter, Mary Ann Reid, and her two children, Seth Smith and Alexa Reid. The Reids lived in a three-bedroom home in Hot Springs, Arkansas. Prior to moving to Arkansas, Reid had served in the Navy for twenty (20) years. After retiring from the Navy, Reid worked in trucking. In October of 2015, Reid was working two jobs, at the City of Hot Springs and at Wal-Mart. His wife, Laura was working and contributing to the household. And, even though she was pregnant and going to school, his youngest daughter Heather was contributing the household. However, Mary Ann was not working and not contributing to the household.

On October 19, 2015, Eric Reid caused the death of Laura Reid and Mary Ann Reid. Mr. Reid worked all day long outside in 95 degree heat. He was dehydrated and hot. He suffered from different medical conditions, including the lasting effects of prostate cancer treatment, which resulted in him

wearing diapers and pads. Reid was also suffering from a mental condition that while not rising to the level of a finding that he could not control the criminality of his conduct or conform it to the requirements of law, his diagnosed anxiety likely influenced his actions. In addition to all of those things, financial issues often caused disagreements between him and his wife, Laura, as well as him and his daughter, Mary Ann Reid. There were also parenting issues, which caused disagreements between Reid and his daughter Mary Ann Reid.

Reid's grandson, Seth, had come down from New York to live with Reid, Laura and Heather during Spring Break of 2015. Mary Ann Reid, his thirty-two (32) year old daughter from a previous marriage, and Alexa, his granddaughter, moved into the Reid's home in June of 2015 when Alexa got out of school in New York. Reid was concerned that Mary Ann was trying to be her children's buddy and not their parent as evidenced by her not requiring them to eat healthy. Heather testified that Reid loved Mary Ann as much as a father could love a daughter; that he loved Laura and that he loved her as well.

On the evening of October 19, 2015, Laura and Mary Ann were out in the garage of their home retrieving things from the car from their shopping trip earlier that day. While they were doing this, Reid followed Mary Ann into the garage. Reid and Mary Ann began arguing about her son, Seth. Reid told Mary Ann to leave the house, but she insisted he should be the one to leave. At some point, Reid

retreated from the argument and retired to his bedroom While in his bedroom, Reid heard Mary Ann say "F him." He saw a flash of light. Reid does not remember what happened afterwards. However, in the fog of the moment, Reid shot Laura and Mary Ann.

Heather testified that when she heard the first gun shot, her mother was in the kitchen and she and Mary Ann were standing next to each other. She then testified that she saw her mother fall and that she saw Reid shoot her mother. Heather testified that Reid then shot at Mary Ann, but missed. She testified that he shot at her again as she was running and hit her in the arm. Heather testified that she tried to push Reid but he was a wall of steel and his face was red. She testified that Reid shot Mary Ann again when she fell into her parents' bedroom. After shooting Mary Ann, Heather testified that Reid told her to call 911 and tell them that he had shot his wife and his daughter.

Reid surrendered at the scene, and he was taken into custody. This was the worst day of Eric Reid's life.

2. Capital Murder Trial of Eric Reid.

Mr. Reid was charged with two (2) counts of capital murder, and a firearm enhancement. Reid was tried by a jury before the Honorable John Homer Wright in the Garland County Circuit Court in a four-day trial, which began on February 27,

2018. The central issue at Reid's trial was whether his actions were premeditated and deliberated; or, whether he caused the deaths under the influence of extreme emotional disturbance for which there was a reasonable excuse.

Reid requested both prior to the beginning of the *voir dire* process and throughout the *voir dire* process that the Court allow him to use the Colorado Method in jury selection. The purpose of the Colorado Method is to strip away all of the guilt phase issues and liability so that jurors who are automatically going to impose the death penalty upon conviction can be identified, because those jurors should not be sitting on the jury. This method presupposes a guilty verdict, and then utilizes increasingly specific hypotheticals to determine how likely a prospective juror will vote for death. The circuit court ruled that it would allow the use of general hypotheticals, but that it would not allow specific hypotheticals, as they would lead to "fact qualifying" potential jurors. During a break in *voir dire*, the State objected to Reid's use of a hypothetical involving a school shooting in Florida. The circuit court sustained the State's objection and cautioned Reid to only use general hypotheticals that were relevant to the case.

On March 2, 2018, the jury convicted Reid of two (2) counts of Capital Murder and the firearm enhancement. On March 6, 2018, after testimony, evidence and arguments during a penalty phase, the

jury sentenced Reid to death for the murders of Laura Reid and Mary Ann Reid.

3. The opinion below.

On direct appeal, Reid argued that the trial court had committed prejudicial error by impermissibly limiting his *voir dire*. The Arkansas Supreme Court held, over the dissent on one Justice, that the circuit court did not abuse its discretion in limiting Reid's use of hypotheticals during *voir dire*. The Arkansas Supreme Court found that Reid was not entitled to unfettered examination through any means desired. It further found that limiting the use of emotionally charged hypotheticals—such as those involving school shootings—was well within the circuit court's broad discretion.

The majority reviewed the circuit court's *voir dire* restrictions under the abuse of discretion standard. The majority found that extent and scope of *voir dire* falls within the broad discretion of the circuit court. Under Ark. R. Crim. P. 32.2(a), the judge shall initiate *voir dire* by identifying the parties and their respective counsel, revealing any names of prospective witnesses, and briefly outlining the nature of the case. The majority found that beyond these four requirements, counsel may only ask additional questions "as the judge deems reasonable and proper."

In the dissenting opinion, Justice Hart wrote that "the circuit court's restriction on Mr. Reid's *voir*

dire questions virtually eliminated any meaningful process for determining whether the remaining jurors in the venire could properly weigh aggravating and mitigating factors." Justice Hart noted that "over Reid's objection, the State was allowed to "death qualify" the jury. However, Mr. Reid was not allowed to fully *voir dire* the jury in a way that would gage a juror's ability to impartially apply the law with regard to consideration of aggravating and mitigating circumstances." (Justice Hart Dissenting, App. 21a) Justice Hart's wrote: "In *Morgan v. Illinois*, 504 U.S. 719 (1992), the Supreme Court set out the general framework for Constitutionally adequate voir dire in capital murder cases. The Morgan Court held that: (1) due process required that a jury undertaking capital sentencing must be impartial and indifferent; (2) a capital defendant may challenge for cause any prospective juror who would automatically vote to impose death if defendant were convicted of the capital offense; (3) on voir dire, trial court was required, at defendant's request, to inquire into prospective jurors' views on capital punishment to identify unqualified jurors, as part of the guarantee of defendant's right to impartial jury; (4) trial court's general fairness and "follow the law" questions were not enough to detect those in venire who would automatically impose death; and (5) jurors who are unalterably in favor of or opposed to the death penalty in every case are unable to follow the law, and should be disqualified. The voir dire allowed by the circuit court did not comport with the basic principles of Morgan. Accordingly, the U.S.

Constitution demands that Mr. Reid be given a new trial." (Hart, J dissenting opinion, App. 19a)

The Arkansas Supreme Court denied a Petition for Rehearing. (App. 29a)

REASONS FOR GRANTING THE PETITION

I. The Arkansas Supreme Court has adopted a *voir dire* framework that is in conflict with the Court's ruling depriving capital defendants of due process.

"The most characteristic feature of prejudice is its inability to recognize itself. It is unrealistic to expect that any but the most sensitive and thoughtful jurors [frequently those least likely to be biased] will have the personal insight, candor and openness to raise their hands in court and declare themselves biased." *State v. Ball*, 685 P.2d 1055, 1058 (Utah 1984) "Part of the guarantee of a defendant's right to an impartial jury is an adequate *voir dire* to identify unqualified jurors." *Morgan v. Illinois*, 504 U.S. 719, 729 (1992). "Inadequacy of *voir dire*" is a basis for a reversal. *Morgan*, 504 U.S. at 739.

This Court has declared, "Death is different." *Woodson v. North Carolina*, 428 U.S. 280, 322 (1976). "From beginning to end, judicial proceedings conducted for the purpose of deciding whether a defendant shall be put to death must be conducted with dignity and respect." *Wellons v. Hall*, 130 S. Ct.

727, 175 L. Ed. 2d 684, 558 U.S. 220 (2010). This Court allows a jury to be "death qualified." *Witherspoon v. Illinois*, 391 U.S. 510 (1968), *Wainwright v. Witt*, 469 U.S. 412 (1985). The Witherspoon/Witt rule permits the State to challenge for cause any potential juror who possesses views on the death penalty that would "prevent or substantially impair the performance of his duties as a juror in accordance with his instructions and his oath." *Witt*, 469 U.S. at 424 *quoting Adams v. Texas*, 448 U.S. 38, 45 (1980). On the other hand, the defense can strike for cause any juror who would automatically vote for the death penalty regardless of the facts and circumstances.

In *Morgan v. Illinois*, 504 U.S. 719 (1992), this Court set out the general framework of a constitutionally adequate *voir dire* in capital murder cases. The central concept is that jurors who would automatically impose death based on their personal biases are not fit to serve on juries where the death penalty is a possibility, regardless of an attempt to rehabilitate them during *voir dire*. This Court held that "any juror who would impose death regardless of the facts and circumstances of conviction cannot follow the dictates of law ... It may be that a juror could, in good conscience, swear to uphold the law and yet be unaware that maintaining such dogmatic beliefs about the death penalty would prevent him or her from doing so." 504 U.S. 719, 735. This Court further expressed that "a juror's belief that death should be imposed *ipso facto* upon conviction in a

capital offense reflects directly on that individual's ability to follow the law." *Id*. at 720.

In *Morgan*, this Court held that: (1) due process required that a jury undertaking capital sentencing must be impartial and indifferent; (2) a capital defendant may challenge for cause any prospective juror who would automatically vote to impose death if defendant were convicted of the capital offense; (3) on v*oir dire*, trial court was required, at defendant's request, to inquire into prospective jurors' views on capital punishment to identify unqualified jurors, as part of the guarantee of defendant's right to impartial jury; (4) trial court's general fairness and "follow the law" questions were not enough to detect those in venire who would automatically impose death; and (5) jurors who are unalterably in favor of or opposed to the death penalty in every case are unable to follow the law, and should be disqualified.

The Arkansas Supreme Court's opinion in this case is not in line with the basic constitutional guidelines for adequate *voir dire* in capital cases as set forth by this Court in *Morgan.* The Arkansas Supreme Court held that under Ark. R. Crim. P. 32.2(a), the judge shall initiate *voir dire* by identifying the parties and their respective counsel, revealing any names of prospective witnesses, and briefly outlining the nature of the case. The Arkansas Supreme Court held that beyond these four requirements, counsel may only ask additional questions "as the judge deems reasonable and

proper." (App. 5a) This decision is in clear conflict with this Court's holding in *Morgan*.

In *Morgan*, this Court held that on v*oir dire*, trial court was required, at defendant's request, to inquire into prospective jurors' views on capital punishment to identify unqualified jurors, as part of the guarantee of defendant's right to impartial jury. This Court also noted that trial court's general fairness and "follow the law" questions were not enough to detect those in venire who would automatically impose death. This Court also noted that jurors who are unalterably in favor of or opposed to the death penalty in every case are unable to follow the law, and should be disqualified.

The structured approach to capital jury selection, known as "The Colorado Method" of capital *voir dire*, has been used successfully in jurisdictions, both state and federal, across the United States to ferret out unqualified jurors. Matthew Rubenstein, *Overview of the Colorado Method of Voir Dire*, CHAMPION, Nov. 2010, at 18. This method presupposes a guilty verdict, and then utilizes increasingly specific hypotheticals to determine how likely a prospective juror will vote for death. A crucial premise of the *Morgan* decision is that highly general questions may not be adequate to detect specific forms of juror bias. 504 U.S. at 734-36, 112 S.Ct. 2222.

In this case, once the *voir dire* process began, Reid employed the Colorado method per the trial

court's ruling, and in fact, identified some prospective jurors the Morgan Court had in mind when it made its ruling. The *voir dire* of veniremen Jerry Fager, John Vaught, and Mary Allen concluded with cause strikes against Mr. Vaught and Ms. Allen that were granted by the trial court due to the prospective jurors' inability to weigh the mitigators as opposed *to ipso facto* voting for death. Subsequently, the State objected to the line of questioning in *voir dire* by defense counsel because it "opened up the can of worms about the school shooting in Florida." The Trial Court agreed with the state and concluded, "I'm going to reverse myself," restricting the use of hypotheticals by defense counsel to identify improper prospective jurors.

As Justice Hart correctly noted in her dissenting opinion, "the circuit court eviscerated Mr. Reid's *voir dire* plan, ruling, "I don't mind you asking if someone who is clearly guilty of capital murder what do you think a sentence should be. Okay?" (Hart, J. dissenting, App 21) The "circuit court's restriction on Mr. Reid's *voir dire* questions virtually eliminated any meaningful process for determining whether the remaining jurors in the venire could properly weigh aggravating and mitigating factors." (Hart, J. dissenting, App 21a) There is a crucial difference between questions that seek to discover how a juror might vote and those that ask whether a juror will be able to fairly consider potential aggravating and mitigating evidence.

Reid had no choice but to use his peremptory challenges. Ultimately, Reid exhausted his peremptory challenges because his challenges for cause were denied. Because the trial court restricted the inquiry necessary to discover whether prospective jurors would automatically impose death and ultimately denied challenges for cause on jurors who did exemplify the very preconceived biases that are necessary to avoid, Reid did not receive a fair and impartial death-qualified jury.

When Reid ran out of peremptory challenges, he was forced to accept a juror who should have been excused for casue. Juror Robert Phillips was seated as Juror Twelve over Reid's objection. Each of the Jurors completed a Supplemental Jury Questionnaire that they were required to acknowledge and affirm that their answers were under oath. Juror Phillips was an improper juror. Juror Phillips could not state that he would not automatically impose death upon a finding that the murder was premediated. This alone was enough to disqualify him. When asked, "So you're not the type of person that's going to automatically say, hey, (TR 1598 – 1599, AB 868) look, I found premeditated -- this murder was premeditated and deliberated, therefore, he must die." Juror Phillps' response was: " I don't know. It just -- it depends on how the trial goes. I just don't -- I can't say right now what -- how I would do it." (TR 1599, AB 868) Even though he later indicated that he would be able to follow the law, his response to this question should have disqualified him. Also, on his juror

questionnaire he indicated that he strongly supported the death penalty and that the criminal justice system is too soft on criminals. (TR 1610, AB 878). As the Court in *Morgan* warned, Juors like Juror Phillips, in good conscience, could swear to uphold the law and yet be unaware that maintaining such dogmatic beliefs about the death penalty would prevent him or her from doing so." *Morgan* 504 U.S. 719, 735. The principle of eye for eye is a belief in the principle of life for life. Juror Phillips' dogmatic view of the death penalty, coupled with his belief that the criminal justice system was too soft on criminals meant that he could not have been rehabilitated despite his statements that he could follow the law.

The *voir dire* procedure that the trial court adopted prevented Reid from further exposing Juror Phillips' bias. The question that Reid would have asked Juror Phillips would have been: "I would like you to imagine a hypothetical case. Not this case. In this hypothetical case, you heard the evidence and were convinced the defendant was guilty of premeditated, intentional murder. Meant to do it and did it. It wasn't an accident, self-defense, defense of another, heat of passion, or insanity. He meant to do it, premeditated it, and then did it. For that defendant, do you believe that the death penalty is the only appropriate penalty?" Matthew Rubenstein, *Overview of the Colorado Method of Voir Dire*, CHAMPION, Nov. 2010, at 3. By restricting Reid's ability to ask questions that would have further developed Mr. Phillips's bias,

the trial court committed prejudicial error; and the Arkansas Supreme Court's affirmance of this decision is in conflict with this Court's rulings regarding the framework for a constitutionally permissible *voir dire*.

CONCLUSION

WHEREFORE, for all the reasons set forth above, Reid respectfully requests that the Court issue a writ of certiorari to the Supreme Court of Arkansas.

Respectfully submitted,

By: /s/ Willard Proctor, Jr.
Willard Proctor, Jr.,
Attorney for Eric Reid
2500 South State Street
Little Rock, AR 72202
(501) 378-7720
willard@wpjrlaw.com

APPENDIX A

ARKANSAS SUPREME COURT

No. 18-517

ERIC REID

Appellant

STATE OF ARKANSAS

Appellee

Appeal from the Garland County Circuit Court
Honorable John Homer Wright, Judge

Submitted: October 31, 2019
Filed: December 5, 2019

Before Arkansas Supreme Court

OPINION

Wood, Associate Justice.

Eric Reid appeals from his two capital-murder convictions, a firearm enhancement, and his sentence of death. He alleges multiple errors during the trial's guilt and sentencing phases. We affirm.

I. *Facts*

On October 19, 2015, Eric Reid killed his wife, Laura Reid, and his daughter, Mary Ann Reid. The night of the murders, Reid argued with Mary Ann regarding her parenting habits. Following the argument, Reid retrieved a pistol from his nightstand and shot his wife twice in the back and once as she lay on the ground. He then turned the gun toward his daughter, Mary Ann, and began shooting. Reid's first shot missed. But the second shot struck both Mary Ann and Heather, Reid's other daughter who was standing next to Mary Ann when the shooting began. Mary Ann retreated to the back of the house, and Reid pursued. After shooting Mary Ann a total of four times, Reid walked to the end of the driveway and waited for the police.

At trial, there was no question that Reid

killed his wife and daughter. The central issue was whether Reid's actions were premeditated and deliberate. The State's evidence included testimony from Heather. She depicted the week leading up to the shooting as volatile, describing ongoing disputes between Reid, Laura, and Mary Ann regarding financial struggles and parenting decisions. Heather also recounted the shooting. She explained how her father shot Laura and Mary Ann each at least one time after they were already down, and that after killing them both, Reid instructed her to call 911 and tell them that he had shot his wife and daughter.

The State also played Reid's police interview from the night of the murders. When asked to explain what happened, Reid stated that he knew he used "deadly force" after he allowed a woman to "draw [him] off sides" and "push [him] over the edge." Consistent with Heather's testimony, Reid explained that the tension with his wife and daughter had been "brewing for quite a while." Finally, the jury heard testimony from a prison guard who overheard Reid tell another inmate, "If you're going to shoot someone with a gun[,] make sure they die, like I did."

A jury convicted Reid of both capital-murder counts and a firearm enhancement. The jury sentenced him to death. Reid appeals his convictions and sentence.

II. Voir Dire

Reid first argues that the circuit court abused its

discretion in limiting his use of hypotheticals during voir dire. The extent and scope of voir dire falls within the broad discretion of the circuit court. *E.g.*, *Isom v. State*, 356 Ark. 156, 171, 148 S.W.3d 257, 267 (2004). Accordingly, we will not reverse voir dire restrictions unless that discretion is clearly abused. *Gay v. State*, 2016 Ark. 433, at 5, 506 S.W.3d 851, 856. An abuse of discretion occurs when the circuit court acts arbitrarily or groundlessly. *Id.*

A. Colorado Technique

Before trial, defense counsel requested permission to employ the "Colorado Method" of voir dire examination. This method presupposes a guilty verdict, and then utilizes increasingly specific hypotheticals to determine how likely a prospective juror will vote for death. The circuit court ruled that it would allow the use of general hypotheticals, but that it would not allow specific hypotheticals, as they would lead to "fact qualifying" potential jurors. During a break in voir dire, the State objected to Reid's use of a hypothetical involving a school shooting in Florida. The circuit court sustained the State's objection and cautioned Reid to only use general hypotheticals that were relevant to the case. On appeal, Reid contends that this restriction was improper.

Voir dire is conducted to identify and eliminate unqualified jurors; those who are not able to impartially follow the court's instructions and evaluate the evidence. *Morgan v. Illinois*, 504 U.S.

719, 729–30 (1992). As noted above, how this is accomplished falls within the court's discretion. *Isom*, 356 Ark. at 172, 148 S.W.3d at 268. The judge shall initiate voir dire by identifying the parties and their respective counsel, revealing any names of prospective witnesses, and briefly outlining the nature of the case. Ark. R. Crim. P. 32.2(a) (2019). But beyond these four requirements, counsel may only ask additional questions "as the judge deems reasonable and proper." *Id*.

In *Harmon v. State*, the circuit court limited the use of hypotheticals during voir dire that involved "specific factual issues not involved in th[at] case." 286 Ark. 184, 186, 690 S.W.2d 125, 126 (1985). On appeal, we opined that this limitation was not an abuse of discretion, reasoning that a defendant has never been "in a position to present a venireman a totally irrelevant hypothetical situation" during voir dire. *Id*. (quoting *Rector v. State*, 280 Ark. 385, 398, 659 S.W.2d 168, 175 (1983)).

Here, Reid was not entitled to unfettered examination through any means desired. *Isom*, *supra*. Limiting the use of emotionally charged hypotheticals—such as those involving school shootings—was well within the circuit court's broad discretion. The circuit court did not abuse its discretion in limiting Reid's use of hypotheticals during voir dire.

B. Strike for Cause

Reid also claims that, because he could not conduct unrestricted voir dire in the specific manner desired, he was compelled to exhaust his preemptory strikes prematurely. As a result, he contends that he was forced to accept Juror Phillips; a juror that he argued should have been struck for cause. The proper test for releasing prospective jurors for cause is whether their views would prevent or substantially impair the performance of their duties as jurors in accordance with their instructions and oath. *E.g.*, *Gay*, 2016 Ark.433, at 9, 506 S.W.3d at 858.

Reid maintains that the court should have struck Juror Phillips for cause because his religion taught the principle of "an eye for an eye." Reid extensively questioned Phillips on this point. Without waver, Phillips maintained that, if "there are mitigating circumstances," he would consider them before deciding the issue of death. More directly, Reid asked Phillips whether he would automatically impose the death penalty. Phillips responded that he would "have to see the evidence." Additionally, Phillips affirmatively stated that he could follow the law, that his decision on death would be based on "how the trial goes," rather than automatic, that he would consider both mitigators and aggravators prior to reaching a decision, and that he appreciated the option of mercy.

Although Reid argues on appeal that the voir dire procedure the circuit court adopted prevented him from unearthing Phillips's true bias, Reid made no

such argument at trial. Therefore, based on Juror Phillips's answers, we hold that the circuit court did not abuse its discretion in concluding that Phillips could perform the duties of a juror in accordance with the court's instructions and his oath.

III. *The State's Opening Statement*

Reid next asserts that the circuit court erred in denying his mistrial motion because the State's opening statement referenced evidence that was not adduced at trial. Specifically, the prosecution told the jury that, before Reid shot Mary Ann a final time, "he said something . . . to the effect he called her a bitch." Reid explained that he did not object to the statement when it was made because it was not yet apparent that the statement would not be supported by the evidence. But at the close of the State's case, Reid promptly moved for a mistrial.

Mistrial is an extreme and drastic remedy that is appropriate only when there has been error so prejudicial that justice cannot be served by continuing with the trial or when the fundamental fairness of the trial has been manifestly affected. *E.g.*, *McClendon v. State*, 2019 Ark. 88, at 6–7, 570 S.W.3d 450, 454. A circuit court has wide discretion to grant or deny a motion for a mistrial, and absent an abuse of that discretion, the decision will not be disturbed on appeal. *Id*.

While the State should not appeal to prejudices, pervert the testimony, or make

statements that cannot be proven during opening, "it is not uncommon for an attorney to outline in an opening statement what he or she anticipates the testimony is going to be, and then, in view of developments in the trial, decide not to produce that evidence." *Henry v. State*, 337 Ark. 310, 319, 989 S.W.2d 894, 898 (1999). Indeed, where evidence is admissible, a party may refer to it during opening statement. *Rank v. State*, 318 Ark. 109, 113, 883 S.W.2d 843, 845 (1994) (citing *Dixon v. State*, 310 Ark. 460, 839 S.W.2d 173 (1992)).

The statement here was made in good faith based on a witness's prior recorded statement. Additionally, the jury was specifically instructed that "[o]pening statements, remarks during the trial, and closing arguments of the attorneys are not evidence. . . . Any argument, statements or remarks of attorneys having no basis in the evidence should be disregarded by you." The circuit court did not abuse its discretion in denying Reid's mistrial motion.

IV. *The State's Closing Argument*

During closing arguments, the State said that Reid acted "like a coward" for shooting his wife in the back three times. When the State concluded its argument, Reid requested that the court admonish the jury regarding the "negative word." The court declined. On appeal, Reid asserts that it was prejudicial error to not admonish the jury.

The State contends that Reid's objection was not

timely and therefore not preserved for appeal. We agree. In order to be timely, an objection must be contemporaneous with the alleged error. *Smith v. State*, 330 Ark. 50, 53, 953 S.W.2d 870, 871 (1997). When an alleged error concerns a statement made by the State during argument, the defendant must make an immediate objection in order to preserve the allegation for appeal. *Id.* Absent a contemporaneous objection at trial, we will not review alleged errors in the State's closing arguments. *Lard v. State*, 2014 Ark. 1, at 26, 431 S.W.3d 249, 268.

Here, the State made the "negative" comparison during the first half of its closing. Yet Reid requested an admonition only after the State concluded its entire argument. Consequently, his objection was not sufficiently contemporaneous with the alleged error, and the argument was not preserved. The circuit court did not err in denying Reid's request for an admonition.

V. *Admission of Evidence*

Reid raises two evidentiary issues on appeal. The decision to admit or exclude evidence is within the sound discretion of the circuit court, and we will not reverse that decision absent a manifest abuse of discretion. *E.g.*, *Perkins v. State*, 2019 Ark. 247, at 4, 582 S.W.3d 1, 3. This high threshold requires the circuit court to have acted improvidently, thoughtlessly, or without due consideration. *E.g.*, *Collins v. State*, 2019 Ark. 110, at 5, 571 S.W.3d 469,

472. Further, we will not reverse unless Reid demonstrates that the ruling prejudiced him. *Id.*

A. The 911 Tape

Reid argues that the circuit court abused its discretion when it allowed the State to play a tape recording of the 911 call made immediately after the shooting. Although the contested portion of the tape described the shooting's aftermath, as well as resuscitation efforts, Reid contends that this portion of the tape was irrelevant, cumulative, and prejudicial.

Relevant evidence is evidence having any tendency to make the existence of any fact that is of consequence more or less probable than it would be without the evidence. Ark. R. Evid. 401 (2019). The circuit court ruled that the 911 tape was relevant under the doctrine of res gestae. Under res gestae, the State can introduce evidence showing all the circumstances surrounding the charged act. *See Gaines v. State*, 340 Ark. 99, 110, 8 S.W.3d 547, 554 (2000). The doctrine provides context to the crime and places the jury in possession of the entire transaction. *Id.* Most notably, res gestae evidence is presumptively admissible. *Id.* Given our standard of review, we agree with the circuit court's conclusion that the 911 tape was relevant under the res gestae doctrine. It also described Laura's final moments before death, as well as Reid's unusually calm demeanor after the shooting.

But relevant evidence may nevertheless be excluded if its probative value is substantially outweighed by the danger of unfair prejudice or the needless presentation of cumulative evidence. Ark. R. Evid. 403 (2019). In *Davis v. State*, we held that a 911 recording was not unduly prejudicial, despite the caller's apparent hysteria. 368 Ark. 401, 411, 246 S.W.3d 862, 870 (2007). Further, we reasoned that "merely cumulative evidence" is not prejudicial, and that the State is entitled to prove its case as conclusively as possible. *Id*., at 411, 246 S.W.3d at 870–71; *see also Henry*, 337 Ark. at 316, 989 S.W.2d at 897. In *Passley v. State*, we similarly upheld the circuit court's decision to admit a 911 tape, despite the caller's frantic voice. 323 Ark. 301, 310, 915 S.W.2d 248, 253 (1996).

As in *Davis* and *Passley*, Reid contends that playing this 911 tape was so prejudicial that he was denied a fair trial, especially given the admission of other, less inflammatory forms of the same evidence. We are not persuaded. The 911 tape's probative value was not substantially outweighed by unfair prejudice or the needless presentation of cumulative evidence. The State was permitted to prove its case as conclusively as possible, and the circuit court did not abuse its discretion.

B. Statement While Incarcerated

Additionally, Reid asserts that the circuit court abused its discretion when it permitted officer Kelley Hooker to testify about a remark that Reid

made while incarcerated. Officer Hooker testified that she overheard Reid say to another inmate, "If you're going to shoot someone with a gun[,] make sure they die, like I did."

Although Reid objected to this statement in chambers, prior to the first day of the evidentiary trial, he failed to renew his objection during trial. Consequently, he waived the objection. *See, e.g.*, *Duck v. State*, 2018 Ark. 267, at 9, 555 S.W.3d 872, 877 (explaining that a defendant must object at the first opportunity and must then renew the objection each time the issue is raised; otherwise, the argument is waived).

VI. *Aggravating Circumstances*

To impose death, a jury must find beyond a reasonable doubt that at least one aggravating circumstance exists. Ark. Code Ann. § 5-4-603 (Repl. 2013); *see also Decay v. State*, 2009 Ark. 566, at 13, 352 S.W.3d 319, 329. Aggravating circumstances are limited to the circumstances enumerated in Arkansas Code Annotated section 5-4-604.

Reid alleges two errors relating to the aggravating circumstances employed at sentencing. First, he asserts that the circuit court erred by presenting the aggravator in Arkansas Code Annotated section 5-4-604(4) as two separate circumstances. Second, he contends that the State failed to establish sufficient proof that he knowingly created a great risk of death to Heather Reid. We consider the sufficiency of the

evidence first. *See Greene v. State*, 335 Ark. 1, 24, 977 S.W.2d 192, 203 (1998).

A. Sufficient Evidence

We review the circuit court's decision to submit an aggravating circumstance for substantial evidence. *Dimas-Martinez v. State*, 2011 Ark. 515, at 22, 385 S.W.3d 238, 252. Evidence is viewed in the light most favorable to the State. *Sales v. State*, 374 Ark. 222, 231, 289 S.W.3d 423, 430 (2008). It is substantial if it is forceful enough to compel reasonable minds to reach a conclusion without having to resort to speculation or conjecture. *Id.* Here, Reid asserts that the State failed to sufficiently establish that he knowingly created a great risk of death to Heather Reid. Ark. Code Ann. § 5-4-604(4).

The appellant in *Swindler v. State*, 267 Ark. 418, 434, 592 S.W.2d 91, 99 (1979), made a similar argument. There, the State established that at least three bystanders were in the vicinity when the defendant fired multiple shots toward a service station storefront. *Id.* We reasoned that the defendant's actions demonstrated that he had no regard for the bystanders' lives, and that this lack of regard constituted "ample evidence" to support a finding that the defendant knowingly created a great risk of death to other people. *Id.*

Similarly, here, the jury did not have to resort to speculation or conjecture to conclude that Reid

knowingly placed Heather in great risk of death. Indeed, Reid fired his gun twice in Heather's immediate direction. His second shot hit Heather in the arm. He knew that Heather was standing next to Mary Ann. And he knew that he was employing deadly force, having just killed his wife. Accordingly, the circuit court did not err in submitting this aggravating circumstance to the jury.

B. Arkansas Code Annotated Section 5-4-604(4)

Reid contends that the circuit court erred by presenting the aggravator in Arkansas Code Annotated section 5-4-604(4) as two separate circumstances. The State relied on the following aggravator:

> The person in the commission of the capital murder knowingly created a great risk of death to a person other than the victim *or* caused the death of more than one (1) person in the same criminal episode.

Ark. Code Ann. § 5-4-604(4) (emphasis added). The form submitted to the jury separated the two clauses into distinct options:

> In the commission of the capital murder, Eric Allen Reid, knowingly created a great risk of death to a person other than the victim, Heather Reid.
>
> [And/Or]
>
> In the commission of the capital murder, Eric

> Allen Reid, knowingly caused the death of more than one person, Mary Ann Reid and Laura Reid, in the same criminal episode.

On appeal, Reid argues that this separation prejudiced him because it gave the jury the impression that multiple aggravators supported the imposition of death.

In *Smith v. State*, the appellant alleged prejudice for the opposite reason. 343 Ark. 552, 571, 39 S.W.3d 739, 751 (2001). There, the appellant asserted that the circuit court erroneously combined the circumstance of "knowingly created a great risk of death to a person other than the victim," and the circumstance of "knowingly caused the death of more than one person[] in the same criminal episode," into one aggravator on the verdict form. *Id.* We held that this argument was not preserved for appeal because the appellant failed to object to the form at her trial, and because it did not fall within a *Wicks* exception *Id.*

At Reid's sentencing, the aggravator was presented to the jury as two distinct options, just as it is modeled by the Arkansas Supreme Court Committee on Criminal Jury Instructions. *See* 1 Arkansas Model Jury Instructions—Criminal Form 1. Like the defendant in *Smith*, however, Reid failed to object to this format at trial. As a result, Reid's argument is not preserved for appeal.

VII. *Victim-Impact Evidence*

Finally, Reid contends that the court committed prejudicial error when it allowed the State to argue, during closing, that the jury should consider the victim-impact testimony as an aggravator. Circuit courts have broad discretion to govern counsel in closing arguments. *Lard*, 2014 Ark. at 26, 431 S.W.3d at 268. We will not interfere with that discretion absent a manifest abuse of discretion. *Id.*

As stated above, aggravating circumstances are limited to the circumstances enumerated in Arkansas Code Annotated section 5-4-604. Victim-impact evidence is not an aggravating circumstance. *E.g.*, *Anderson v. State*, 367 Ark. 536, 543, 242 S.W.3d 229, 235 (2006). Rather, it is evidence presented during the sentencing phase of a capital-murder trial that is designed to inform the jury of the toll a murder has taken on a victim's family. *Thomas v. State*, 370 Ark. 70, 80, 257 S.W.3d 92, 100 (2007). It is both relevant and admissible so long as it assists the jury in imposing a sentence. *Anderson*, 367 Ark. at 545, 242 S.W.3d at 236.

Most often, the State employs victim-impact evidence to counteract mitigating evidence. *E.g.*, *Greene v. State*, 343 Ark. 526, 535, 37 S.W.3d 579, 586 (2001). This is an accepted, relevant use for victim-impact evidence. *Id.* And not surprisingly, the jury is permitted to consider victim-impact evidence at the same time it considers mitigating evidence introduced by the defendant. *Id.*

Here, contrary to Reid's allegation, the State never suggested that victim-impact evidence should be viewed as an aggravating circumstance. Instead, during closing argument, the State urged the jury to weigh Reid's emotional distress against the emotional distress he inflicted on his family. The circuit court did not abuse its discretion in allowing the State's argument.

Alternatively, Reid contends that the court erred by preventing him from asking Heather Reid about the prospect of losing both parents. He proffered the expected testimony, reasoning that Heather would have stated "that she doesn't want to lose both of her parents." We have repeatedly held that penalty recommendations from family members of the victim are not relevant as victim-impact evidence. *E.g.*, *Miller v. State*, 2010 Ark. 1, at 34, 362 S.W.3d 264, 285. Victims and their families may not opine about the appropriate sentence. *Id.* The circuit court did not abuse its discretion.
In the interest of defending Arkansas's justice system, the victims, and the service of citizens who serve on juries, the court must respond to the dissent's criticisms.

First, the dissent focuses most of its effort defending Reid, describing him as "not the worst of the offenders." In attempting to make this point, the dissent veers perilously close to victim blaming. To suggest that the actions of Mary Ann Reid's "troubled" children or Laura Reid's spending habits somehow mitigated Reid's offense is distasteful.

Second, the dissent lists fourteen cases where, in its words, "not a single conviction resulted in the death penalty being assessed." Following the list, the dissent writes, "It is apparent that Mr. Reid was prejudiced by not being able to select a jury that could properly apply the law and select the correct sanction." The implication is that in those cases the juries correctly withheld imposing the death penalty, while in this case the jury did not. Yet in none of the listed cases were the juries given the option to impose the death penalty. In two of the cases, the court imposed the sentence rather than the jury.

Jury service is a critical part of our justice system. For the dissent to claim that Reid's "death sentence was all but inevitable" once the jury was selected does a grave injustice to the jurors' service in this case. Furthermore, while a robust debate of the law is necessary, unwarranted and unsubstantiated attacks on the victims and the jurors undermines our justice system.

VIII. Rule 10 and Rule 4-3(i)

When a sentence of death is imposed, we conduct an additional review of the record under Rule 10(b) of the Arkansas Rules of Appellate Procedure—Criminal, and Rule 4-3(i) of the Rules of the Arkansas Supreme Court. Pursuant to Rule 10 and Rule 4-3(i), the record has been examined and no reversible error exists.

HART, J., dissents.

DISSENTING OPINION

Hart, Associate Justice.

In *Morgan v. Illinois*, 504 U.S. 719 (1992), the Supreme Court set out the general framework for Constitutionally adequate voir dire in capital murder cases. The *Morgan* Court held that: (1) due process required that a jury undertaking capital sentencing must be impartial and indifferent; (2) a capital defendant may challenge for cause any prospective juror who would automatically vote to impose death if defendant were convicted of the capital offense; (3) on voir dire, trial court was required, at defendant's request, to inquire into prospective jurors' views on capital punishment to identify unqualified jurors, as part of the guarantee of defendant's right to impartial jury; (4) trial court's general fairness and "follow the law" questions were not enough to detect those in venire who would automatically impose death; and (5) jurors who are unalterably in favor of or opposed to the death penalty in every case are unable to follow the law, and should be disqualified. The voir dire allowed by the circuit court did not comport with the basic principles of *Morgan*. Accordingly, the U.S. Constitution demands that Mr. Reid be given a new

trial.

I am mindful that it is absolutely true that, as the majority succinctly states, "there is no question that Reid killed his wife and daughter." Certainly a reasonable person could find that this is a horrible crime. However, death is the most severe sanction available to the State. Therefore, the death penalty must be reserved for the worst offenders. Thus, it is imperative that the jurors who must decide this question be able to discern when the ultimate sanction is warranted, as opposed to a severe, but less drastic sanction like life imprisonment.

Over Mr. Reid's objection, the State was allowed to "death qualify" the jury. However, Mr. Reid was not allowed to fully voir dire the jury in a way that would gage a juror's ability to impartially apply the law with regard to consideration of aggravating and mitigating circumstances. Mr. Reid requested that the circuit court allow him to use the "Colorado Method" in jury selection. His stated intent was to identify jurors who are automatically going to impose the death penalty upon conviction. Mr. Reid was allowed to use the Colorado Method during a portion of the *voir dire*. After Mr. Reid successfully had several veniremen struck for cause, the circuit court adjourned the proceeding for a lunch break. Before voir dire resumed, the State objected to continuing with the watered-down version of the Colorado Method that the circuit court had previously authorized. It referred to the use of hypotheticals as "opening a can of worms," and the

circuit court agreed. In its ruling, the circuit court eviscerated Mr. Reid's voir dire plan, ruling, "I don't mind you asking if someone who is clearly guilty of capital murder what do you think a sentence should be. Okay?"

In light of the clear dictates of *Morgan* the circuit court's restriction on Mr. Reid's voir dire questions virtually eliminated any meaningful process for determining whether the remaining jurors in the venire could properly weigh aggravating and mitigating factors. I am mindful that this court has stated that a circuit court's decisions regarding the extent and scope of voir dire is entrusted to the sound discretion of the circuit court and should not be reversed absent an abuse of that discretion. *Isom v. State*, 356 Ark. 156, 148 S.W.3d 257 (2004). However, judicial discretion

means discretion bounded by rules and principles of law, and not arbitrary, capricious, or unrestrained. It is not the indulgence of judicial whim, but the exercise of judicial judgment, based on facts and guided by law or the equitable decision or what is just and proper under the circumstances. It is legal discretion to be exercised in discerning the course prescribed by law and is not to give effect to the will of the judge, but to that of the law.... A liberty or privilege to decide what is fair and equitable under the peculiar circumstances of the particular case, guided by the spirit and principles of the law.

Black's Law Dictionary 323 (6th ed. 1990). From the

context, it is apparent that the reason for the circuit court's reversal of its decision to abandon even the watered-down version of the Colorado Method that it had previously authorized was that it was identifying jurors who would not automatically impose the death penalty, which is exactly what the *Morgan* Court prescribed. This is a clear abuse of discretion.

It is a fundamental tenant of Eighth Amendment jurisprudence that the harshest sanctions should be reserved for the worst offenders---punishment that is disproportionate to the crime is cruel and unusual under the Eight Amendment. *Roper v. Simmons*, 543 U.S. 551(2005). In my view, it is likely that at least some fair-minded jurors would agree that Mr. Reid did not deserve the death penalty. Yet, in a county where capital cases are tried once a generation, without a more effective way to gage juror attitudes such as the Colorado Method affords, Mr. Reid death sentence was all but inevitable. This is not justice.

Mr. Reid is 57 years old. He is a twenty-year veteran of the United States Navy, which he joined at 18. His brushes with the law were minor and occurred more than 33 years ago---he has a DUI and an arrest for a domestic dispute with his first wife that landed him in jail overnight.

He lived in Hot Springs in a three-bedroom house along with his wife of 26 years, Laura Reid, and his youngest daughter, Heather Reid. Heather

was eighteen and pregnant. Mr. Reid agreed to take in and help raise Seth Smith, 14, and Alexa Reid, 12, the troubled children of 32-year-old Mary Ann Reid, his daughter from a previous marriage. Mary Ann joined her children in the home. When Mary Ann moved in, she scuttled much of the progress that Mr. Reid had made in disciplining her children.

After his Navy career, Mr. Reid worked as a long-haul truckdriver until he was involved in an accident. He then took two jobs—doing manual labor full time for the City of Hot Springs street department and 20 to 30 hours a week assembling items for Wal-Mart. He also helped Laura with her dog-walking business and did lawn work on the side. Mary Ann contributed nothing to the household.

Financial issues often caused disagreements between Mr. Reid and his wife, as well as between him and his daughter, Mary Ann. . Although Laura was supposed to pay the bills, Mr. Reid recently discovered that she had allowed the bills to remain unpaid. Laura's spending habits were a further source of friction. Laura was threatening divorce.

Health concerns dogged Mr. Reid. At the time of the shooting, he was suffering from the lasting effects of prostate cancer treatment, which required him to wear diapers and pads. He no longer had a sexual relationship with his wife. Reid was also suffering from an anxiety disorder and was taking medication for depression.

On the evening of October 19, 2015, Laura and Mary Ann were out in the garage retrieving items from their shopping trip earlier that day Mr. Reid followed Mary Ann into the garage. Mr. Reid and Mary Ann began arguing about her son, Seth. Mr. Reid told Mary Ann to leave the house, but she insisted he should be the one to leave. At some point, Mr. Reid retreated from the argument and retired to his bedroom. While in his bedroom, Mr. Reid heard Mary Ann say "F---- him." He claimed he saw a flash of light, and that he does not remember shooting Laura and Mary Ann. However, Heather testified that after Mr. Reid shot Mary Ann, he told her to call 911 and tell them that he had shot his wife and his daughter. He walked to the end of his driveway and waited there for the police.

The trial began with no dispute that Mr. Reid shot two family members. However, it is obvious that Mr. Reid is not the worst of the worst offenders. Since the beginning of October, this court and the court of appeals reviewed fourteen murder cases—all heinous crimes—and not a single conviction resulted in the death penalty being assessed. *Finley v. State*, 2019 Ark. 336 (life sentence for two murders conducted in the furtherance of a liquor store robbery; sentenced to life); *Price v. State*, 2019 Ark. 323 (life sentence for murder and two counts of aggravated robbery for returning to shoot up a dice game where price lost his money); *Holmes v. State*, 2019 Ark. App. 508 (40 year sentence plus 5 year firearm enhancement for murdering a child in a road-rage incident); *Sirkaneo v. State*, 2019 Ark.

308, ___S.W.3d___ (life sentence for murder and attempted murder); *Thompson v. State*, 2019 Ark. 290, ___S.W.3d___ (life sentence for two murders and an attempted murder in a home-invasion robbery); *Rankin v. State*, 2019 Ark. App. 481, ___S.W.3d ___(25 years for revenge murder); *Bowman v. State*, 2019 Ark. App. 469, ___S.W.3d___(30 years for starving her infant child to death); *Ellis v. State*, 2019 Ark. 286, ___S.W.3d___(life for murder committed by shooting 29 times into an occupied vehicle); *Coakley v. State*, 2019 Ark. 259, ___S.W.3d___(life sentence for revenge murder); *Pree v. State*, 2019 Ark. 258, ___S.W.3d___(life sentence for murdering an acquaintance to steal his vehicle); *Braud v. State*, 2019 Ark. 256, 583 S.W.3d 392 (life sentence for capital murder and two first-degree battery counts against friends); *Terrell v. State*, 2019 Ark. App. 433, ___S.W.3d___ (23 years for shooting the victim in the head with a shotgun and burning the body); *Gillard v. State*, 2019 Ark. App. 438, ___S.W.3d___ (10 years plus 5 year enhancement for stabbing an infant's father to death because he had not arrived to take the child as promised); *Clark v. State*, 2019 Ark. App. 455, ___S.W.3d___(conviction rev'd). It is apparent that Mr. Reid was prejudiced by not being able to select a jury that could properly apply the law and select the correct sanction.

I dissent.

APPENDIX B

IN THE CIRCUIT COURT
OF GARLAND COUNTY, ARKANSAS
FIRST DIVISION

No. 26CR-15-670

STATE OF ARKANSAS

Plaintiff,

ERIC ALLEN REID

Defendant..

Filed: March 12, 2018

SENTENCING ORDER

On March 12, 2018, the Defendant appeared before he Court, was advised of the nature of the charges, of Constitutional and legal rights, of the effect of a guilty plea upon those rights, and of the right to make a statement before sentencing.

Offender:
Defendant: Reid, Eric Allen DOB: 3/17/1960 Sex: Male; Total Number of Counts: 2; SID: 4064537; Race: White;

Judge: John Homer Wright
Prosecuting Attorney/Deputy: Joseph Graham
Defendant's Attorney: Willard Proctor
Change of venue: No

There being no legal cause shown by the Defendant, as requested, why judgment should not be pronounced, a judgment: of conviction is entered against the Defendant on each charge enumerated, fines levied, and court costs assessed. The Defendant is sentenced to the Arkansas Department of Correction (A.D.C.) for the term specified on each offense shown below.

Defendant made a voluntary, knowing and intelligent waiver of right to counsel. No

Offense #1

A.C.A..#/Name of Offense 5-10-101 – Capital Murder
Offense Date: 10/19/2015 Appeal from District Court: No
Criminal History 0 Seriousness Level 11
Offense is Felony Offense Classification is Y
Presumptive sentence is 999 months
Number of Counts 1
Defendant Sentence Death
Victim information: Age: 32 Sex Female Race: White
Defendant was found guilty at jury trial & sentenced by jury
Sentence is a Departure: N/A

Sentence will run Concurrent to Offense# II

Offense #2
A.C.A..#/Name of Offense 5-10-101 – Capital Murder
Offense Date: 10/19/2015 Appeal from District Court: No
Criminal History 0 Seriousness Level 11
Offense is Felony Offense Classification is Y
Presumptive sentence is 999 months
Number of Counts 1
Defendant Sentence Death
Victim information: Age: 57 Sex Female Race: White
Defendant was found guilty at jury trial & sentenced by jury
Sentence is a Departure: N/A
Sentence will run Concurrent to Offense# I
Jail Time Credit in days: 875
Death Penalty: Yes
If Yes, State date of Execution: 4/5/2018

[handwritten: signature]
Joseph Graham
Prosecuting Attorney/Deputy

[handwritten: 3/12/2018

[handwritten: signature]
John Homer Wright
Circuit Judge

[handwritten: 3/12/2018

APPENDIX C

ARKANSAS SUPREME COURT

No. 18-517

ERIC REID

Appellant

STATE OF ARKANSAS

Appellee

Rehearing from the Arkansas Supreme Court

Submitted: January 9, 2020
Filed: January 23, 2020

Before Arkansas Supreme Court

FORMAL ORDER

BE IT REMEMBERED, THAT A SESSION OF THE SUPREME COURT BEGUN AND HELD IN THE CITY OF LITTLE ROCK. ON JANUARY 23, 2020. AMONGST OTHERS WERE THE FOLLOWING PROCEEDINGS, TO-WIT:

SUPREME COURT CASE NO. CR-I8-517

ERIC REID APPELLANT

V. APPEAL FROM GARLAND COUNTY CIRCUIT COURT - 26CR-15-670

STATE OF ARKANSAS APPELLEE

APPELLANT'S PETITION FOR REHEARING IS DENIED. HART, J., WOULD GRANT. APPELLANT'S MOTION TO STAY MANDATE IS DENIED. HUDSON, HART, AND WYNNE, JJ., WOULD GRANT.

IN TESTIMONY, THAT THE ABOVE IS A TRUE COPY OF THE ORDER OF SAID SUPREME COURT, RENDERED IN THE CASE HEREIN STATED. I, STACEY PECTOL, CLERK OF SAID

SUPREME COURT, HEREUNTO SET MY HAND AND AFFIX THE SEAL OF SAID SUPREME COURT. AT MY OFFICE IN THE CITY OF LITTLE ROCK, THIS 23RD DAY OF JANUARY, 2020.

[handwritten: signature]
Stacy Pectol
Clerk