

No. _____
(Capital Case)

In The
Supreme Court of the United States

TERRY PITCHFORD, Applicant/Petitioner/Appellee,

v.

BURL CAIN, Commissioner, Mississippi Department of Corrections; LYNN FITCH,
Attorney General for the State of Mississippi, Respondents/Appellants.

**APPENDIX TO
PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT
OF APPEALS FOR THE FIFTH CIRCUIT**

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succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.

Id. at 426, 129 S.Ct. 1749 (quoting *Hilton v. Braunskill*, 481 U.S. 770, 776, 107 S.Ct. 2113, 95 L.Ed.2d 724 (1987)).

[59, 60] A stay from this court may be called for when we are “faced with serious legal questions that merit careful scrutiny and judicious review.” *Campaign for S. Equality v. Bryant*, 773 F.3d 55, 57 (5th Cir. 2014). A “movant ‘need only present a substantial case on the merits when a serious legal question is involved and show that the balance of equities weighs heavily in favor of granting the stay.’” *Id.* (quoting *Ruiz v. Estelle*, 650 F.2d 555, 565 (5th Cir. Unit A 1981)).

[61] Though Texas has succeeded on the merits, our previous decision to maintain the stay—not to mention the immense reliance interests that DACA has created—guide us to preserve the stay as to the existing applicants. “DACA has had profound significance to recipients and many others in the [now-twelve] years since its adoption.” *Texas II*, 50 F.4th at 531. “Given the uncertainty of final disposition and the inevitable disruption that would arise from a lack of continuity and stability,” we therefore preserve the stay as to existing recipients. *Id.* (cleaned up).

* * * * *

The injunction is AFFIRMED in part and MODIFIED in part. We limit injunctive relief, including the effectiveness of the vacatur of the Final Rule, to Texas, and require such relief to heed DACA’s severability provision. This matter is REMANDED for further proceedings as the district court may find appropriate. The request for a stay is GRANTED pending a

further order of this court or the Supreme Court. We impose no restriction on the matters that the district court, in its wisdom, may address on remand, and we express no view on what decisions it should make.



**Terry PITCHFORD, Petitioner—
Appellee,**

v.

**Burl CAIN, Commissioner, Mississippi
Department of Corrections; Lynn
Fitch, Attorney General for the State
of Mississippi, Respondents—Appel-
lants.**

No. 23-70009

United States Court of Appeals,
Fifth Circuit.

FILED January 17, 2025

Background: Following affirmance of his capital murder conviction and death sentence, 45 So.3d 216, state inmate filed petition for writ of habeas corpus. The United States District Court for the Northern District of Mississippi, Michael P. Mills, J., granted petition, and state appealed.

Holdings: The Court of Appeals, Duncan, Circuit Judge, held that:

- (1) determination that trial court adequately considered whether petitioner had established that prosecution’s use peremptory challenges was result of purposeful discrimination was reasonable;
- (2) determination that petitioner waived his *Batson* claim was reasonable;

- (3) state court’s failure to consider totality of facts bearing on petitioner’s *Batson* claim was reasonable; and
- (4) finding that prosecutor’s use of peremptory challenges was not result of race discrimination was not unreasonable.

Reversed and remanded.

1. Habeas Corpus ⇨842, 846

In appeal from district court’s grant of habeas relief, Court of Appeals reviews court’s findings of fact for clear error and its conclusions of law de novo.

2. Habeas Corpus ⇨765.1

Under Antiterrorism and Effective Death Penalty Act (AEDPA), federal habeas courts review last state court decision that adjudicated petitioner’s claim on merits. 28 U.S.C.A. § 2254(d).

3. Habeas Corpus ⇨450.1

Antiterrorism and Effective Death Penalty Act’s (AEDPA) standard for granting habeas relief demands much more than state court error; state court must have made objectively unreasonable application of Supreme Court holding—that is, its decision must be so lacking in justification that error is beyond any possibility for fairminded disagreement. 28 U.S.C.A. § 2254(d).

4. Habeas Corpus ⇨496

State court’s determination that trial court adequately considered whether petitioner had established that prosecution’s use of peremptory challenges to strike African American jury was result of purposeful discrimination was not contrary to, or unreasonable application of, clearly established federal law in *Batson*, and thus did not warrant federal habeas relief, even though trial court did not make explicit factual findings; *Batson* declined to formulate particular procedures to be followed

upon defendant’s timely objection to prosecutor’s challenges, and trial court announced at bench conference that it “finds there to be no *Batson* violation” and that “jury selection was appropriate.” 28 U.S.C.A. § 2254(d).

5. Jury ⇨33(5.15)

Under *Batson* framework, (1) defendant must make prima facie showing that prosecutor made racially discriminatory strikes; (2) if he does, state must then present race-neutral reasons for strikes; and (3) trial court must then determine whether defendant has proved purposeful discrimination.

6. Jury ⇨33(5.15)

In evaluating *Batson* claim, ultimate burden of persuasion regarding racial motivation rests with, and never shifts from, strike’s opponent.

7. Habeas Corpus ⇨496

State court’s determination that petitioner waived his *Batson* claim in his capital murder prosecution by failing to challenge state’s race-neutral reasons for its use of peremptory strikes was not contrary to, or unreasonable application of, clearly established federal law, and thus did not warrant federal habeas relief; petitioner did not present pretext arguments to trial court, and state supreme court refused to consider petitioner’s unraised pretext arguments pursuant to its general rule disallowing claims raised for first time on appeal. 28 U.S.C.A. § 2254(d).

8. Criminal Law ⇨1035(5)

Defendant’s failure to challenge prosecutor’s race-neutral explanation constitutes waiver of *Batson* claim.

9. Habeas Corpus ⇨496

State court’s failure to consider totality of facts bearing on petitioner’s claim that state’s use of peremptory challenges

to strike African American jurors was pretext for race discrimination, including history of *Batson* violations by prosecutor in another case, was not contrary to, or unreasonable application of, clearly established federal law in *Batson*, and thus did not warrant federal habeas relief; facts in quotation were not argued by petitioner during voir dire or post-trial, and there was no requirement that state court conduct comparative juror analysis at all, let alone sua sponte. 28 U.S.C.A. § 2254(d).

10. Habeas Corpus ⇌768

Federal habeas court must presume state court's factual findings to be sound unless petitioner rebuts presumption of correctness by clear and convincing evidence. 28 U.S.C.A. §§ 2254(d)(2), 2254(e)(1).

11. Habeas Corpus ⇌770

In *Batson* case, state trial court's finding of absence of discriminatory intent in jury selection is pure issue of fact that is accorded great deference on federal habeas review. 28 U.S.C.A. §§ 2254(d)(2), 2254(e)(1).

12. Habeas Corpus ⇌496

State court's finding that prosecutor's use of peremptory challenges to strike five African American jurors in capital murder prosecution was not result of race discrimination was not unreasonable determination of facts in light of evidence presented in state court proceeding, and thus did not warrant federal habeas relief, even though one of 14 jurors was Black whereas county was approximately 40% African American, where trial court found that reasons given by state for striking African American jurors were race neutral. 28 U.S.C.A. §§ 2254(d)(2), 2254(e)(1).

* We GRANT Pitchford's motion to clarify and

Appeal from the United States District Court for the Northern District of Mississippi, USDC No. 4:18-CV-2

Jason Scott Gilbert, Counsel, Watkins & Eager, P.L.L.C., Jackson, MS, Joseph J. Perkovich, Esq., Phillips Black, Inc., New York, NY, for Petitioner—Appellee.

Allison Kay Hartman, at, Esq., LaDonna Curtis Holland, Special, Esq., Assistant Attorney General, Justin Lee Matheny, Esq., Anthony M. Shults, Mississippi Attorney General's Office, for the State of Mississippi - Criminal Division, Jackson, MS, for Respondents—Appellants.

Before Haynes, Willett, and Duncan,
Circuit Judges.

Stuart Kyle Duncan, Circuit Judge:*

The district court granted Terry Pitchford a writ of habeas corpus based on the claim that the prosecutor in his capital murder trial struck four potential jurors in violation of *Batson v. Kentucky*, 476 U.S. 79, 106 S.Ct. 1712, 90 L.Ed.2d 69 (1986). On appeal, the State of Mississippi argues that the district court failed to defer to the Mississippi Supreme Court's decision that Pitchford waived his *Batson* claims by failing to challenge the State's race-neutral reasons for the strikes. Concluding the state court did not err in applying *Batson*, we reverse and remand.

I.

A Mississippi jury convicted Pitchford of capital murder in 2006 for participating in an armed robbery during which the store owner, Reuben Britt, was shot to death by Pitchford's accomplice. *Pitchford v. State*, 45 So. 3d 216, 222–23 (Miss. 2010). Pitchford confessed to his role in the crime. *Id.* at 223.

issue this corrected opinion.

Because Pitchford’s habeas claim concerns juror selection, we recount the relevant parts of *voir dire*. The trial court, without objection, narrowed the pool of potential jurors to 36 white potential jurors and five black potential jurors. *Ibid*. Pitchford used all 12 of his peremptory strikes on white potential jurors, while the State used three peremptory strikes on white potential jurors and four on black potential jurors. *Ibid*. Pitchford’s counsel objected to the strikes of potential black jurors under *Batson*. Counsel argued that “this is already a disproportionately white jury for the population of this county,” and that the strikes were “a pattern of disproportionately challenging African-American jurors.”

The court ruled that Pitchford made a *prima facie* showing of discrimination and required the State to give race-neutral reasons for the strikes. *Pitchford*, 45 So.3d at 226. The State provided these reasons: (1) Carlos Ward had “no opinion” on the death penalty, had several speeding violations, and shared similarities with Pitchford such as age and marital status; (2) Linda Lee had “mental problems” (according to the police chief), police had been dispatched repeatedly to her home, and she was late returning to *voir dire*; (3) Christopher Tillmon had a brother convicted of a similar offense (manslaughter); and (4) Patricia Tidwell was a known drug user, and her brother had been convicted of battery in the same court and was currently facing charges in a shooting case in that county. *Id.* at 226–27.

The court accepted these reasons and proceeded with juror selection. *Id.* at 227; Pitchford’s counsel did not object or make further argument challenging the State’s reasons for the strikes.

1. The latter half of this sentence appears to have been erroneously transcribed. However,

After the jury was selected, Pitchford’s counsel—Ms. Steiner and Mr. Baum—asked to approach the bench and the following colloquy occurred:

MS. STEINER: At some point the defense is going to want to reserve both its *Batson* objection and a straight for Tenth Amendment [sic] racial discrimination.¹

THE COURT: You have already made it in the record so I am of the opinion it is in the record.

MS. STEINER: I don’t want to let the paneling of the jury go by without having those objections.

THE COURT: I think you already made those, and they are clear in the record. For the reasons previously stated, first the Court finds there to be no—well, all the reasons were race neutral as to members that were struck by the district attorney’s office. And so the, the Court finds there to be no *Batson* violation. And then as to the other issues, the Court has already ruled that based on prior rulings from the United States Supreme Court and the State of Mississippi that jury selection was appropriate. As I say, they are noted for the record.

MS. STEINER: Allow us to state into the record there is one of 12—of fourteen jurors, are non-white, whereas this county is approximately, what, 40 percent?

MR. BAUM: The county is 40 percent black.

THE COURT: I don’t know about the racial makeup, but I will note for the record there is one regular member of

that does not affect our analysis.

the panel that is black, African-American race.

MS. STEINER: And only one.

THE COURT: Right. There is one period.

MS. STEINER: Right. Thank you.

The jury ultimately found Pitchford guilty and subsequently sentenced him to death. *Pitchford*, 45 So. 3d at 223.

Pitchford appealed his conviction and sentence to the Mississippi Supreme Court. With respect to his *Batson* challenge, Pitchford argued that a comparative juror analysis revealed the State's proffered race-neutral reasons to be pretextual. *See id.* at 227 (recounting Pitchford's argument "that some of the reasons the State proffered for its strikes of blacks were also true of whites the State did not strike"). The Mississippi Supreme Court ruled, however, that Pitchford "did not present these arguments to the trial court during the voir dire process or during post-trial motions." *Ibid.* Accordingly, the court concluded no *Batson* violation had occurred because "Pitchford provided the trial court no rebuttal to the State's race-neutral reasons." *Ibid.*²

After exhausting his state court remedies, Pitchford filed this habeas corpus petition in federal district court, again raising his *Batson* claim. The district court granted Pitchford a writ of habeas corpus.

The district court reasoned that the state trial court "seemingly failed to conduct the third *Batson* inquiry," in which a court determines whether the defendant proved the State's purposeful discrimination in striking jurors. *Pitchford v. Cain*, 706 F. Supp. 3d 614, 624 (N.D. Miss. 2023); *see Batson*, 476 U.S. at 97–98, 106 S.Ct.

2. Pitchford also argued that "the totality of the circumstances show[ed] that the State's peremptory challenges were exercised in a discriminatory manner." *Pitchford*, 45 So. 3d

1712. The court did acknowledge, though, that the trial court may have "implicitly" done so. *Ibid.* The court also disagreed with the Mississippi Supreme Court that Pitchford "waived" the pretext issue by failing to argue it at *voir dire*. *Id.* at 623. To the contrary, the court found that Pitchford's counsel objected to the prosecutor's reasons at the subsequent bench conference. *Id.* at 624. The court then noted that it found the dissenting Justice's pretext analysis "persuasive" but "ma[de] no finding as to whether it ultimately agree[d] with" it. *Id.* at 625–26; *see Pitchford*, 45 So. 3d at 264–66 (Graves, P.J., dissenting). Finally, the court added that the Mississippi Supreme Court should have also "examined" the history of *Batson* violations by Pitchford's prosecutor in the *Flowers* litigation. *Id.* at 627; *see Flowers v. Mississippi*, 588 U.S. 284, 139 S.Ct. 2228, 204 L.Ed.2d 638 (2019). While not "dispositive," the *Flowers* litigation would have been "at the very least, informative." *Ibid.*

Based on this reasoning, the district court ruled that "the state courts' rejection of Pitchford's *Batson* claim was contrary to or an unreasonable application of clearly established federal law." *Ibid.* It ordered the State to release or retry Pitchford within 180 days. *Id.* at 628.

The State timely appealed, and the district court stayed its judgment pending appeal.

II.

[1] "In an appeal from a district court's grant of habeas relief, we review the court's findings of fact for clear error and its conclusions of law *de novo*." *Rus-*

at 227. But the Mississippi Supreme Court ruled this was simply Pitchford's "pretext argument in another package" and rejected it for the same reasons. *Ibid.*

sell v. Denmark, 68 F.4th 252, 261 (5th Cir. 2023).

III.

[2] Because this case is governed by the Antiterrorism and Effective Death Penalty Act (AEDPA), the district court was authorized to grant Pitchford a writ of habeas corpus only if the Mississippi Supreme Court’s³ “decision . . . was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States” or “resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.” 28 U.S.C. § 2254(d)(1)–(2).

[3] This standard demands much more than state court error. *See Burt v. Titlow*, 571 U.S. 12, 18, 134 S.Ct. 10, 187 L.Ed.2d 348 (2013) (holding that a state court decision “is not unreasonable merely because the federal habeas court would have reached a different conclusion in the first instance” (quoting *Wood v. Allen*, 558 U.S. 290, 301, 130 S.Ct. 841, 175 L.Ed.2d 738 (2010))). “[E]ven ‘clear error’ will not suffice.” *White v. Woodall*, 572 U.S. 415, 419, 134 S.Ct. 1697, 188 L.Ed.2d 698 (2014) (quoting *Lockyer v. Andrade*, 538 U.S. 63, 75–76, 123 S.Ct. 1166, 155 L.Ed.2d 144 (2003)). Rather, the state court must have made an “objectively unreasonable” application of a Supreme Court “holding[.]” *Ibid.* (citations omitted). That is, its decision must be “‘so lacking in justification’ that the error is ‘beyond any possibility for fairminded disagreement.’” *Russell*, 68 F.4th at 261–62 (quoting *Harrington v. Richter*, 562 U.S. 86, 103, 131 S.Ct. 770, 178 L.Ed.2d 624 (2011)). Absent that kind

of “extreme malfunction[.]” in the state system, *Brown*, 596 U.S. at 133, 142 S.Ct. 1510, the writ “shall not be granted.” 28 U.S.C. § 2254(d).

On appeal, the State argues that the district court erred in granting the writ for several reasons. We consider each in turn.

A.

[4] First, the State argues the district court erred in finding the trial court skipped *Batson*’s third step. We agree.

[5, 6] Under the familiar *Batson* framework, (1) a defendant must make a *prima facie* showing that a prosecutor made racially discriminatory strikes; (2) if he does, the State must then present race-neutral reasons for the strikes; and (3) the trial court must then determine whether the defendant has proved purposeful discrimination. *See Miller-El v. Dretke*, 545 U.S. 231, 239, 125 S.Ct. 2317, 162 L.Ed.2d 196 (2005) (“*Miller-El II*”) (citing *Batson*, 476 U.S. at 97, 98 n.20, 98, 106 S.Ct. 1712). “[T]he ultimate burden of persuasion regarding racial motivation rests with, and never shifts from, the opponent of the strike.” *Rice v. Collins*, 546 U.S. 333, 338, 126 S.Ct. 969, 163 L.Ed.2d 824 (2006) (quoting *Purkett v. Elem*, 514 U.S. 765, 768, 115 S.Ct. 1769, 131 L.Ed.2d 834 (1995)); *see also United States v. Bentley-Smith*, 2 F.3d 1368, 1373 (5th Cir. 1993) (same).

We agree with the State that the trial court did not omit *Batson*’s third step. In finding otherwise, the district court appeared to reason that *Batson* required the trial court to make explicit findings concerning the validity of the State’s prof-

3. Under AEDPA, federal courts review the last state court decision that adjudicated the petitioner’s claim on the merits. *See Brown v. Davenport*, 596 U.S. 118, 141–42, 142 S.Ct.

1510, 212 L.Ed.2d 463 (2022); *Woodfox v. Cain*, 772 F.3d 358, 369 (5th Cir. 2014). Here, that is the Mississippi Supreme Court’s adjudication of Pitchford’s *Batson* claim.

erred race-neutral reasons. No Supreme Court holding demands that, however.

To the contrary, the Supreme Court has left *Batson*'s implementation up to the discretion of trial courts. *Batson* itself "decline[d] . . . to formulate particular procedures to be followed upon a defendant's timely objection to a prosecutor's challenges." 476 U.S. at 99, 106 S.Ct. 1712; see also *Ford v. Georgia*, 498 U.S. 411, 423, 111 S.Ct. 850, 112 L.Ed.2d 935 (1991) (explaining that *Batson* "left it to the trial courts, with their wide 'variety of jury selection practices,' to implement *Batson* in the first instance" (citing *Batson*, 476 U.S. at 99 n.24, 106 S.Ct. 1712)). In line with that, the Supreme Court has never held that a court properly performs *Batson*'s third step only by making explicit findings on pretext and discrimination.

Indeed, our own precedent has "explicitly rejected [the] requirement" that courts "make explicit factual findings during *Batson*'s third step." *United States v. Ongaga*, 820 F.3d 152, 166 (5th Cir. 2016) (citing *United States v. Thompson*, 735 F.3d 291, 300–01 (5th Cir. 2013)).⁴ Rather, a court "may make 'implicit' findings while performing the *Batson* analysis." *Ibid.* (quoting *McDaniel*, 436 F. App'x at 405 (unpublished) (collecting cases)). The district court itself suggested this is exactly what occurred here. "One could certainly argue," the court remarked, that the trial court "implicitly found" no discrimination

when, at the subsequent bench conference, the trial court announced that it "finds there to be no *Batson* violation" and that "jury selection was appropriate."⁵

Accordingly, we conclude that the trial court did not erroneously omit *Batson*'s third step. It follows *a fortiori* that, by affirming the trial court's application of *Batson*, the Mississippi Supreme Court's decision was not for that reason "contrary to" or an "unreasonable application" of *Batson*.

B.

[7] The State next argues the district court erred by finding that Pitchford did not "waive" his pretext argument. As noted, the Mississippi Supreme Court refused to consider Pitchford's pretext arguments on the ground that Pitchford "did not present these arguments to the trial court during the *voir dire* process or during post-trial motions." *Pitchford*, 45 So. 3d at 227. We again agree with the State.

[8] The Supreme Court has held that state courts may adopt rules concerning when *Batson* challenges may be raised. See, e.g., *Ford*, 498 U.S. at 423, 111 S.Ct. 850 (holding "a state court may" "[u]ndoubtedly . . . adopt a general rule that a *Batson* claim is untimely if it is raised for the first time on appeal, or after the jury is sworn, or before its members are selected"). Moreover, we have specifically held

4. See also *United States v. Perry*, 35 F.4th 293, 331 (5th Cir. 2022) (rejecting argument that "the trial court erred by failing to explicitly reach" step three and recognizing as sufficient "an implicit finding . . . that the Government's explanation was credible"); *United States v. McDaniel*, 436 F. App'x 399, 405–06 (5th Cir. 2011) (per curiam) ("[A] district court will not be reversed for failing to explicitly detail its findings at each step in the *Batson* analysis, if we are convinced that the necessary determinations were 'implicitly' made.").

5. The district court nonetheless suggested that "Pitchford was seemingly given no chance to rebut the State's explanations and prove purposeful discrimination." The record does not reflect that, however. The district court never cut off any request by Pitchford's counsel to object to the State's proffered race-neutral reasons and, in fact, the court allowed defense counsel to clarify their objections during a subsequent bench conference they themselves requested.

that a defendant's failure to challenge a prosecutor's race-neutral explanation constitutes waiver. *See, e.g., United States v. Arce*, 997 F.2d 1123, 1127 (5th Cir. 1993) ("By failing to dispute the prosecutor's short-term employment [*Batson*] explanation in the district court, defendants have waived their right to object to it on appeal.").⁶

Here, the Mississippi Supreme Court relied on an analogous rule in refusing to consider Pitchford's unraised pretext arguments. *See Pitchford*, 45 So. 3d at 227 (relying on rule that, "[i]f the defendant fails to rebut [the State's race-neutral reasons], the trial judge must base his [or her] decision on the reasons given by the State" (quoting *Berry v. State*, 802 So. 2d 1033, 1037 (Miss. 2001))). The court also cited another of its decisions, *Manning v. State*, 735 So. 2d 323, 339 (Miss. 1999) (quotation omitted), which held that "[i]t is incumbent upon a defendant claiming that proffered reasons are pretextual to raise the argument before the trial court. The failure to do so constitutes waiver."

The district court did not rule that relying on such waiver principles was an unreasonable application of (or even inconsistent with) *Batson*. Nor could it have: no Supreme Court holding supports that view. The court instead ruled that the Mississippi Supreme Court erred in its waiver anal-

ysis because Pitchford sufficiently objected at the bench conference. But even assuming the district court was correct, that would not entitle Pitchford to habeas relief. It is well-settled that even an erroneous state ruling is not enough to overcome AEDPA's relitigation bar.⁷

In any case, the Mississippi Supreme Court's waiver ruling was correct. At the bench conference, Pitchford objected, not on the basis of pretext or comparative juror analysis, but only on the ground that the county was 40% black. That was not remotely sufficient to raise an objection to the State's race-neutral reasons. *See, e.g., Arce*, 997 F.2d at 1127 (explaining that "a defendant waives objection to a peremptory challenge by failing to dispute the prosecutor's explanations" (citing *United States v. Rudas*, 905 F.2d 38, 41 (2d Cir. 1990))).⁸

Accordingly, the district court erred in concluding that Pitchford was entitled to habeas relief on this ground.

C.

[9] The State next argues that the district court erred by suggesting the Mississippi courts were obliged to consider the "totality" of the facts bearing on Pitchford's pretext claims, including the facts in

6. *See also United States v. Ceja*, 387 F. App'x 441, 443 (5th Cir. 2010) (per curiam) ("[A] defendant waives objection to a peremptory challenge by failing to dispute the prosecutor's explanations." (quotation omitted)).

7. *See, e.g., White*, 572 U.S. at 419, 134 S.Ct. 1697 (Under AEDPA, "an unreasonable application of [Supreme Court] holdings must be objectively unreasonable, not merely wrong; even clear error will not suffice." (cleaned up)); *Williams v. Taylor*, 529 U.S. 362, 365, 120 S.Ct. 1495, 146 L.Ed.2d 389 (2000) (Under AEDPA, "an unreasonable application of federal law is different from an incorrect application of federal law.").

8. *Wright v. Harris County*, 536 F.3d 436, 438 (5th Cir. 2008) (explaining that in *Arce*, "the government offered two reasons for its strike, but defendants contested only one of them," and so, "[b]y failing to dispute the prosecutor's ... explanation in the district court, defendants have waived their right to object to it on appeal"); *Haynes v. Quarterman*, 526 F.3d 189, 200 (5th Cir. 2008) (explaining that a defendant may "acquiesce" in proffered race-neutral reasons "[b]y failing to dispute the Government's explanations" for them (quoting *Arce*, 997 F.2d at 1127)).

the *Flowers* litigation. We agree with the State that the Mississippi courts did not err by refusing to consider such facts, which were not argued by Pitchford during *voir dire* or post-trial.

Pitchford directs us to no Supreme Court holding that supports the district court's approach, and our own precedent squarely rejects it. As we have explained, "it is not clearly established that habeas courts *must*, of their own accord, uncover and resolve all facts and circumstances that may bear on whether a peremptory strike was racially motivated when the strike's challenger has not identified those facts and circumstances." *Ramey v. Lumpkin*, 7 F.4th 271, 280 (5th Cir. 2021). Nor is there "any requirement that a state court conduct a comparative juror analysis at all, let alone *sua sponte*." *Chamberlin v. Fisher*, 885 F.3d 832, 838 (5th Cir. 2018) (en banc).⁹ Accordingly, we have held that a state decision rejecting a *Batson* claim is not unreasonable for failing to "consider[] the full panoply of facts and circumstances," when the petitioner "did not direct the state courts to what he [later] assert[ed] are [the] relevant facts and circumstances." *Ramey*, 7 F.4th at 280.

Nor were the Mississippi courts required to consider the relevance of the *Flowers* litigation. To begin with, Pitchford never raised this argument at *voir dire* and so cannot rely on it now to impugn the state courts' application of *Batson*. Fur-

thermore, the Supreme Court's *Flowers* decision could not have informed the analysis, because it was issued in 2019—nine years after the Mississippi Supreme Court rejected Pitchford's *Batson* claim. See *Williams*, 529 U.S. at 390, 120 S.Ct. 1495 ("The threshold question under AEDPA is whether [the petitioner] seeks to apply a rule of law that was clearly established at the time his state-court conviction became final." (emphasis added)). Moreover, to the extent the district court thought the Mississippi courts should have considered the relevance of state-court decisions in *Flowers*, those are irrelevant under AEDPA. See, e.g., *Kernan v. Cuero*, 583 U.S. 1, 8, 138 S.Ct. 4, 199 L.Ed.2d 236 (2017) (per curiam) (holding "state-court decisions" do "not constitute 'clearly established Federal law, as determined by the Supreme Court'").

In sum, the Mississippi Supreme Court did not err by failing to consider evidence of pretext or evidence from the *Flowers* litigation in rejecting Pitchford's *Batson* claim. *A fortiori*, the court's decision was not "contrary to" or an "unreasonable application" of *Batson*.

D.

Finally, to the extent the district court relied on 28 U.S.C. § 2254(d)(2) in granting habeas relief, it erred.¹⁰

[10, 11] In a *Batson* case, a habeas petitioner can prevail under § 2254(d)(2) by

9. In a Rule 28(j) letter filed after oral argument, Pitchford cites cases supposedly standing for the proposition that a litigant does not forfeit a comparative juror analysis by failing to raise it at trial. See, e.g., *Reed v. Quarterman*, 555 F.3d 364, 372–73 (5th Cir. 2009); *Woodward v. Epps*, 580 F.3d 318, 338 (5th Cir. 2009). To the extent any of those cases support that notion, however, they predate our en banc decision in *Chamberlin*, which held that a state court need not conduct a comparative juror analysis where, as here, a litigant fails to raise the argument at trial. See,

e.g., *Chamberlin*, 885 F.3d at 838–39 (holding there is no "new procedural rule that state courts must conduct comparative juror analysis when evaluating a *Batson* claim") (quoting *McDaniels v. Kirkland*, 813 F.3d 770, 783 (9th Cir. 2015) (Ikuta, J., concurring)).

10. Although the district court cited (d)(2) in passing, it is unclear whether the court actually relied on that subsection in granting habeas.

showing that “the trial court’s determination of the prosecutor’s neutrality with respect to race was objectively unreasonable and has been rebutted by clear and convincing evidence to the contrary.” *Hoffman v. Cain*, 752 F.3d 430, 448–49 (5th Cir. 2014). “[W]e presume the [state] court’s factual findings to be sound unless [the movant] rebuts the ‘presumption of correctness by clear and convincing evidence.’” *Miller-El II*, 545 U.S. at 240, 125 S.Ct. 2317 (quoting 28 U.S.C. 2254(e)(1)). “A state trial court’s finding of the absence of discriminatory intent is ‘a pure issue of fact’ that is accorded great deference. . . .” *Murphy v. Dretke*, 416 F.3d 427, 432 (5th Cir. 2005) (quoting *Hernandez v. New York*, 500 U.S. 352, 364–65, 111 S.Ct. 1859, 114 L.Ed.2d 395 (1991)). And, as explained above, a court is not required to make factual findings on the record during *Batson* step three. See *Perry*, 35 F.4th at 331 (explaining that “an implicit finding by a trial court that the [prosecution’s] explanation was credible” is sufficient).

As discussed, the state trial court completed all three steps of *Batson*. The judge ruled that Pitchford made a *prima facie* showing of discrimination, the State provided race-neutral reasons, and the only objection Pitchford eventually raised was that one of the 14 jurors was black “whereas this county is approximately . . . 40 percent[.]” See *Pitchford*, 45 So. 3d at 225–26. The trial judge heard that information, found that “all the reasons” given by the State “were race neutral,” and stated that “the Court finds there to be no *Batson* violation.” The judge therefore ruled that Pitchford did not “prove the existence of purposeful discrimination.” *Batson*, 476 U.S. at 93, 106 S.Ct. 1712 (quotation omitted).

[12] All the judge had available to weigh against the State’s race-neutral reasons was Pitchford’s conclusory argument

that 40% of the county was black and his contention that *Miller-El II* “reversed a conviction” where the prosecution “left either one or two black jurors on the venire.” See *Miller-El II*, 545 U.S. at 231, 125 S.Ct. 2317. It was not clearly unreasonable for the judge to find that such bare assertions failed to overcome the State’s race-neutral reasons.

As for the Mississippi Supreme Court, it acted reasonably in not considering Pitchford’s pretext arguments because its “[p]recedent mandates that [it] not entertain arguments made for the first time on appeal as the case must be decided on the facts contained in the record and not on assertions in the briefs.” *In re Adoption of Minor Child*, 931 So. 2d 566, 579 (Miss. 2006) (quoting *Chantey Music Pub., Inc. v. Malaco, Inc.*, 915 So. 2d 1052, 1060 (Miss. 2005)); see also *Manning*, 735 So. 2d at 339 (holding that “[i]t is incumbent upon a defendant claiming that proffered reasons are pretextual to raise the argument before the trial court” and that “[t]he failure to do so constitutes waiver” (quotation omitted)).

In sum, we conclude that Pitchford was not entitled to habeas corpus relief under 28 U.S.C. § 2254(d)(2) based on his *Batson* claim.

IV.

We REVERSE the judgment granting Pitchford a writ of habeas corpus and REMAND to the district court for proceedings not inconsistent with this opinion.



**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

TERRY PITCHFORD

PETITIONER

V.

NO. 4:18-CV-00002-MPM

**BURL CAIN, MDOC Commissioner; and
LYNN FITCH, Attorney General for the state of Mississippi**

RESPONDENTS

MEMORANDUM OPINION AND ORDER

Petitioner Terry Pitchford, a state inmate under sentence of death, seeks habeas corpus relief under 28 U.S.C. § 2254. After filing his amended federal habeas petition, Pitchford moved for partial summary judgment as to his *Batson*¹ claim. In turn, Respondents moved for cross-summary judgment.² The parties have filed their respective responses and replies, and the matter is now ripe for resolution. Having reviewed the submissions and arguments of the parties, as well as the applicable authority, the Court finds that Pitchford's motion should be granted and, consequently, that his petition for a writ of habeas corpus should be granted *as to this claim*.

Relevant Factual and Procedural Background

On the morning of November 7, 2004, Pitchford and a friend, Eric Bullins, went to the Crossroads Grocery store with the intention of robbery. *Pitchford v. State*, 45 So. 3d 216, 222 (Miss. 2010). The intended robbery, however, resulted in the murder of store owner Reuben Britt.

¹ See *Batson v. Kentucky*, 476 U.S. 79 (1986).

² Respondents filed their motion for cross-summary judgment in the same document as their response to Petitioner's motion for partial summary judgment. See Doc. # 211. The Local Rules, however, provide that "[a] response to a motion may not include a counter-motion in the same document. Any motion must be an item docketed separately from a response." L.U. Civ. R. 7(b)(3)(C). The Court will overlook this procedural defect this time for purposes of efficiency, but the parties are advised to follow the Local Rules going forward.

Id. Bullins, Pitchford's accomplice, shot Britt three times with a .22 caliber pistol, while Pitchford fired shots into the floor. *Id.*

On January 11, 2005, a grand jury in Grenada County, Mississippi, indicted nineteen-year-old Pitchford for capital murder, and the case proceeded to trial with jury selection beginning on February 6, 2006. *Id.* at 223. At the start of voir dire, the jury pool included 126 individuals: forty (40) black, eighty-four (84) white, one Hispanic, and one who did not provide race information. *Id.* The trial judge began by excusing certain jurors for statutory cause and other reasons unrelated to the case, without objection from either party. *Id.*

This left a panel of ninety-six (96), with thirty-five (35) black and sixty-one (61) white members. *Id.* Following voir dire by the attorneys, the trial judge, again without objection from either party, struck fifty-two (52) prospective jurors for cause and three others for undisclosed reasons, leaving a total of forty-one (41) venire members, of which thirty-six (36) were white and five were black. *Id.* Of note, thirty (30) black venire members were excused for cause primarily because of their views on the death penalty, leaving merely five black members in the jury pool. *See* Doc. # 207-1, at 150-153.

The attorneys were then permitted to exercise strikes "only on the twelve lowest-numbered members of the venire," and then, each time someone was stricken, "the next lowest-numbered juror joined the twelve potential jurors subject to preemptory strikes." *Id.* During this process, the State exercised seven strikes, while Pitchford used twelve, resulting in thirty-one (31) potential jurors subject to preemptory strikes. *Id.* Of these thirty-one, Pitchford struck twelve white members, leaving nineteen members subject to preemptory strikes by the State: five black and fourteen white. *Id.* The State exercised seven of the twelve strikes it was permitted, striking three whites and four blacks. *Id.*

Following the selection process, Pitchford's jury of fourteen (twelve jurors with two alternates) consisted of thirteen whites and one black. *Id.* at 226. The case proceeded to trial on February 8, 2006, at which the jury found Pitchford guilty of capital murder. *Id.* at 223. Then, on February 9, 2006, during the penalty phase, the jury imposed a sentence of death by lethal injection. *Id.*

Through counsel, Pitchford filed a direct appeal challenging his conviction and sentence, arguing that the State discriminated on the basis of race in its preemptory strikes in violation of *Batson v. Kentucky*.³ *Id.* at 224. The Mississippi Supreme Court affirmed Pitchford's conviction and sentence on June 24, 2010. *Id.* at 216. In its decision, the state supreme court rejected Pitchford's claim on the basis that he failed to rebut the prosecution's race-neutral reasons for its preemptory strikes of black venire members. *Id.* at 227.

Pitchford, through appointed counsel, filed an amended petition for federal habeas corpus relief pursuant to 28 U.S.C. § 2254 in this Court on February 13, 2023. Doc. # 203. In his amended petition, Pitchford asserts twenty-six grounds for relief, including a *Batson* claim. *See Id.* at 18-35. Then on June 12, 2023, Pitchford moved for partial summary judgment on his *Batson* claim. Doc. #s 207, 208. On August 3, 2023, Respondents filed their response to Pitchford's motion along with a cross-motion for summary judgment. Doc. #s 211, 212. Pitchford filed his reply in support of his motion and response in opposition to Respondents' motion on September 5, 2023. Doc. # 215. The matter is now ripe for resolution.

Legal Standard

Summary judgment is appropriate only when "the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R.

³ Pitchford raised seventeen issues on direct appeal, but the *Batson* claim is the only claim that will be discussed herein. *See Pitchford*, 45 So.3d at 224-260.

Civ. P. 56(a); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986). “As a general principle, Rule 56 of the Federal Rules of Civil Procedure, relating to summary judgment, applies with equal force in the context of habeas corpus cases.” *Clark v. Johnson*, 202 F.3d 760, 764 (5th Cir. 2000). However, Rule 56 “applies only to the extent that it does not conflict with the habeas rules.” *Smith v. Cockrell*, 311 F.3d 661, 668 (5th Cir. 2002), *abrogated on other grounds by Tennard v. Dretke* 542 U.S. 274 (2004); *see also* Rule 12 of the Rules Governing Section 2254 Cases in the United States District Courts. Thus, “[i]f some aspect of the summary judgment process conflicts with the habeas process, then the habeas process controls.” *See Ndudzi v. Castro*, 2020 WL 3317107 at *10 (W.D. Tex. June 18, 2020)(citations omitted).

Under the Antiterrorism and Effective Death Penalty Act (“AEDPA”), which governs this case, a federal court cannot grant federal habeas relief on any claim that the state court adjudicated on the merits unless that adjudication (1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established United States Supreme Court precedent; or (2) resulted in a decision based on an unreasonable determination of facts in light of the evidence presented. *See* 28 U.S.C. § 2254(d)(1) and (2); *Schriro v. Landrigan*, 550 U.S. 465, 473 (2007). A state court’s factual determinations “carry a presumption of correctness” such that, “to rebut them, the petitioner must present clear and convincing evidence to the contrary.” *Smith*, 311 F.3d at 667 (citing 28 U.S.C. § 2254(e)(1)). To be sure, this “standard is demanding but not insatiable.” *Miller-El v. Dretke*, 545 U.S. 231, 240 (2005) (granting writ on *Batson* grounds). Further, “[d]eference does not by definition preclude relief.” *Miller-El v. Cockrell*, 537 U.S. 322, 340 (2003).

Discussion

Pitchford argues that the State used its preemptory strikes in a racially discriminatory manner. The Mississippi Supreme Court considered and ultimately rejected this same argument during Pitchford's direct appeal. In *Batson*, the Supreme Court held that "[p]urposeful racial discrimination in selection of the venire violates a defendant's right to equal protection because it denies him the protection that a trial by jury is entitled to secure." *Batson*, 476 U.S. at 86.

Offering guidance to courts addressing these claims, the Supreme Court has held:

A defendant's *Batson* challenge to a preemptory strike requires a three-step inquiry. First, the trial court must determine whether the defendant has made a prima facie showing that the prosecutor exercised a preemptory challenge on the basis of race. Second, if the showing is made, the burden shifts to the prosecutor to present a race-neutral explanation for striking the juror in question. Although the prosecutor must present a comprehensible reason, "[t]he second step of this process does not demand an explanation that is persuasive, or even plausible"; so long as the reason is not inherently discriminatory, it suffices. Third, the court must then determine whether the defendant has carried his burden of proving purposeful discrimination. This final step involves evaluating "the persuasiveness of the justification" proffered by the prosecutor, but "the ultimate burden of persuasion regarding racial motivation rests with, and never shifts from, the opponent of the strike."

Rice v. Collins, 546 U.S. 333, 338 (2006)(internal citations omitted). A trial court's *Batson* finding is "'a pure issue of fact' that is accorded great deference and will not be overturned unless clearly erroneous." *Murphy v. Dretke*, 416 F.3d 427, 432 (5th Cir. 2005); *see also Cockrell*, 537 U.S. at 340.

I. Prima Facie Showing

As a preliminary matter, the opponent of the strike (in this instance, the defendant Pitchford) must show that the use of preemptory challenges raised an inference that the prosecutor was purposefully excluding members of his race from serving on the jury. *Batson*, 476 U.S. at 96 (This holding has since been extended to members of any race. *See Powers v. Ohio*, 499 U.S. 400 (1991)). That the strikes disproportionately impact jurors of one race is insufficient; the defendant

must show a discriminatory intent motivated the strikes. *Hernandez v. New York*, 500 U.S. 352, 359-60 (1991). A defendant can make a prima facie showing by establishing either a pattern or practice of strikes against black jurors or by showing that jurors of different races were questioned differently. *Batson*, 476 U.S. at 97.

As briefly mentioned above, the State utilized four of its preemptory strikes to remove black members from the jury, tendering only one black juror. After the State struck the fourth black potential juror, Pitchford's counsel made the following objection:

MS. STEINER (Pitchford's counsel): We would object on the grounds of *Batson versus Kentucky* that it appears there is a pattern of striking almost all of the available African-American jurors. They have tendered one African-American juror out of the five thus far – four that have thus far arisen on the venire. As we had noted previously, due to the process of cause challenges, particularly death qualification challenges, this is already a disproportionately white jury for the population of this county.

And we make a *Batson* challenge. It appears to be a pattern of disproportionately challenging African-American jurors. And I would invite the Court's attention to the United States Supreme Court case. The most recent *Miller-El versus Dretke* case in which the United States Supreme Court on habeas actually reversed a conviction where the prosecutors had used most, though not all, of their strikes. They had left either one or two black jurors on the venire, but the United States Supreme Court nonetheless reversed.

Doc. # 207-1 at 157-159. Upon Pitchford's objection, the trial court immediately asked the State to provide race-neutral reasons for its preemptory strikes of the four black potential jurors. *Id.* As such, the trial court implicitly found that Pitchford made a prima facie showing that race was the basis for the strikes.

In addressing whether Pitchford had made a prima facie showing, the Mississippi Supreme Court considered an argument made by Pitchford *after* the trial court asked the State for race-neutral reasons as support for a prima facie showing—namely, the alleged racial makeup of Grenada County and the disparity between it and the venire. *Pitchford*, 45 So. 3d at 225-226. Specifically, the state appellate court noted Pitchford's argument that “in 2006, African-Americans

made up approximately forty percent of Grenada County's population." *Id.* at 225. The state appellate court noted, however, that Pitchford presented no evidence of the racial makeup of Grenada County to the trial court. *Id.* But, "regardless of the racial makeup of Grenada County," the Mississippi Supreme Court was "persuaded that the record support[ed] the trial court's finding of a prima facie showing of discrimination." *Id.*

The Mississippi Supreme Court's analysis on this point is a bit confusing. As the argument about the racial makeup of the county was not made until *after* the *Batson* objection had been overruled and the jury selected, it could not have formed the basis of the trial court's finding that a prima facie showing had been made. More relevant to the inquiry is the argument made by Pitchford upon raising the objection: that the State had struck four out of five black potential jurors, tendering only one black juror to serve. Confusion aside, neither party disputes the state courts' conclusion(s) that Pitchford made a prima facie showing that race was the basis for the preemptory strikes at issue. Moreover, the Court finds that the State's pattern of striking *all* but one black juror sufficiently demonstrated a prima facie showing under *Batson*.

II. Race-Neutral Reasons

After Pitchford raised his *Batson* objection, the trial court promptly requested race-neutral reasons for each of the four strikes it used on black venire members. *See* Doc. # 207-1 at 158-159. As the burden is always on the defendant to prove discrimination, the prosecution's proffered race-neutral explanation "need not be persuasive; it must only be based on some factor other than the juror's race." *Walker v. Epps*, 2012 WL 1033467, at * 22 (S.D. Miss. Mar. 27, 2012) (citing *Hernandez*, 500 U.S. at 360). At this juncture, the trial court need only consider "the facial validity of the prosecutor's explanation." *Hernandez*, 500 U.S. at 360. Thus, "[u]nless a discriminatory intent is inherent in the prosecutor's explanation, the reason offered will be deemed race neutral."

Id. The prosecutor, however, must do more than simply deny that he had a discriminatory motive. *Batson*, 476 U.S. at 98. Even if the prosecutor’s reasons are “frivolous or utterly nonsensical,” the analysis does not end, but merely proceeds to the third step. *Johnson v. California*, 545 U.S. 162,171 (2005) (citation omitted).

Linda Ruth Lee

As to Ms. Lee, the State proffered as follows:

S-2 is black female, juror number 30. She is the one that was 15 minutes late. She also, according to police officer, police captain, Carver Conley, has mental problems. They have had numerous calls to her house and said she obviously has mental problems.

Doc. # 207-1 at 159-160. Without further inquiry, the trial court responded “ [t]hat would be race neutral as to – as to that juror.” *Id.* at 160. The Mississippi Supreme Court found the allegation that Lee “obviously has mental problems” a sufficient race-neutral reason such that the trial court did not abuse its discretion. *Pitchford*, 45 So. 3d at 227.

Christopher Lamont Tillmon

The State then provided the following explanation for its strike of Mr. Tillmon:

S-3 is a black male, number 31, Christopher Lamont Tillmon. He has a brother that has been convicted of manslaughter. And considering that this is a murder case, I don’t want anyone on the jury that has relatives convicted of similar offenses.

Doc. # 207-1 at 160. The trial court then questioned a bit further, asking the brother’s name, to which the prosecutor responded that he did not “even remember his brother” but that, on the jury questionnaire, Tillmon “said that he had a brother convicted of manslaughter.” *Id.* The trial court concluded “I find that to be race neutral.” *Id.* The Mississippi Supreme Court noted that it had “recognized a juror’s (or family member’s) criminal history to be race-neutral reason for exercising a preemptory challenge” and found no error in the trial court’s acceptance of the reason. *Pitchford*, 45 So. 3d at 227 (citations omitted).

Patricia Ann Tidwell

As to Tidwell, the State submitted the following reason:

S-4 is juror number 43, a black female, Patricia Anne Tidwell. Her brother, David Tidwell, was convicted in this court of sexual battery. And her brother is now charged in a shooting case that is a pending case here in Grenada. And also, according to police officers, she is a known drug user.

Doc. # 207-1 at 160. The trial court then expounded, “[d]uring voir dire, in fact, I made a notation on my notes about her being kin to this individual. I find that to be race neutral.” *Id.* The Mississippi Supreme Court could not say that the trial judge abused his discretion in finding this proffered race-neutral reason acceptable. *Pitchford*, 45 So. 3d at 227.

Carlos Ward

Lastly, the State presented the following race-neutral explanation for striking Ward:

We have several reasons. One, he had no opinion on the death penalty. He has a two-year-old child. He has never married. He has numerous speeding violations that we are aware of. The reason that I do not want him as a juror is he is too closely related to the defendant. He is approximately the same age as the defendant. They both have never been married. In my opinion he will not be able to not be thinking about these issues, especially on the second phase. And I don’t think he would be a good juror because of that.

Doc. # 207-1 at 160-161. The trial court did not probe further, finding the State’s explanation “to be race neutral as well.” *Id.* at 161. The Mississippi Supreme Court reasoned that it had previously “included an appendix of ‘illustrative examples’ of race-neutral reasons upheld by other courts which includes age and marital status” and found no error in the trial court’s acceptance of this reason as race-neutral. *Pitchford*, 45 So. 3d at 226 (citation omitted).

The parties understandably spend little time addressing this step in their briefs as the explanations offered by the State were, *on their face*, race-neutral. The State averred that it struck Lee because she had mental problems; Tillmon because his brother had been convicted of manslaughter; Tidwell because her brother had a sexual battery conviction and pending charge

involving a shooting; and, lastly, Ward because he possessed too many similar characteristics with Pitchford. Whether the proffered reasons were true (factually accurate) or even the actual motives for the State's strikes matters not *at this stage*. A careful review of the record, even considering the totality of the circumstances, does not evince an unequivocal inherent discriminatory intent in the explanations proffered by the State. *See United States v. Bentley-Smith*, 2 F.3d 1368, 1373 (1993) (quoting *Hernandez*, 476 U.S. at 360). Thus, the Court concludes there was no error in the state courts' acceptance of the State's race-neutral reasons for striking Lee, Tillmon, Tidwell and Ward. This, however, does not end the inquiry.

III. Purposeful Discrimination

Once the prosecution articulates acceptable race-neutral reasons for its preemptory strikes, the trial court is tasked with determining whether the defendant has sustained his burden of proving purposeful discrimination. *See Batson*, 476 U.S. at 98. During this final step, Mississippi law requires the opponent of the strike to demonstrate that the State's articulated race-neutral reasons are mere pretext for discrimination. *See, e.g., Mack v. State*, 650 So.2d 1289, 1297 (1994) (holding that the defendant's failure to raise the argument of pretext before the trial court constitutes waiver of the claim). In assessing the proffered race-neutral reasons, Mississippi courts consider the following "five indicia of pretext":

(1) disparate treatment, that is, the presence of unchallenged jurors of the opposite race who share the characteristic given as the basis for the challenge; (2) the failure to voir dire as to the characteristic cited; . . . (3) the characteristic cited is unrelated to the facts of the case; (4) lack of record support for the stated reason; and (5) group-based traits.

Lynch v. State, 877 So.2d 1254, 1272 (Miss. 2004)(citations omitted). The Mississippi Supreme Court has further held that “[i]f the defendant fails to rebut, the trial judge must base his decision on the reasons given by the State.” *Berry v. State*, 802 So.2d 1033, 1037 (Miss. 2001).⁴

As detailed above, when Pitchford raised his *Batson* challenge, the trial court asked the prosecution for its race-neutral reasons for striking potential jurors Lee, Tillmon, Tidwell, and Ward. The State then provided reasons for striking those four individuals, all of which the trial court deemed race-neutral. The trial court then full-stop ended its *Batson* analysis. More specifically, after the State provided its justification for striking Ward, the trial court responded, “[t]he court finds that to be race neutral as well. So now we will go back and have the defense starting at 37.” Doc. # 207-1 at 161. Rather than turning to Pitchford and allowing him the opportunity to rebut the reasons articulated by the State, the trial court immediately continued with the juror selection conference.

On direct appeal, Pitchford argued that some of the reasons articulated by the State for its strikes of the black potential jurors were also true of white potential jurors whom the State did not strike. *Pitchford*, 45 So.3d at 227. Pitchford further pointed out that the State struck four of five blacks on the panel, but only three of thirty-five whites on the panel. *Id.* Additionally, Pitchford noted that, although it had preemptory strikes available to use, it failed to strike white panel members who shared similar characteristics to some of the black members who were struck for cause. *Id.* Thus, Pitchford believed the “the totality of the circumstances” demonstrated that the State used its preemptory strikes in a discriminatory manner. *Id.*

⁴ See also *Manning v. State*, 735 So.2d 323, 339 (Miss. 1999) (It is incumbent upon a defendant claiming that proffered reasons are pretextual to raise the argument before the trial court. The failure to do so constitutes waiver.”); *Woodward v. State*, 726 So.2d 524, 533 (Miss. 1997) (“In the absence of an actual proffer of evidence by the defendant to rebut the State’s neutral explanations, this Court may not reverse on this point.”).

In its analysis, the Mississippi Supreme Court gave this step short shrift. The state appellate court reasoned, “[Pitchford] did not present these arguments to the trial court during the voir dire process or during post-trial motions.” *Id.* The Mississippi Supreme Court then explained it could “not now fault the trial judge with failing to discern whether the State’s race-neutral reasons were overcome by rebuttal evidence and argument never presented.” *Id.* The state appellate court thus concluded that, because “Pitchford failed to provide any argument concerning pretext during the *Batson* hearing[,]” it “[would] not entertain those arguments now.” *Id.* at 228.

The majority in *Pitchford* implicitly found that Pitchford waived any argument regarding pretext because, it found, he did not advance a pretext argument before the trial court. This Court views the record a bit differently. Although the trial court failed to provide Pitchford an opportunity to rebut the State’s explanations at the time they were made, Pitchford did raise his *Batson* challenge again after jury selection had been completed. Just seconds after the trial court read aloud the names of those selected for jury service, the following bench conference exchange occurred:

MS. STEINER: At some point the defense is going to want to reserve both its *Batson* objection and a straight for Tenth Amendment racial discrimination.

THE COURT: You have already made it in the record so I am of the opinion it is in the record.

MS. STEINER: I don’t want to let the paneling of the jury go by without having those objections.

THE COURT: I think you already made those, and they are clear in the record. For the reasons previously stated, first the Court finds there to be no – well, all the reasons were race neutral as to members that were struck by the district attorney’s office. And so the Court finds there to be no *Batson* violation. . . .

MS. STEINER: Allow us to state into the record there is one of 12 – of fourteen jurors, are non-white, whereas this county is approximately, what, 40 percent?

MR. BAUM (Pitchford’s counsel): The county is 40 percent black.

THE COURT: I don't know about the racial makeup, but I will note for the record there is one regular member of the panel that is black, African-American race.

MS. STEINER: And only one.

THE COURT: Right. There is one period.

MS. STEINER: Right. Thank you.

Doc. # 207-1 at 166-167. This exchange evinces an attempt by Pitchford's counsel to argue pretext that was thwarted, although likely unintentionally so, by the trial court's abrupt conclusion that there had been no *Batson* violation. But, even if the state appellate court disagreed with that view, at the very least it is clear that Pitchford wanted to make sure his *Batson* objection *in toto* was preserved for appeal.

At the time of Pitchford's trial, *Batson* was well-settled law that the trial court was bound to uphold and apply. Yet, it *seemingly* failed to conduct the third *Batson* inquiry. It bears repeating the following sequence of events: first, Pitchford raised his *Batson* challenge; then, the trial court implicitly found a prima facie showing had been made by requesting race-neutral reasons from the state; the State articulated its reasons for striking Lee, Tillmon, Tidwell and Ward; the trial court deemed all explanations as sufficiently race-neutral; and that was it. One could certainly argue that the trial court implicitly found that Pitchford failed to prove purposeful discrimination (the third *Batson* inquiry) when it later, *after* the jury was selected and announced, declared there to be no *Batson* violation. But this Court cannot ignore the notion that Pitchford was seemingly given no chance to rebut the State's explanations and prove purposeful discrimination.

As set forth above, the majority in *Pitchford* declined to address his arguments regarding pretext on appeal because the arguments were not presented to the trial court, essentially concluding Pitchford had waived the issue. There is no authority from the United States Supreme Court requiring a defendant to rebut the race-neutral reasons offered by the State. It is true that

Fifth Circuit precedent provides that when a defendant fails to object to the prosecutor's explanation, he acquiesces in the explanation and the reviewing court may accept the trial court's acceptance of the prosecutor's reason as race-neutral. *See Haynes v. Quarterman*, 526 F.3d 189, 200 (5th Cir. 2008)(court can accept prosecutor's race-neutral explanation if the explanation is facially valid and the defendant does not object). But Pitchford *did* object to the explanations provided when he raised the issue again and confirmed it was on the record. Perhaps Pitchford's counsel should have been more assertive, but the Court will not fault them for failing to present specific arguments on pretext when the trial court appeared to have been resolute in its brusque determination that no violation had occurred. Simply put, there was no waiver by Pitchford.

The Court finds Justice Graves' dissenting opinion in *Pitchford* persuasive. The majority declined to address Pitchford's arguments regarding pretext. Justice Graves, however, correctly determining that the issue was not waived, conducted a comprehensive pretext analysis. *See Pitchford*, 45 So.3d at 260-268.

The State struck Lee because she was fifteen minutes late, had "mental problems", and the police had made numerous calls to her house according to Captain Carver Conley. *See Doc.# 207-1* at 159-160. Justice Graves noted that Conley was not called to testify nor did the State introduce any evidence as to Lee's alleged mental problems. *Pitchford*, 45 So.3d at 264. A potential juror's alleged mental health or police calls to their residence was never brought up as an issue prior to or during voir dire. *Id.* Further, the State did not individually voir dire Lee nor did it ask any specific questions related to these reasons. *Id.* As such, nothing *in the record* supported the State's race-neutral reasons for striking Lee. Moreover, Lee was late because she had no transportation and had to walk from her home to the courthouse. *Doc. # 207-1* at 75. The State attempted to strike

her for cause on the basis that she was late, but the trial court declined, noting that “she is trying real hard to be here and fulfill her civic duty as a juror.” *Id.* at 153.

The State struck Tillmon because he revealed on his jury questionnaire that his brother had been convicted of manslaughter. Doc. # 207-1 at 160. Tillmon, however, also indicated that he was an employed college graduate, previously worked at a correctional facility, and strongly favored the death penalty. *Pitchford*, 45 So.3d at 265. The State failed to voir dire Tillmon regarding the disclosure about this brother. *Id.* As to Tidwell, the State struck her because her brother had been convicted of sexual battery and had a pending charge in a shooting case, and because she was allegedly a known drug user. *Id.* No evidence was presented as to her brother being charged in a shooting case nor as to her being a known drug user. *Id.* Further, the State did not individually voir dire her nor ask any specific questions regarding these reasons. *Id.*

Moreover, white venire members with criminal convictions were tendered without challenge by the State. *Id.* Pitchford names two similarly-situated white jurors who were not stricken. Doc. # 208 at 20. One such venire member had disclosed that his uncle was a convicted felon (crime undisclosed), and the other had a son and stepson both convicted of felonies, burglary and forgery, in particular. *Id.* Respondents contend that the nature of the crimes committed by the juror’s family members differ greatly and that accounts for the reason Tillmon was struck but the others were tendered. *See* Doc. # 212 at 21. While that may be true as to the juror who disclosed family members’ burglary and forgery convictions, the other juror did not disclose the nature of his uncle’s conviction. Yet, the State chose not to voir dire that juror as to the nature of the crime to be certain it was not similar in nature to the crime of which Pitchford was charged.

As to Ward, the State posited that his circumstances were too similar to that of Pitchford: he had a young child; he had never been married; and he was approximately the same age as Pitchford. The State also opined that Ward expressed no opinion on the death penalty and had a number of speeding violations. As with the three potential jurors above, the State did not individually voir dire Ward as to these stated reasons. *Pitchford*, 45 So.3d at 266. To the extent that a history of speeding violations is relevant, which the Court finds unlikely, the juror questionnaire included no questions about speeding violations and the State otherwise presented no evidence of such. *See id.* Further, nothing in the record indicates that the State sought information about traffic violations on other jurors. *Id.* The Court also notes Pitchford cites a number of potential white jurors who either had young children, were unmarried, or were of a similar age. Doc. # 208 at 16. He further points to a number of white potential jurors who shared more than one of these identified traits. *Id.* at 17. Respondents make much of the fact that those identified by Pitchford did not possess *all* of the identified characteristics. Pitchford, however, “is not required to identify an *identical* white juror for the side-by-side comparison to be suggestive of discriminatory intent. *Flowers v. Mississippi*, 588 U.S. ---, 139 S.Ct. 2228, 2249 (2019) (citing *Miller-El II*, 545 U.S. at 241, n. 6)(emphasis in original).

The Court makes no finding as to whether it ultimately agrees with Justice Graves’ analysis as to each juror stricken. The Court does, however, agree that *Batson* requires that the analysis be performed. In fact, there can be no question that such an analysis must be completed prior to concluding that *Batson* has not been violated. Simply put, no state court—whether it be the majority in the Mississippi Supreme Court or the trial court—conducted a full three-step *Batson* inquiry on the State’s use of its preemptory strikes of Lee, Tillmon, Tidwell and Ward.

The trial court, seemingly eager to proceed to the case itself, quickly deemed the reasons as race-neutral and moved on. The trial court's actions, perhaps understandable (and relatable to this Court), are error, nonetheless. This is equally true of the majority's declination to address the merits of Pitchford's arguments regarding pretext on appeal. To be sure, even if Pitchford had waived the issue, which the Court finds he did not, the Fifth Circuit has suggested that a defendant's failure to rebut the State's race-neutral reasons does not constitute waiver of a comparative analysis in capital cases. *See Reed v. Quarterman*, 555 F.3d 364, 372-75 (5th Cir. 2009). Thus, at a bare minimum, the Mississippi Supreme Court should have performed such an analysis, and its failure to do so was erroneous.

The Court now briefly addresses the Curtis Flowers case history, and Pitchford's reliance on it. In 1996, Curtis Flowers allegedly murdered four people in Winona, Mississippi. *Flowers v. Mississippi*, 588 U.S. ____, 139 S.Ct. 2228, 2234 (2019). Flowers was tried six separate times before a jury for murder; and each of those times, he was prosecuted by District Attorney Doug Evans, the same prosecutor in Pitchford's case. *Id.* Flowers was convicted in each of the first three trials, but the Mississippi Supreme Court reversed each conviction. *Id.* at 2235. Those convictions were reversed for the following reasons: the first due to "numerous instances of prosecutorial misconduct", *see Flowers v. State*, 773 So.2d 309, 327 (2000); the second for prosecutorial misconduct (of note, the trial court found a *Batson* violation when the prosecutor struck a black juror and seated that juror); and third, because the prosecutor had discriminated against black prospective jurors during jury selection in contravention of *Batson*, *see Flowers v. State*, 947 So.2d 910, 935 (2007). *Id.*

During Flowers' third trial, the prosecutor exercised all fifteen of his preemptory strikes on black venire members. *Flowers*, 947 So.2d at 935. One black juror was seated *but* that was after

the State had utilized all of its allotted preemptory strikes. *Id.* In reversing Flowers’ third conviction, the Mississippi Supreme Court determined that the circumstances “present[ed] [it] with as strong a prima facie case of racial discrimination as we have ever seen in the context of a *Batson* challenge.” *Id.* It further concluded that “the State engaged in racially discriminatory practices during the jury selection process” and the case “evinced an effort by the State to exclude African Americans from jury service.” *Id.* at 937, 939.

Flowers’ fourth and fifth trials ended in mistrials due to hung juries. *Flowers*, 139 S.Ct. at 2235. Flowers was convicted in his sixth, and final, trial. *Id.* During that trial, the prosecutor struck five out of six potential jurors, leaving only one black juror to serve. *Id.* The Mississippi Supreme Court rejected Flowers’ *Batson* challenge on appeal. *See Flowers v. State*, 158 So.3d 1009 (2014). The United States Supreme Court, however, granted certiorari, reversed, and remanded on *Batson* grounds. *Flowers*, 139 S.Ct. at 2251.

In reversing the state appellate court, the Supreme Court looked to the history of the apparent discriminatory practices by the State in its prosecution of Flowers, as well as the circumstances of the sixth trial itself. *Id.* “In the six trials combined, the State struck 41 of 42 black prospective jurors it could have struck.” *Id.* The State struck all but one black juror in the sixth trial, thus accepting one black juror, even though it had more preemptory strikes available. *Id.* at 2246. The Supreme Court reasoned that it had previously, in another case, “skeptically viewed the State’s decision to accept one black juror, explaining that a prosecutor might do so in an attempt to obscure the otherwise consistent pattern of opposition to seating black jurors.” *Id.* (citing *Miller-El II*, 545 U.S. at 250) (internal quotations omitted).

Pitchford relies heavily on *Flowers* in arguing the state courts erred in finding no *Batson* violation. At the time of Pitchford’s trial, the State had brought Flowers to trial three times, but

only one of those times resulted in a reversal on *Batson* grounds, and that reversal did not come until *after* Pitchford's trial. *See Flowers*, 947 So.2d 910. Thus, at the time of Pitchford's trial, the troubling case history as set forth above by the same district attorney in the same judicial district did not exist as we know it today. Yet, by the time Pitchford's appeal, including his *Batson* argument, made it to the Mississippi Supreme Court, the history in *Flowers*—the reversal on *Batson* grounds after the third trial in particular—was undoubtedly well-known. *See Pitchford*, 45 So.3d 216. As such, the Court believes the *Flowers* case was, at the very least, informative, and should have been examined in the state appellate court's consideration of Pitchford's *Batson* argument. To be clear, the Court *does* not find that the *Flowers* case was dispositive of the issue. The Court merely believes that it should have been included in a "totality of the circumstances" analysis of the issue. *See Chamberlin v. Fisher*, 885 F.3d 832, 843 (5th Cir.2018) (citing *Batson*, *Miller-El II*, and *Snyder v. Louisiana*, 552 U.S. 472 (2008), and noting that the "totality of the circumstances" must be considered in analyzing a *Batson* claim).

In sum, the Court believes that the state courts' rejection of Pitchford's *Batson* claim was contrary to or an unreasonable application of clearly established federal law. *See* 28 U.S.C. § 2254(d)(1) & (2). Thus, the Court finds that Pitchford has demonstrated that he is entitled to federal habeas relief on his *Batson* claim.

Conclusion

Based on the foregoing discussion, the Court finds that Pitchford's motion [207] for partial summary judgment should be **GRANTED**, and that Respondents' cross-motion [211] for partial summary judgment should be **DENIED**. Accordingly, Pitchford's petition for a writ of habeas corpus *as to this claim* is **GRANTED**. Pitchford's capital murder conviction and death sentence are hereby vacated, and the matter is remanded to the State of Mississippi for further

proceedings not inconsistent with this opinion. The State of Mississippi must afford Pitchford a new trial within 180 days of the date of this order, otherwise it must release Pitchford from custody.

SO ORDERED, this the 12th day December, 2023.

/s/ Michael P. Mills
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF MISSISSIPPI

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

TERRY PITCHFORD

PETITIONER

V.

NO. 4:18-CV-00002-MPM

**BURL CAIN, MDOC Commissioner; and
LYNN FITCH, Attorney General for the state of Mississippi**

RESPONDENTS

FINAL JUDGMENT

In accordance with the Memorandum Opinion and Order entered today, Pitchford's motion [207] for partial summary judgment is **GRANTED**, and Respondents' cross-motion [211] for partial summary judgment is **DENIED**. Pitchford's petition for a writ of habeas corpus is **GRANTED** as to the *Batson* claim only. Accordingly, Pitchford's capital murder conviction and death sentence are vacated, and the matter is remanded to the State of Mississippi for further proceedings not inconsistent with this opinion. The State of Mississippi must afford Pitchford a new trial within 180 days from the date of this order, otherwise it must release Pitchford from custody.

SO ORDERED, this the 12th day of December, 2023.

/s/ Michael P. Mills
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF MISSISSIPPI

United States Court of Appeals
for the Fifth Circuit

No. 23-70009

United States Court of Appeals
Fifth Circuit

FILED

January 28, 2025

Lyle W. Cayce
Clerk

TERRY PITCHFORD,

Petitioner—Appellee,

versus

BURL CAIN, *Commissioner, Mississippi Department of Corrections*; LYNN
FITCH, *Attorney General for the State of Mississippi,*

Respondents—Appellants.

Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 4:18-CV-2

ON PETITION FOR REHEARING

Before HAYNES, WILLETT, and DUNCAN, *Circuit Judges.*

PER CURIAM:

IT IS ORDERED that the petition for rehearing is DENIED.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

January 28, 2025

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

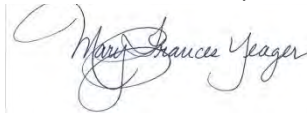
No. 23-70009 Pitchford v. Cain
USDC No. 4:18-CV-2

Enclosed is an order entered in this case.

See FRAP and Local Rules 41 for stay of the mandate.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Mary Frances Yeager, Deputy Clerk
504-310-7686

Mr. Jason Scott Gilbert
Ms. Allison Kay Hartman
Ms. LaDonna Curtis Holland
Mr. Justin Lee Matheny
Mr. Joseph J. Perkovich
Mr. Anthony M. Shults

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IN THE CIRCUIT COURT OF GRENADA COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

V.

NO.: 2005-009-CR

TERRY PITCHFORD

TRANSCRIPT OF THE PRETRIAL AND TRIAL PROCEEDINGS HAD AND DONE
IN THE ABOVE STYLED AND NUMBERED CAUSE, BEFORE HIS HONOR,
JUDGE JOSEPH H. LOPER, JR., CIRCUIT COURT JUDGE, FIFTH CIRCUIT
COURT DISTRICT OF THE STATE OF MISSISSIPPI, AND A JURY OF
TWELVE MEN AND WOMEN, DULY IMPANELED, ON FEBRUARY 6, 7, 8 AND
9, 2006.

REPORTED BY OFFICIAL COURT REPORTER
TAMMY THOMAS, CSR, RPR (CSR NO. 1304)

A-P-P-E-A-R-A-N-C-E-S

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1 that the statements were all free, all voluntary. Mr.
2 Pitchford was properly Mirandised. The Court finds not
3 only beyond a reasonable doubt but beyond any doubt
4 whatsoever that these statements were freely and
5 voluntarily given. And so the motion to suppress these
6 statements is denied.

7 And now gentlemen, I handed you few minutes ago
8 some -- if y'all would, just take a couple of minutes.
9 I'll take a brief recess.

10 As I say, from my view those all look like valid
11 medical excuses, but before I make any determination I
12 want to see if there is any -- either of you have any
13 disagreement on that.

14 (A RECESS WAS TAKEN.)

15 MR. EVANS: Your Honor, the State has no
16 objection to any of those.

17 MR. CARTER: Your Honor, we object to -- I
18 think I've got them confused. We object to this group
19 but not this group.

20 THE COURT: Okay. These are people that have
21 submitted medical excuses. That would be Sue Walters and
22 Betty Brister and Barbara Laverne Watkins and Betty
23 Hankins and Mary Elmore, Charles Davis.

24 Okay. I want you to state the objection why you do
25 not think that, that Larry Futhey, F-u-t-h-e-y, should
26 not be excused. His doctor said he has arthritis,
27 debilitating and chronic hypertension and anxiety. And
28 so --

29 MR. CARTER: I think I might have confused

1 them, Your Honor. This is the stack we don't object to.
2 Let me go back then and retract what I just said.

3 THE COURT: I will go through the ones that --
4 okay. Both sides agree then that Emma White should be
5 excused and Willie B. Nason and Cassandra Liddell and Dan
6 Brown and Amy Stegal and Lucy Futhey, F-u-t-h-e-y.

7 MR. CARTER: Yes, sir.

8 THE COURT: And Miss Barnette, you have got
9 those names and you can notify those individuals tomorrow
10 that they don't have to report.

11 Let me look at these others. As to Juror Barbara
12 Lavorne Watkins, her doctor says that she has got severe
13 depression, nerve problems and that he does not believe
14 that she would be capable of serving on a jury.

15 MR. CARTER: I think the ones I object to, Your
16 Honor, is the ones we thought there was a possibility the
17 doctors -- in some situation you can clearly tell that
18 somebody from a doctor's office wrote it. There was a
19 few that was written down at the bottom. We can't tell
20 from the handwriting whether it was a doctor - I hate to
21 say it - or the prospective juror themselves. That is the
22 only reason we had questions.

23 THE COURT: I actually can tell you the clerk
24 contacted the doctor on some of these who did not specify
25 exactly what the problem was. And so the clerk actually
26 called the doctor.

27 MR. CARTER: And did the writing.

28 THE COURT: Because I had advised the clerk
29 that unless they gave a specific reason why they should

1 not be -- could not appear, that they were going to have
2 to show up. So she -- and if you want to ask Miss
3 Barnette on the record if that is the case, she can
4 certainly verify what I have just told you.

5 CIRCUIT CLERK MRS. LINDA BARNETTE: That's
6 correct. Those are the ones that we did call back to
7 ask. And then a couple of them we made them take the
8 statement back, and I think the receptionist or nurse or
9 somebody wrote it in. Because of the HIPAA law some of
10 them had to go back and discuss it with their doctor.

11 MR. CARTER: So, so your statement in court is
12 that you are sure that it's been verified what's written
13 on there.

14 CIRCUIT CLERK MRS. LINDA BARNETTE: Yes, sir.

15 MR. CARTER: Okay. Thank you.

16 No objection then.

17 THE COURT: I'll also excuse Betty Hankins,
18 Eddie Brister, Sheila Walters, I'm sorry, Sue Walters,
19 Mary Elmore, Charles Davis and Patricia Laverne Watkins.

20 I also when I -- you know, this is an individual
21 that I'm likely to excuse if he is presented in court --
22 I mean comes to court next week. But the clerk gave me
23 his jury questionnaire. It's James Ward Fite, II, who is
24 a full-time law student and has stated that would be a
25 severe hardship. It would have been a severe hardship
26 for me to miss a week of school. I don't know if y'all
27 can agree to --

28 MR. EVANS: I don't think we would have any
29 choice but to -- I wouldn't want to, but we would agree.

1 MR. CARTER: What school is he at, Your Honor?

2 THE COURT: Mississippi College. And he
3 circled A on that Question 29.

4 MR. EVANS: I want him.

5 MR. CARTER: We have no objection.

6 THE COURT: I'll allow Mr. Fite to be excused
7 as well, Miss Barnette. If you will, contact him as
8 well.

9 I guess I want to just state this for the record.

10 Mr. Pitchford, there was a couple of times you
11 appeared up here and you made an indication you wanted to
12 plead guilty and you did not do so. I don't know if you
13 have thought about that anymore today. I don't know
14 whether the district attorney would allow you to do it if
15 you wanted to. But I can assure you that Monday the
16 Court wouldn't allow you to. I mean if we are here
17 Monday and we've got a jury, we are having a trial. And
18 that will be all there is to it.

19 Now, I don't know, as I say, if at this late date
20 the district attorney's office would even entertain --

21 MR. CARTER: One moment, Your Honor.

22 Your Honor, he said he will plead if he can do it
23 tomorrow.

24 THE COURT: No. I'm not going to be here
25 tomorrow. It's going to be now or never. And you can
26 speak to him a couple of more minutes. I've got a couple
27 of matters Mr. Laster needs me to take up.

28 MR. EVANS: Your Honor, the family is gone. I
29 could not agree to plead him at this late point, because

1 I don't even have them here to even talk to anymore.

2 THE COURT: You know, we could allow him to
3 plead today and be sentenced at some later date if that
4 would be something the family would agree to.

5 MR. EVANS: Your Honor, at this point, as the
6 Court knows, we have inconvenienced this family twice
7 because he said he wanted to plead. I've got them from
8 all over the state here. And then he made a mockery out
9 of the court system by not doing it in front of them.
10 And I assured them that unless he came in here today and
11 told us this morning that he wanted to plead and was
12 willing to admit his involvement in this case, that we
13 would not let him. So he chose not to do that this
14 morning.

15 MR. CARTER: Your Honor, if I might say for the
16 record, we have tried for weeks and probably more than a
17 month to set motions on this case, especially the motion
18 that went to whether or not his statement should be
19 suppressed or not. It is not unfair for Mr. Pitchford to
20 expect his lawyers to file motions, to argue motions and
21 to want to see what the motions -- what affect, if any,
22 the motions would have.

23 I explained to Mr. Evans on more than one occasion
24 what Mr. Pitchford needed to see. And all he wanted to
25 see and all he wanted was a opportunity to have these
26 motions and have them heard. Then he would be in a
27 better position to make a decision whether to plead or
28 not. Mr. Evans would not agree to a date to do these
29 motions.

1 I called your clerk who told me on one occasion that
2 we could do it at the beginning of the term. I actually
3 came over here, I believe, the day before the term and
4 talked to Terry and told him that we are going to hear
5 the motions. I saw Mr. Evans that day and Mr. Hill. And
6 they told me they would not be prepared to do the
7 motions.

8 And for whatever reason they have not been willing
9 to do the motions before then. We never had a chance to
10 do the motions before then. This is the only time that
11 we could actually get a date to actually do the motions.
12 Some of these motions have been filed for months.

13 THE COURT: Now, in all candor you've got to
14 admit you filed these motions. But I never even until
15 you made me a copy of them Friday of last week after you
16 talked to my clerk, I've never even seen any of them.

17 MR. CARTER: Yes, sir. I didn't send them to
18 you. I admit that, Your Honor.

19 THE COURT: And you have not requested other
20 than, you know, you were up here on January 9. At that
21 point Mr. Pitchford was playing these games about oh,
22 I'll plead guilty. And you talked to him half the day.
23 Then he came in and said he didn't want to do it.

24 I didn't hear any more about these motions or the
25 desire to have any of these motions brought up until last
26 Friday when you called my office. I advised my clerk
27 that day to tell you that I had a civil trial, a medical
28 malpractice trial, that was set for Monday and Tuesday of
29 this week and that we would contact you and get these

1 motions heard as quickly as possible. But I knew that I
2 could not hear them until later in the week and just be
3 on standby, and we would get back with you.

4 MR. CARTER: Yes, sir. That --

5 THE COURT: So the quickest time that I've had
6 to do it after you called the office last Friday was
7 today.

8 MR. CARTER: Your Honor, I'm not blaming the
9 Court for sure. I actually called the judge's office
10 before the term started. Your clerk -- I'm sorry. I
11 can't remember his name.

12 THE COURT: It is Mr. Hopper. And he is here.
13 And I mean he told you --

14 MR. CARTER: He told me.

15 THE COURT: -- that January 9 --

16 MR. CARTER: He told me that we could do it the
17 beginning of the term, but I need to talk to Mr. Evans
18 about it. I talked to Mr. Evans about it. Mr. Evans
19 would not agree to a date so we could do these motions.
20 The times that I was here trying to do a term -- I mean
21 trying to do a plea, I asked the Court about it then
22 because there was a chance I had that maybe I could get
23 it set without Mr. Evans' approval. I mean that is just
24 a fact.

25 These motions could have been heard not because -- I
26 understand that the Court doesn't really care when we do
27 them if we can agree to do them, but we could never
28 agree. Mr. Evans would never agree.

29 THE COURT: You never filed a motion asking me

1 to set a date. You just, it was --

2 MR. CARTER: I didn't file a motion, but I
3 called your office.

4 MR. EVANS: Your Honor --

5 THE COURT: You called my office before the
6 term. I said be up there the first day of the term,
7 January 9. And you were up here trying to plea him and
8 that is all that happened that day. You did not at any
9 time after that make a request to this Court that you
10 wanted to set another date for these motions to be heard.

11 MR. CARTER: Yes, I did, Your Honor. We might
12 disagree, but I did.

13 THE COURT: I don't know who you made that
14 statement to because it was not made to me.

15 MR. CARTER: You told me to get with Mr. Evans.

16 THE COURT: I don't recall it being done at
17 all. But if you got with Mr. Evans -- whether you did or
18 not, you know, with the trial -- in fact, you were up
19 here one other time. Mr. Pitchford went up to the very
20 end and then decided he didn't want to plea. I went
21 through everything with him.

22 MR. CARTER: All that is true.

23 THE COURT: So, you know, I don't think that
24 it's any situation where the motions could have been
25 heard much quicker. But I know from past experience most
26 of the time the district attorney's office, if somebody
27 puts them through the, I guess, the work of having to
28 prepare for motions, they most of the time do withdraw
29 any offers that are outstanding.

1 MR. CARTER: Your Honor, they didn't do it in
2 this instance. And I know and Mr. Evans knows, whether
3 he will admit it or not, that I made lots of efforts to
4 have these motions argued before today and that I
5 couldn't.

6 As a matter of fact, if I'm not mistaken, I believe
7 the Court or, or the law clerk told -- Your Honor, I
8 believe you told me that we would do it the morning of
9 the trial.

10 THE COURT: I told you if my medical
11 malpractice case went as long as I was concerned at the
12 end of last week that it might that the first day of the
13 term might be the quickest day that I could hear them
14 because this week was -- I originally had a medical
15 malpractice. And there was a criminal trial that was
16 supposed to go forward yesterday that I did not know how
17 long it would take.

18 By the lateness of the time you contacted the office
19 last Friday, with a full week of court scheduled in front
20 of me, I didn't know if I would have any time to do it or
21 not. And I advised the clerk to tell you that we would
22 get them done as quickly as we possibly could. And if we
23 could not get them done prior to the day of the trial,
24 that we would have to do them then.

25 MR. EVANS: Your Honor, for the record, I would
26 like to state here that I have told the Court and the
27 Court's administrator that any date that the Court set
28 it, I would make myself available.

29 As far as things that I've said as far as pleas, I

1 told Ray Charles Carter myself that if we had to go
2 through all of this long list of motions, I would not
3 allow him to plead. And I can tell the Court right now
4 after the comments he has made, there will be no offer in
5 this case.

6 THE COURT: Well, let's --

7 MR. CARTER: That is fine with me. You do
8 whatever you gotta do.

9 THE COURT: Suit it up and we will proceed with
10 trial on Monday.

11 MR. CARTER: Your Honor, can I just clear up
12 the record with your law clerk that I called your office
13 before this term even started and I talked about getting
14 a motion date?

15 THE COURT: I don't dis -- I just said you
16 called the office, and he had told you to be up here the
17 first day of the term, and you were up here that day. I
18 thought we were going to hear some motions that day.

19 Then Mr. Pitchford, you know, you spent half the
20 morning trying to get him -- you weren't trying to get
21 him to, you were trying to advise him of the best
22 interest would possibly be to plead, and he chose not to
23 do that. And that is the last time I heard about the
24 motions getting brought up again until Friday of last
25 week. But certainly yes, I readily acknowledge my office
26 was contacted prior to the term by you.

27 As I say, we will resume this matter on Monday with
28 jury selection.

29 (THE PROCEEDING ON THIS DATE WAS CONCLUDED.)

1 (THE PROSPECTIVE JURORS HAVING BEEN DULY QUALIFIED AND
2 SWORN TO TRY THE ISSUES, PROCEEDINGS ON FEBRUARY 6, 2006, WERE
3 AS FOLLOWS. MR. EVANS, MR. HILL, MR. CARTER, MR. BAUM AND THE
4 DEFENDANT WERE PRESENT.)

5 THE COURT: Court will come back to order.
6 I'll call up now the case of the State of Mississippi
7 versus Terry Pitchford, cause number 2005-009-CR.

8 What says the State of Mississippi?

9 MR. EVANS: State of Mississippi is ready for
10 trial, Your Honor.

11 THE COURT: What says defense?

12 MR. CARTER: Ready as well, Your Honor.

13 THE COURT: Ladies and gentlemen, those of you
14 that are on the jury panel, I'm going to begin calling
15 your name. As your names are called, if you would, come
16 forward and please have a seat up in these rows up front.
17 The bailiffs will give you a number that you will need to
18 affix to your upper collar or lapel area. That will help
19 us keep track of who we are speaking to during this
20 process.

21 (THE PROSPECTIVE JURORS WERE CALLED UP AND SEATED IN
22 ORDER.)

23 Ladies and gentlemen, the first process in a trial
24 is a procedure referred to as voir dire, which that's a
25 fancy word or two fancy words meaning to speak the truth.
26 That is, we want to get truthful answers from each of you
27 concerning the views that you might have on the case that
28 we are to be trying today and this week.

29 These questions are not asked for the purpose of

1 embarrassing anybody, putting you on the spot about any
2 subject or anything else. We just want to make sure that
3 we do get a fair and impartial jury to try this matter.
4 There may be matters peculiar to this case where you
5 couldn't be fair and impartial where you could on any
6 other case. And so that's why we will ask you facts
7 specific to this case.

8 It's also necessary that you answer these questions
9 under oath. So if you will, please stand at this time
10 and raise that oath -- I mean raise your right hand and
11 take that oath.

12 Do you and each of you solemnly swear or affirm that
13 you will give true answers to all questions propounded to
14 you by the Court and by the attorneys in the selection of
15 a jury in this case, so help you God?

16 PROSPECTIVE JURORS: I do.

17 THE COURT: If you will be seated, please.

18 Ladies and gentlemen, the first -- the first step I
19 always do, I always think it's nice to let the
20 attorneys -- I mean the jury know who the attorneys are
21 in the case. The State of Mississippi is represented by
22 Honorable Doug Evans and Honorable Clyde Hill. These
23 will be the people participating in the trial. And then
24 the defendant is represented by Honorable Ray Charles
25 Carter and Honorable Ray Baum. And also Honorable
26 Allison Steiner right here is also helping them as well.

27 These are the attorneys that are involved in this
28 case. And so I'll ask you a few questions first about
29 the attorneys involved in the case. I want to know first

1 if any of you are related by blood or by marriage to
2 anybody that's participating in this case as an attorney.
3 Are any of you related by blood or marriage? Any of you
4 that are, if you will, please stand at this time.

5 And Mr. Artman, who are you related to?

6 JUROR KENNETH ARTMAN: Clyde Hill.

7 THE COURT: And how are you related to Mr.
8 Hill?

9 JUROR KENNETH ARTMAN: His father was my wife's
10 grandfather's brother.

11 THE COURT: Okay. So that would be, I guess,
12 by marriage then.

13 JUROR KENNETH ARTMAN: Yes. By marriage.

14 THE COURT: And would that influence you in
15 this case? That is, the fact that Mr. Hill is involved
16 in the case, and if nothing else you knew about the case,
17 would you automatically just tend to favor his side
18 because he was involved with it?

19 JUROR KENNETH ARTMAN: I don't know.

20 THE COURT: You are saying it would not bother
21 you; is that correct?

22 JUROR KENNETH ARTMAN: I don't think it would.

23 THE COURT: Any doubt in your mind about it?
24 Because there can't be any doubts at all.

25 JUROR KENNETH ARTMAN: There might be.

26 THE COURT: Why would that influence you? I
27 mean if I advised you right now --

28 JUROR KENNETH ARTMAN: It --

29 THE COURT: If I advised you right now that you

1 can't let the fact of who the lawyers involved in the
2 case be a factor but you must base your decision on the
3 evidence presented, can you do that?

4 JUROR KENNETH ARTMAN: Yes.

5 THE COURT: Okay. Thank you.

6 Anyone else that's related by blood or by marriage
7 to anybody that's involved in the case that's one of the
8 attorneys? That is, are any of you related by blood or
9 by marriage to Mr. Evans, Mr. Hill, Mr. Carter, Mr. Baum
10 or Miss Steiner? Are any of you related to any of the
11 rest of them?

12 The next question then I want to know is if any of
13 you have had a situation where any of these attorneys
14 might have done some work for you in the past. Has any
15 of these attorneys ever represented you in some matter, a
16 legal proceeding or any legal matter whatsoever?

17 Yes, ma'am. Number 72. Who has done some work for
18 you, Miss Journigan?

19 JUROR SUSIE JOURNIGAN: Mr. Baum.

20 THE COURT: Mr. Baum.

21 JUROR SUSIE JOURNIGAN: Ray Baum. Yes.

22 THE COURT: How long ago has that been?

23 JUROR SUSIE JOURNIGAN: A year and two months.

24 THE COURT: Would the fact that he represented
25 you or did some work for you in the past, would that be a
26 factor or influence you in being fair and impartial in
27 this case?

28 JUROR SUSIE JOURNIGAN: No.

29 THE COURT: Okay. Thank you.

1 Any one of the rest of you that would have had any
2 work done by any of the attorneys?

3 Okay. I'll ask kind of the other side of that now.
4 Have any of you ever been on the opposite side of a case
5 from that in which one of these attorneys have been
6 involved? That is, have they opposed you in some legal
7 matter where you were on one side and they were
8 representing somebody that was on the other side? Have
9 any of you had a situation like that where that would
10 have occurred? I take it by your silence that none of
11 you would have that type of case.

12 Finally, I want to know if any of you have a close
13 friendship, close association, close relationship with
14 any of the attorneys or any one of the attorneys or more
15 than one of the attorneys involved in this case that
16 would affect your ability to be fair and impartial.

17 Like, I was asking Mr. Artman a few minutes ago. It
18 does not matter if you know one of the attorneys. What I
19 want to know is do any of you have a situation where you
20 would know one of the attorneys and would favor their
21 side knowing nothing about the case but just because you
22 know one of the attorneys you would automatically be on
23 their side. Do any of you have a situation like that?

24 JUROR DAVID FEDRIC: Actually, I -- Doug is a
25 friend of mine. Our sons grew up together playing ball
26 and hunting. And actually, he did prosecute a son -- a
27 case where my son was the victim. So in all honesty --
28 not only that, it's my sister's family's place where it
29 took place.

1 THE COURT: Okay. We will get into that in a
2 few minutes more about the peculiar facts about the case.
3 Are you telling me that you're related to the person that
4 was the purported victim in this case?

5 JUROR DAVID FEDRIC: My sister's family owns
6 the store.

7 THE COURT: Okay. So you would have had some
8 facts already I would take it about this case that you
9 know something about it.

10 JUROR DAVID FEDRIC: Yes, sir. Plus, plus,
11 Doug is a friend.

12 THE COURT: Would those factors influence you
13 and affect you in being fair and impartial in this case?

14 JUROR DAVID FEDRIC: I got a lot of respect for
15 Doug Evans.

16 THE COURT: Would you just tend to favor his
17 side --

18 JUROR DAVID FEDRIC: I probably would.

19 THE COURT: -- and vote for him --

20 JUROR DAVID FEDRIC: I probably would. I
21 would.

22 THE COURT: -- just because of who he is?
23 Okay. Thank you. You can be seated.

24 Yes, ma'am. Number 14.

25 JUROR DEBRA ALLEN: My family is real good
26 friends with Greg Meyer. We do things social with him.
27 His wife is one of my best friends.

28 THE COURT: For the record, he is one of the
29 assistant district attorneys in the case.

1 I don't believe he is -- is he going to be involved
2 in the trial?

3 MR. EVANS: No, sir.

4 THE COURT: Would the fact that he works for
5 Mr. Evans automatically cause you to favor the
6 prosecution in this case?

7 JUROR DEBRA ALLEN: Also, I go to church with
8 Clyde. I have a lot of respect -- I would believe
9 anything Clyde or Greg said.

10 THE COURT: What it is is they are not going to
11 be testifying. They are just going to be presenting
12 evidence. They are not going to be offering any
13 testimony. They are just going to be representing one
14 side of the case. And then Mr. Carter and Mr. Baum are
15 representing -- Miss Steiner are representing one side of
16 the case.

17 So you will be basing your decision on the facts as
18 you determine them to be from the evidence and not on who
19 the lawyers are. So can you -- can you assure me that
20 you will follow and listen to the facts and not base it
21 right now on who the lawyers are but base it strictly on
22 the facts as they are presented here in court?

23 JUROR DEBRA ALLEN: I would listen to the
24 facts. I don't know if I could be totally impartial.

25 THE COURT: Why would that affect you, not
26 knowing anything about the case and Mr. Meyer not being
27 involved in the case?

28 JUROR DEBRA ALLEN: I know them. I know that
29 they are -- I don't know. You just tend to trust whoever

1 you know the best.

2 THE COURT: And so you would tend to favor one
3 side --

4 JUROR DEBRA ALLEN: I would try.

5 THE COURT: You tend to favor one side over the
6 other because you know them and you don't know the other
7 side. Is that what you are telling me?

8 JUROR DEBRA ALLEN: I am just being honest. I
9 would try to do it. But I am saying I might not be able,
10 you know.

11 THE COURT: Ma'am, I want -- please, I mean
12 there will be all of you will ask questions of. I want
13 honest answers, and I appreciate that, ma'am. If you
14 thought I was trying to give you a hard time, I don't
15 want you to think that at all.

16 You know, as I said when we first started, we want
17 complete answers to everything. We have got to ask a lot
18 of questions during this process. So I am not trying to
19 embarrass you or put you on the spot. I just want
20 complete answers. I do appreciate your total honesty on
21 that. Let me assure you I want that from everybody, and
22 you are a good example for everybody to follow. I
23 appreciate that.

24 But you are saying that in your mind that might
25 influence you or it might be a factor --

26 JUROR DEBRA ALLEN: (Nodded.)

27 THE COURT: -- and you can't honestly say that
28 it would not be a factor.

29 JUROR DEBRA ALLEN: I can't honestly say that.

1 THE COURT: Thank you. I appreciate you being
2 forthright with us on that.

3 Ladies and gentlemen, any of you -- and as I say, I
4 really do commend Miss Allen, because, you know, you have
5 to do a lot of soul searching when we ask these
6 questions. You have to think about some stuff that maybe
7 you hadn't thought about before. And, you know, the
8 process is going to go on a good portion of the day. But
9 we want everybody to say whatever is on their heart.
10 Whatever we ask we want complete answers to.

11 If I ask somebody a question in response to what
12 they have answered, that's not -- you know, please don't
13 think that the -- because the attorneys will do that too.
14 Nobody is trying to give anybody a hard time or anything.
15 We just want to make sure that we do get complete answers
16 to everything. Because as can you imagine, this is a
17 very, very serious matter or we would not be here up
18 today. I want to make that clear before we did go any
19 further.

20 Ladies and gentlemen, I want to ask the next
21 question. That is, if any of you are related by blood or
22 marriage to anybody that serves in law enforcement. I
23 want to know if you are related by blood or marriage to
24 any person that has at some point in the past served in
25 law enforcement. Also, if any of you presently
26 yourselves or have at some point served in law
27 enforcement, I want to know that. Even if you had some
28 cousin that you just see once a year at a reunion that
29 maybe works in Memphis or out of state or something.

1 Anybody that has got any relationship to law enforcement,
2 if you will, please stand at this time. And we will go
3 through those now.

4 Mr. Marter, who are you related to?

5 JUROR STEPHEN MARTER: Mark Fielder. Reserve
6 deputy. Montgomery County.

7 THE COURT: What is his last name again, sir?

8 JUROR STEPHEN MARTER: Fielder.

9 THE COURT: Fielder. How are you related to
10 him?

11 JUROR STEPHEN MARTER: Brother-in-law.

12 THE COURT: And, of course, as you can imagine,
13 in criminal prosecution law enforcement officers would
14 probably be expected to testify in this case. Would the
15 fact that you've got a brother-in-law that serves in law
16 enforcement or does in Montgomery County, would that be a
17 factor or influence you in this case at all?

18 JUROR STEPHEN MARTER: No, sir.

19 THE COURT: Okay. Thank you. You may be
20 seated.

21 And Mr. Morgan, who is it that you are --

22 JUROR JAMES MORGAN: I was in law enforcement.
23 I was a constable for two terms and worked as deputy
24 sheriff for four years.

25 THE COURT: And how long ago has that been?

26 JUROR JAMES MORGAN: In the 80's.

27 THE COURT: Would that be a factor or influence
28 you in your ability to be fair and impartial and in this
29 case?

1 JUROR JAMES MORGAN: No.

2 THE COURT: Okay. Thank you.

3 And number 20. Miss Britt.

4 JUROR LOVEY BRITT: Yes.

5 THE COURT: What is that situation?

6 JUROR LOVEY BRITT: My brother-in-law is a
7 reserve deputy sheriff.

8 THE COURT: And who is that?

9 JUROR LOVEY BRITT: Albert Britt.

10 THE COURT: What is the last name?

11 JUROR LOVEY BRITT: Britt.

12 THE COURT: Britt.

13 JUROR LOVEY BRITT: B-r-i-t-t.

14 THE COURT: And would that influence you or be
15 a factor in your ability to be fair and impartial in this
16 case?

17 JUROR LOVEY BRITT: Not at all.

18 THE COURT: Okay. Thank you.

19 And Mr. James, number 23, what is that situation
20 with law enforcement?

21 JUROR MANUEL JAMES, JR.: I'm related to
22 Officer Conley, Greg Conley.

23 THE COURT: You are related to Officer Greg
24 Conley.

25 JUROR MANUEL JAMES, JR.: Right.

26 THE COURT: How are you related to him?

27 JUROR MANUEL JAMES, JR.: We are like second
28 cousins.

29 THE COURT: Second cousins.

1 JUROR MANUEL JAMES, JR.: Correct.

2 THE COURT: Would that cause you to tend to
3 favor the side that he is involved with just because you
4 are related to him? That is, would the fact that he is
5 in law enforcement and you're his cousin influence you or
6 be a factor in your ability to be fair and impartial in
7 this case?

8 JUROR MANUEL JAMES, JR.: No, it wouldn't.

9 THE COURT: I think Mr. Conley is probably
10 going to be a witness in this case. He has been
11 subpoenaed as a witness. Would you tend to favor his
12 side or give his testimony greater weight or credibility
13 just because he is your cousin and you know him? Would
14 that cause you to favor his side or give his testimony
15 greater weight than you would anybody else that
16 testified?

17 JUROR MANUEL JAMES, JR.: No. I would listen
18 to him.

19 THE COURT: What I'm saying is that, you know,
20 you have got to listen to each witness independently and
21 you have got to evaluate each witness independently. And
22 you can't automatically if a witness comes up say well, I
23 am going to believe him because I know him and I don't
24 know this next witness. That is the question I am
25 getting at. Do you understand what I'm asking you.

26 JUROR MANUEL JAMES, JR.: Yes, sir.

27 THE COURT: So would that cause you to
28 automatically favor his side because you are related or
29 know him and you don't know some of the witnesses?

1 JUROR MANUEL JAMES, JR.: No, sir. It wouldn't
2 affect me.

3 THE COURT: Number 28. Miss Parker, what is
4 that situation?

5 JUROR LISA PARKER: My husband is reserve
6 deputy, Tommy Parker.

7 THE COURT: Tony.

8 JUROR LISA PARKER: Tommy Parker.

9 THE COURT: Tommy Parker. Okay. Would that
10 influence you or affect you in being fair and impartial
11 in this case?

12 JUROR LISA PARKER: No.

13 THE COURT: Okay. Thank you.

14 Okay. Number 32. Mr. Harris, what is that
15 relationship or involvement or kinship with law
16 enforcement?

17 JUROR CECIL HARRIS: I have a first cousin in
18 Memphis Tennessee. He is a deputy.

19 THE COURT: Would that influence you or be a
20 factor in your ability to be fair and impartial in this
21 case?

22 JUROR CECIL HARRIS: No, sir.

23 THE COURT: Okay. Thank you.

24 Then number 37. Mr. Durham.

25 JUROR KENTON DURHAM: I have a brother that is
26 a federal game warden in Yazoo County.

27 THE COURT: What county is he in?

28 JUROR KENTON DURHAM: Yazoo.

29 THE COURT: Would that be a factor in your

1 ability to be fair and impartial in this case?

2 JUROR KENTON DURHAM: No, sir.

3 THE COURT: Okay. Thank you.

4 And then number 46, Mr. Caulder.

5 JUROR SCOTT CAULDER: I'm presently employed
6 with the City of Grenada Police Department.

7 THE COURT: And in what capacity?

8 JUROR SCOTT CAULDER: Patrolman.

9 THE COURT: And in your capacity as a patrol
10 officer and employee of the city -- I know this was a
11 county case. But did you have any involvement at all in
12 this case as far as -- I don't want to know anything you
13 might have heard or anything like that. But did you have
14 any role in this case as far as investigating?

15 JUROR SCOTT CAULDER: I didn't have any present
16 involvement. I was aware the day it happened.

17 THE COURT: Right.

18 JUROR SCOTT CAULDER: Aware of the situation.

19 THE COURT: Would the fact that you are in law
20 enforcement affect your ability to be fair and impartial
21 because you are in law enforcement?

22 JUROR SCOTT CAULDER: I think it would because
23 I know most of the people that are going to be
24 testifying.

25 THE COURT: So you would tend to favor that
26 side because that is your brethren in law enforcement; is
27 that correct?

28 JUROR SCOTT CAULDER: Yes, sir. Yes, sir.

29 THE COURT: Thank you.

1 Number 64. No, I am sorry. I am skipping number
2 57. Mr. Merriman.

3 JUROR RONALD MERRIMAN: Yes, sir.

4 THE COURT: What is that situation, sir?

5 JUROR RONALD MERRIMAN: My son is presently an
6 officer on the Grenada Police Department.

7 THE COURT: And would that be a factor in your
8 ability to be fair and impartial in this case?

9 JUROR RONALD MERRIMAN: Yes, sir. I will add
10 that I'm also a three-term city councilman with the City
11 of Grenada, not presently serving. But I got real close
12 to the police department through that period of time.
13 That's only been since November.

14 THE COURT: Right.

15 JUROR RONALD MERRIMAN: And I do know quite a
16 few of the law around Grenada - from Mr. Evans all the
17 way to William Blackmon, a lot of the others. You know
18 what I mean. There's a lot around.

19 THE COURT: You know these people and knowing
20 them would cause you to --

21 JUROR RONALD MERRIMAN: I know them quite well.
22 Yes, sir.

23 THE COURT: That would affect your ability to
24 be fair and impartial in this case.

25 JUROR RONALD MERRIMAN: More than likely it
26 would because I got a lot closer to police than I
27 probably should have.

28 THE COURT: Well, I appreciate that Mr.
29 Merriman.

1 JUROR RONALD MERRIMAN: I do think a lot of
2 them. I know what they go through, and it probably would
3 affect me. Yes, sir.

4 THE COURT: Okay. Thank you, sir.

5 Number 64. Mr. Johnston.

6 JUROR WILLIAM JOHNSTON: I have a nephew on the
7 Mississippi Bureau of Narcotics.

8 THE COURT: What is his name?

9 JUROR WILLIAM JOHNSTON: Lee Tart. He also
10 used to be a police officer with the City of Grenada.

11 THE COURT: Right. Would that affect your
12 ability to be fair and impartial because your nephew is
13 in law enforcement?

14 JUROR WILLIAM JOHNSTON: No.

15 THE COURT: So that wouldn't be a factor in
16 your deliberations on a verdict in this case.

17 JUROR WILLIAM JOHNSTON: No.

18 THE COURT: Okay. Thank you, sir.

19 Number 72. Miss Journigan. Who is it or what is
20 that situation?

21 JUROR SUSIE JOURNIGAN: My brother was a
22 transport officer in the state of New Jersey for 32
23 years.

24 THE COURT: Would that be a factor or influence
25 you in being fair and impartial in this case?

26 JUROR SUSIE JOURNIGAN: No.

27 THE COURT: Okay. Thank you.

28 And Mr. Little, what is that?

29 JUROR DAVID LITTLE: I have a nephew that is on

1 the Grenada County Sheriff's Department. I have a nephew
2 on the Leake County Sheriff's Department.

3 THE COURT: First on Grenada. Who is your
4 nephew?

5 JUROR DAVID LITTLE: James Blakey.

6 THE COURT: Okay. And then you've got one you
7 said in Leake County as well.

8 JUROR DAVID LITTLE: Yes, sir.

9 THE COURT: Would the fact that you've got
10 nephews that are in law enforcement, would that influence
11 you or be a factor in your being fair and impartial in
12 this case?

13 JUROR DAVID LITTLE: No, sir.

14 THE COURT: So it won't have any bearing at
15 all; is that correct?

16 JUROR DAVID LITTLE: No, sir.

17 THE COURT: Okay. Thank you.

18 And then Mr. Counts. What is that situation?

19 JUROR JEFFREY COUNTS: First cousin is Keith
20 Carver, game warden in Grenada County.

21 THE COURT: Keith Carver, game warden here, is
22 your cousin.

23 JUROR JEFFREY COUNTS: Yes, sir.

24 THE COURT: Would that influence you or affect
25 you in any way in your ability to be fair and impartial
26 in this case?

27 JUROR JEFFREY COUNTS: No, sir.

28 THE COURT: Okay. Thank you.

29 I think I will just get everybody on this side

1 before we go to the other side of the courtroom.

2 Number 87. Miss Downs, what is that situation?

3 JUROR BETTY DOWNS: My sister's presently a
4 deputy warden at Parchman. I myself work at Delta
5 Correctional in Greenwood.

6 THE COURT: And you're in the prison system.
7 What do you do for them up in Greenwood?

8 JUROR BETTY DOWNS: I'm a bookkeeper.

9 THE COURT: Bookkeeper.

10 JUROR BETTY DOWNS: (Nodded.)

11 THE COURT: And would those factors influence
12 you or affect you in being fair and impartial in this
13 case?

14 JUROR BETTY DOWNS: No, sir.

15 THE COURT: Okay. Thank you.

16 And Miss Clark. Number 88.

17 JUROR MARIANNE CLARK: My brother-in-law is a
18 sheriff's auxillary officer.

19 THE COURT: Auxillary officer. Is that what
20 you said?

21 JUROR MARIANNE CLARK: (Nodded.)

22 THE COURT: What is his name?

23 JUROR MARIANNE CLARK: Steve Howell.

24 THE COURT: What is the last name again?

25 JUROR MARIANNE CLARK: Howell.

26 THE COURT: Howell. Okay. Would that
27 influence you or affect you in any way in being fair and
28 impartial in this case?

29 JUROR MARIANNE CLARK: No, sir.

1 THE COURT: Okay. Thank you.

2 Mr. Bennett.

3 JUROR GARY BENNETT: My brother-in-law is
4 Grenada police officer.

5 THE COURT: What is his name?

6 JUROR GARY BENNETT: I'm embarrassed. John
7 Wayne -- I can't call his last name.

8 MR. EVANS: Haddox.

9 JUROR GARY BENNETT: Yeah.

10 THE COURT: What is the last name again?

11 MR. EVANS: Haddox.

12 JUROR GARY BENNETT: We don't see one another
13 often. John Wayne Haddox.

14 THE COURT: We all have situations where we
15 can't remember names too. I'm the world's worst. I
16 can't remember my own name half the time. So no problem
17 at all. I understand.

18 Would that factor influence you in being fair and
19 impartial?

20 JUROR GARY BENNETT: None whatsoever.

21 THE COURT: It would not; is that correct?

22 JUROR GARY BENNETT: It would not.

23 THE COURT: Thank you. I appreciate that.

24 Mr. Chairs, what is that situation?

25 JUROR GILBERT CHAIRS: I'm cousins with Greg
26 Conley.

27 THE COURT: You are a cousin of Mr. Greg
28 Conley. To what degree? Do you know?

29 JUROR GILBERT CHAIRS: Like second or third.

1 Something like that.

2 THE COURT: Would the fact that you are related
3 to him influence you or cause you to favor one side or
4 the other in this case?

5 JUROR GILBERT CHAIRS: No, sir.

6 THE COURT: If he testifies in this case would
7 you listen automatically and tend to believe his
8 testimony over somebody else's strictly because you are
9 related to him or anything? Would that be a factor at
10 all?

11 JUROR GILBERT CHAIRS: No.

12 THE COURT: Okay. I appreciate that, Mr.
13 Chairs.

14 Now, here on the other side of the courtroom.
15 Number 78. Miss Tramel, what is that relationship or
16 involvement with law enforcement?

17 JUROR NATHALIE TRAMEL: My husband's second
18 cousin is a motorcycle officer in Wiggins County. I
19 can't remember his name.

20 THE COURT: Where does he work?

21 JUROR NATHALIE TRAMEL: Wiggins.

22 THE COURT: Down south.

23 JUROR NATHALIE TRAMEL: Yes, sir.

24 THE COURT: Would that affect you in any way in
25 being fair and impartial in this case?

26 JUROR NATHALIE TRAMEL: No, sir.

27 THE COURT: Okay. I appreciate that. Thank
28 you.

29 Okay. Miss Johnston.

1 JUROR BETTY JOHNSTON: My husband is number 64.
2 Lee Tart is also my nephew.

3 THE COURT: Okay. Would that influence you or
4 affect your ability to be fair and impartial in this
5 case?

6 JUROR BETTY JOHNSTON: No, sir.

7 THE COURT: Okay. Thank you.

8 Number 83. Miss Lancaster, what is that situation?

9 JUROR CANDICE LANCASTER: My brother-in-law is
10 reserve police officer for Grenada County.

11 THE COURT: What is his name?

12 JUROR CANDICE LANCASTER: Robert Bowen.

13 THE COURT: Would that influence you in any way
14 in being fair and impartial in this case?

15 JUROR CANDICE LANCASTER: No, sir.

16 THE COURT: Okay. Thank you.

17 And then number 84, Miss Beck.

18 JUROR LEIGH BECK: My husband is first cousins
19 with someone on Grenada Police Department. His name is
20 Mark Beck.

21 THE COURT: Mark.

22 JUROR LEIGH BECK: Beck.

23 THE COURT: Okay. Would that influence you or
24 affect you in any way in your ability to be fair and
25 impartial in this case?

26 JUROR LEIGH BECK: No, sir.

27 THE COURT: Okay. Thank you, ma'am.

28 Y'all pardon me a second. I have a scratchy throat.
29 I need to take a drink of water.

1 Ladies and gentlemen, I am going to kind of give you
2 a brief scenario of what the charge is before you today.
3 It's charged that Terry Pitchford on or about the 7th day
4 of November, 2004, in this county and within the
5 jurisdiction of this court, while acting in concert with
6 another or while aiding, abetting, assisting or
7 encouraging another, did willfully, feloniously,
8 intentionally and without authority of law and with or
9 without the deliberate design to effect death kill and
10 murder Rubin Britt, a human being, while engaged in the
11 felony crime of armed robbery.

12 So Mr. Pitchford is charged with the crime of
13 capital murder. And that is the type case that we are
14 here on today. And he is here today because he was
15 indicted by a grand jury of this county.

16 Now, an indictment is not an indication of the guilt
17 or innocence of the person that is on trial. An
18 indictment is strictly the means by which a case is
19 brought to you petit jurors for trial. So, I want to
20 know if there is any one of you that would just because
21 there is an indictment handed down in this case tend to
22 favor one side or the other without having heard any
23 proof at all. Are there any of you that would
24 automatically favor one side or the other in this case?

25 So each of you are assuring me then that you will
26 disregard the fact that there was an indictment and base
27 your decision on the evidence; is that correct? I assume
28 by your silence that is, in fact, the case.

29 Now, the burden of proof in a criminal trial is on

1 the State of Mississippi. They've got to prove Mr.
2 Pitchford guilty beyond a reasonable doubt. He does not
3 have to prove his innocence. In fact, he does not have
4 to prove anything whatsoever. So is there any one of you
5 that think the burden of proof should be higher than that
6 of beyond a reasonable doubt? Or is there any of you
7 that you think it should be lesser than that of beyond a
8 reasonable doubt? So each of you, I take it by your
9 silence, are assuring me that you understand the burden
10 of proof and understand what it is.

11 And also situation where you have to -- all 12
12 members on a jury panel have to agree on a verdict before
13 it can be returned into court as the verdict of the jury.
14 So is there any one of you that think it ought to be
15 just, you know, seven to five or less than unanimous
16 verdict? So each of you are assuring me that you
17 understand that it's got to be unanimous and agree with
18 that and have no problem with that.

19 I want to ask you now -- maybe get more fact
20 specific to the case that we've got today. I want to
21 know first of all if any of you are related by blood or
22 by marriage to Terry Pitchford. Any of you related at
23 all by blood or by marriage to Mr. Pitchford. And I take
24 it by your silence none of you are related by blood or by
25 marriage to Mr. Pitchford.

26 I want to know if any of you just know Mr.
27 Pitchford. As far as when he walked in the courtroom,
28 you might have known him on sight as being Terry
29 Pitchford. Did any of you know him in any way

1 whatsoever?

2 Okay. Number 16. Mr. Tillman, how did -- how do
3 you know Mr. Pitchford?

4 JUROR CINTRON TILLMAN: From dating sisters.

5 THE COURT: From who?

6 JUROR CINTRON TILLMAN: From dating sisters.

7 THE COURT: So you used to date Mr. Pitchford's
8 sister; is that correct?

9 JUROR CINTRON TILLMAN: No. We dated sisters.

10 THE COURT: Oh, you dated a sister and he dated
11 the other sister.

12 JUROR CINTRON TILLMAN: Yes, sir.

13 THE COURT: So y'all would have had some kind
14 of social situation where y'all might have met each
15 other.

16 JUROR CINTRON TILLMAN: Yes, sir.

17 THE COURT: Would that influence your ability
18 to be fair and impartial in this case?

19 JUROR CINTRON TILLMAN: No, sir.

20 THE COURT: Can you lay aside the fact that you
21 might have known Mr. Pitchford in that regard and just
22 base your decision strictly on the evidence only? Is
23 that correct?

24 JUROR CINTRON TILLMAN: Yes, sir.

25 THE COURT: Okay. Thank you.

26 And number 72. Miss Journigan, you know Mr.
27 Pitchford as well.

28 JUROR SUSIE JOURNIGAN: I know him because he
29 is one of my customers. He is one of my customers.

1 THE COURT: Okay. Where do you work?

2 JUROR SUSIE JOURNIGAN: Hankins Auto World.

3 THE COURT: Okay. He has been in there buying
4 or at least looking at automobiles or something before.

5 JUROR SUSIE JOURNIGAN: Yes, sir.

6 THE COURT: And would that influence you in
7 being fair and impartial in this case?

8 JUROR SUSIE JOURNIGAN: Since I've handed
9 paperwork to law enforcement for him I couldn't be fair.

10 THE COURT: You just feel like you -- because
11 of those involvements, you couldn't be a fair juror in
12 this case.

13 JUROR SUSIE JOURNIGAN: No, sir.

14 THE COURT: Okay. Thank you, Miss Journigan.

15 Any one of the rest of you that would know Mr.
16 Pitchford?

17 Okay. I want to know now if any of you were related
18 by blood or by marriage to Rubin Britt. Were any of you
19 related by blood or marriage to Mr. Britt?

20 How many of you, if any, knew Mr. Britt during his
21 lifetime? If you knew Rubin Britt during his lifetime,
22 if you will, please stand.

23 Okay. Mr. Morgan, number 13, how did you know Mr.
24 Britt?

25 JUROR JAMES MORGAN: Just through the store he
26 ran, Your Honor. I traded in there some.

27 THE COURT: And, of course, this incident, I
28 think, occurred probably at his place of employment or
29 allegedly occurred at his place of employment. Would the

1 fact that you knew Mr. Britt from the store where he
2 worked, would that be a factor or influence you in being
3 fair and impartial in this case?

4 JUROR JAMES MORGAN: I don't think so.

5 THE COURT: And have you heard anything about
6 the case?

7 JUROR JAMES MORGAN: The usual.

8 THE COURT: Well, has that caused you to form
9 any opinion as to the guilt or innocence of Mr.
10 Pitchford?

11 JUROR JAMES MORGAN: No.

12 THE COURT: Can you lay aside anything you
13 heard and base your decision strictly on the evidence
14 here?

15 JUROR JAMES MORGAN: Yes, sir.

16 THE COURT: Okay. Thank you.

17 And then number 71. Miss Campbell, how did -- how
18 did you know Mr. Britt?

19 JUROR LARISA CAMPBELL: I didn't know him
20 really personally but I did shop in the store
21 occasionally when I went through that way.

22 THE COURT: When you went through that way you
23 would shop there.

24 JUROR LARISA CAMPBELL: (Nodded.)

25 THE COURT: Would that be a factor or affect
26 you in being fair and impartial in this case?

27 JUROR LARISA CAMPBELL: I'm not so sure about
28 that.

29 THE COURT: You have doubts about it in your

1 own mind about whether you could be fair because you knew
2 him where the place he worked; is that correct?

3 JUROR LARISA CAMPBELL: Yes, sir.

4 THE COURT: Thank you.

5 Then number 85. Mr. Welch, how did you know Mr.
6 Britt?

7 JUROR TERRY WELCH: I just knew him through the
8 store, stopping in and going to see some of my friends in
9 Coffeerville. I work with a bunch of guys from
10 Coffeerville, Water Valley that stopped there a lot when
11 they come to work.

12 THE COURT: Would that influence you in being
13 fair and impartial, the fact that you would have seen him
14 in that type of environment or knew Mr. Britt from there?

15 JUROR TERRY WELCH: I don't think that would
16 affect me as so many people I know talking about him.

17 THE COURT: Okay. I'll ask you that question
18 then. So you heard some facts about the case during the
19 time it occurred since November of '04; is that correct?

20 JUROR TERRY WELCH: Yes, sir.

21 THE COURT: Has that caused you to form
22 opinions as to the guilt or innocence of Mr. Pitchford?

23 JUROR TERRY WELCH: I'm under oath; right?

24 THE COURT: Right. And I don't want to know
25 what any opinion you might have about the case. Have you
26 already in your idea got a fixed opinion of the case?

27 JUROR TERRY WELCH: I think I do.

28 THE COURT: Could you lay that aside and base
29 the decision on the evidence in court or is your opinion

1 already fixed to the extent that you just feel like you
2 could not lay that opinion aside?

3 JUROR TERRY WELCH: I probably could.

4 THE COURT: You could lay that opinion --

5 JUROR TERRY WELCH: I think I could.

6 THE COURT: Well, I want -- it can't be any
7 doubt because -- and I understand. And please, you know,
8 I don't -- I don't want you to think that I'm putting you
9 on the spot or anything. But we have got to have, you
10 know, a jury up here that can't have any ideas about
11 anything other than coming in and basing the decision
12 only on the evidence and not on any information that has
13 been gathered elsewhere.

14 JUROR TERRY WELCH: I realize that. Like I
15 say, I have heard a lot of talk from work on stuff like
16 that from a lot of people.

17 THE COURT: Okay. So you are concerned that
18 that would affect you; is that correct?

19 JUROR TERRY WELCH: Yes, sir.

20 THE COURT: Okay. Thank you.

21 Yes, sir. Mr. Marter.

22 JUROR STEPHEN MARTER: I just realized who we
23 were talking about. I have been in the store as well and
24 met him and talked with him.

25 THE COURT: Would that influence you or affect
26 you in being fair and impartial in this case?

27 JUROR STEPHEN MARTER: No, sir.

28 THE COURT: And so you are saying that wouldn't
29 be a factor at all if you were on the jury; is that

1 correct?

2 JUROR STEPHEN MARTER: Yes, sir.

3 THE COURT: Okay. Thank you.

4 Ladies and gentlemen, I want to know now if any of
5 you have heard anything about this case. And I know
6 obviously a few of you have already responded that you
7 have heard a little bit about the case. But any of the
8 rest of you that have not spoken up or any of you that
9 have spoken up but need to do so again, feel need to do
10 so again, any of you have any knowledge about the case.
11 Have any of you heard anything about the case?

12 Again, it was alleged that Mr. Britt was murdered
13 during the course of an armed robbery.

14 UNIDENTIFIED JUROR: What was the store?

15 THE COURT: Crossroads Grocery Store was the
16 name of the store. That may give you more knowledge
17 about the case.

18 But if any of you have heard anything about it, if
19 you have, I want you to stand. Again, I don't want to
20 know what you heard, but I might want to know a little
21 bit about it.

22 Okay. Mr. Artman, you heard about the case.

23 JUROR KENNETH ARTMAN: Yes, sir.

24 THE COURT: And how did you come to hear about
25 it?

26 JUROR KENNETH ARTMAN: Most of my wife's
27 relatives live out in Hardy, and that's in the general
28 area of where that happened.

29 THE COURT: And has that caused you to form an

1 opinion as to the guilt or innocence of Mr. Pitchford?

2 JUROR KENNETH ARTMAN: At the time I heard it.

3 THE COURT: Can you lay aside now anything you
4 heard outside the courtroom and then just base your
5 decision only on the evidence presented here?

6 JUROR KENNETH ARTMAN: Yes, sir.

7 THE COURT: Okay. Thank you.

8 And number 8. Miss Tillman, you heard about the
9 case.

10 JUROR MISTY TILLMAN: Yes, sir.

11 THE COURT: And has that caused you to form an
12 opinion as to the guilt or innocence of Mr. Pitchford?

13 JUROR MISTY TILLMAN: Yes, sir.

14 THE COURT: Can you lay that aside and just
15 base your decision on the evidence or is your opinion so
16 fixed --

17 JUROR MISTY TILLMAN: Probably not.

18 THE COURT: So you could not lay what you heard
19 aside; is that correct?

20 JUROR MISTY TILLMAN: (Nodded.)

21 THE COURT: You can be seated.

22 Mr. Marter, I believe you already mentioned you had
23 heard about the case but that has not caused you to form
24 an opinion as to Mr. Pitchford's guilt or innocence; is
25 that correct?

26 JUROR STEPHEN MARTER: No, sir.

27 THE COURT: You can base your decision strictly
28 on the evidence here; is that correct?

29 JUROR STEPHEN MARTER: Yes, sir. Yes, sir.

1 THE COURT: Okay. Thank you.

2 Number 36, Miss Harrison, you heard about the case.

3 JUROR CRISTIN HARRISON: Yes, sir.

4 THE COURT: And how did you come to hear about
5 it?

6 JUROR CRISTIN HARRISON: Relatives that own a
7 country store also.

8 THE COURT: A relative -- say that again.

9 JUROR CRISTIN HARRISON: Relatives that own a
10 country store.

11 THE COURT: Has that caused you to form an
12 opinion as to the guilt or innocence of Mr. Pitchford?

13 JUROR CRISTIN HARRISON: At this point I don't
14 believe so.

15 THE COURT: So you have not got an opinion on
16 that then.

17 JUROR CRISTIN HARRISON: No, sir.

18 THE COURT: Can you lay aside anything you
19 heard and base your decision only on the evidence
20 presented here in court?

21 JUROR CRISTIN HARRISON: Yes, sir.

22 THE COURT: Okay. Thank you.

23 Number 41, Mr. Fedric, you heard something about the
24 case; is that correct?

25 JUROR DAVID FEDRIC: My sister's family owns a
26 grocery. Yes, sir. I heard about it that way.

27 THE COURT: Yes, sir. I'm sorry. You had
28 already made a statement that, I believe, because of your
29 knowledge of the case and because of you knowing Mr.

1 Evans that you couldn't be fair and impartial in this
2 particular case; is that --

3 JUROR DAVID FEDRIC: I could not.

4 THE COURT: I appreciate that, and I appreciate
5 your honesty. Okay. Thank you.

6 Okay. Number 42. Mrs. Goff.

7 JUROR CHRISTY GOFF: I have friends and
8 relatives that knew Mr. Britt real well.

9 THE COURT: You have friends and relatives that
10 knew Britt. Is that what you said?

11 JUROR CHRISTY GOFF: They knew the hour --

12 THE COURT: Has what you heard caused you to
13 form an opinion as to the guilt or innocence of Mr.
14 Pitchford?

15 JUROR CHRISTY GOFF: Yes, sir.

16 THE COURT: And could you lay that aside and
17 base your decision on the evidence here in court or is it
18 so fixed in your mind that you could not lay that aside
19 and base it on the decisions here -- I mean on the
20 evidence here?

21 JUROR CHRISTY GOFF: It would be difficult for
22 me.

23 THE COURT: So you feel like you could not lay
24 those facts aside then; is that correct?

25 JUROR CHRISTY GOFF: Yes, sir.

26 THE COURT: Okay. Thank you.

27 Okay. Number 57. Mr. Merriman, I believe you've
28 already said because of your knowledge of law enforcement
29 and friendships --

1 JUROR RONALD MERRIMAN: I just did want to
2 explain that there is a relative of Mr. Britt's, Tim
3 McDaniels, who is a customer in the store that I work --
4 good customer of mine. He was, I think, a nephew and
5 also a neighbor to Mr. Britt, lived in -- right next door
6 to him. And he told us quite a bit about it. It would
7 probably affect me quite a bit.

8 THE COURT: Okay. Thank you.

9 JUROR RONALD MERRIMAN: All right.

10 THE COURT: And number 39. Mr. Chamberlain,
11 how did you hear about the case?

12 JUROR JOHN CHAMBERLAIN: Just being in Grenada.

13 THE COURT: Just like straight talk or out
14 about town where you just sit around and visit, drink
15 coffee and kind of gossip or talk like we all do
16 everywhere.

17 JUROR JOHN CHAMBERLAIN: (Nodded.)

18 THE COURT: Has that caused you --

19 JUROR JOHN CHAMBERLAIN: I ain't formed no
20 opinion.

21 THE COURT: So you can lay anything aside and
22 base it only on the evidence; is that correct?

23 JUROR JOHN CHAMBERLAIN: (Nodded.)

24 THE COURT: Okay. I appreciate that. Thank
25 you, sir.

26 Number 56. Mr. Redditt, how did you hear about the
27 case?

28 JUROR MICHAEL REDDITT: I know the other guy
29 that was charged with him too.

1 THE COURT: And would that -- is that -- do you
2 have any facts that would have caused you to form an
3 opinion as to the guilt or innocence of Mr. Pitchford?

4 JUROR MICHAEL REDDITT: I don't think I could
5 be fair.

6 THE COURT: You feel like you could not be fair
7 and impartial in this case because of the knowledge of
8 the case.

9 JUROR MICHAEL REDDITT: Yes, sir.

10 THE COURT: Okay. Thank you.

11 Number 71. And I believe you have already said you
12 shop there and knew the situation.

13 And then number 72. I believe, Miss Journigan, you
14 already said because of knowing Mr. Pitchford and selling
15 cars and stuff that you felt like you couldn't be fair
16 and impartial; is that correct?

17 JUROR SUSIE JOURNIGAN: That's correct.

18 THE COURT: You two ladies may be seated.

19 And then number 76. Miss Dunn, what is that
20 situation?

21 JUROR BETTY DUNN: I manage a convenience
22 store, and I know people who know everybody in the case.

23 THE COURT: And has anything that you heard
24 about the case caused you to form an opinion as to the
25 guilt or innocence of Mr. Pitchford?

26 JUROR BETTY DUNN: Yes, sir.

27 THE COURT: Could you lay that aside and base
28 your decision on the evidence, or is your opinion so
29 fixed that it could not be changed?

1 JUROR BETTY DUNN: I think so.

2 THE COURT: You think you could lay it aside or
3 you think you could not?

4 JUROR BETTY DUNN: I don't think I could.

5 THE COURT: Okay. Thank you.

6 And Mr. Curry.

7 JUROR MICHAEL CURRY: I just answered the
8 question I had heard about it. I heard about it when it
9 happened, but I haven't heard about it since or...

10 THE COURT: Has that caused you to form an
11 opinion as to the guilt or innocence of Mr. Pitchford?

12 JUROR MICHAEL CURRY: No, sir.

13 THE COURT: Can you lay aside anything you have
14 heard and base your decision only on the evidence here in
15 court?

16 JUROR MICHAEL CURRY: I just heard -- I think
17 it, it was on the radio.

18 THE COURT: I don't want to know what you heard
19 or anything but you did hear about it at the time. But
20 you have not had that fixed in your mind where you could
21 not base your decision on the evidence; is that correct?

22 JUROR MICHAEL CURRY: That's right.

23 THE COURT: So you are saying you will lay
24 anything aside and base it only on the evidence in court.

25 JUROR MICHAEL CURRY: (Nodded.)

26 THE COURT: Okay. Thank you.

27 And then -- your number is partially blocked, ma'am.
28 Okay. Number 92. Miss Whitfield, you heard about the
29 case.

1 JUROR ROBIN WHITFIELD: If this is the case I'm
2 thinking of, yes. One of my former students I think is
3 involved. And I heard his peers talk about it at school.

4 THE COURT: You heard people talking about the
5 case. Has that caused you to form an opinion as to the
6 guilt or innocence of Mr. Pitchford?

7 JUROR ROBIN WHITFIELD: No, sir.

8 THE COURT: Can you lay anything you might have
9 heard aside and base your decision only on the evidence
10 presented here in court?

11 JUROR ROBIN WHITFIELD: Yes, sir.

12 THE COURT: Okay. Thank you.

13 Number 84. Miss Beck, how did you hear about the
14 case?

15 JUROR LEIGH BECK: I just heard.

16 THE COURT: Just talk out in town.

17 JUROR LEIGH BECK: (Nodded.)

18 THE COURT: Community grapevine kind of.

19 JUROR LEIGH BECK: Yeah.

20 THE COURT: And has that caused you to form an
21 opinion as to the guilt or innocence of Mr. Pitchford?

22 JUROR LEIGH BECK: Yes, it has.

23 THE COURT: Can you lay that aside and base
24 your decision on the evidence here in court?

25 JUROR LEIGH BECK: No, sir.

26 THE COURT: You are saying you have already got
27 a fixed opinion that cannot be changed; is that correct?

28 JUROR LEIGH BECK: Yes, sir.

29 THE COURT: Okay. Thank you.

1 Number 68. Miss Hammond, how did you hear about the
2 case?

3 JUROR GERTHY HAMMOND: I read it in the paper
4 and from --

5 THE COURT: Read in the paper. And how else?

6 JUROR GERTHY HAMMOND: Like someone else that
7 was involved in it.

8 THE COURT: Okay. I don't want to hear about
9 anything you might have heard, anything other than has
10 what you might have heard or read caused you to form an
11 opinion as to the guilt or innocence of Mr. Pitchford?

12 JUROR GERTHY HAMMOND: No, sir.

13 THE COURT: And you can lay aside -- can you
14 lay aside whatever you heard and base your decision only
15 on the evidence presented here in court?

16 JUROR GERTHY HAMMOND: No, sir.

17 THE COURT: You cannot lay those facts aside.

18 JUROR GERTHY HAMMOND: (Shook head.)

19 THE COURT: Are you saying then that that would
20 affect you in being fair and impartial?

21 JUROR GERTHY HAMMOND: It would affect me.

22 Yes, sir.

23 THE COURT: Okay. Thank you.

24 Yes. Number 6.

25 JUROR ANDREA RICHARDSON: I just found out
26 today that Tim McDaniel was a nephew of someone involved.
27 And Tim McDaniel has done some plumbing work at my home.
28 And I know -- I know Tim McDaniel's daughter as well.

29 THE COURT: And --

1 JUROR ANDREA RICHARDSON: I don't know anything
2 about the case.

3 THE COURT: You just know that he might be
4 related to somebody.

5 JUROR ANDREA RICHARDSON: Right. Yes, sir.

6 THE COURT: Would that influence you or cause
7 you to form an opinion as to guilt or innocence of Mr.
8 Pitchford or influence you or be a factor in any way in
9 this case?

10 JUROR ANDREA RICHARDSON: No, sir.

11 THE COURT: Okay. Thank you.

12 And number 85. And I believe you said you had been
13 in the store and you had shopped in the store and that
14 caused you to form an opinion already about the case; is
15 that correct?

16 JUROR TERRY WELCH: Yes, sir. All the guys I
17 work with knew the man quite well. I mean they were
18 pretty friendly with him.

19 THE COURT: Thank you.

20 Ladies and gentlemen, I want to know now if any of
21 you have a situation where you have had a family member
22 that was murdered or have had a violent crime committed
23 against them or if any of you had a crime of violence or
24 a robbery or anything like that committed against
25 yourself. Any of you have a situation where you have
26 been the victim of some type of violent crime or had a
27 family member that was the victim of some type of violent
28 offense.

29 Okay. Number 14. Miss Allen, and what is that type

1 -- what is that situation?

2 JUROR DEBRA ALLEN: My nephew was -- he was at
3 a bar, and he was hit on his head with a crowbar and
4 broke his jaw. And the guy was never prosecuted.

5 THE COURT: And would that factor influence you
6 in this case? I believe you have already said that
7 being -- knowing some of the attorneys involved might be
8 a factor in being fair and impartial. Would this enter
9 into as well or would that also be a factor?

10 JUROR DEBRA ALLEN: This particular thing
11 probably would not factor.

12 THE COURT: I thank you.

13 Number 36. Miss Harrison, what is the situation
14 here?

15 JUROR CRISTIN HARRISON: I had a first cousin
16 that was murdered.

17 THE COURT: And where did that happen?

18 JUROR CRISTIN HARRISON: In Canton,
19 Mississippi.

20 THE COURT: Canton. And how long ago has that
21 been?

22 JUROR CRISTIN HARRISON: Fifteen years.

23 THE COURT: And would that influence you in
24 being fair and impartial in this case?

25 JUROR CRISTIN HARRISON: I don't believe it
26 would.

27 THE COURT: Any doubt in your mind?

28 JUROR CRISTIN HARRISON: It's so hard to say.
29 But I mean --

1 THE COURT: You know, of course, and this
2 applies to everybody. All we want is for people to
3 listen to the evidence from the witness stand and look at
4 exhibits that are offered into evidence and not have
5 something, life experience, that has happened in their
6 past that comes into play.

7 We just want people to look at the evidence and not
8 have anything that has happened in their background or
9 past influence them in their deliberations or in sitting
10 on the case. So do you have any question in your mind
11 about that influencing you or coming into play if you
12 were a juror in this case?

13 JUROR CRISTIN HARRISON: No, sir, I don't
14 believe so.

15 THE COURT: Okay. Thank you.

16 And number 42. Miss Tidwell. I'm sorry.
17 Forty-three. Miss Goff. I'm sorry. I got my numbers
18 off by one. Three is a two when you get my age and
19 vision looks close to the same. Sorry. What is that
20 situation?

21 JUROR CHRISTY GOFF: My cousin's nephew was
22 murdered in jail here last year.

23 THE COURT: Cousin's nephew.

24 JUROR CHRISTY GOFF: Um-hum.

25 THE COURT: And I believe you have already said
26 you had some knowledge about this case as well that would
27 influence you in being fair and impartial; is that
28 correct?

29 JUROR CHRISTY GOFF: Yes.

1 THE COURT: Okay. Thank you.

2 Mr. Wilson, what is that situation?

3 JUROR JAMES WILSON, JR.: My father was
4 murdered in Marx, Mississippi.

5 THE COURT: Over where?

6 JUROR JAMES WILSON, JR.: Marks.

7 THE COURT: Marks. And how long ago was that?

8 JUROR JAMES WILSON, JR.: Fifteen years.

9 THE COURT: Would that influence you or affect
10 you in being fair and impartial in this case?

11 JUROR JAMES WILSON, JR.: Yes, it would.

12 THE COURT: So you are concerned that you
13 couldn't be fair because of the situation with your
14 father; is that correct?

15 JUROR JAMES WILSON, JR.: Yes, sir.

16 THE COURT: Okay. Thank you.

17 Number 54. Miss Smith, what is that situation?

18 JUROR BRANDI SMITH: My cousin was murdered
19 about two years ago.

20 THE COURT: And where did that happen?

21 JUROR BRANDI SMITH: Fort Smith, Arkansas.

22 THE COURT: And would that influence you or
23 affect you in being fair and impartial in this case?

24 JUROR BRANDI SMITH: No, sir.

25 THE COURT: So that wouldn't bear on your
26 decision at all; is that correct?

27 JUROR BRANDI SMITH: (Nodded.)

28 THE COURT: Okay. Thank you.

29 And number 53. Miss Hubbard.

1 JUROR TABATHA HUBBARD: My uncle.

2 THE COURT: And he was murdered.

3 JUROR TABATHA HUBBARD: Um-hum.

4 THE COURT: How long ago was that?

5 JUROR TABATHA HUBBARD: About ten years ago.

6 THE COURT: How long?

7 JUROR TABATHA HUBBARD: Ten.

8 THE COURT: Ten years ago. And would that be a
9 factor or influence you or affect you in being fair and
10 impartial in this case?

11 JUROR TABATHA HUBBARD: No, sir.

12 THE COURT: Okay. Thank you.

13 And then Miss Holman.

14 JUROR WILLOLA HOLMAN: My sister-in-law.

15 THE COURT: Was she murdered?

16 JUROR WILLOLA HOLMAN: Yes, sir. She was
17 murdered.

18 THE COURT: How long has that been?

19 JUROR WILLOLA HOLMAN: It's been about five
20 years.

21 THE COURT: Five years ago. Would that affect
22 you or influence you in being fair and impartial in this
23 case?

24 JUROR WILLOLA HOLMAN: It would because it was
25 hard for my husband.

26 THE COURT: So you just think because of that
27 that you would be thinking about that and it would
28 influence you if you were on a jury.

29 JUROR WILLOLA HOLMAN: It takes you back.

1 THE COURT: Okay. Thank you.

2 Number 51. Mr. Griffith.

3 JUROR CHARLES GRIFFITH, SR.: Four years ago my
4 wife was beat up and robbed in Greenville, Mississippi.

5 THE COURT: Would that influence you or affect
6 you in being fair and impartial in this case?

7 JUROR CHARLES GRIFFITH, SR.: No, Your Honor.

8 THE COURT: Okay. Thank you.

9 And number 66. Mr. Pryor.

10 JUROR HENRY PRYOR: Yeah. My uncle owned a
11 furniture store in Illinois. And he was robbed, robbed
12 and murdered.

13 THE COURT: And would that influence you or
14 affect you in being fair and impartial as a juror in this
15 case?

16 JUROR HENRY PRYOR: It probably would. Can I
17 say, I see Tim on a daily basis because I work at the
18 waste water treatment plant and he dumps every day there?

19 THE COURT: Who is Tim?

20 JUROR HENRY PRYOR: Mr. Britt's nephew.

21 THE COURT: You know Mr. Britt's nephew.

22 JUROR HENRY PRYOR: Yes.

23 THE COURT: You also because of the fact where
24 you had an uncle that was murdered, you think those would
25 bear on your decision making and you couldn't be fair
26 because of that; is that correct?

27 JUROR HENRY PRYOR: Yes, sir.

28 THE COURT: Okay. Thank you.

29 Number 80. Miss Taylor, what is that situation?

1 Ma'am.

2 JUROR BEVERLY TAYLOR: I had a cousin that was
3 killed in Grenada County jail last summer.

4 THE COURT: Okay. Would that influence you or
5 affect you in being fair and impartial in this case?

6 JUROR BEVERLY TAYLOR: Yes, it would.

7 THE COURT: You would be thinking about that
8 and not be able to judge this case independently of that;
9 is that correct?

10 JUROR BEVERLY TAYLOR: That's correct.

11 THE COURT: Okay. Thank you.

12 Miss Holland.

13 JUROR DONNA HOLLAND: Yes, sir. I had a cousin
14 killed very similar to this in Casilla, Bobby Whitten,
15 several years ago.

16 THE COURT: Where did it happen, ma'am?

17 JUROR DONNA HOLLAND: Casilla.

18 THE COURT: Okay. I could not understand what
19 you had. And that was how many years ago?

20 JUROR DONNA HOLLAND: Four or five years ago.

21 THE COURT: Four or five. And would that
22 influence you or affect you in being fair and impartial
23 in this case?

24 JUROR DONNA HOLLAND: Yes. Because I saw what
25 happened to the family, the things it caused the family.

26 THE COURT: You would be thinking about that
27 and you couldn't be fair because of that fact; is that
28 correct?

29 JUROR DONNA HOLLAND: Yes. Um-hum.

1 THE COURT: Okay. Thank you.

2 Yes. Number 18. Miss Williams.

3 JUROR DIANNA WILLIAMS: Yes, sir.

4 THE COURT: Ma'am.

5 JUROR DIANNA WILLIAMS: I had an uncle who was
6 hit and killed in Gore Spring. I think the year was '97.

7 THE COURT: I did not hear the first part of
8 what you said, ma'am.

9 JUROR DIANNA WILLIAMS: I had a uncle that was
10 killed.

11 THE COURT: Uncle that was killed at Gore
12 Springs.

13 JUROR DIANNA WILLIAMS: Yes, sir.

14 THE COURT: And would that influence you or
15 affect you in being fair and impartial in this case?

16 JUROR DIANNA WILLIAMS: No, sir.

17 THE COURT: And can you -- so that wouldn't
18 affect you in any way in sitting in judgement on this
19 case then; is that correct?

20 JUROR DIANNA WILLIAMS: No, sir. No, sir.

21 THE COURT: Okay. Thank you.

22 Number 76. Miss Dunn, what is that situation?

23 JUROR BETTY DUNN: I was robbed in a
24 convenience store.

25 THE COURT: You were robbed when?

26 JUROR BETTY DUNN: About four years ago.

27 THE COURT: And I believe you already said that
28 you heard facts on this case as well where you just feel
29 like because of this knowledge of the case you couldn't

1 be fair and impartial; is that correct?

2 JUROR BETTY DUNN: Yes, sir.

3 THE COURT: Okay. Thank you.

4 And number 86. Miss Hubbard.

5 JUROR GLADYS HUBBARD: Yes, sir.

6 THE COURT: What is your situation there?

7 JUROR GLADYS HUBBARD: I had a brother
8 murdered.

9 THE COURT: And how long ago was that?

10 JUROR GLADYS HUBBARD: About ten years ago.

11 THE COURT: Ten years. Would that influence
12 you or affect you in being fair and impartial in this
13 case?

14 JUROR GLADYS HUBBARD: Yes, sir.

15 THE COURT: So you just feel like you would be
16 thinking about that and not be able to concentrate and be
17 fair in this case; is that correct?

18 JUROR GLADYS HUBBARD: Yes, sir.

19 THE COURT: Number 87. Miss Downs.

20 JUROR BETTY DOWNS: Yes, sir. My father was
21 murdered seven years ago in his store.

22 THE COURT: And where was his store located?

23 JUROR BETTY DOWNS: Lambert, Mississippi.

24 THE COURT: Lambert. Would that influence you
25 or affect you knowing that this is a similar type
26 situation? Would that influence you or affect you in
27 being fair and impartial in this case?

28 JUROR BETTY DOWNS: No, sir. I don't think so.

29 THE COURT: So you could lay that aside and

1 base your decision strictly on the evidence here in
2 court; is that correct?

3 JUROR BETTY DOWNS: Yes, sir.

4 THE COURT: Okay. Thank you.

5 Now, ladies and gentlemen, I am going to ask the
6 next question, and I don't want in any way anybody to be
7 offended by the question. But Mr. Pitchford is a black
8 male, and he is charged -- and Mr. Britt was a white
9 male.

10 And, you know, I want everyone to search their
11 hearts now. And I want to ask you if, you know, the fact
12 that this alleged offense crossed racial lines would that
13 influence any of you. Would any of you just tend to look
14 at the case any differently than if it was people of the
15 same race or where you didn't even know the race of the
16 individuals involved?

17 What I'm wanting to know basically is will race play
18 a part in your decision making of any of you in this
19 case? I take it by your silence that none of you would
20 look at the race of the individuals involved and have
21 that factor into or influence you in any way. And I take
22 it by your silence that that is the situation. And if
23 that is not the case, I want you to let me know that. I
24 take it that is the situation.

25 I want to know -- and I know because I've already
26 had a couple of you indicate this. If you are related to
27 somebody else on the jury panel or a spouse of somebody
28 else on the jury panel, I want you to stand, any of you.
29 If you look around and see who else is here and see if

1 any of you are related to somebody else that is here.

2 Okay. Well, we'll start with you. Miss Tillman,
3 who are you related to?

4 JUROR MISTY TILLMAN: Terry Welch.

5 THE COURT: Okay. How are you and Mr. Welch
6 related?

7 JUROR MISTY TILLMAN: He is my uncle.

8 THE COURT: And I believe you both already
9 indicated that you had heard about the case and because
10 of that could not sit in judgement; is that correct?

11 JUROR MISTY TILLMAN: Yes, sir.

12 JUROR TERRY WELCH: Yes, sir.

13 THE COURT: Okay. You two, you can both be
14 seated.

15 And then, Mr. Smith, who are you related to?

16 JUROR MAMIE SWIMS: Swims.

17 JUROR ARCHIE SMITH: Swims.

18 THE COURT: To --

19 JUROR ARCHIE SMITH: First cousins.

20 (A JUROR GOT UP AND WAS WALKING TOWARDS THE DOOR.)

21 THE COURT: Ma'am, where are you going?

22 A JUROR: I have to go to the bathroom.

23 THE COURT: Okay. We'll take a 10-minute
24 recess.

25 Ladies and gentlemen, during this recess you can't
26 talk with anyone or among yourselves about the case. You
27 can't discuss this case at all. And we will be in recess
28 for a few minutes, for ten minutes.

29 (A RECESS WAS TAKEN.)

1 Okay. Ladies and gentlemen, we will come back to
2 order now. And before we have the recess I was asking
3 any of you if you had a relative that was on the panel.
4 If you would, please stand.

5 So those of you that we did not get your responses
6 to before the break, if you will, stand back again. And
7 we will continue from where we left off earlier. Okay.

8 Number 21. Mr. Smith, who was it you were telling
9 us you were related to? You are related to number 49.
10 And number 49 is Miss Swims.

11 JUROR MAMIE SWIMS: (Nodded.)

12 THE COURT: How are y'all related to each
13 other?

14 JUROR ARCHIE SMITH: First cousins.

15 THE COURT: First cousins. If you and Miss
16 Swims were both on the jury panel, would you feel like
17 you had to listen to her and follow her views on the case
18 just because y'all are related? Or would you judge the
19 case independently from her?

20 JUROR ARCHIE SMITH: Independent.

21 THE COURT: And Miss Swims, if --
22 You can be seated, Mr. Smith.

23 And Miss Swims, if you and Mr. Smith were together
24 on the case, would you feel like you needed to follow
25 what he said because y'all were related, or would you
26 judge the case independently from him?

27 JUROR MAMIE SWIMS: Independently.

28 THE COURT: Okay. Thank you.

29 And number 18. Miss Williams.

1 JUROR DIANNA WILLIAMS: Yes, sir. Gladys
2 Hubbard. I consider her as my aunt, 'cause her and my
3 uncle been dating for years. By common law they are
4 married but not legally.

5 THE COURT: Okay. Now, what is her number?

6 JUROR DIANNA WILLIAMS: Eighty-six.

7 THE COURT: And, and how -- she is -- say that
8 again, if you would.

9 JUROR DIANNA WILLIAMS: She is dating my uncle.

10 THE COURT: Her and your uncle have a
11 relationship together, maybe not married but they are
12 real close.

13 JUROR DIANNA WILLIAMS: Yes, sir.

14 THE COURT: Would you -- if you were on the
15 panel with her and on the jury with her, would you feel
16 like you had to follow what she said because y'all had
17 that kinship or relationship?

18 JUROR DIANNA WILLIAMS: No, sir.

19 THE COURT: And you can be seated.

20 And Miss Hubbard, if you were on the panel with Miss
21 Williams would you feel you had to follow what she
22 thought on the case just because y'all had that bond with
23 each other?

24 JUROR GLADYS HUBBARD: No, sir.

25 THE COURT: Okay. Thank you.

26 What is your number? I cannot see.

27 JUROR TABATHA HUBBARD: Number 53.

28 THE COURT: Miss Hubbard, who are you related
29 to on the jury panel?

1 JUROR TABATHA HUBBARD: Eighty-six.

2 THE COURT: Okay. How, how are you related to
3 her?

4 JUROR TABATHA HUBBARD: I'm her daughter.

5 THE COURT: Okay. Mother and daughter. And if
6 you were both sitting on the panel together, would you
7 feel like you had to listen to mom and go along with what
8 she thought just because she was -- y'all are in that
9 mother-daughter relationship?

10 JUROR TABATHA HUBBARD: No, sir.

11 THE COURT: And I believe that your mother
12 already said maybe there was some situations about the
13 case where her brother was murdered a few years back. I
14 guess that would be your uncle.

15 JUROR TABATHA HUBBARD: Yes, sir.

16 THE COURT: Your mother said that that would
17 influence her where she didn't feel like she could sit on
18 the case. Would that influence you in that fashion?

19 JUROR TABATHA HUBBARD: No, sir.

20 THE COURT: So that wouldn't be a factor in you
21 sitting in the case; is that correct?

22 JUROR TABATHA HUBBARD: Yes.

23 THE COURT: It would not be; right?

24 JUROR TABATHA HUBBARD: Yes.

25 THE COURT: Okay. Thank you.

26 Number -- is that 44?

27 JUROR JEFFREY COUNTS: Seventy-four.

28 THE COURT: So how are you kin to number 74?
29 Who did you say you are kin to?

1 JUROR JEFFREY COUNTS: Nobody yet. Number 84.

2 THE COURT: Let me get this straight. Okay.
3 How are y'all -- what is your situation?

4 JUROR JEFFREY COUNTS: Second cousins.

5 THE COURT: And would you feel like you had to
6 follow along with Miss Beck if you were sitting on the
7 jury with her or, or feel like you had to, you know, go
8 along, just keep family harmony?

9 JUROR JEFFREY COUNTS: (Shook head.)

10 THE COURT: I believe Miss Beck has already
11 said that she had heard about the case and had some
12 factors where she didn't feel like she could be fair and
13 impartial. Would those factors bother you at all or
14 would you know?

15 JUROR JEFFREY COUNTS: No, sir.

16 THE COURT: Okay. Thank you.

17 And then Miss Dunn, number 76.

18 JUROR BETTY DUNN: I'm related to number 80
19 first cousins.

20 THE COURT: Y'all, I think, have both had the
21 same type incident where y'all have had a relative that
22 was killed and felt like you couldn't be fair and
23 impartial; is that correct?

24 JUROR BETTY DUNN: (Nodded.)

25 JUROR BEVERLY TAYLOR: (Nodded.)

26 THE COURT: And then number 77.

27 JUROR MICHAEL CURRY: I think she is claiming
28 me today.

29 THE COURT: It's a good day then.

1 JUROR MICHAEL CURRY: This is my wife over
2 here.

3 THE COURT: Well, we assured y'all when we were
4 going through jury qualifications we would make sure you
5 didn't both end up the panel because you have a young
6 child at home. So thank you for standing as well.

7 Then number 64, Mr. Johnston and 79, I believe --
8 correct me if I'm wrong. I believe y'all are married.

9 JUROR WILLIAM JOHNSTON: Yes.

10 THE COURT: To both of you -- Mr. Johnson, if
11 you were both selected and, you know, you might be, might
12 not be. But if you were both on the panel together would
13 you feel like you had to follow what your wife thought on
14 the case just because y'all are married or to keep peace
15 in the family or anything?

16 JUROR WILLIAM JOHNSTON: I think I could make
17 my own mind up.

18 THE COURT: And Miss Johnston, I'll ask you the
19 same thing. Could you judge this case independently of
20 your husband?

21 JUROR BETTY JOHNSTON: Definitely.

22 THE COURT: Thank you. I appreciate both of
23 your responses there.

24 Ladies and gentlemen, I've got before me a list of
25 people that have been subpoenaed as witnesses in this
26 case. Just because somebody is subpoenaed does not mean
27 they are going to be a witness in the case. But that
28 means that there is a potential for them being a witness
29 in this case. So I'm going to read through this list of

1 potential witnesses first.

2 And then after I read through the list as a whole,
3 I'm going to ask you a few questions concerning the group
4 as a whole. And then if there are individuals on the
5 list, I might have to ask you some specifics about
6 individuals.

7 But these are the potential witnesses. When I am
8 reading these questions -- these names, what I want to
9 know is if any one of you -- I know some of these names
10 are going to be familiar to you because some of them are
11 people that are involved in law enforcement or other
12 professions in this county and in this area.

13 But when I ask you the questions I'm going to be
14 asking these questions. I'm going to be asking if the
15 fact you might know one of these witnesses would cause
16 you to listen to their testimony and give it greater
17 weight and credibility than a witness you did not know.
18 So because each witness I want you to look at
19 independently of each other and independent of any
20 knowledge you may have on a particular witness and base
21 your decision strictly on the proof as given in the
22 courtroom.

23 So with that in mind, I'm going to read through
24 these potential witnesses and then maybe have you think
25 along those questions I've just mentioned to you.
26 Richard Crenshaw. Marvin Fullwood. Tom Byers. Rena
27 Byers. Kim Lindley. Johnny Grantham. Alton Strider.
28 Jessie Gonzales. Clovis Harvey. Jerry Harvey. Eddie
29 Merriman. Donald Lea. DeMarquis Westmoreland. Wesley

1 Kincaid. Gary Harbison. Michael Flager. F-l-a-g-e-r.
 2 Billy Kite. James Hathcock, Jr. Greg Conley. Adam
 3 Eubanks. Walter Davis. And Walter Davis, Jr. Mark
 4 McGavock. M-c-G-a-v-o-c-k. Robert Jennings. Stephanie
 5 Gray. Gerald Gatlin. Steve Gatlin. Paul Hubbard.
 6 Louis Brooks. Henry Brooks, Jr. Carver Conley. Johnny
 7 Morrison. Steve Howell. Tim McDaniel. Lynn Shelby
 8 Ratliff. Sandy Trusty. Dantron Mitchell. Eddie
 9 Johnson. Ricky Williamson. Shirley Jackson. Dominique
 10 Hogan. John Seales. Sammie Seales. Lettie Britt.
 11 Sylvia Lee. Malcom Grant. Starks Hathcock. Grant
 12 Grantham. Claire N-e-t-h-e-r-y. Claire Nethery. Mike
 13 Allen. David Zeliff. Steven Hayne. Henry Ross, Jr.
 14 Quincy Bullins. Dr. Chris Lott. Dr. Gilbert McVaugh.
 15 Dr. Reb McMichael. Moses Wright.

16 Now, you know, and I know I went over them quickly
 17 with you or not that quick. But I want to know these
 18 facts. Is there any one of you that have a relationship,
 19 a kinship, a friendship or an association with any one of
 20 these witnesses where you would automatically tend to
 21 favor the testimony that witness was giving because you
 22 know them and have some relationship with some of those
 23 witnesses and you don't have with somebody else? Again,
 24 if any of you have a situation where you, like, know one
 25 of these individuals and you just automatically would say
 26 okay, I am going to listen to what they have to say and I
 27 am going to listen more carefully and believe it over
 28 somebody else just strictly because I know that
 29 individual. Do any of you have a situation like that as

1 to any of these individuals that I've just gone over with
2 you? Okay. Any of you have, if you will, please, stand.

3 Okay. Mr. Caulder, I believe you've already said
4 you are in law enforcement and you have got several
5 brethren in law enforcement and because of that you would
6 tend to favor them and could not be fair and impartial;
7 is that correct?

8 JUROR SCOTT CAULDER: Yes, sir.

9 THE COURT: Mr. Merriman, does that pretty much
10 characterize your situation as well?

11 JUROR RONALD MERRIMAN: Along with one of the
12 witnesses being my older brother.

13 THE COURT: Okay. Thank you.

14 Number 39. Mr. Chamberlain, who is it you would
15 know, or what is that situation?

16 JUROR JOHN CHAMBERLAN: I know Mr. Conley.
17 Know both of the Conleys.

18 THE COURT: And it's got to be more than
19 knowing. Would you just automatically listen to them and
20 accept their testimony because you know them and you
21 don't know somebody else that might be testifying?

22 JUROR JOHN CHAMBERLAN: Probably so.

23 THE COURT: You just know them to such an
24 extent that you would judge their testimony different
25 than somebody else's.

26 JUROR JOHN CHAMBERLAN: Gotta be honest.

27 THE COURT: Yes, sir, please. I appreciate
28 that. And I -- again, I appreciate everybody being
29 forthcoming, because that is what we want, is everybody

1 to give us complete answers. I appreciate your response,
2 Mr. Chamberlain.

3 Number 56. Mr. Redditt, and what is that situation?
4 Who, who was it you --

5 JUROR MICHAEL REDDITT: Dantron Mitchell is my
6 nephew by marriage.

7 THE COURT: And he is your nephew by marriage.

8 JUROR MICHAEL REDDITT: Yes, sir.

9 THE COURT: And would that cause you to favor
10 his testimony over somebody you don't know?

11 JUROR MICHAEL REDDITT: No.

12 THE COURT: Haven't you said you felt like you
13 had heard something about the case and just can't lay it
14 aside and be fair and impartial?

15 JUROR MICHAEL REDDITT: I don't think I can be
16 fair with it.

17 THE COURT: Okay. Thank you.

18 Number 68. Miss Hammond, and which one of these
19 witnesses would you know to the extent that you would
20 tend to favor their testimony over somebody else?

21 JUROR GERTHY HAMMOND: DeMarquis Westmoreland.

22 THE COURT: Who?

23 JUROR GERTHY HAMMOND: DeMarquis.

24 THE COURT: And I believe you have already said
25 you read in the paper and also formed an opinion at any
26 rate and couldn't be fair and impartial; is that correct?

27 JUROR GERTHY HAMMOND: Yes, sir.

28 THE COURT: Okay. Thank you.

29 Then 81. Miss Bounds, who is it that you know and

1 would just believe their testimony over somebody you
2 didn't?

3 JUROR JOYCE BOUNDS: Dominique Hogan.

4 THE COURT: Who?

5 JUROR JOYCE BOUNDS: Dominique Hogan.

6 THE COURT: How is it you know him?

7 JUROR JOYCE BOUNDS: That's a she.

8 THE COURT: I could not --

9 JUROR JOYCE BOUNDS: That's a she. I know her
10 through my --

11 THE COURT: What's the name then again?

12 JUROR JOYCE BOUNDS: Dominique Hogan.

13 THE COURT: How is it that you know her?

14 JUROR JOYCE BOUNDS: She is a friend of my
15 niece.

16 THE COURT: And would that cause you to just
17 favor the side that she was testifying for or believe her
18 testimony over the testimony of a stranger's or people
19 you did not know?

20 JUROR JOYCE BOUNDS: It probably would.

21 THE COURT: So you are concerned that that
22 would be a factor in, in your sitting in judgment in this
23 case.

24 JUROR JOYCE BOUNDS: Yes.

25 THE COURT: Okay. Thank you.

26 Ladies and gentlemen, this is a capital murder
27 trial. And I know because you were sent questionnaires
28 that there were some issues regarding the death penalty
29 that you were asked about during the -- in the

1 questionnaire. The way the process works is this.

2 If -- and the State is seeking the death penalty in
3 this case. If Mr. Pitchford is found guilty of capital
4 murder, then the State will move or is seeking to have
5 the jury impose the death penalty. The way it works is
6 this.

7 First, you have a trial to determine Mr. Pitchford's
8 guilt or innocence. If the jury finds Mr. Pitchford
9 guilty, then you go into the second phase and the jury
10 determines the penalty. The jury determines whether he
11 should be sentenced to death or not.

12 Now, if the jury finds Mr. Pitchford innocent, there
13 is no second part of the trial. The trial is concluded
14 at that point, and we do not ever go into the second
15 phase of the trial.

16 But this is a case under the laws of the State of
17 Mississippi where the State of Mississippi can seek the
18 death penalty if Mr. Pitchford is convicted of the crime
19 of capital murder. And so I'm going to ask you a couple
20 of questions about the death penalty at this point.

21 And these are very important, and I want you to, you
22 know, search your heart and your soul and answer these
23 just as fully as you have all these other questions. I
24 want to know if there are any of you that just feel like
25 in your heart you know right now that even if the facts
26 justified it and the law allowed it you just could not
27 consider imposing the death penalty. Are there any of
28 you that if you just thought the facts justified it and
29 the law allowed it, you felt like you still could not the

1 consider a death penalty in this case? If any of you
2 have that situation, I want you to please stand at this
3 time.

4 Number 5 first. This is Miss Coleman.

5 Miss Coleman, are you telling me even if the law
6 provided for the death penalty and allowed it and even if
7 the facts possibly justified it, you just could not
8 consider that at all?

9 JUROR NADINE COLEMAN: No.

10 THE COURT: Okay. Thank you.

11 And then number 7. Miss Foxx, could you even
12 consider the death penalty at all if the case got to the
13 second phase?

14 JUROR SYRETTA FOXX: No.

15 THE COURT: So there is no way you could ever
16 even consider it.

17 JUROR SYRETTA FOXX: No.

18 THE COURT: Okay. Number 12. Miss DeBlois,
19 are you saying you could not under any circumstances
20 consider imposing the death penalty?

21 JUROR DONNA DEBLOIS: No, sir.

22 THE COURT: Okay. Thank you.

23 And number 15, Miss Willis. Could you if the law
24 provided for it and the facts justified it, could you
25 consider imposing the death penalty in this case?

26 JUROR LOVIE WILLIS: (Shook head.)

27 THE COURT: So there is no way you could
28 consider it at all.

29 JUROR LOVIE WILLIS: (Shook head.)

1 THE COURT: And Mr. Tillman, you have heard the
2 question that I've asked the others. I'll ask you as
3 well. If the facts justified it and the law provided for
4 it, could you consider the death penalty in this case?

5 JUROR CINTRON TILLMAN: No.

6 THE COURT: There is no way you could even
7 consider it; is that correct?

8 JUROR CINTRON TILLMAN: Yes.

9 THE COURT: Okay. Thank you.

10 After I talk to you - I'm sorry - you can be seated.

11 Miss Williams, if the law provided for the death
12 penalty and the facts justified it, could you consider
13 the death penalty?

14 JUROR DIANNA WILLIAMS: No, sir.

15 THE COURT: So there is no way you could even
16 think about doing it; is that correct?

17 JUROR DIANNA WILLIAMS: That's right.

18 THE COURT: Okay. Thank you.

19 And then number 21, Mr. Smith. Could you consider
20 the death penalty if the law allowed it and the facts
21 justified it?

22 JUROR ARCHIE SMITH: No.

23 THE COURT: Okay. Thank you.

24 Mr. Mack, if the law allowed it and the facts
25 justified it, could you consider imposing the death
26 penalty?

27 JUROR P.M. MACK: No, sir.

28 THE COURT: And Mr. Manuel, if the facts
29 allowed it -- if the facts justified it and the law

1 allowed it, could you consider the death penalty?

2 JUROR MANUEL JAMES, JR.: No, I couldn't.

3 THE COURT: And could you, Mr. Allen?

4 JUROR JESSIE ALLEN: No.

5 THE COURT: You could not even consider it at
6 all.

7 JUROR JESSIE ALLEN: No.

8 THE COURT: How about you, Miss Kelly?

9 JUROR TONYA KELLY: No.

10 THE COURT: So you could not consider it at
11 all.

12 JUROR TONYA KELLY: No.

13 THE COURT: Okay. Number 32. Mr. Harris, if
14 the law allowed it and the facts justified it, could you
15 consider the death penalty?

16 JUROR CECIL HARRIS: No, sir.

17 THE COURT: And Mr. Andrews, could you consider
18 imposing the death penalty if the law allowed it and the
19 facts justified it?

20 JUROR ELVIE ANDREWS: No.

21 THE COURT: And, Miss McGee, if the law allowed
22 it and the facts justified it, could you consider the
23 death penalty?

24 JUROR BILLIE MCGEE: No, sir.

25 THE COURT: And number 36. Miss Harrison,
26 could you consider the death penalty if the law allowed
27 it and the facts justified it?

28 JUROR CRISTIN HARRISON: No, sir.

29 THE COURT: And number 39, if the law allowed

1 it and the facts justified it, you could not consider the
2 death penalty.

3 JUROR JOHN CHAMBERLAIN: No, sir.

4 THE COURT: Okay. Number 45. Miss Wesley, if
5 the facts justified it and the law allowed it, could you
6 consider imposing the death penalty?

7 JUROR DORA WESLEY: No, sir.

8 THE COURT: Okay. And number 49, Miss Swims,
9 if the facts justified it and the law allowed it, could
10 you consider imposing the death penalty?

11 JUROR MAMIE SWIMS: Not at all.

12 THE COURT: Okay. What is your number, ma'am,
13 here on the -- yes. I can't see. Okay. Miss Alicea,
14 are you saying even if the law allowed it and the facts
15 justified it, you could not consider imposing the death
16 penalty?

17 JUROR MARIA ALICEA: (Shook head.)

18 THE COURT: And then number 52. Miss Holman,
19 are you advising the Court that even if the facts
20 justified it and the law allowed it you could not
21 consider the death penalty?

22 JUROR WILLOLA HOLMAN: No, sir. Not even after
23 losing a sister-in-law.

24 THE COURT: Okay. Thank you.

25 And Miss Hubbard, if the facts justified it and the
26 law allowed it, could you consider the death penalty?

27 JUROR TABATHA HUBBARD: No, sir.

28 THE COURT: Okay. Thank you.

29 MR. HILL: What number was that, Your Honor?

1 MR. CARTER: Fifty-three.

2 THE COURT: And number 40, I believe I
3 overlooked you. Mr. Wilson, if the facts justified it
4 and the law allowed it, could you consider imposing the
5 death penalty?

6 JUROR JAMES WILSON: No.

7 THE COURT: Okay. Number 58. Miss Brexton, if
8 the law allowed it and the facts justified it, could you
9 consider imposing the death penalty?

10 JUROR OPHELIA BREXTON: No, sir.

11 THE COURT: Okay. And number 62. Mr. Kincaid,
12 if the facts allowed it -- justified it and the law
13 allowed it, could you consider imposing the death
14 penalty?

15 JUROR JIMMY KINCAIDE: No, sir.

16 THE COURT: And I'll just go ahead with all of
17 them on that side of the courtroom then we will get back
18 to the other side of the courtroom.

19 Number 72, Miss Journigan, if the facts justified it
20 and the law allowed it, could you consider the death
21 penalty?

22 JUROR SUSIE JOURNIGAN: No.

23 THE COURT: And number 75. Miss Hubbard, if
24 the facts justified it and the law allowed it, could you
25 consider even imposing it?

26 JUROR THELMA HUBBARD: I don't want no part in
27 it.

28 THE COURT: No part of it. You couldn't even
29 look at it and even think about it; is that correct?

1 JUROR THELMA HUBBARD: (Shook head.)

2 THE COURT: Okay. Number 86. Miss Gladys
3 Hubbard, you are telling the Court that if the facts
4 justified it and the law allowed it, you still could not
5 consider the death penalty; is that correct?

6 JUROR GLADYS HUBBARD: No, sir.

7 THE COURT: Okay. Number 91. Mr. Chairs,
8 could you consider imposing the death penalty?

9 JUROR GILBERT CHAIRS: No.

10 THE COURT: Even if the facts justified it, you
11 could not consider it; is that correct?

12 JUROR GILBERT CHAIRS: Right.

13 THE COURT: Thank you.

14 Number 56. Mr. Redditt, and I believe you've
15 already said for other reasons you couldn't be fair and
16 impartial. But you also could not consider the death
17 penalty at all; is that correct?

18 JUROR MICHAEL REDDITT: Right.

19 THE COURT: And number 55. Miss House, if the
20 facts justified it and the law allowed it could you even
21 consider the death penalty?

22 JUROR STACEY HOUSE: No, sir.

23 THE COURT: And ma'am, I cannot see. Okay.
24 Number 68. Miss Hammond, if the facts justified it and
25 the law allowed it, could you even consider the death
26 penalty?

27 JUROR GERTHY HAMMOND: No, sir.

28 THE COURT: Okay. Thank you.

29 And then number 81. Miss Bounds, and if the facts

1 justified it and the law allowed it, could you impose the
2 death penalty?

3 JUROR JOYCE BOUNDS: No.

4 THE COURT: Okay. Thank you.

5 And then number 95. Mr. Parker, if the facts
6 justified it and the law allowed it, could you consider
7 the death penalty?

8 JUROR ROBERT PARKER: No, sir.

9 THE COURT: Okay. Thank you.

10 Now I want to ask kind of the other question on
11 that. Are there any of you -- is there any one on the
12 panel that if Mr. Hubbard was convicted of capital murder
13 just would automatically impose the death penalty? Just
14 if any of you -- are there any of you that just think
15 that if he is convicted of the crime for which he is
16 charged that automatically he should be sentenced to
17 death?

18 Any of you have a opinion on that where you just
19 feel like that automatically without hearing anything
20 else, you would feel like that he should be sentenced to
21 death in this case? Any of you have a situation like
22 that?

23 Ladies and gentlemen, I also -- of course, you were
24 instructed when you were sent out your jury questionnaire
25 card that once the jury is selected, the jury will be
26 sequestered during the course of the trial. You know, we
27 are anticipating it taking probably the better part of
28 this week. It's hard to anticipate just how quickly a
29 case will proceed.

1 But I want to know if any of you have a situation
2 where because you are going to be sequestered if you are
3 selected that that is going to create an undue hardship
4 on you to such an extent you just feel like you could not
5 serve because of the fact that you would be sequestered
6 during the duration of the trial. Do any of you have a
7 situation where being sequestered is going to have where
8 you do not feel like you could serve?

9 Miss Ward.

10 JUROR LAURA WARD: If you will, just keep in
11 mind that I have three children at home.

12 THE COURT: Do you have --

13 JUROR LAURA WARD: We have after-school
14 activities.

15 THE COURT: I --

16 JUROR LAURA WARD: I'm not saying my husband is
17 incompetent, but I'm -- momma does a lot.

18 THE COURT: I am sure that anybody that has
19 children, you know, they are automatically going to miss
20 their kids.

21 JUROR LAURA WARD: I have a 6-year-old, a
22 10-year-old and a --

23 THE COURT: But would that be a situation where
24 you could not even serve because of that or is that just
25 going to be a hardship?

26 JUROR LAURA WARD: It's going to be a hardship.
27 I wouldn't mind one night. But, you know, if it's going
28 to be an all week thing...

29 THE COURT: As I say, I can never anticipate

1 how long something is going to take.

2 JUROR LAURA WARD: Right. Right. If you will,
3 just consider it.

4 THE COURT: And then, Mr. Caulder, I believe
5 you already said for a lot of other reasons you feel like
6 you could not serve; is that correct? Number 46.

7 JUROR SCOTT CAULDER: I ain't said anything
8 yet.

9 THE COURT: I am saying on the other issues you
10 have already said because of being in law enforcement.

11 And then, Miss Starks, what is the situation on
12 that?

13 JUROR EMMA STARKS: My mom is in the hospital.
14 So I don't know, you know, her situation.

15 THE COURT: Where does she reside?

16 JUROR EMMA STARKS: In Tallahatchie County.

17 THE COURT: And would that -- would that be a
18 factor in you being sequestered?

19 JUROR EMMA STARKS: Yeah. My dad is old too.
20 So I have to go back and forth to see about her.

21 THE COURT: So are you having to check up on
22 your elderly parents constantly?

23 JUROR EMMA STARKS: Yes.

24 THE COURT: Okay. Thank you.

25 And number four. Mr. --

26 JUROR KENNETH ARTMAN: I have just got a
27 question. I take medicine that I have to inject in my
28 stomach, and it has to be refrigerated. Would my wife be
29 able to bring it to me?

1 THE COURT: Your wife would be able to bring it
2 to the bailiffs to give it to you.

3 JUROR KENNETH ARTMAN: Do you have a place
4 where it could be refrigerated or would she have to do
5 that whenever I need it?

6 THE COURT: We can -- we will make arrangements
7 however you need to on that.

8 Let me say again, once you are sequestered you won't
9 be able to talk basically with anybody outside.

10 JUROR KENNETH ARTMAN: Will I be able to make
11 those arrangements before?

12 THE COURT: Yes, sir. The bailiffs will -- you
13 can give them the phone number. And, of course, we are
14 going to be recessing in a little bit for lunch even.
15 But the bailiffs could call your wife, and she could
16 bring the medicine. And they could give it to you. And
17 then she could take it back home.

18 I mean we will accommodate a situation like that.
19 But if you are sequestered, you won't be able to actually
20 have contact or talk to anybody, you know, your spouse or
21 anybody else. But they can pass messages to you through
22 the bailiffs. And the bailiffs can pass messages from
23 you to them.

24 Does that answer it enough for you, sir?

25 JUROR KENNETH ARTMAN: Yes, sir.

26 THE COURT: Okay. And then, Miss Harrison,
27 what is your situation?

28 JUROR CRISTIN HARRISON: Mine is the same as
29 Miss Ward. I have small children at home.

1 THE COURT: And do you have somebody else that
2 can take care of them?

3 JUROR CRISTIN HARRISON: Yes, sir. My husband
4 is there. Just like she said, I wanted you to be aware.

5 THE COURT: I know any parent is going to miss
6 their children.

7 I don't know. My parents might not have missed me
8 for a few days at times, but I think most of the time
9 they would.

10 And Miss Taylor, you've got some situation where
11 being sequestered might adversely affect you. What is
12 that situation?

13 JUROR BEVERLY TAYLOR: I have a 13-year-old son
14 that takes daily medication for medical problems. And
15 the two people that stay with him at nighttime are
16 staying with sick people already.

17 THE COURT: And they are what?

18 JUROR BEVERLY TAYLOR: They are already staying
19 with sick people.

20 THE COURT: So you have a son at home at night
21 that basically nobody is there to see about him; is that
22 correct?

23 JUROR BEVERLY TAYLOR: Right.

24 THE COURT: Okay. Thank you.

25 Ladies and gentlemen, I mean I know that we have had
26 a number of people that have responded to different
27 issues about knowledge of people involved in law
28 enforcement or there are some that have had family
29 members that have been murdered and there are some that

1 know some of the attorneys involved that for various
2 reasons you know already that you cannot be fair and
3 impartial in this case. And again, I appreciate truthful
4 and complete answers to every question that's been asked,
5 because that is what we want. We want to make sure if
6 there is any situation like that, we know it.

7 But there is also sometimes questions that somebody
8 in the jury panel knows in their heart they can't be fair
9 and impartial but for some reason the right question is
10 just not asked. So if you have not spoken up about a
11 particular question earlier but you already know in your
12 heart that for some reason or another you just cannot be
13 fair and impartial to both sides in this case then I want
14 you to let me know that.

15 So is there any one other than those that have
16 already spoken about various issues that already know
17 ahead of time that you can't be fair and impartial to
18 both sides?

19 Yes, sir. Number 34.

20 JUROR WALTER BARRETT, III: I believe I can be
21 fair and impartial. But you asked the question about
22 knowing Mr. Britt.

23 THE COURT: Right.

24 JUROR WALTER BARRETT, III: I did not know him
25 but I know the McDaniel and the Grant family.

26 THE COURT: And are they some kind of kin to
27 Mr. Britt?

28 JUROR WALTER BARRETT, III: Yes.

29 THE COURT: And would the fact that you know

1 some of Mr. Britt's extended family influence you or
2 affect you in being fair and impartial?

3 JUROR WALTER BARRETT, III: No, sir. Not at
4 all.

5 THE COURT: Okay. Thank you.

6 And since Mr. Barrett raised that issue, I'll ask
7 all of you. If any of you have a situation where you
8 have got friends that are kin to Mr. Britt and it would
9 affect your ability to be fair and impartial, if any of
10 you have a situation like that where you might know some
11 of Mr. Britt's family and that would affect you then I
12 want you to stand. I take it nobody else has that
13 situation.

14 Yes, sir. Mr. Tillman.

15 JUROR CINTRON TILLMAN: At first I didn't
16 understand your question about me knowing Terry. I don't
17 think I could be fair.

18 THE COURT: Excuse me.

19 JUROR CINTRON TILLMAN: I don't think I could
20 be fair.

21 THE COURT: You think because you know him and
22 been friends with him you could not be fair and
23 impartial; is that correct?

24 JUROR CINTRON TILLMAN: Yes, sir.

25 THE COURT: Okay. Thank you.

26 Ladies and gentlemen, at this time we are going to
27 recess for lunch. And let me caution you during this
28 recess you cannot discuss this case with anyone. You
29 cannot discuss it among yourselves.

1 When you are coming back after lunch, if you should
2 run into one of the attorneys out in the hall that is
3 participating in the case, if you should run into one of
4 these witnesses whose names I called earlier, you cannot
5 talk to them. You cannot have any contact with them. If
6 you should see one of them just walk right on by. They
7 are not supposed to speak to you, and you can't speak to
8 them either.

9 When the attorneys or some of these witnesses see
10 you out in the hall and they walk by you and ignore you,
11 they are not doing that to offend you. I want you to be
12 assured of that. They are just following the law and the
13 rules of court as been imposed. So do not take any
14 offense if they walk by you without speaking. They just
15 cannot do that.

16 So at this time ladies and gentlemen, we will be in
17 recess until 1:20. If you will all be back at 1:20 and
18 kind of look at who you are sitting next to. I want you
19 all to wear your numbers back as well. But please be
20 seated in the same place this afternoon as you were this
21 morning.

22 (COURT RECESSED FOR THE NOON HOUR. PROCEEDINGS RESUMED
23 IN OPEN COURT. MR. EVANS, MR. HILL, MR. CARTER, MR. BAUM AND
24 THE DEFENDANT WERE PRESENT IN OPEN COURT.)

25 THE COURT: I am going to ask you now any of
26 you had someone sitting next to you before lunch and they
27 are not here to raise your hand. I am trying to find out
28 how many people we are missing.

29 Okay. We will proceed shortly.

1 (SOME JURORS ENTERED THE COURTROOM AND WERE SEATED.)

2 Okay. Do I have anybody that has a vacant seat next
3 to them? Okay. We are still lacking one person then.
4 Okay.

5 THE BAILIFF: Number 30.

6 (THE COURT WAITED A FEW MINUTES FOR THE JUROR TO RETURN
7 TO THE COURTROOM.)

8 THE COURT: Gentlemen, I am ready to proceed.
9 Miss Lee will be dealt with accordingly. I think if
10 everybody else could be back on time she could have as
11 well.

12 So I am going to tender the panel now to the State
13 of Mississippi.

14 You may proceed, Mr. Evans.

15 MR. EVANS: Thank you, Your Honor.

16 Good evening, ladies and gentlemen.

17 JURY PANEL: Good evening.

18 MR. EVANS: As the judge told y'all, for any of
19 you that don't know me, I am Doug Evans, your district
20 attorney. Clyde Hill, one of the assistant district
21 attorneys, will be assisting me in trying this case. We
22 represent the State of Mississippi. And the way the
23 state is divided up, I have seven counties that I
24 prosecute in. Grenada is one of those counties.

25 Now, what that means is every felony case, whether
26 it be a grand larceny, all the way up to capital murder,
27 has to be handled by our office. So this is why we are
28 involved in this case. It is a capital murder charge, as
29 the judge told you.

1 Now, there are several things that I want to go into
2 a little bit more detail than the judge went into and
3 there's a couple of things I want to cover that the judge
4 didn't. To start with, as the judge told you, this is
5 capital murder. There are several different types of
6 murder in this state. They are classified as capital
7 murder. And there are others that are just classified as
8 regular murder or manslaughter.

9 What makes this is a capital murder is because it is
10 charged that this defendant committed the murder while
11 engaged in the crime of armed robbery. And our
12 legislature passed a law that makes that a capital
13 offense that can carry the death penalty. That's the
14 reason that it falls into that category.

15 I know a lot of y'all have already stated your
16 opinions on the death penalty, and we are going to go
17 into that in a few more minutes. Now, this defendant,
18 Terry Pitchford, that is sitting at opposite table over
19 here is on trial in this case for capital murder.

20 (JUROR LINDA LEE ENTERED THE COURTROOM.)

21 THE COURT: Miss Lee, can you explain why you
22 are like about 15 minutes later than everybody?

23 JUROR LINDA LEE: I have to walk up here.

24 THE COURT: Mr. Evans, you can go back and ask
25 that question again because Miss Lee has finally joined
26 us.

27 MR. EVANS: That's all right, Your Honor. I
28 will just continue where I am. Thank you though.

29 This defendant, Terry Pitchford, that is sitting at

1 the table is charged with capital murder. The jury that
2 is picked in this case will be picked to only try him as
3 far as guilt or innocence and possibly the penalty.

4 But there is another defendant that is charged in
5 this same crime. I want to make sure y'all understand
6 that also. Eric Bullin is also charged with capital
7 murder in the same offense. Y'all, whoever is picked as
8 the jury, will hear testimony about both of these two,
9 but you are only here to decide this defendant's fate at
10 this point. Do each of y'all understand that that will
11 be a complete, separate jury that will have to hear the
12 evidence for themselves?

13 As the judge told you, this is an armed robbery that
14 occurred at Crossroads Grocery. For any of y'all that
15 aren't familiar with Crossroads Grocery, it is on Highway
16 7 like you are going toward Coffeetown. It's right at
17 the intersection of Scenic Loop 333. It comes out on the
18 north end of the lake, a little small store that has been
19 there for many years.

20 The judge covered this earlier. And I know a lot of
21 y'all are sitting here thinking about questions that the
22 judge has asked. And for the ones of you that never
23 served on a jury before, this is probably the first time
24 you have ever thought about some of those questions. So
25 if any of these things that I go back over, if any of
26 them you failed to answer, please, let us know.

27 One of the things I want to go back over now is any
28 of you that may now remember that you know this
29 defendant, him or any of his family. His mother is

1 Shirley Jackson, and his step-father is Louis Jackson.
2 Do any of you know them?

3 Yes, ma'am.

4 JUROR JOYCE BOUNDS: I know Shirley.

5 MR. EVANS: And your number, please.

6 JUROR JOYCE BOUNDS: Eighty-one.

7 THE COURT: When you are responding to
8 questions asked by the attorneys, you are going to need
9 to stand just like you did when you responded to the
10 Court's questions.

11 MR. EVANS: All right. Miss Bounds, I believe
12 you've already, in answering some of the Court's
13 questions, said you didn't feel you could be fair and
14 impartial in this case; is that correct?

15 JUROR JOYCE BOUNDS: Yes, sir.

16 THE COURT: Would this be another reason that
17 you feel you couldn't be fair and impartial?

18 JUROR JOYCE BOUNDS: Yes.

19 MR. EVANS: Okay. Thank you, ma'am.
20 Anyone else?

21 Yes, ma'am. Number 72. And who do you know?

22 JUROR SUSIE JOURNIGAN: Miss Jackson. Mother.

23 MR. EVANS: Would this be from business also,
24 like you knew him?

25 JUROR SUSIE JOURNIGAN: Yes.

26 MR. EVANS: Thank you, ma'am.

27 Anyone else?

28 Before I even get to the death penalty issue, there
29 is a question -- I can't remember if the judge asked this

1 or not. He usually does. And we know that everybody has
2 their own beliefs, whether it be personal beliefs or
3 religious beliefs. Nobody is questioning anybody else's
4 beliefs. But there are certain beliefs that make it
5 difficult for someone to sit as a juror.

6 One of those beliefs is the belief that you should
7 not sit in judgement of someone else. It's fine for a
8 person to have that belief. But if that person were
9 picked on the jury -- and basically, once we have put on
10 all the proof and the jury went back in this room right
11 over here to deliberate, they would have to throw up
12 their hands and say I'm sorry, I just don't think I have
13 the right to judge anyone else or I can't judge anyone
14 else. And we would have wasted the entire trial. So if
15 there is anyone here that feels that they should not
16 judge another person, please, let us know at this point.

17 Okay. And just start on the front first.

18 You are number 7. Miss Foxx, you feel you just
19 could not judge anyone else.

20 JUROR SYREETA FOXX: Right.

21 MR. EVANS: Okay. Thank you, ma'am.

22 Number 36. Miss Harrison, you just feel that you
23 could not judge anyone else.

24 JUROR CRISTIN HARRISON: No, sir.

25 MR. EVANS: And let me back up just a minute.

26 Miss Foxx, let me just ask you one further question.
27 Would that fact that you could not judge anyone else keep
28 you from being able to make any decision in any single
29 case?

1 JUROR SYREETA FOXX: Correct.

2 MR. EVANS: Thank, you, ma'am.

3 Miss Harrison, the same to you. Would that keep you
4 from being able to sit in judgement on any other case?

5 JUROR CRISTIN HARRISON: Yes, sir.

6 MR. EVANS: Thank you, ma'am.

7 Number 3. Mr. Crawford, do you feel that you could
8 not sit in judgement of anyone else?

9 JUROR RODELL CRAWFORD: No, sir.

10 MR. EVANS: On any type of case.

11 JUROR RODELL CRAWFORD: No, sir.

12 MR. EVANS: That would keep you from being a
13 fair and impartial juror because you can't judge anyone.

14 JUROR RODELL CRAWFORD: Yeah.

15 MR. EVANS: Thank you, sir.

16 Number 21. Mr. Smith, you also feel that you could
17 not sit in judgement of anyone.

18 JUROR ARCHIE SMITH: Yes, sir.

19 MR. EVANS: And would that be on any type of
20 case?

21 JUROR ARCHIE SMITH: Any type of case.

22 MR. EVANS: Thank you, sir.

23 Okay. Number 35, I believe you are next. Miss
24 McGee, you are telling us you could not sit in judgement
25 on anyone.

26 JUROR BILLIE MCGEE: Yes, sir.

27 MR. EVANS: Thank you, ma'am.

28 Number 40. Mr. Wilson, you also are telling us you
29 could not sit in judgement of anyone.

1 JUROR JAMES WILSON: Right.

2 MR. EVANS: That is regardless of what the case
3 was.

4 JUROR JAMES WILSON: (Nodded.)

5 MR. EVANS: Thank you, sir.

6 Number 49. Miss Swims, are you telling us also that
7 you could not sit in judgment of anyone regardless of the
8 penalty or what the crime was?

9 JUROR MAMIE SWIMS: If it related to the death
10 penalty, no I would not.

11 MR. EVANS: Okay. Yours is just as related to
12 the death penalty.

13 JUROR MAMIE SWIMS: Correct.

14 MR. EVANS: Okay. I'll get back on that issue
15 in just a minute. But as far as just a regular case, you
16 could sit in judgment.

17 JUROR MAMIE SWIMS: Yes.

18 MR. EVANS: Okay. Thank you.

19 JUROR MARIA ALICEA: Same as hers with the
20 death penalty.

21 MR. EVANS: This is just in general, on any
22 type of case right now. I will get back to the death
23 penalty part in just a minute.

24 JUROR WILLOLA HOLMAN: The same when it comes
25 to deciding whether someone lives or dies.

26 MR. EVANS: As far as just a general case, you
27 could sit in judgment as long as the death penalty was
28 not an issue. Thank you, ma'am.

29 Yes, ma'am.

1 JUROR TABATHA HUBBARD: Same.

2 MR. EVANS: Of the ones of you standing, are
3 y'all's responses only on the death penalty or on any
4 type of case?

5 JUROR ROBERT PARKER, JR.: Any type of case.

6 MR. EVANS: Any type of case. All right. Your
7 number is number 95. Mr. Parker, you could not sit in
8 judgment of anyone regardless of the type of case or the
9 sentence.

10 Yes, sir. Your number?

11 JUROR MICHAEL REDDITT: Fifty-six.

12 MR. CARTER: What did he say - 56?

13 MR. EVANS: Fifty-six.

14 Okay. Mr. Redditt, are you telling us you could not
15 sit in judgement of anyone regardless of the crime or
16 penalty?

17 JUROR MICHAEL REDDITT: That's right.

18 MR. EVANS: Thank you, sir.

19 And number 91. Mr. Chairs, are you telling us you
20 could not sit in judgement of anyone regardless of the
21 crime or the penalty?

22 JUROR GILBERT CHAIRS: Right.

23 MR. EVANS: Thank you, sir.

24 MR. CARTER: For clarity, Your Honor, I think
25 we need to make sure that the other ones who said they
26 could not sit in judgment before they knew they were
27 talking about the death penalty. We need to make sure
28 that they meant just to the death penalty or sit in
29 judgement period.

1 MR. EVANS: I specifically asked them the
2 question. If he wants to go back over it, that is his
3 option.

4 Before I go on to any other issues, I want to go
5 into the death penalty issue at this point. And this is
6 something else that everybody is entitled to their own
7 belief. But by law, in this state this is the type of
8 crime the death penalty can be given in. And this is the
9 type of case that we are going to be asking you to give
10 the death penalty when we get through.

11 I know a lot of y'all have already answered the
12 judge's question. I am going to go back and maybe just
13 ask one or two more questions. But at this point before
14 I get into that, is there anyone that did not answer the
15 judge's question that just does not believe in the death
16 penalty and could not consider the death penalty? Does
17 anyone other than the ones that answered the judge's
18 questions?

19 Number 3. Mr. Crawford, and you do not believe in
20 the death penalty.

21 JUROR RODELL CRAWFORD: (Shook head.)

22 MR. EVANS: Are you telling us that even, even
23 if the law authorized it and even if after hearing the
24 facts, the facts of the case justified the death penalty,
25 that you could not personally consider it as a
26 possibility?

27 JUROR RODELL CRAWFORD: No, sir.

28 MR. EVANS: Thank you, sir.

29 THE COURT: You've ~~got another hand~~ too. If

1 you will, stand, please.

2 MR. EVANS: Number 22. Mr. Mack, I believe you
3 answered that to the judge's questions, didn't you?

4 JUROR P.M. MACK: Yes.

5 MR. EVANS: Okay. Thank you, sir.

6 And number 58. I believe you did too, Miss Brexton.

7 JUROR OPHELIA BREXTON: Right.

8 MR. EVANS: I will get back with y'all in just
9 a minute. Right now I was trying to see if there was
10 anyone that had not already responded to that question.

11 Thank you, Mr. Crawford.

12 I want to try -- if I miss anybody, y'all let me
13 know. I am trying to keep up with everybody that
14 answered that question. I may not have gotten everyone.

15 Number five.

16 JUROR NADINE COLEMAN: Yes, sir.

17 MR. EVANS: Now, if I understand right - I want
18 to make sure I do - you are against the death penalty.

19 JUROR NADINE COLEMAN: Yes, sir.

20 MR. EVANS: Are you telling us that you could
21 not personally vote for the death penalty even if the
22 law -- if the judge told you the law authorized it and
23 even if after hearing the testimony in this case the
24 facts justified it, you, yourself, could not consider the
25 death penalty?

26 JUROR NADINE COLEMAN: Right.

27 MR. EVANS: Okay. Thank you, ma'am.

28 Miss Foxx, number 7, basically the same questions.
29 I know this is a lot of repetition but it is necessary

1 that we go back through this. Are you also telling us
2 that on no case because of your beliefs that you could
3 consider the death penalty regardless of what the law is
4 or what the facts are in this case?

5 JUROR SYRETTA FOXX: No, I could not.

6 MR. EVANS: Thank you, ma'am.

7 Number 12. I'm sorry. It's hard to keep up with
8 y'all the way the numbers are. Are you also telling us
9 that your beliefs against the death penalty are such that
10 you personally could not consider it in any case,
11 regardless of what the law was or regardless of what the
12 facts were?

13 JUROR DONNA DEBLOIS: (Shook head.)

14 MR. EVANS: If you would, answer because the
15 court reporter has to take it down.

16 JUROR DONNA DEBLOIS: Yes.

17 MR. EVANS: Thank you, ma'am.

18 If y'all would, when we go through them, please
19 stand, because the court reporter has got to take down
20 not only what I say but what y'all say too.

21 The next one that I'm showing is number 15. Miss
22 Willis, are you also telling us that your beliefs are
23 such against the death penalty that you could not impose
24 the death penalty or even consider it regardless of the
25 facts of the case?

26 JUROR LOVIE WILLIS: (Nodded.)

27 MR. EVANS: Thank you, ma'am.

28 Number 16. Mr. Tillman, are you also telling us
29 that your beliefs against the death penalty are so strong

1 that you could not consider it even as a possible option
2 regardless of the law or the facts of the case?

3 JUROR CINTRON TILLMAN: Right.

4 MR. EVANS: Thank you, sir.

5 Number 18. Miss Williams, again, I'm assuming you
6 are against the death penalty, because of what you said.

7 JUROR DIANNA WILLIAMS: Yes, sir.

8 MR. EVANS: Are your beliefs such that you
9 could not personally consider it as a option regardless
10 of what the law was or what the facts of the case are?

11 JUROR DIANNA WILLIAMS: Yes, sir.

12 MR. EVANS: Thank you, ma'am.

13 Number 21. Mr. Smith. Mr. Smith, are your beliefs
14 against the death penalty such that you could not
15 consider it as an option regardless of what the judge
16 told you the law was and what the facts of the case were?

17 JUROR ARCHIE SMITH: (Nodded.)

18 MR. EVANS: Thank you, sir.

19 Mr. Mack, I will get back to you now. Also, are you
20 telling us that your beliefs against the death penalty
21 are such that regardless of the case, no matter what the
22 law was or the facts of the case that you could not
23 consider the death penalty as an option?

24 JUROR P.M. MACK: Yes, sir.

25 MR. EVANS: Thank you, sir.

26 Number 23. Mr. James, your beliefs against the
27 death penalty, are they such that you could not consider
28 the death penalty as an option regardless of what the
29 ~~facts~~ were?

1 JUROR MANUEL JAMES, JR.: No, I couldn't.

2 MR. EVANS: Okay. Twenty-five. Mr. Allen,
3 yours -- are your beliefs such that you could not
4 consider the death penalty as a possible option
5 regardless of the law or the facts of the case?

6 JUROR JESSIE ALLEN: No, I couldn't.

7 MR. EVANS: Thank you, sir.

8 Number 32. Mr. Harris, are your beliefs against the
9 death penalty such that you could not consider it as a
10 possible option regardless of what the judge told you the
11 law was and regardless of what the facts of the case
12 were?

13 JUROR CECIL HARRIS: Yes, sir.

14 MR. EVANS: Thank you, sir.

15 Number 33. Mr. Andrews, are your beliefs such
16 against the death penalty that you could not consider it
17 as a possible option regardless of what the judge told
18 you the law was and regardless of what the facts were?

19 JUROR ELVIE ANDREWS: I couldn't. No, sir.

20 MR. EVANS: Thank you, sir.

21 Number 35. Miss McGee, are your beliefs against the
22 death penalty such that you could not consider it as a
23 possible option regardless of what the judge told you the
24 law was and regardless of what the facts were?

25 JUROR BILLIE MCGEE: Yes, sir.

26 MR. EVANS: Okay. Number 39. Mr. Chamberlain.
27 Mr. Chamberlain, are your beliefs against the death
28 penalty such that you could not consider it in any case
29 regardless of what the law was or regardless of what the

1 facts were?

2 JUROR JOHN CHAMBERLAIN: That's correct.

3 MR. EVANS: Thank you, sir.

4 Number 40. Mr. Wilson, are your beliefs such
5 against the death penalty that you could not consider it
6 as an option in any case regardless of what the law was
7 or regardless of what the facts were?

8 JUROR JAMES WILSON: Yes, sir.

9 MR. EVANS: Thank you, sir.

10 Number 45. Miss Wesley, are your beliefs such
11 against the death penalty that you could not consider it
12 in any case regardless of what the law was or the facts
13 were?

14 JUROR DORA WESLEY: Correct.

15 MR. EVANS: Thank you.

16 Number 49. Miss Swims, are your beliefs against the
17 death penalty such that you also could not consider it in
18 any case regardless of what the law was or what the facts
19 of the case were?

20 JUROR MAMIE SWIMS: That's right.

21 MR. EVANS: Thank you, ma'am.

22 Number 50. Are your beliefs against the death
23 penalty such that you could not consider it in any case
24 regardless of what the law was or what the facts of that
25 particular case were?

26 JUROR MARIA ALICEA: Yes, sir.

27 MR. EVANS: Thank you.

28 Number 52. Miss Holman.

29 JUROR WILLOLA HOLMAN: Yes, sir.

1 MR. EVANS: Your beliefs are such that you
2 could not consider it in any case regardless of what the
3 law was or what the facts of the case were.

4 JUROR WILLOLA HOLMAN: Yes, sir.

5 MR. EVANS: Thank you, ma'am.

6 Fifty-three. Ms. Hubbard, are your beliefs against
7 the death penalty such that you also could not consider
8 it in any case, regardless what the law was or what the
9 facts of the case were?

10 JUROR TABATHA HUBBARD: Yes, sir.

11 MR. EVANS: Thank you.

12 Fifty-five. Miss House, are your beliefs such
13 against the death penalty that you could not consider it
14 in any case regardless of what the law was or what the
15 facts of the case were?

16 JUROR STACEY HOUSE: Yes, sir.

17 MR. EVANS: Thank you.

18 Mr. Redditt, number 56, are your beliefs against the
19 death penalty such that you could not consider it in any
20 case, regardless of what the law was or what the facts of
21 the case were?

22 JUROR MICHAEL REDDITT: Yes, sir.

23 MR. EVANS: Thank you.

24 Number 58, Miss Brexton, are your beliefs against
25 the death penalty such that you could not consider it in
26 any case regardless of what the law was or what the facts
27 were?

28 JUROR OPHELIA BREXTON: That's right.

29 MR. EVANS: Thank you, ~~ma'am~~.

1 Number 62. Mr. Kincaide, are your beliefs against
2 the death penalty such that you also could not consider
3 it in any case regardless of what the law was or what the
4 facts of the case were?

5 JUROR JIMMY KINCAIDE: Correct.

6 MR. EVANS: Thank you, sir.

7 Number 66. Mr. Pryor, are your beliefs against the
8 death penalty such that you could not consider it in any
9 case regardless of what the law was or what the facts of
10 the case were?

11 JUROR HENRY PRYOR, JR.: Yes, sir.

12 MR. EVANS: Thank you, sir.

13 Number 68. Miss Hammond, are your beliefs against
14 the death penalty such that you could not consider it in
15 any case regardless of what the law was or what the facts
16 of the case were?

17 JUROR GERTHY HAMMOND: Yes, sir.

18 MR. EVANS: Number 72. Miss Journigan, are
19 your beliefs against the death penalty such that you also
20 could not impose it in any case regardless of what the
21 law was or what the facts of the case were?

22 JUROR SUSIE JOURNIGAN: That's right.

23 MR. EVANS: Thank you, ma'am.

24 Number 75. Miss Hubbard, are your beliefs against
25 the death penalty such that you could not consider it in
26 any case regardless of what the law was or what the facts
27 were?

28 JUROR THELMA HUBBARD: That's correct.

29 MR. EVANS: Number 76. Miss Dunn, are your

1 beliefs against the death penalty such that you could not
2 consider it in any case, regardless of what the law was
3 or what the facts were?

4 JUROR BETTY DUNN: That's correct.

5 MR. EVANS: Thank you.

6 Number 78. Where is number 78? I'm sorry.

7 JUROR NATHALIE TRAMEL: I'm 78.

8 MR. EVANS: Miss Tramel, are your beliefs such
9 against the death penalty --

10 JUROR NATHALIE TRAMEL: I did not indicate
11 that. No, sir.

12 MR. EVANS: You didn't. I must have written
13 yours down wrong. That is one reason I'm going back
14 through this.

15 JUROR NATHALIE TRAMEL: Okay. Thank you.

16 MR. EVANS: It's easy to write the wrong one
17 down.

18 Miss Bounds, number 81, are your beliefs against the
19 death penalty such that you could not consider it as an
20 option regardless of what the law was or what the facts
21 of the case were?

22 JUROR JOYCE BOUNDS: That's correct.

23 MR. EVANS: Thank you, ma'am.

24 Miss Hubbard, number 86, are your beliefs against
25 the death penalty such that you could not consider it as
26 an option regardless of what the law was or the facts of
27 the case were?

28 JUROR GLADYS HUBBARD: Yes, sir.

29 MR. EVANS: Thank you, ma'am.

1 Number 91. Mr. Chairs, is your belief against the
2 death penalty such that you couldn't consider it in any
3 case regardless of what the law was or the facts of the
4 case were?

5 JUROR GILBERT CHAIRS: Yes, sir.

6 MR. EVANS: Thank you, sir.

7 Miss Whitfield, number 92, did you answer that
8 question?

9 JUROR ROBIN WHITFIELD: No, sir. I did not.

10 MR. EVANS: And Mr. Parker, number 95, are your
11 beliefs such against the death penalty that you could not
12 consider it in any case regardless of what the law was or
13 the facts were?

14 JUROR ROBERT PARKER, JR.: Yes, sir.

15 MR. EVANS: Thank you, sir.

16 All right. Is there anyone that I missed?

17 All right. If y'all would, stand, please. All
18 right.

19 Number 24. Miss Kelly, are your beliefs such that
20 you could not consider it as an option regardless of what
21 the law was or the facts of the case were?

22 JUROR TONYA KELLY: That's correct.

23 MR. EVANS: And number 36.

24 JUROR CRISTIN HARRISON: Well, it's kind of
25 contradicting. It's not that I don't believe in the
26 death penalty, but I don't want to be responsible for
27 that when it comes to someone else's life.

28 MR. EVANS: You personally could not consider
29 it as ~~an option~~. Is that what you are saying?

1 JUROR CRISTIN HARRISON: Correct.

2 MR. EVANS: Anyone else that I missed?

3 Now, the judge briefly went into the burden of
4 proof. I will go into that. But also, before I even get
5 into that I want to cover something called a presumption
6 of innocence. The State of Mississippi, which is us, has
7 the obligation to prove this defendant or any defendant
8 guilty to a jury.

9 We have to do that by what is called beyond a
10 reasonable doubt. We can't sit up here and explain to
11 you what is reasonable and what is not. That is up to
12 the jury to determine what's reasonable. But it's the
13 same burden of proof in any case, whether it be a larceny
14 case, robbery case, a murder case, death penalty.

15 Because this is a case that the penalty can carry
16 the penalty of death, is there anyone here that would
17 hold us to a higher burden of proof than what the law
18 requires just because of the possible penalty? Anyone at
19 all?

20 Now, before we even get to that, on the presumption
21 of innocence, because we have to prove any defendant
22 guilty. If you were asked to vote right now on guilt or
23 innocence of this defendant, under your oath you would
24 have to vote not guilty. The reason for that is we
25 haven't put on any proof. So you have nothing to base
26 your decision on. Could each of you tell us at this
27 point that at this point in the trial you could follow
28 the law and give them the presumption of innocence?
29 Anyone ~~that~~ could not, please let us know.

1 All right. And just the opposite of that, once we
2 have proven to you beyond a reasonable doubt that he is
3 guilty, that presumption of innocence disappears and it's
4 not there to protect him anymore. Will each of you tell
5 us that once we have proven this case beyond a reasonable
6 doubt, that that will be all that you require? Anyone
7 that could not do that please let us know.

8 In any case where there is more than one person
9 charged, the judge will instruct the jury on what action
10 and conduct is. I'm not going to go into the entire
11 instructions but basically what we would expect the Court
12 to tell is where you have two or more people working
13 together and both of them are present during the crime,
14 each are fully responsible for the acts of the other. So
15 it doesn't matter whether this --

16 MR. CARTER: Your Honor, I object to that. He
17 is arguing the facts of the case.

18 MR. EVANS: Not yet.

19 THE COURT: Overrule the objection.

20 MR. EVANS: Thank you, Your Honor.

21 Each defendant is held to be responsible for what
22 the other does. Will each of you tell us that you will
23 follow the Court's instructions and that you will do what
24 the judge tells you on acting in concert? Anyone here
25 that would not?

26 Capital murder trial - and the judge briefly
27 mentioned this, but I want to go a little bit deeper in
28 it - is divided into two parts. Just as at this point in
29 a trial this defendant is presumed to be innocent, you

1 also are not to make any determination at this point as
2 to what penalty is appropriate. I think the Court will
3 instruct you, you can't do that.

4 So at this point, if you are picked as a juror, all
5 that you will be looking for in the first phase is did
6 they meet their burden of proof. Is this defendant
7 guilty? You will not -- when you go out to vote on the
8 first part, you are not to even discuss what the penalty
9 is or what the penalty could be. Do each of you
10 understand that? So the 12 of you that are picked as a
11 jury, when you go out to deliberate it will be only on
12 one issue. Did he commit the crime?

13 If you come back in with a verdict of guilty, then
14 the Court will tell you that we will go into a second
15 part. And in that part the State may put on certain
16 evidence. The defense may put on certain evidence. And
17 after hearing that evidence, then the jury will determine
18 what penalty is appropriate.

19 Can each of you tell us that you will listen to what
20 the judge tells and not make any determination of what
21 penalty is appropriate until you have heard the second
22 phase? Is there anyone here that cannot do that?

23 In any criminal case the judge is the one that
24 determines what law is appropriate. At the end of the
25 trial, as he has already done, he has already told you a
26 lot of things that the law is in this case and what is
27 required. At the end of case, he will read you
28 instructions on what the law is. You are obligated to
29 follow his instructions. But that is only on the law.

1 The jury determines what weight and credibility to
2 give witnesses. The jury determines who they can
3 believe, who they don't believe. And makes the decisions
4 of fact. So basically, it will be your obligation to
5 listen to all the evidence, look at the evidence that
6 comes before you and make a decision of guilt or
7 innocence.

8 And I guess where that comes into play is in a
9 couple of ways. But one, in this case you may hear
10 conflicting evidence. Is there anyone here that says
11 well, if this doesn't come out -- if there's a little
12 contradictory in here, something like that, I can't weigh
13 it? I can't think about it. Can each of you tell us
14 that you can listen to the evidence and make a
15 determination of who you can believe based on the
16 evidence and the facts? Can each of you do that?

17 Also, and I've kind of gone through this with people
18 you know. There may be people that testify that some of
19 you know. And basically, what the Court is telling you
20 is that you have to weigh their testimony the same as
21 anybody's. That doesn't mean that you disregard it or
22 things like that. It just means that you listen to all
23 the testimony. And after you have heard all the
24 testimony you, as the jurors, decide how much weight and
25 credibility each witness's testimony is due. Can each of
26 you do that?

27 And in follow-up to that question, we expect some
28 witnesses in this case -- and I just want to make sure
29 that you don't disregard their testimony. We expect

1 there to be some people involved that may have been
2 involved in the planning. We expect that they will
3 testify for the State. Will each of you tell us that you
4 will listen to their testimony and give it what weight
5 and credibility it deserves after listening to all the
6 testimony and all the witnesses?

7 We also expect there may be some individuals that
8 were in jail that are going to come in and testify about
9 things that this defendant told them. Is there anybody
10 here that would say well, they are in jail. They are not
11 going to believe anything they say. Or would you also
12 listen to their evidence and give it what weight it
13 deserves after you hear all the testimony?

14 One area that I normally don't even cover but since
15 the judge mentioned it I am going to make this comment.
16 Race has absolutely no place in the courtroom. I want
17 each of you to assure me that it will not have any place
18 in here. Is there anybody in this courtroom that would
19 let race interfere with their decision one way or the
20 other in a criminal case? If there is, please let us
21 know.

22 If y'all will, give me just a second.

23 Okay. Number 43. Miss Tidwell. Miss Tidwell, are
24 you related to David Tidwell?

25 JUROR PATRICIA TIDWELL: That's my cousin.

26 MR. EVANS: Your cousin. Okay. Thank you,
27 ma'am.

28 Kind of a follow-up question. Like the judge asked,
29 a lot of you have given a lot of different reasons for

1 possibly not being able to sit on this case. But other
2 than the reasons that y'all have given, is there anyone
3 here that knows of any reason that they could not be fair
4 and impartial to both sides, listen to the evidence and
5 base the decision on the evidence in the case?

6 Your Honor, I tender the panel.

7 THE COURT: Mr. Carter or Mr. Baum, whichever.

8 MR. CARTER: My name is Ray Carter. Along with
9 Ray Baum, we represent Terry Pitchford. I'm a defense
10 lawyer. I'm just the opposite of Mr. Evans, who is
11 prosecutor.

12 Mr. Evans and I make our system work. The system
13 couldn't work without Mr. Evans, and it couldn't work
14 without me. So you might see us going at it and fighting
15 hard and taking a different position. That is what we
16 are supposed to do. It doesn't mean that we are enemies,
17 that we hate each other. I can assure you that we don't.
18 Even if it looks like it, we don't. We are doing our
19 jobs.

20 Now, people like certain things and don't like
21 certain things. For instance, I don't like snakes. And
22 you can tell me it's a pet snake or good snake. You can
23 tell me the snake is at the zoo giving away money today,
24 and I still wouldn't like a snake. And because I don't
25 like them, it wouldn't be fair for me to sit in judgement
26 of snakes, because I'm not sure if I could be fair to
27 snakes.

28 If I saw one coming in this courtroom right now, the
29 first thing I would do is go in the opposite direction.

1 I just don't like them. Might even have to kill it if I
2 can get something to hit it with. That is how I feel
3 about snakes. I am not saying anybody else should feel
4 that way. That is just how a person feels. So can you
5 assure me that you have no bias in favor of Mr. Doug
6 Evans or his side or any bias against my side since I'm a
7 defense lawyer. I take that to mean that you can treat
8 both of us fairly. Is that fair to say?

9 Now, I want y'all to understand that all the
10 evidence comes from the witness stand. And can you
11 promise me that you will make a decision based on the
12 evidence you hear from the witness stand and not what you
13 heard in the community or what you hear me say
14 necessarily or what you hear Mr. Evans say? I'm asking
15 you will you base your decision on the evidence that
16 comes from the witness stand, which is what you are
17 supposed to do. Would anybody have a problem with that?

18 There is always a lot of confusion about cases and,
19 and what lawyers do. We get a chance to go to law
20 school. And I don't want you to think for a minute that
21 because we go to law school we are not confused too
22 because we are confused about some things too. I know
23 that you have to confused about some things because you
24 even haven't had the training that we have had.

25 Now, you heard us talking about this possibly could
26 be a death penalty case. Now, I want you to understand
27 that we are not conceding that Mr. Pitchford is guilty.
28 I want you to understand that. I don't want you to think
29 that we are sitting here saying that Mr. Pitchford is

1 guilty and that the only issue is whether you can kill
2 this man or not.

3 MR. EVANS: Your Honor, I object to that. That
4 is not a proper comment.

5 MR. CARTER: A follow-up will clarify it.

6 MR. EVANS: I object to it.

7 THE COURT: I sustain. The jury is not being
8 asked to kill him. They will just be asked to possibly
9 impose the death penalty. So I will sustain the
10 objection as to the way the question was phrased.

11 MR. CARTER: Yes, sir.

12 So you heard this question being asked of whether
13 you could consider the death penalty. Now, what does
14 consider mean? Now, consider doesn't mean that you vote
15 for the death penalty. There are two options. Do you
16 understand there are two options - the death penalty and
17 there is life without possibility of parole? And the
18 State of Mississippi can't tell you -- they are not
19 trying to tell you how to vote.

20 So the question is not whether you can just consider
21 the death penalty, but can you consider the death penalty
22 and can you consider life without possibility of parole
23 equally? Can you consider both options? You are not
24 being asked just to consider whether you vote for death
25 or not. You are supposed to consider both options. And
26 based on the evidence that you hear from the witness
27 stand, then you decide how you vote. Do you understand
28 that?

29 And with that being the case, knowing that you don't

1 have to vote for death, that nobody can make you vote for
2 death, that it's your decision and your decision alone
3 after hearing the testimony. Now, no one has told you
4 yet how you decide, whether to vote for life or death.

5 There is something, ladies and gentlemen, called
6 aggravation and mitigation. The prosecutor will put on
7 what is called aggravation. And this will have to be
8 done before you make any decision about how to vote.

9 Now, I know you couldn't possible understand but I
10 am trying to make you understand. And when Mr. Evans put
11 on what is called aggravation, which is the reason he
12 believes that the death penalty should be considered or
13 voted for, we attempt to put on what is called
14 mitigation. I get a chance to tell you why you should
15 vote for life versus death.

16 In the first phase, as the judge told you, you
17 decide guilt or innocence. If you decide that, we go to
18 the second phase where you decide, again, life or death
19 based on how you feel about aggravation that they put on,
20 based on how you feel about mitigation we put on.

21 Now, a lot of you said you could never consider the
22 death penalty.

23 Now, number 3, Mr. Crawford, you said you couldn't
24 sit in judgment of others. And I'm trying to be clear.
25 Were you thinking about -- were you telling us that you
26 could not -- were you saying you could not vote for the
27 death penalty? Is that what you were saying? Or were
28 you saying you could not sit in judgement of anybody for
29 any reason?

1 JUROR RODELL CRAWFORD: Yeah, I can judge
2 somebody. Not for the death penalty.

3 MR. CARTER: Let me ask you this. Now, you
4 could sit on this trial and you could decide whether a
5 person was guilty or innocent; is that correct?

6 JUROR RODELL CRAWFORD: I can do that.

7 MR. CARTER: You sit on the jury, and you
8 decided that. Then we went to the second phase, and you
9 heard, again, what is called mitigation, the reasons I
10 would put forth why the person should live. Aggravation,
11 reasons Mr. Evans would put forth as to why he think the
12 person should be killed.

13 Could you listen to both sides then decide whether
14 you wanted to vote for life or death? With it being your
15 decision, you are not being told to vote for death or
16 life. You have both options. It would be left up to
17 you. Could you, in fact, sit and make that decision?

18 JUROR RODELL CRAWFORD: I believe I could.

19 MR. CARTER: Could you consider both, not could
20 you vote for one? Could you consider, think about both
21 and make a decision as to which one you wanted to vote
22 for?

23 JUROR RODELL CRAWFORD: I could make that
24 decision.

25 MR. EVANS: Your Honor, he is not asking the
26 legal question. I would ask that it be asked in a way
27 that the Supreme Court has said it needs to be asked.

28 MR. CARTER: I asked him, Your Honor, if he
29 could consider both options. I don't know what else Mr.

1 Evans want me to ask him.

2 MR. EVANS: I think you know what the Court
3 says.

4 MR. CARTER: Could you consider both options
5 equally, life or death, and then decide which one you
6 wanted to vote for, with it being your decision and
7 nobody else's decision but your decision?

8 JUROR RODELL CRAWFORD: Yeah. Yeah.

9 MR. CARTER: Okay. Number 5. Miss Coleman,
10 understanding now that you didn't have to vote for death,
11 no one can make you vote for death.

12 MR. EVANS: Your Honor, I object. He is not
13 asking the question as the Supreme Court has said it
14 should be asked. And I would ask that it be asked in the
15 proper form.

16 MR. CARTER: I am asking it in the proper form,
17 Your Honor. I am not asking it to Mr. Evan's liking
18 but --

19 MR. EVANS: No, it's --

20 THE COURT: I don't want you arguing with each
21 other.

22 MR. EVANS: We would just ask it be asked in
23 the form the Supreme Court has approved it in.

24 MR. CARTER: I don't know what he is talking
25 about, Your Honor.

26 THE COURT: You can proceed. Overruled.

27 MR. CARTER: Miss Coleman, I am trying to be
28 clear. I am trying to make sure you understand. I hope
29 I'm not confusing you. If I am, let me know. My

1 question -- a few minutes ago it was asked could you
2 consider the death penalty. I want to make sure you are
3 not confused by that. Can you consider the death penalty
4 doesn't mean you have to vote for the death penalty.
5 What I want to know -- and all consider means is that you
6 could consider that, the death penalty as well as a life
7 without possibility of parole sentence and decide between
8 those two, which one you thought was appropriate after
9 hearing the evidence.

10 JUROR NADINE COLEMAN: Yes.

11 MR. CARTER: Could you do that?

12 JUROR NADINE COLEMAN: Yes.

13 MR. CARTER: Number 7. Miss Foxx, could you --
14 understanding that no one can tell you what to vote for
15 or which way to vote, that it's your decision, could you
16 after hearing the evidence from Mr. Evans and from me,
17 consider both options, life without possibility of parole
18 or death? Not that you have to vote for either, could
19 you consider both options and then vote according to your
20 conscience?

21 JUROR SYRETTA FOXX: No.

22 MR. CARTER: You couldn't do that.

23 JUROR SYRETTA FOXX: I couldn't consider death
24 and I wouldn't decide -- I wouldn't go for life. I
25 wouldn't judge on that.

26 MR. CARTER: Okay. You can't judge. Okay.
27 There is no right and wrong answer. I just want an
28 honest answer. Okay. Thank you.

29 Mr. -- I'm sorry. Miss Deblois, now, I'm trying to

1 make sure that you understand this question and hopefully
2 I made myself clear. Could you -- knowing that you never
3 have to vote any particular way, you never have to vote
4 for death, it's up to you, could you, after hearing the
5 evidence from both sides, aggravation and mitigation,
6 decide according to your own conscience and consider both
7 the life without possibility of parole and death option?

8 JUROR DONNA DEBLOIS: The only way I know how
9 to answer that is I could consider life without parole.
10 I believe in punishment. I don't want to be responsible
11 for causing someone's life.

12 MR. CARTER: I can understand you don't want to
13 be responsible. Are you saying you couldn't do it or you
14 could do it or it would make you uncomfortable?

15 JUROR DONNA DEBLOIS: I can't consider death,
16 but I believe they need to be punished.

17 MR. CARTER: Okay. Thank you.

18 Number 15. Miss Willis, after having given some
19 kind of explanation, hopefully some clarification, are
20 you saying that even though you are not being forced to
21 vote for either option and nobody can force you to vote
22 for either option, that you never have to vote for death
23 if you don't want to, could you sit on this case and
24 listen to the evidence from both sides and consider
25 either life or death --

26 JUROR LOVIE WILLIS: I could.

27 MR. CARTER: -- as a punishment?

28 JUROR LOVIE WILLIS: I could. Yes.

29 MR. CARTER: Mr. Tillman, now that there has

1 been some explanation, and understand that nobody can
2 tell you how to vote. Nobody can force you to vote
3 either way. It's your decision. Could you sit on this
4 jury or any jury and consider both options, life or
5 death, based on the evidence presented to both sides?

6 JUROR CINTRON TILLMAN: No, I couldn't.

7 MR. CARTER: You couldn't consider death.

8 JUROR CINTRON TILLMAN: (Shook head.)

9 MR. CARTER: Okay. Thank you.

10 Miss Williams, I hope I've clarified this a little.
11 But same question. Understanding that it's your decision
12 how you vote, nobody can make you vote either way, that
13 you can vote for life without possibility of parole or
14 death, understanding that, could you sit on the jury or
15 any jury and hear the evidence from both sides and vote
16 and consider either life or death?

17 JUROR DIANNA WILLIAMS: No, I couldn't.

18 MR. CARTER: Okay. Thank you.

19 Mr. Smith, understand this is your decision and
20 your's alone. Nobody can tell you how to vote. Could
21 you under those circumstances sit on this jury or any
22 jury with both options, life or death, and vote according
23 to your own conscience and consider both options?

24 JUROR ARCHIE SMITH: Could not.

25 MR. CARTER: I'm not sure if it's Mr. Mack or
26 Mrs. Mack. Mr. Mack, I want to make sure. It is real
27 important that you understand this. Knowing that you
28 don't have to vote either way. You can vote either way
29 you want to. Nobody can tell you how to vote. With that

1 being the case and understand that you never have to vote
2 for death if you don't want to, would you consider both
3 options, life without possibility of parole or death?

4 JUROR P.M. MACK: I can't consider death.

5 MR. CARTER: Okay. Thank you.

6 Mr. James, understanding now that you -- it's up to
7 you to vote your conscience. That is all you are being
8 asked to do. And understand nobody can make you vote for
9 death, or even life, if you don't want to. It is totally
10 up to you. Understanding that, could you sit on this
11 jury or any jury and consider both options?

12 JUROR MANUEL JAMES, JR.: I could consider it
13 but not death. I couldn't consider that.

14 THE COURT: I didn't hear that.

15 JUROR MANUEL JAMES, JR.: I couldn't consider
16 death.

17 THE COURT: Okay. Thank you.

18 MR. CARTER: Miss Kelly, now understanding that
19 you are voting your own conscience, that you have two
20 options, and nobody can tell you how to vote. It is
21 totally up to you. Is it still your position that you
22 couldn't consider both options from the evidence
23 according to both sides?

24 JUROR TONYA KELLY: I can't consider death.

25 MR. CARTER: Jessie Allen. Mr. Allen,
26 understanding that you have two options, it's totally
27 your decision about the case. You are supposed to vote
28 your conscience based on hearing the evidence from both
29 sides. Could you consider both options and vote your

1 conscience and your conscience alone?

2 JUROR JESSIE ALLEN: Still couldn't.

3 MR. CARTER: Couldn't. Thank you.

4 Cecil Harris. Now understanding that no one can
5 tell you how to vote, that you could never be forced to
6 vote for death or life. That it is totally your decision
7 based on your own conscience after hearing the evidence
8 from both sides, can you tell us whether you could
9 actually consider both options and choose the option that
10 suits your conscience?

11 JUROR CECIL HARRIS: I couldn't consider death.

12 MR. CARTER: Couldn't consider death.

13 Is it Mr. Andrews? Mr. Andrews, now realizing that
14 no one can tell you how to vote, it's totally up to you
15 how to vote, that you have two options. Understanding
16 that, can you give both options equal consideration?

17 JUROR ELVIE ANDREWS: No, I couldn't consider
18 death.

19 MR. CARTER: Thank you.

20 Billy McGee. Mr. McGee, understanding that no one
21 can tell you how to vote or force you to vote any
22 particular way, that it's totally up to you based on the
23 evidence that's presented, and that you have to vote your
24 conscience and not anybody else's, could you give both
25 options, life without possibility of parole or death,
26 consideration then decide which way you want to vote?

27 JUROR BILLIE MCGEE: I can't consider death.

28 MR. CARTER: Can't consider death. Thank you.

29 Miss Billie McGee. Billie McGee.

1 JUROR BILLIE MCGEE: That is me.

2 MR. CARTER: I'm sorry.

3 Miss Harrison. Miss Harrison, now understanding
4 that nobody is telling you how you have to vote, that it
5 is totally up to you based on your conscience, your own
6 conscience after hearing evidence from both sides, Mr.
7 Evans and from us, can you tell us whether you could
8 consider both options, then vote your conscience?

9 JUROR CRISTIN HARRISON: I don't feel it is my
10 position to judge him. I don't feel I should be able to
11 judge him in any way even listening to the information
12 given.

13 MR. CARTER: And given the fact you don't feel
14 you could judge, that would make it impossible for you to
15 serve.

16 JUROR CRISTIN HARRISON: I think I would have a
17 hard time with it. I do not believe in the death
18 penalty. As far as anybody else can give the death
19 penalty, but I don't feel that I should do it, if that
20 makes sense.

21 MR. CARTER: Well, it makes sense. But so you
22 are saying you couldn't give both options any
23 consideration or you could?

24 JUROR CRISTIN HARRISON: I really don't think I
25 could.

26 MR. CARTER: Don't think you could.

27 Mr. Chamberlain, now that there has been a little
28 bit of clarification and nobody is telling you you have
29 to vote for death or life without possibility of parole.

1 It is totally up to you based on your conscience after
2 you hear evidence from both sides. Are you saying
3 despite that that you could not consider both options and
4 then vote?

5 JUROR JOHN CHAMBERLAIN: I, I don't think so.

6 MR. CARTER: Mr. Wilson, now understanding that
7 no one is trying to tell you how to vote. Nobody is
8 saying you have to vote for death or that you have to
9 even vote for death and that you have two options, either
10 life or death. Are you still telling us that you
11 couldn't listen to evidence from both sides and then give
12 both options consideration and pick the one you think is
13 appropriate?

14 JUROR JAMES WILSON, JR.: (Shook head.)

15 MR. CARTER: That is no, I assume.

16 JUROR JAMES WILSON, JR.: (Nodded.)

17 MR. CARTER: Thank you.

18 Miss Wesley, let me try to be clear. Realizing that
19 it is your decision how you vote, that you can vote for
20 either life or death, no one can make you choose. And
21 all you are asked to do is vote your conscience after you
22 hear evidence from both sides. Are you telling us that
23 you still could not consider both options?

24 JUROR DORA WESLEY: I can consider it, but I'm
25 against death.

26 MR. CARTER: Okay.

27 JUROR DORA WESLEY: But, you know, if I had to
28 choose one, it would be life.

29 MR. CARTER: Okay. I understand that. I

1 understand life might ordinarily get preference. What
2 I'm trying to find out is could you give both, life
3 option and the death option --

4 JUROR DORA WESLEY: I can consider --

5 MR. CARTER: -- equal consideration?

6 JUROR DORA WESLEY: Um-hum.

7 MR. CARTER: You can give both equal
8 consideration and then choose the one you want.

9 MR. EVANS: Your Honor, again, I object. This
10 is just not following the law.

11 THE COURT: I need quiet. I have an objection.
12 I want to ask a follow-up.

13 Miss Wesley, the question is could you consider the
14 death penalty. Not --

15 JUROR DORA WESLEY: I don't believe in it.

16 THE COURT: Okay. Whether you believe in it or
17 not is not the issue. If you had it before you, the case
18 of whether to -- whether the death penalty was
19 appropriate or not, would you be able to consider
20 imposing the death penalty or would you automatically not
21 even consider that as an option?

22 JUROR DORA WESLEY: Not even consider it.

23 THE COURT: You could not even consider it as
24 an option.

25 JUROR DORA WESLEY: No.

26 THE COURT: Okay. Thank you.

27 MR. CARTER: What number was she?

28 JUROR DORA WESLEY: Forty-five.

29 MR. CARTER: Miss Swims, you've heard the

1 question I've been asking over and over. Could you sit
2 on this jury or any jury and listen to both sides and
3 give both punishment options equal weight? Could you
4 consider both of them and not just consider one or
5 another one? Could you consider both and then decide how
6 you want to vote?

7 JUROR MAMIE SWIMS: I believe with the
8 explanation you have given, I believe I can. I know I
9 can.

10 MR. CARTER: Thank you.

11 Miss Alicea, again, knowing that it's your decision
12 how you vote, no one can tell you how to vote or force
13 you to vote any particular way. And knowing that you
14 have two options, not one option, but two options, could
15 you sit on this jury or any jury and listen to the facts,
16 the evidence from both sides, and then consider, give
17 thought to, both options, life or death, and then choose
18 --

19 JUROR MARIA ALICEA: No.

20 MR. CARTER: -- which one you so wanted to vote
21 for?

22 Miss Holman.

23 JUROR WILLOLA HOLMAN: Yes, sir.

24 MR. CARTER: Again, knowing it's your decision
25 and no one can tell you how to vote, which option to
26 choose, it's totally your decision that you have both
27 options at all times, could you listen to the facts from
28 both sides and give consideration, and I mean some
29 thought to either side without any force from anybody and

1 decide based on the evidence and your conscience of life
2 or death?

3 JUROR WILLOLA HOLMAN: Being honest.

4 MR. CARTER: Yes, ma'am.

5 JUROR WILLOLA HOLMAN: I did not want to be on
6 a murder trial period. So, no. I just don't feel
7 comfortable.

8 MR. CARTER: Don't feel comfortable in sitting
9 in judgement of anyone else.

10 JUROR WILLOLA HOLMAN: We just had that in
11 mission in Sunday School. It just worries you.

12 MR. CARTER: You have religious scruples
13 against sitting in judgment of others.

14 JUROR WILLOLA HOLMAN: When it comes to taking
15 a chance of what is going to happen to a person's life.

16 MR. CARTER: Is it fair to say because you are
17 saying that it's a case where death could be possible --

18 JUROR WILLOLA HOLMAN: Um-hum, I understand.

19 MR. CARTER: -- that you could not consider the
20 life option or the death option?

21 JUROR WILLOLA HOLMAN: I would not want to.
22 No.

23 MR. CARTER: I understand you wouldn't want to.
24 I don't think any of us would want to. I know I wouldn't
25 want to. But if you were in a situation, could you do it
26 despite not wanting to?

27 JUROR WILLOLA HOLMAN: No.

28 MR. CARTER: Okay. Thank you.

29 Okay. Miss Hubbard, understanding ~~this~~ is your

1 decision and your decision alone, that you have two
2 options, that neither I nor Mr. Evans can tell you how to
3 vote. It is totally your decision based on your own
4 conscience and moral values. Could you sit on this jury
5 or any jury and hear evidence from both sides and then
6 give consideration to both options, life without
7 possibility of parole or death?

8 JUROR TABATHA HUBBARD: No, sir.

9 MR. CARTER: Thank you.

10 Miss House, understanding now that you have both
11 options, that it's totally your decision. No one can
12 tell you what to do or force you to do anything, with
13 that being the case and realizing you have two options,
14 not just one, could you sit on a jury where the death
15 penalty is possible and give equal weight and
16 consideration to the life option and the death option?

17 JUROR STACEY HOUSE: No, sir.

18 MR. CARTER: Mr. Redditt, having heard that
19 question -- I assume you heard it. Do I need to go
20 through it?

21 JUROR MICHAEL REDDITT: I heard it. No, I
22 cannot.

23 MR. CARTER: Could you give equal consideration
24 to both options?

25 JUROR MICHAEL REDDITT: No, sir.

26 MR. CARTER: Mr. Kincaide, realizing that you
27 have both options and no one can tell you how to vote,
28 it's your decision based on your own conscience, could
29 you on this ~~case~~ or any case, hear facts from both sides

1 and decide and consider both options, life or death, then
2 make your decision as to which one you choose?

3 JUROR JIMMY KINCAIDE: No.

4 MR. CARTER: Miss Hammond, hopefully with a
5 little explanation, could you -- realizing that you have
6 two options, and that it's totally up to you which option
7 you take, nobody can make you choose either one, could
8 you realizing that sit on a case where death was a
9 possibility and listen to evidence from both sides? Then
10 based on your conscience, your moral values, give
11 consideration to life or death and give consideration to
12 both?

13 JUROR GERTHY HAMMOND: No.

14 THE COURT: Mr. Carter, you overlooked one on
15 that page and I just wanted to -- I believe number 58.
16 And I didn't --

17 MR. CARTER: I'm sorry. I didn't mean to.

18 THE COURT: I didn't think you did. That is
19 why I want to -- just before we went on to the next page.

20 MR. CARTER: Miss Brexton. Fifty-eight.

21 JUROR OPHELIA BREXTON: Yes, sir.

22 MR. CARTER: Now realizing that in a case like
23 this that you have two options, life without possibility
24 of parole and death, and that it will be your decision as
25 to which way to vote and no one could tell you how to
26 vote or make you vote any particular way, could you sit
27 on a case like this and hear evidence --

28 JUROR OPHELIA BREXTON: No, sir.

29 MR. CARTER: -- from both sides?

1 JUROR OPHELIA BREXTON: No, sir.

2 MR. CARTER: When you say no, sir, that means
3 you could never consider one of the options.

4 JUROR OPHELIA BREXTON: No, sir.

5 MR. CARTER: What option would that be?

6 JUROR OPHELIA BREXTON: Either one.

7 MR. CARTER: Either.

8 JUROR OPHELIA BREXTON: I wouldn't vote for the
9 death penalty. I wouldn't vote for life. I am like her.
10 I couldn't make a decision on judging somebody else.

11 MR. CARTER: All right. Thank you.

12 Mr. Kincaide, you already -- I'm sorry.

13 Miss Hammond.

14 MR. EVANS: Sixty-six. You skipped 66.

15 MR. CARTER: Sixty-six.

16 I apologize, Your Honor.

17 Mr. Pryor. Mr. Pryor, now understanding that you
18 have two options and it's totally your decision as to how
19 you want to vote and no one can make you vote any
20 particular way, could you sit on the jury such as this
21 and consider both options, both options equally, and then
22 decide which option you think is appropriate based on
23 your own moral conscience?

24 JUROR HENRY PRYOR, JR: No, sir. Not for
25 death.

26 MR. CARTER: You couldn't ever consider that.

27 JUROR HENRY PRYOR, JR: (Shook head.)

28 MR. CARTER: Okay. Thank you.

29 Miss Journigarr. Susie Journigan. Miss Journigan,

1 now understanding that there are two options, totally
2 your decision how you would vote. Nobody can make you
3 vote any particular way. Can you sit on a jury such as
4 this and listen to evidence from both sides and give both
5 sides, not one side but both sides, equal consideration?

6 JUROR SUSIE JOURNIGAN: No.

7 MR. CARTER: Okay. Thank you.

8 Miss Hubbard, understanding now that there are two
9 options, life without possibility of parole and death,
10 and that it would be your decision, nobody could force
11 you to vote any particular way, could you sit on a jury
12 such as this, listen to the evidence from both sides and
13 give equal consideration to the life or death option,
14 then make a selection?

15 JUROR THELMA HUBBARD: I would have to say no,
16 because I've already stated that I'm not in agreement
17 with the death penalty period. So I would say no.

18 MR. CARTER: Thank you.

19 Miss Bounds, understanding that there are two
20 options that you will always have, that is up to you
21 which way you vote, no one can force you to vote either
22 way, could you sit on this jury or a jury like this and
23 give equal consideration to both options?

24 JUROR JOYCE BOUNDS: No.

25 THE COURT: I didn't hear that response.

26 JUROR JOYCE BOUNDS: No.

27 THE COURT: Okay. Thank you.

28 MR. CARTER: Miss Gladys Hubbard, now
29 understanding that you have two options, you will always

1 ~~have two options. No one can tell you how to vote. It~~
2 is totally your decision. Could you sit on a jury such
3 as this or any jury and listen to evidence from both
4 sides and then make a selection as to life or death based
5 on your own personal moral conscience?

6 JUROR GLADYS HUBBARD: No, sir.

7 MR. CARTER: Mr. Gilbert, now understanding
8 that you are not automatically being asked to vote either
9 way, that you have an option to vote for life or death
10 and nobody can tell you how to vote, that it's totally up
11 to you, understanding that could you sit on a case such
12 as this one and listen to the evidence from both sides
13 and then based on your own moral conscience make a
14 selection as to life or death?

15 JUROR GILBERT CHAIRS: (Shook head.)

16 THE COURT: You were nodding your head no.

17 JUROR GILBERT CHAIRS: Oh, no, sir.

18 MR. CARTER: And finally, Mr. Parker. Mr.
19 Parker, now understanding that you have two options, not
20 one. I'm not saying you were confused, but often there
21 is some confusion. But understanding you have two
22 options, life without possibility of parole or death.
23 That is totally your decision. No one can tell you how
24 to vote. Could you sit on a case such as this and listen
25 to evidence from both sides and then treat both options
26 equally, then make a selection as to which way you want
27 to vote?

28 JUROR ROBERT PARKER, JR.: No, sir.

29 MR. CARTER: Now, the judge also asked you if

1 any of you would automatically vote for death. Having
2 been a lawyer for a while and having tried a lot of
3 cases, I also know that often times we don't really know
4 exactly what that means. So let me see if I can clarify
5 that and then see how you feel about it. When the judge
6 asked you that I don't know what you thought but it's a
7 possibility you thought as of now before you hear any
8 evidence. I want you to understand. Before you ever --
9 although the judge explained that, you still might have
10 been confused by it. I want you to understand before you
11 can consider life or death you have already found a
12 person guilty. You have already found a person guilty.

13 So knowing you would vote for death or not, you
14 would have to have sat and heard the case. So let me ask
15 you this. Try to put you in that situation for a second.
16 After you found a person guilty of capital murder and you
17 go on to the next phase and you found the person guilty
18 of capital murder, you would have decided that this
19 person knowingly and on purpose without it being in
20 self-defense --

21 MR. EVANS: Your Honor, I object --

22 MR. CARTER: -- kill somebody.

23 MR. EVANS: -- because at this point we are
24 trying to go into what may be proven in the case. That
25 is not appropriate.

26 MR. CARTER: That is not what I'm doing, Your
27 Honor.

28 THE COURT: I will let him finish. I can see
29 where he was heading, so I will overrule the objection.

1 MR. CARTER: I'm trying to -- we have to get
2 good answers. We have to get an answer that you
3 understand what you are doing and what you are being
4 asked. I think you may understand by now in order to
5 vote for life or death a person is already guilty. You
6 would have found him guilty and you would have decided
7 that this person killed somebody. He knew what he was
8 doing. He intended to do it. And that there is no
9 defense to it.

10 If you were to sit on a jury like that and decide
11 that this person was guilty without there being a defense
12 or an excuse, would at that point any of you
13 automatically believe that the person deserves death
14 because they killed somebody?

15 Now, some of us believe - and if you believe it,
16 that is fine - that if you take a life, your life should
17 be taken. Anybody in here believe that if you take a
18 life your life should be taken? We are not judging you.
19 If you feel it, you just feel it. But if you feel it, I
20 am just simply asking.

21 Anybody on the first row feel that? Anybody on the
22 second row? Anybody on the jury panel period believe
23 that if you kill somebody you should automatically be
24 killed too?

25 Now, you heard me a few minutes ago talk about
26 mitigation and aggravation and you probably have never
27 heard of mitigation before. Maybe you have. I never
28 have before I became a lawyer. I'm not sure if I heard
29 of aggravation either, especially not in the context of a

1 trial.

2 But mitigation, which is something I have to put on
3 at trial, goes to a person's life story, a person's life,
4 a person's background. It goes to who that person was
5 before you met them. Mr. Pitchford is 19, just turned
6 19, I think, or maybe 20. I'm getting old.

7 Does anybody here who thinks what happened to you,
8 if anything, or during your lifetime before you got
9 charged with a crime should not count in deciding whether
10 you receive life or death?

11 MR. EVANS: Your Honor, I object again because
12 we are getting into the jury deciding on mitigators and
13 aggravators at this point. And this is definitely not
14 proper.

15 MR. CARTER: Your Honor --

16 MR. EVANS: They will be given an instruction
17 --

18 THE COURT: If you hold all your objections
19 until you come forward.

20 (MR. EVANS, MR. HILL, MR. CARTER AND MR. BAUM APPROACHED
21 THE BENCH FOR THE FOLLOWING BENCH CONFERENCE HAD OUTSIDE THE
22 HEARING OF THE PROSPECTIVE JURORS.)

23 MR. EVANS: The jury will be given instructions
24 by the Court on what mitigators are appropriate for him.
25 At this point to start trying to pin the jury down on
26 what you believe about mitigators is definitely improper.

27 MR. CARTER: Okay. Your Honor, I certainly
28 don't intend to do that. All I'm trying to find at this
29 point is whether they are open to mitigation. I am not

1 going to set forth what our mitigation is.

2 THE COURT: You were.

3 MR. CARTER: I wasn't specifically. Some
4 jurors actually think that a person's background before
5 they got in trouble doesn't count period, that they
6 shouldn't have to consider that. All I want to make sure
7 is that they at least consider it.

8 THE COURT: You can ask them in such a way will
9 they consider the instructions of the Court -- the
10 mitigating factors as given by the Court. And I think
11 that's appropriate because I am going to instruct them on
12 what the mitigating factors are. You can ask them if
13 they would consider mitigating factors or would they be
14 automatically disposed to the death penalty.

15 MR. CARTER: Your Honor, if they don't know
16 what mitigation is, I mean how --

17 THE COURT: You were telling me just a second
18 ago you weren't meaning to get into --

19 MR. CARTER: What I'm saying -- if I can make
20 myself clear. I want to ask them if they would consider
21 the person's life up to this point.

22 All I want to ask them is whether they will consider
23 a person's life before he got in trouble not any specific
24 incident of their life. Although, you know, I can go
25 find the cases that actually says --

26 THE COURT: If you are not intending to go any
27 further than that.

28 MR. CARTER: I just wanted to make sure they
29 consider it.

1 MR. EVANS: I objected when he started going
2 into specific --

3 MR. CARTER: I won't go into specifics.

4 THE COURT: That is fine then.

5 (THE BENCH CONFERENCE WAS CONCLUDED.)

6 THE COURT: Ladies and gentlemen, I know you
7 have been sitting awhile. Let's just take a ten-minute
8 recess to allow you to stretch and move around. You
9 can't talk during the recess among yourselves about the
10 case.

11 (A RECESS WAS TAKEN. PROCEEDINGS RESUMED IN OPEN COURT.
12 MR. EVANS, MR. HILL, MR. CARTER, MR. BAUM AND THE DEFENDANT
13 WERE PRESENT.)

14 THE COURT: Okay. I'll ask you to look around.
15 Anybody that was sitting by you earlier -- okay. We've
16 got one person, two...

17 (A FEW JURORS RETURNED TO THE COURTROOM.)

18 THE COURT: Court will come back to order.

19 Mr. Carter, you may proceed.

20 THE BAILIFF: We are missing another one.

21 THE COURT: Okay. Now, double check again. Is
22 there a vacancy next to any of you that was not vacant
23 earlier this morning? Okay. I think everybody is back
24 then. We will come back to order.

25 Mr. Carter, you may proceed.

26 MR. CARTER: Thank you, Your Honor.

27 Ladies and gentlemen, at the time we stopped I was
28 asking and you -- maybe I should ask it this way. I was
29 talking about that word mitigation and aggravation that

1 I'm sure you are familiar with in this context. Again,
2 you'll be real familiar with this, some of you will,
3 before it's all said and done. Mr. Evans put on what is
4 called aggravation. I put on what is called mitigation.
5 None of us can tell you what specific aggravation or
6 mitigation we will put on. But it is important that you
7 listen to both. And the judge will give an instruction
8 telling you that you have to listen to both, both sides.

9 What I'm trying to find out from you is there any
10 person who would refuse to listen to either side if the
11 judge told you that you had to give both consideration?
12 In other words, you would follow the judge's instruction
13 and you would do what you are told to do regardless of
14 how you might personally feel about it? Is that fair to
15 say? Anyone couldn't? Okay.

16 A few minutes ago I asked -- most of you, you
17 received questionnaires and you filled the questionnaires
18 out. I asked a few minutes ago is there anyone here that
19 believes in an eye for eye, tooth for tooth. And nobody
20 said anything. That is fine if that is the case.

21 But I got a few questionnaires that actually said
22 that there were people who felt that. There is nothing
23 wrong if you feel that. We are not judging you. You
24 certainly are welcome to your opinion. But if you
25 believe that you need to be honest about it. And all it
26 means is that you may or may not be -- may or may not be
27 the right person for this particular jury. That is all
28 it means. It is not saying anything else about you.

29 So again, I ask are there any persons who actually

1 believe in an eye for an eye and tooth for tooth, if you
2 kill somebody, you should die too?

3 Do we have a Misty Tillman?

4 JUROR MISTY TILLMAN: Yes, sir.

5 THE COURT: If you will, stand if you are
6 going --

7 Anybody that is -- that you are specifically asking
8 questions of they need to be standing.

9 MR. CARTER: Miss Tillman, I believe you said
10 in your questionnaire if you do something punishable by
11 death and you are found guilty, you should get the death
12 penalty. So doesn't that mean -- what do you mean by
13 that?

14 JUROR MISTY TILLMAN: If it's -- if it's
15 decided to be chosen for death then, yeah, you should be
16 for death.

17 MR. CARTER: Okay. So you are not saying that
18 if a person kills somebody, they automatically get death
19 also. Get the death penalty. Is that what you are
20 saying?

21 JUROR MISTY TILLMAN: If the evidence points
22 that way then yeah, they should get the death penalty
23 then. If it don't, then...

24 MR. CARTER: Correct me if I am wrong but I
25 believe you are saying if a person gets charged with
26 murder and it's proven that they murdered a person it's
27 your position that they should be killed too.

28 JUROR MISTY TILLMAN: Somewhat. It just
29 depends on the evidence of ~~how it was~~ committed and,

1 and -- you know what I'm saying? You understand.

2 MR. CARTER: You gotta understand that I don't
3 know. We don't know unless you tell us exactly what you
4 mean. So you have to tell us. I really don't know
5 exactly what you mean. So are you saying -- and I want
6 to understand. I am sure the judge wants to understand.
7 Mr. Evans wants to understand. Based on what you wrote
8 --

9 JUROR MISTY TILLMAN: Um-hum.

10 MR. CARTER: -- are you saying that if it's
11 proven that a person killed another person on purpose, he
12 knew what he was doing, wasn't in self-defense, that that
13 person should be killed also?

14 JUROR MISTY TILLMAN: Yes.

15 MR. CARTER: All right. Thank you.

16 JUROR DAVID FEDRIC: That is not what you asked
17 awhile ago. In that context, I do believe that. If
18 somebody was killed in a car wreck and they killed
19 something, no, I don't necessarily think they should be
20 killed for it. It depends on the context of what you are
21 talking about.

22 MR. CARTER: That was 41. Mr. Fedric.

23 JUROR DAVID FEDRIC: Yes.

24 MR. CARTER: Let me see if I can clarify that.
25 In a situation where a person kills someone, not an
26 accident, not in self-defense, does it on purpose, knows
27 exactly what he is doing, did it for that purpose, in
28 that situation do you believe the person should get the
29 death penalty also?

1 JUROR DAVID FEDRIC: I would listen to
2 mitigating circumstances but probably so.

3 MR. CARTER: Okay. When you say listen, what
4 do you mean?

5 JUROR DAVID FEDRIC: I would listen to your
6 case for mitigating circumstances. There may be reasons.
7 The man -- they could have had previous problems. It
8 could be a marital thing. It could a lot of different
9 reasons that I would listen to.

10 MR. CARTER: Okay. I understand. With that
11 explanation, do we have anyone else who believes that if
12 you kill someone on purpose, knowingly, intend it, not in
13 self-defense, not a mistake, not an accident that you
14 should be killed too? Do I have anyone else?

15 THE COURT: Anybody that is responding, if you
16 will please stand.

17 MR. CARTER: Number 85. How strong is that
18 opinion? Is it real strong?

19 JUROR TERRY WELCH: It's real strong. If you
20 kill someone on purpose with intent to kill that man, for
21 whatever reason, especially for money, for personal gain,
22 he ought to die.

23 MR. CARTER: Thank you.

24 JUROR KENNETH ARTMAN: I feel that way too.
25 You talking about cold-blooded murder?

26 MR. CARTER: You don't get that term --

27 MR. EVANS: Your Honor, we are getting into the
28 facts of the case. We haven't proven anything.

29 THE COURT: I agree. We are getting way ahead

1 of ourselves. The only issue right now is whether you
2 would automatically if you found somebody guilty of
3 murder. And obviously, under the definition of murder,
4 it has to be intentional. It's not an accident. If
5 somebody intentionally kills somebody, are you
6 automatically just going to say okay, I'm going to impose
7 the death penalty because I think they should be
8 executed?

9 Or are you going to listen to the evidence, listen
10 to the aggravating factors why the district attorney
11 thinks they should get the death penalty and listen to
12 the mitigating circumstances to consider why they should
13 not get the death penalty and decide it then? Or are you
14 automatically going to just decide that they should
15 receive the death penalty if they are convicted of, of
16 murder? And with that in mind, I want to know if any of
17 you just automatically think if somebody is convicted
18 that they should get the death penalty. Any of you think
19 that?

20 MR. CARTER: I noticed you stood number 84.

21 JUROR TERRY WELCH: I would listen. I would
22 listen to the facts. But if you intentionally go in to
23 rob somebody, as Mr. Welch said, for personal gain, I do
24 believe in an eye for an eye.

25 MR. CARTER: Thank you.

26 Number 19.

27 One moment, Your Honor.

28 Okay. Number 19. Mr. Brantley, I read your
29 questionnaire and based on something you said I'm not

1 really clear in terms of how you feel about that. Can
2 you just tell us?

3 JUROR BRANTLEY CLARK: I mean if it's proven
4 and if it's -- I mean, you know, can you ask me a better
5 question?

6 MR. CARTER: I believe you said on your
7 questionnaire that if they have been charged for a crime
8 deserving such a penalty and proven guilty without a
9 doubt then you believe they should be killed.

10 JUROR BRANTLEY CLARK: Yes, sir. I would
11 listen to both sides. But I would not say okay, they
12 are -- they did it. They are getting the penalty in my
13 head. I would listen to both.

14 MR. CARTER: Okay. Thank you.

15 Number 34. Mr. Barrett.

16 JUROR WALTER BARRETT, III: Yes, sir.

17 MR. CARTER: In your questionnaire -- I'm not
18 sure exactly what you meant. I believe you said, I
19 believe, a person should actually pay for their crime if
20 guilty. And this is what you wrote in respect to the
21 question about the death penalty.

22 JUROR WALTER BARRETT, III: I believe in the
23 death penalty, but it would not be automatic.

24 MR. CARTER: You would listen to all the
25 evidence before making a decision.

26 JUROR WALTER BARRETT, III: Yes, sir.

27 MR. CARTER: Thank you.

28 Brandi Smith, I believe you said on your
29 questionnaire with respect to the death penalty if

1 someone killed someone on purpose that person ought to
2 die too.

3 JUROR BRANDI SMITH: Yes, but I would listen to
4 both sides of the story.

5 MR. CARTER: You wouldn't make the decision
6 until you listen to both aggravation and mitigation.

7 JUROR BRANDI SMITH: Right.

8 MR. CARTER: I take it at the time you said
9 this you said that without realizing your
10 responsibilities, without realizing your responsibility.
11 You are supposed to listen to both sides, aggravation and
12 mitigation. You wouldn't have any problem.

13 JUROR BRANDI SMITH: No.

14 MR. CARTER: James Pate. Now, I really don't
15 want to read what you wrote, but can you explain to us
16 your position on that?

17 MR. EVANS: Your Honor, may we approach?

18 THE COURT: You may come forward and approach.

19 (MR. EVANS, MR. HILL, MR. CARTER AND MR. BAUM APPROACHED
20 THE BENCH FOR THE FOLLOWING BENCH CONFERENCE HAD OUTSIDE THE
21 HEARING OF THE PROSPECTIVE JURORS.)

22 MR. EVANS: This is the one I think we need to
23 do this outside the presence of the jury.

24 THE COURT: I need quiet in the courtroom. We
25 are not anything here to be laughing about.

26 We can individually voir dire him at the conclusion.

27 MR. CARTER: Yes, sir.

28 (THE BENCH CONFERENCE WAS CONCLUDED.)

29 MR. CARTER: No further questions, Mr. Pate,

1 right now.

2 Miss Betty Joyce Dunn. Miss Dunn, based on what you
3 said - correct me if I'm wrong - but I believe you are
4 saying that it would have to be proven that the person
5 actually committed the crime through witnesses and
6 various other -- the proof would have to be there. Once
7 that is done, are you saying that at that point you
8 believe a person should automatically be killed?

9 JUROR BETTY DUNN: No.

10 MR. CARTER: What are you saying?

11 JUROR BETTY DUNN: If they intentionally did
12 it, it is just like going in and robbing with robbing on
13 their mind, then yes.

14 MR. CARTER: Thank you.

15 Miss Lancaster. Number 83. Miss Lancaster, I am
16 not real sure exactly what your opinion is. I'm trying
17 to be clear on it. I believe you said the death
18 penalty - correct me if I'm wrong - should be instituted
19 or carried out if they have been charged with murder.
20 What are you saying? Are you saying if they have been
21 charged with murder, found guilty of murder they should
22 automatically be killed? Is that what you are saying?

23 JUROR CANDICE LANCASTER: Not automatically.

24 MR. CARTER: What do you mean?

25 JUROR CANDICE LANCASTER: It is an option.

26 MR. CARTER: Okay. Are you saying at this
27 point now that you have heard us talk about the rules and
28 how the process works that you would consider both
29 options, listen to both sides and give it consideration?

1 JUROR CANDICE LANCASTER: Um-hum.

2 MR. CARTER: You have no doubt, no reservations
3 about that.

4 JUROR CANDICE LANCASTER: Hum-hum.

5 MR. CARTER: Thank you.

6 Your Honor, may we approach about this?

7 THE COURT: You may.

8 (MR. EVANS, MR. HILL, MR. CARTER AND MR. BAUM APPROACHED
9 THE BENCH FOR THE FOLLOWING BENCH CONFERENCE HAD OUTSIDE THE
10 HEARING OF THE PROSPECTIVE JURORS.)

11 MR. CARTER: Number 84. He said an eye for an
12 eye.

13 MR. EVANS: I don't think that needs to be
14 approached in front of the panel.

15 THE COURT: They have already heard about the
16 case and said they can't be fair and impartial so I don't
17 know that --

18 MR. CARTER: Okay then.

19 THE COURT: That was the one I believe where a
20 codefendant was charged with murdering somebody that was
21 in jail and so I don't know --

22 MR. CARTER: That's fine, Your Honor.

23 (THE BENCH CONFERENCE WAS CONCLUDED.)

24 MR. CARTER: No further questions for that
25 witness.

26 Now, Miss Gladys Hubbard. I'm sorry. I misread
27 what you wrote. My apologies.

28 There were a few other quick questions, and I'll be
29 finished.

1 Ladies and gentlemen, it's your job to come here and
2 listen to all the evidence, evidence from both sides,
3 evidence that comes from the witness stand. Do you
4 understand that you have no duty to either side to come
5 here and give any particular kind of relief to either
6 side? Your job is to listen to the evidence and make
7 whatever appropriate decision after you hear the
8 evidence.

9 I think I'm finished.

10 May we approach for one final question?

11 THE COURT: You may.

12 (MR. EVANS, MR. HILL, MR. CARTER AND MR. BAUM APPROACHED
13 THE BENCH FOR THE FOLLOWING BENCH CONFERENCE THAT WAS HAD
14 OUTSIDE THE HEARING OF THE PROSPECTIVE JURORS.)

15 MR. CARTER: Your Honor, we think we saw a
16 juror talking to some of the -- but I don't know. It
17 just come out. I guess what I ask now is that the Court
18 ask - and I'm not going to take it any further than
19 that - if anybody inadvertently talked to family and just
20 caution them not to do that if anybody has done that.

21 MR. EVANS: That would apply to either side.

22 THE COURT: I can do that. I want to -- I want
23 to -- there is about three or four or five that I think
24 we ought to individual voir dire. I want you to get your
25 list and come back up here just a second. I am going to
26 ask a few of them to stay around.

27 MR. CARTER: I tender, Your Honor.

28 THE COURT: Mr. Carter, if you will. There
29 were about four or five of them that, you know, when Mr.

1 Hill was asking in no way consider death and then when
2 you asked them they said they could so I want to -- I
3 want to ask, you know, individual on number 3, number 5
4 and number 15 and then number 62 and number 49. I'm
5 sorry. Sixty-three. I apologize. I said 62, but I want
6 63.

7 Do either of you see any others that -- what I'm
8 going to do is I'm going to have them step out and have
9 these hang around close to the door so they can be
10 brought in. Do any of you see any others that need to be
11 --

12 MR. EVANS: No, sir. That's the only ones I
13 have marked.

14 (THE BENCH CONFERENCE WAS CONCLUDED.)

15 THE COURT: Ladies and gentlemen, at this time
16 in just a couple of minutes we are going to recess.

17 I want to just make sure during the recess, none of
18 you have talked to anybody involved with the case, have
19 you? I mean have any of you had even incidental contact
20 with anybody involved? Have any of you, even by
21 accident, run into the Britt family or run into Mr.
22 Pitchford's family or talked to anybody?

23 I just want to caution you. I guess I am just doing
24 this to make sure you understand throughout the course of
25 this trial you can't talk to anybody about the case. You
26 are going to have to walk by any family members of either
27 side or whatever and just be completely, you know, almost
28 like with tunnel vision with blinders on where you are
29 just going to have to walk right on by and not ~~say~~

1 anything to anybody involved in the case.

2 There are a few of you that we need to -- and I'm
3 going to call your names. If you will, hang around and
4 stay forward. And the remainder of you, I will let go.
5 Not let go permanently; I mean during the recess. If you
6 will, except for these, we will be in recess until 4:15.

7 But I need number 3, Crawford; number 5, Coleman;
8 number 15, Willis; number 49, Swims; and number 63, Pate
9 to stay around a few minutes. And the remainder of you,
10 if you will, step outside.

11 MR. CARTER: One moment, Your Honor.

12 (MR. EVANS, MR. HILL, MR. CARTER AND MR. BAUM APPROACHED
13 THE BENCH FOR THE FOLLOWING BENCH CONFERENCE THAT WAS HAD
14 OUTSIDE THE HEARING OF THE PROSPECTIVE JURORS.)

15 MR. CARTER: We have one more, Your Honor.

16 MR. BAUM: Your Honor, number 34, was talking
17 to one of the Britt family members in the courtroom
18 before we broke earlier and we would just like to
19 individually voir dire them.

20 (THE BENCH CONFERENCE WAS CONCLUDED.)

21 THE COURT: And number 34, Barrett, if you
22 will -- and if you will stay around.

23 The remainder of you, if you will be at the
24 courtroom door at 4:15 and we will announce who has been
25 selected to serve on the jury at that point.

26 (THE PROSPECTIVE JURORS LEFT THE COURTROOM.)

27 THE COURT: Now, if those of you that I've
28 asked to stay in the courtroom, if y'all will just step
29 out. What we have to do is there are a couple of

1 questions we need to ask each one of you individually
2 instead of out in front of everybody. So if all of you
3 will step out, except number three, then be close by the
4 courtroom door. Then we will call the others of you in.
5 We'll start first with Mr. Crawford, and then we will
6 quickly ask each of you the questions.

7 (THE REMAINING PROSPECTIVE JURORS LEFT THE COURTROOM.)

8 If you will, shut the door.

9 If anybody wants out, it's time to go now. You are
10 fixing to be in here until we get through if you don't
11 leave now.

12 Mr. Crawford, there are a couple of questions I
13 wanted to get clear because at first you were saying that
14 you couldn't judge the case and couldn't consider the
15 death penalty under any circumstances. Then you came
16 back maybe and said --

17 (THE COURTROOM DOOR WAS OPENED.)

18 If you will keep that door shut, Mr. Whitten, I
19 would appreciate it.

20 And so we want to know, Mr. Crawford, could you --
21 if the Court instructed you that you were to consider the
22 death penalty and had to consider that, could you
23 consider it or would you automatically reject that and
24 not even consider that as an option if it got to the
25 second phase of the trial?

26 JUROR RODELL CRAWFORD: Not even consider that.

27 THE COURT: So you could under no circumstances
28 could even consider imposing the death penalty; is that
29 correct?

1 JUROR RODELL CRAWFORD: That's correct.

2 THE COURT: If you will, step out. Do not
3 discuss with anyone what we just talked about in here.

4 And then number five, Miss Coleman is the next one.

5 MR. CARTER: Your Honor, just for the record,
6 Your Honor, when the Court asks its questions is it
7 possible to ask if they could actually -- and maybe you
8 are doing it. I don't -- I am not trying to tell you to
9 do it to my satisfaction. I just want to make sure that
10 they understand you are asking them to consider both. I
11 don't want them to get the impression that we are just
12 asking them if they will just --

13 THE COURT: I think if the law is if they say
14 they cannot even consider it that --

15 (JUROR NADINE COLEMAN ENTERED THE COURTROOM.)

16 Okay. Miss Coleman, and we are not putting you on
17 the spot. Do not feel ill at ease. I know with all of
18 us in here and just you it might be intimidating but
19 don't let it be. There were a couple of questions we
20 wanted to get cleared up with you before we went any
21 further. I know at one point you had said under no
22 circumstances could you consider the death penalty. And
23 then you came back later maybe and said you could.

24 The way the law works is if it gets to the second
25 phase of a trial then the State of Mississippi is asking
26 for the death penalty to be imposed. And, of course, you
27 can imagine that the defense does not wish that. And I
28 want to know if I --

29 (THE COURTROOM DOOR WAS OPENED.)

1 Lock that door too. I want everybody to stay out of
2 this courtroom until we are through with individual voir
3 dire. I don't want another door opened.

4 Can you consider the death penalty or would you not
5 be able to consider it?

6 JUROR NADINE COLEMAN: I wouldn't be able to
7 consider it.

8 THE COURT: You couldn't even think about it.

9 JUROR NADINE COLEMAN: No.

10 THE COURT: Okay. Thank you.

11 JUROR NADINE COLEMAN: Your welcome.

12 THE COURT: And if you will, get number 15 now
13 in.

14 (JUROR LOVIE WILLIS ENTERED THE COURTROOM.)

15 THE COURT: Miss Willis, we are -- just a
16 couple of questions we wanted to ask you. We are not
17 wanting to put you on the spot or make you feel
18 intimidated sitting here all out by yourself now. But
19 there were a couple of questions we wanted to clear up.
20 During the earlier questioning you had indicated that you
21 could not consider the death penalty. And then you came
22 back and maybe you qualified that.

23 And so I want to know -- the situation is this. If
24 Mr. Pitchford should be found guilty of capital murder,
25 then we would have a second phase of the trial. And that
26 phase would determine whether he was sentenced to death
27 or life in prison. Could you consider the death penalty
28 as an option or would you automatically reject that?

29 JUROR LOVIE WILLIS: I could not consider that.

1 THE COURT: You would not even look at that as
2 an option and could not consider it under any
3 circumstance, even if the Court told you to consider
4 that.

5 JUROR LOVIE WILLIS: I could not consider that.

6 THE COURT: You could not consider that.

7 JUROR LOVIE WILLIS: Hum-hum.

8 THE COURT: Okay. Thank you.

9 Okay. If you will, bring number 34 in here.

10 (JUROR WALTER BARRETT, III, ENTERED THE COURTROOM.)

11 THE COURT: Mr. Barrett, I wanted to just make
12 sure. There had been somebody that thought they had seen
13 you talk to somebody in the family of Mr. Britt on the
14 way out or something like that. Have you talked to
15 anybody in his family since you have been up here?

16 JUROR WALTER BARRETT, III: I spoke to Tim
17 McDaniel in passing.

18 THE COURT: What was the substance of that
19 conversation?

20 JUROR WALTER BARRETT, III: Just spoke and kept
21 walking.

22 THE COURT: Just walked by him and spoke but
23 didn't say anything other --

24 JUROR WALTER BARRETT, III: No, sir. That is
25 all that I remember. Yes, sir.

26 THE COURT: Well, we -- I wanted to just make
27 sure, get that cleared up. So you hadn't talked to any,
28 any --

29 JUROR WALTER BARRETT, III: No conversation.

1 No, sir.

2 THE COURT: Okay. And would the fact that you
3 do know somebody in the family, would that --

4 JUROR WALTER BARRETT, III: I am willing to go
5 further with that. Now, my son is actually engaged to
6 Lindsey Grant.

7 THE COURT: How is she related to this?

8 JUROR WALTER BARRETT, III: Judge, I'm not
9 positive but I believe that Mr. Britt was her great
10 uncle. But don't hold me to that, because I am not
11 positive of that. I did not personally know Mr. Britt.

12 THE COURT: Now, if you were sitting on the
13 case, would that cause you to tend to favor the family or
14 prosecution because of these circumstances?

15 JUROR WALTER BARRETT, III: No, sir. I don't
16 believe so.

17 THE COURT: Any doubt in your mind?

18 JUROR WALTER BARRETT, III: No, sir.

19 THE COURT: If you found Mr. Pitchford innocent
20 or if you found him guilty and then felt like he did not
21 deserve the death penalty would you feel uncomfortable
22 seeing the family or feel like you owed them any
23 explanation at all for how you had ruled?

24 JUROR WALTER BARRETT, III: No, sir, I don't
25 believe so.

26 THE COURT: Any doubt?

27 JUROR WALTER BARRETT, III: No, sir.

28 THE COURT: Thank you.

29 JUROR WALTER BARRETT, III: Yes, sir.

1 THE COURT: If you will, get number 49 in here
2 now. Miss Swims.

3 (JUROR MAMIE SWIMS ENTERED THE COURTROOM.)

4 THE COURT: Miss Swims, just a couple of
5 questions. And we don't want to -- this is not meant to
6 intimidate or anything like that. We just wanted a
7 couple of follow-up questions.

8 At one point you had indicated that you couldn't
9 judge anybody for any reason and then you had said at one
10 point that you could not consider the death penalty at
11 all. And then later on you came back and you said maybe
12 you could consider it. And so we wanted to get that
13 clear.

14 The way a trial works is first there is a guilt
15 phase. If you find the person on trial guilty, then
16 there is a second phase to determine what type
17 punishment. Now, if you find them not guilty to start
18 with, you don't ever get to the second phase. But if you
19 get to the second phase, the options are that the jury
20 can find somebody guilty and impose the death penalty.
21 Or if the death penalty is not imposed by the jury, they
22 are automatically sentenced to life imprisonment without
23 parole.

24 I want to know could you consider the death penalty
25 as an option or would you automatically reject that even,
26 even considering that option?

27 JUROR MAMIE SWIMS: First of all, I was unaware
28 there was an option. I thought if the person was found
29 guilty and convicted then the death penalty would be the

1 automatic sentence and that was it.

2 THE COURT: Right.

3 JUROR MAMIE SWIMS: Until this man here said
4 you have a option, a person can have life without parole
5 or the death penalty. I would not consider the death
6 penalty at all, but I would weigh both options.

7 THE COURT: Are you -- how could you weigh both
8 options if you are automatically saying --

9 JUROR MAMIE SWIMS: I would not consider the
10 death penalty. I guess what I'm saying I would consider
11 life without parole.

12 THE COURT: But you could not under any
13 circumstances --

14 JUROR MAMIE SWIMS: If somebody said this
15 person should die --

16 THE COURT: Right.

17 JUROR MAMIE SWIMS: -- no, I would not do that.

18 THE COURT: Okay. Thank you. You may step
19 out.

20 And gentlemen, I believe you both said number 63
21 just a second ago.

22 Mr. Evans, you indicated that --

23 MR. EVANS: We have no problem to strike for
24 cause.

25 THE COURT: Tell 63 to come in, if you would.
26 (JUROR JAMES PATE, JR., ENTERED THE COURTROOM.)

27 THE COURT: Mr. Pate, we've considered
28 everything, and we are going to let you go at this time.
29 You can't talk about the case. And you can go on and not

1 have to stay around any longer, but you cannot discuss
2 the case with anyone, you know, up here that is still
3 waiting for jury duty.

4 JUROR JAMES PATE, JR.: Can I go back to work?

5 THE COURT: Yes, sir. You are free to go.

6 JUROR JAMES PATE, JR.: Thank you.

7 THE COURT: Okay. Now, let's look at the --
8 let's look at the ones for cause and do them before we
9 break for you to further look at your list.

10 And now these are the ones that -- and if there is
11 some disagreement, if there is something that I'm
12 missing, I want y'all to let me know that. But number 3,
13 Crawford, does either side disagree with that one?

14 MR. EVANS: No, sir.

15 THE COURT: And number 5, Coleman, either side
16 object to that one for cause?

17 MR. EVANS: No, sir.

18 THE COURT: And number 7, Foxx. Either side
19 have any objection to that one for cause?

20 MR. EVANS: No, sir.

21 THE COURT: Number 8, Tillman. Either side
22 have any objection to that one for cause?

23 MR. EVANS: No, sir.

24 THE COURT: And number 12, Deblois. Does
25 either side have any objection to that one for cause?

26 MR. EVANS: None from the State.

27 MR. CARTER: No.

28 THE COURT: Number 14, Allen. Either side have
29 any objection? Okay.

1 Hearing none, we will move on to number 15, Willis.
2 Does either side have any objection to Willis being
3 excused for cause?

4 MR. CARTER: No, sir.

5 THE COURT: Hearing none, we'll move on to
6 number 16. Does either side -- either side have any
7 objection to Tillman being excused for cause?

8 MR. EVANS: No, sir.

9 MR. CARTER: No, sir.

10 THE COURT: We'll move on then to number 18.
11 Does either side have any objection to number 18 being
12 excused for cause?

13 MR. EVANS: No, sir.

14 THE COURT: Move on, hearing none. Number 21,
15 Smith, does either side have any objection to Smith being
16 excused for cause?

17 MR. EVANS: No, sir.

18 THE COURT: Hearing none, we will move on to
19 number 22. Does either side have any objection to Mr.
20 Mack being excused for cause?

21 MR. EVANS: No, sir.

22 THE COURT: Hearing none, we will move on to
23 number 23. Well, we will take 23, 24 and 25 all up
24 together. Does either side have any objection to them
25 being excused for cause?

26 MR. EVANS: None from the State.

27 MR. CARTER: No, sir.

28 THE COURT: And does either side have any
29 objection to number 32 or 33 being excused for cause?

1 Hearing none, they will both be excused.

2 And number 35 and 36, does either side have any
3 objection to either one of them being excused for cause?
4 Hearing none we will move on.

5 Does either side have any objection to number 39,
6 40, 41, or 42 being excused for cause?

7 MR. CARTER: One moment, Your Honor.
8 Thirty-nine, 40 and 42, you say.

9 THE COURT: Thirty-nine, 40, 41 and 42.
10 Thirty-nine and 40 could not consider the death penalty
11 in any way. Then I show number 41, Mr. Fedric, has
12 indicated that he has heard about the case and that he
13 could not be fair and impartial. And then number 42,
14 Miss Goff, indicated that her nephew was murdered.

15 MR. CARTER: No objection, Your Honor, to any
16 of those.

17 THE COURT: Those four will be excused for
18 cause.

19 And then number 45, Wesley. Does either side have
20 any objection to Wesley for cause?

21 MR. EVANS: No, sir.

22 MR. CARTER: No objection.

23 *WM* THE COURT: Okay. Number 46, Mr. Caulder, does
24 either side have any objection to him being excused for
25 cause?

26 MR. EVANS: What was his?

27 THE COURT: He is law enforcement officer for
28 the City of Grenada. He sat over here on this side. He
29 said he had a lot of friends in law enforcement. He

1 heard about the case.

2 MR. CARTER: I have no objection, Your Honor.
3 What number is he?

4 THE COURT: Number 46.

5 MR. EVANS: No objection.

6 THE COURT: Number 49, Miss Swims, who was just
7 in here momentarily. Does either side have any objection
8 to Miss Swims?

9 MR. CARTER: No, sir.

10 THE COURT: How about number 50, Alicea?
11 Either side have any objection to her being excused for
12 cause?

13 MR. CARTER: No objection.

14 THE COURT: Okay. Then number 52 and 53. That
15 will be Holman and Hubbard. Either side have any
16 objection to those for cause?

17 MR. EVANS: No, sir.

18 THE COURT: Number 55, number 56, number 57 and
19 number 58, I show all have reasons for cause. Does
20 either side have any objection to any of them being
21 excused for cause?

22 MR. EVANS: No, sir.

23 THE COURT: Then number 62, Kincaid. Any
24 objection to Mr. Kincaid being excused for cause?

25 MR. EVANS: No, sir.

26 THE COURT: And next is number 66, Pryor. Does
27 either side have any objection to Pryor being excused for
28 cause?

29 MR. CARTER: No, sir.

Challenges for Cause

1 MR. EVANS: No, sir.

2 THE COURT: Okay. Number 71 and 72 are the
3 next ones I see. Does either side --

4 MR. EVANS: 68.

5 THE COURT: I'm sorry. Yes. I, I did not see
6 68. Does either side have any objection to 68 being
7 excused for cause?

8 MR. EVANS: No, sir.

9 MR. CARTER: No, sir.

10 THE COURT: Then 71 and 72. Either side have
11 any objection to either one of those being excused for
12 cause?

13 MR. EVANS: No, sir.

14 MR. CARTER: Apparently, I didn't really write
15 anything down for 70. What do you have, Your Honor?

16 THE COURT: Number 71.

17 MR. CARTER: Seventy. Did you say 70?

18 THE COURT: No. I said 71. And 72 as well.
19 Okay. Then 75 and 76 are the next two.

20 MR. EVANS: No objection.

21 MR. CARTER: No objection.

22 THE COURT: Okay. Then number 80 and 81. Does
23 either side have any objection to either one of those for
24 cause?

25 MR. EVANS: No, sir.

26 MR. CARTER: No objection.

27 THE COURT: And they come in bunches 84, 85 and
28 86. Either side have any objection to any of those --
29 any one of those three?

1 MR. EVANS: No, sir.

2 MR. CARTER: No, Your Honor.

3 THE COURT: They will be excused for cause.

4 And number 91. Either side have any objection to
5 him being excused for cause?

6 MR. CARTER: No objection.

7 THE COURT: And then numbers 94 and 95, Holland
8 and Parker. Either side have any objection to either one
9 of those for cause?

10 MR. EVANS: No, sir.

11 MR. CARTER: No, sir.

12 THE COURT: And then there is the lady, number
13 47. And Miss Starks indicated that her father was in the
14 hospital and old, that her momma is basically infirmed as
15 well. She has to look after and check in on them at
16 night. I don't know if y'all can agree on that one or
17 not.

18 MR. EVANS: It sounded like she was pretty well
19 saying that that would affect her, and the State would
20 not object to her being struck for cause.

21 THE COURT: She has not been stricken yet.
22 Number 46 but not 47.

23 MR. CARTER: No. No objection, Your Honor. I
24 hate to have him mad.

25 THE COURT: Does either side now have any
26 others that we have not --

27 MR. CARTER: Your Honor, we got --

28 MR. EVANS: It looks like all the State has,
29 Your Honor.

1 MS. STEINER: With the Court's permission, I
2 believe there were some others, that I was taking notes
3 and not participating to the extent that the whole rest
4 of the courtroom was. I believe number 4 on the Court's
5 voir dire answered the Court's question that his wife's
6 relatives lived in the area of where the crime occurred
7 and that he had formed an opinion. And he is related to
8 Clyde Hall, is cousin by marriage.

9 MR. EVANS: Hill.

10 MS. STEINER: He would have to think long and
11 hard. It might affect. I don't believe in response to
12 anybody else's questions he ever came off of his doubts
13 about his impartiality. And defendant would move that
14 Mr. Artman also be struck for cause for having both
15 preformed an opinion and being inclined to one side or
16 the other of the case because of a personal friendship.
17 I believe he also stated that he had a medication that
18 required refrigeration and injection.

19 And he might, in fact, be somewhat disruptive to
20 deliberations if the bailiff was having to come in and
21 relay things and take breaks. So we would add both his
22 announced opinion, his personal friendship with the
23 assistant district attorney -- relationship, excuse me,
24 to the district attorney, and also his announced medical
25 concerns, he may not be able to concentrate.

26 MR. EVANS: I think he was pretty clear on the
27 fact that he would base his decision on the evidence of
28 the case.

29 THE COURT: I am going to allow him for cause

1 because he does have some medication. He says he has to
2 inject himself into the stomach at times. During the
3 middle of jury deliberations I think that could be real
4 difficult. And so I am going to allow him for cause.

5 MS. STEINER: Your Honor, did you allow -- have
6 14. I'm sorry.

7 Your Honor, the defense would also challenge juror
8 34, Walter T. Barrett, III. He is the one who
9 acknowledged that he -- sort of like he felt obligated to
10 greet the victim's family because of acquaintance with
11 them. He has -- he's effectively a prospective member of
12 the family. His son is engaged to a family member.

13 I think he -- you know, he has told us that he wants
14 to be fair. But very frankly, Your Honor, I think it is
15 saying to any relative by blood or by marriage of a
16 victim can you be fair. I don't think it's fair to that
17 person to make them -- you know, give them a Hopson's
18 choice of worrying once they get in that jury room
19 deliberating. And we would say that his connection to
20 the victim's family --

21 THE COURT: I am going to allow him for cause,
22 because he didn't follow the admonition of the Court when
23 they broke for lunch. I told everybody not to nod, to
24 have any discussion, not to say anything at all to
25 anybody that was related to anybody in this case. He has
26 already admitted that he did.

27 MS. STEINER: I'm sorry, Your Honor. Your
28 Honor, Mr. Baum has pointed out that number -- juror 29
29 had sequestration issues. She had three children. She

1 felt --

2 THE COURT: I think she just said she would
3 miss her children and all. She has a husband at home and
4 she didn't indicate that they would have a -- it would be
5 an inconvenience. I remember asking her if it would be
6 an inconvenience or a real detriment. I maybe didn't say
7 the word detriment but she has indicated she has got
8 somebody that would be available to take care of the
9 children. It would just be a problem or inconvenience.
10 And so I am sure everybody that is sequestered is going
11 to be inconvenienced by it to some extent.

12 MS. STEINER: She had an age range that when
13 she talked about carpool, if you have a 13-year-old and
14 7-year-old, you have two very different car pool routes
15 for those two. I thought she went beyond inconvenience,
16 that it might affect the ability of the children to go to
17 their --

18 THE COURT: I did not get the impression that
19 it was going to be that detrimental to, to the situation.
20 I am not going to allow her for cause.

21 MS. STEINER: Your Honor, for the record,
22 although in light of the existing law of Witherspoon, the
23 defense has not interposed an objection to any of the
24 individual cause challenges of the people who expressed
25 an inability to consider the death penalty. We would at
26 this time move under the due process in equal protection
27 clause of the Fourteenth Amendment to have the death
28 penalty quashed and those persons stricken solely because
29 of their scruples with respect to consideration -- and

1 the Sixth Amendment and their scruples with respect to
2 consideration of death as a penalty restored to the
3 venire and the case proceed without the State's being
4 permitted to seek the death penalty.

5 On Fourteenth Amendment grounds the fact is that it
6 was about -- it disproportionately removed minority
7 jurors. About four to one of the people who were
8 scrupled were identified by themselves on their jury
9 questionnaire as being either Hispanic, one Hispanic
10 woman, or black. And the notion of even racial
11 discrimination by defacto, even though I understand both
12 the United States Supreme Court and the Mississippi
13 Supreme Court have heretofore not recognized this, that
14 nonetheless if death qualification results in this kind
15 of a disproportionate exclusion it violates the
16 Fourteenth Amendment.

17 Your Honor, we also submit that it violates the fair
18 cross-section requirement of the Sixth Amendment, not
19 merely because of its disproportionate racial effect
20 which would in and of itself be a violation of the fair
21 cross-section requirement. But also, Your Honor, I was
22 impressed in this voir dire at how strongly held this
23 large minority of the jury was with respect to feeling
24 that the morality of this community, this subset of this
25 community, is such that it does not wish to have to
26 consider and sit in judgement on the death penalty.

27 With respect to the cross section of this community,
28 it may be that Mississippi as a whole has this law, but
29 this community ~~so~~ clearly has a substantial cross section

1 of it that feels they would like, they can, they want to
2 see justice done. They want to see crime punished. They
3 want to see if -- you know, they want to fairly judge
4 and give punishment to people who are done.

5 And again, I would say on the Sixth Amendment fair
6 cross section, Fourteenth Amendment due process, that in
7 this instance justice is not served by having this
8 truncated, artificially restricted jury and a jury that
9 has disproportionately taken minorities out of sitting.

10 And that the solution, Your Honor, would be to
11 restore the jury to its fair cross section by quashing
12 the death penalty in the right of State to proceed on the
13 death penalty and restore, although we agree under
14 *Witherspoon* and *Morgan* that the strikes for absoluteness
15 here are, are -- appear to be approached by the Supreme
16 Court of the state and of the United States but that
17 under these circumstances this is an unconstitutional
18 effect on the jury and that it should not be allowed to
19 stand.

20 THE COURT: Well, I will note the objection but
21 I am not in the habit of overruling the United States
22 Supreme Court or the Supreme Court of this state. They
23 have made clear these procedures to follow, and I think
24 we followed them to the letter of the law. And so I do
25 not find there to be any constitutional violations. The
26 result may be that there may be more minority members
27 that say they cannot impose the death penalty, but that
28 in no way negates the State's right to seek the death
29 penalty under these prior precedents set by the United

1 States Supreme Court and the Supreme Court of the state.

2 MR. EVANS: Your Honor, the State does have one
3 other one I would like to move for cause, and that's
4 juror number 30. Because just as juror number 34
5 disregarded the Court's instruction, juror number 30 was
6 over 15 minutes late coming back in, showing a complete
7 disregard for the whole court system. And I would ask
8 that she be struck for cause also.

9 THE COURT: She indicated -- and if anybody was
10 having to walk from their house to the courtroom in this
11 weather today, she indicated -- ordinarily I would but
12 when I asked her she said she was having to walk. And
13 that's -- you know, I guess we all assume everybody has
14 got a way to ride now but she didn't. So I feel like
15 that she explained the reason why she was late to the
16 satisfaction of the Court that I do not believe it would
17 be appropriate to strike her for cause. In fact, she is
18 trying real hard to be here and fulfill her civic duty as
19 a juror.

20 Y'all be back in here in 20 minutes, and we will
21 proceed at that point with jury selection.

22 MR. EVANS: It is probably going to take longer
23 than 20, Your Honor, if the Court will give us a little
24 bit longer.

25 THE COURT: Y'all have had questionnaires and
26 you have had the jury list for about four weeks. Be in
27 here at 4:30.

28 And Mr. Whitten, if you will -- I will tell you
29 what. I told the jury to be back in at 4:20. At ~~4:20~~ I

1 am going to come back out here and I am going to tell the
2 jury to be back in here at 4:45. And I don't know if
3 y'all want to be present when I tell them that or not.
4 It does not matter. But I did tell them. I don't want
5 them to be wondering what is going on. I am going to be
6 in here at 4:20 to advise them to come back at 4:45. I
7 want counsel in here at 4:30.

8 MR. EVANS: Yes, sir.

9 (THE PROSPECTIVE JURORS RETURNED TO THE COURTROOM AT
10 4:20.)

11 THE COURT: Ladies and gentlemen, I just had
12 you brought back. I asked you to be back at 4:20. And
13 when I ask you to be back, I am going to be back myself
14 because I don't -- we have matters that took a little
15 longer. So it is probably going to be about 4:50. And
16 if you will, be back in here at 4:50.

17 I just wanted -- you were all waiting to come in. I
18 didn't want you to think that we were being late.
19 Because if I ask everybody else to be here on time, we
20 are going to do it ourselves or I am going to come out
21 and let you know. If you will, be back out there at
22 4:50. When you do come back in, you don't have to sit in
23 any particular order. You can sit where you want after
24 the recess at 4:50.

25 (MR. EVANS, MR. HILL, MR. CARTER, MR. BAUM, MS. STEINER
26 AND THE DEFENDANT WERE PRESENT IN THE COURTROOM. THE
27 PROSPECTIVE JURORS WERE NOT PRESENT. PROCEEDINGS RESUMED AS
28 FOLLOWS:)

29 MS. STEINER: Your Honor, before the jury comes

1 in, may we do something on cause challenges that we
2 discovered? Jurors number 1 and number 69 never provided
3 juror questionnaires. I think A, that's in violation of
4 the clerk's instructions. And B, we are at a serious
5 disadvantage being defense team with lead counsel outside
6 the county. And really, I think due process and fairness
7 to the defendant would make it inappropriate to leave
8 juror 1 and 69 on without having obeyed the Court's
9 orders with respect to the questionnaire.

10 THE COURT: Miss Barnett, did we ever get a
11 jury questionnaire from those two?

12 CIRCUIT CLERK: No, sir.

13 MR. EVANS: Your Honor, there is several we
14 haven't gotten on.

15 THE COURT: Are there any others we haven't --
16 didn't get one?

17 CIRCUIT CLERK: No, sir. I don't know if the
18 sheriff's office brought over any this morning but that
19 was -- we checked it real closely on here.

20 THE COURT: There is nobody else on the panel
21 that we didn't get questionnaires.

22 MS. STEINER: Not that we detected.

23 MR. EVANS: There was some that we looked at
24 awhile ago.

25 THE COURT: Well, if the State wants to offer
26 strike challenges on others that we didn't get cards on,
27 then I'll allow those. But again, you know, jurors were
28 told to fill that out, and they obviously can't follow
29 the instructions of the Court. Because I instructed them

1 by letter to fill that out, send it in within, I believe
2 it was, five working days. And, and the entire purpose
3 of having them do that was to shorten the process here.
4 So if I don't have -- if there are not cards on those,
5 then I am going to allow them for cause.

6 Now, if the State will tender a panel.

7 MR. EVANS: Just a second, Your Honor. That
8 was 1 and which one?

9 THE COURT: One and 69.

10 MS. STEINER: If the Court please, I -- as we
11 were striking, I realized that juror 87, Betty Sue Downs,
12 describes that her father had been murdered in his store.
13 It sounded like very much --

14 THE COURT: I asked her at length and she said
15 he was murdered seven years ago and that would not be a
16 factor, that would not affect her in any way. And I've
17 got no reason to believe that she was not being totally
18 truthful with the Court on that.

19 And so if the State will now proceed.

20 MR. EVANS: Juror number -- juror number 2 will
21 be S-1. State will tender juror number 6. State will
22 tender juror number 9. State will tender number 10.
23 State will tender number 11. State will tender number
24 13. State will tender number 17. State will tender
25 number 19. State will tender number 20. State will
26 tender number 26. State will tender number 27. State
27 will tender number 28. State will tender number 29.

28 THE COURT: Which of, of you defense counsel
29 wants to go forward now?

Peremptory Challenges

1 MR. BAUM: Your Honor, we accept number 2.

2 THE COURT: No. S-1 is number 2. The next one
3 is number six.

4 MR. BAUM: Number 6. We accept number 6.
5 Number 9 will be D-1. We accept number 10. Number 11
6 will be D-2. Number 13 will be D-3.

7 MR. EVANS: Hold on just a second, Ray.

8 I'm sorry, Ray. Go ahead.

9 MR. BAUM: Okay. Number 17 will be D-4.
10 Number 19 will be D-5. Number 20 will be D-6. Number
11 26. We accept number 26. We accept number 27. Number
12 28 will be D-8 -- D-7. We accept 29.

13 THE COURT: Okay. We need the State to now
14 tender seven more.

15 MR. EVANS: Okay. Thirty will be S-2.
16 Thirty-one will be S-3. Tender 37. Tender 38.
17 Forty-three will be S-4. Tender 44. Forty-eight will be
18 S-5. Tender 51. Fifty-four will be S-6. Tender 59.
19 Tender number 60. And tender number 61.

20 MS. STEINER: If the Court please, at this
21 point, we on the basis of State's objections S-2 to juror
22 30, S-3 to juror 31, S-4 to 43, S-5 to 48, we would -- we
23 would raise an --

24 MR. CARTER: S-6. I think S-6 is 52.

25 MS. STEINER: No. No. She is out already.

26 MR. CARTER: Oh, I'm sorry.

27 MS. STEINER: We would object on the grounds of
28 *Batson versus Kentucky* that it appears there is a pattern
29 of striking almost all of the available African-American

1 jurors. They have tendered one African-American juror
2 out of the five that have thus far -- four that have thus
3 far arisen on the venire. As we had noted previously,
4 due to the process of cause challenges, particularly
5 death qualification challenges, this is already a
6 disproportionally white jury for the population of this
7 county. And we make a Batson challenge. It appears to
8 be a pattern of disproportionately challenging
9 African-American jurors.

10 And I would invite the Court's attention to the
11 United States Supreme Court case. The most recent
12 *Miller-El versus Dretke* case in which the United States
13 Supreme Court on habeas actually reversed a conviction
14 where the prosecutors had used most, though not all, of
15 their strikes. They had left either one or two black
16 jurors on the venire, but the United States Supreme Court
17 nonetheless reversed.

18 THE COURT: I'll hear from the State.

19 MR. EVANS: Strike number S-1 is a white
20 female.

21 THE COURT: I didn't know if you had any, any
22 -- so the State is prepared to go forward with race
23 neutral reasons.

24 MR. EVANS: Yes, sir. If the Court would like
25 for us to.

26 THE COURT: I think it would be appropriate
27 given the number of black jurors that were struck.

28 And does counsel want the State to give race neutral
29 as to all or just as to the individual -- there were, I

1 understand, four black jurors. And I don't know if
2 the State -- if the defense wants the State to put
3 forward race neutral as to all or just to the minority
4 members.

5 MS. STEINER: Well, Your Honor --

6 THE COURT: A lot of times on Batson I just
7 have the State gave race neutral as to all.

8 MS. STEINER: I think the jurisprudence speaks
9 for itself.

10 THE COURT: If your objection is just as to
11 members of the black panel -- black jurors, then I will
12 just have the State go forward and give them as to black
13 members of the panel.

14 MS. STEINER: Your Honor, I think the
15 jurisprudence simply states that the Court must make a
16 determination on the basis of all relevant circumstances
17 to racial discrimination.

18 THE COURT: I'll have the State give race
19 neutral reasons.

20 MR. EVANS: All right. Your Honor, number one
21 was a white female. If I understood what the Court's
22 ruling, the Court is wishing us to give race-neutral
23 reasons on the black jurors; is that correct?

24 THE COURT: Well, I mean if you strike a white
25 juror, I don't think that is a pattern of any race
26 discrimination.

27 MR. EVANS: Yes, sir. S-2 is black female,
28 juror number 30. She is the one that was 15 minutes
29 late. She also, according to police officer, police

1 captain, Carver Conley, has mental problems. They have
2 had numerous calls to her house and said she obviously
3 has mental problems.

4 Juror number S-3 --

5 THE COURT: That would be race neutral as to --
6 as to that juror.

7 MR. EVANS: S-3 is a black male, number 31,
8 Christopher Lamont Tillmon. He has a brother that has
9 been convicted of manslaughter. And considering that
10 this is a murder case, I don't want anyone on the jury
11 that has relatives convicted of similar offenses.

12 THE COURT: What was his brother's name?

13 MR. EVANS: I don't even remember his brother.
14 He said that he had a brother convicted of manslaughter.

15 THE COURT: On that jury questionnaire?

16 MR. EVANS: Yes, sir.

17 THE COURT: I find that to be race neutral.
18 And you can go forward.

19 MR. EVANS: S-4 is juror number 43, a black
20 female, Patricia Anne Tidwell. Her brother, David
21 Tidwell, was convicted in this court of sexual battery.
22 And her brother is now charged in a shooting case that is
23 a pending case here in Grenada. And also, according to
24 police officers, she is a known drug user.

25 THE COURT: During voir dire, in fact, I made a
26 notation on my notes about her being kin to this
27 individual. I find that to be race neutral.

28 MR. EVANS: Juror number 5 is juror number 48
29 on the list, a black male, Carlos Ward. We have several

1 reasons. One, he had no opinion on the death penalty.
2 He has a two-year-old child. He has never been married.
3 He has numerous speeding violations that we are aware of.

4 The reason that I do not want him as a juror is he
5 is too closely related to the defendant. He is
6 approximately the age of the defendant. They both have
7 children about the same age. They both have never been
8 married. In my opinion he will not be able to not be
9 thinking about these issues, especially on the second
10 phase. And I don't think he would be a good juror
11 because of that.

12 THE COURT: The Court finds that to be race
13 neutral as well. So now we will go back and have the
14 defense starting at 37.

15 MR. BAUM: 37 is --

16 MS. STEINER: Is that eight, Your Honor?

17 MR. BAUM: Are we up to eight?

18 THE COURT: You have used seven strikes. You
19 have five left.

20 MR. BAUM: Thirty-seven is D-8. We accept 38.
21 Forty-four will be D-9. Fifty-one will be D-10. Accept
22 59. We accept 60. We accept 61.

23 THE COURT: Okay. I need three more tendered.

24 MR. EVANS: State will tender 64. Tender 65.
25 And tender 67.

26 MS. STEINER: Your Honor, the tendered juror 64
27 is the spouse of another juror, and I had thought we were
28 going to deal with not -- with excusing spouse -- at
29 least one of each spouse. Are we going to flip a coin

1 for that?

2 THE COURT: Sixty-four was the first one that
3 came up so that one has been tendered. So, you know --

4 MS. STEINER: Will we treat it as having struck
5 -- I think she is juror --

6 MR. EVANS: Nobody is struck yet.

7 MS. STEINER: Seventy-nine is his spouse.

8 THE COURT: We will take 79 up in a minute.
9 Right now the ones that are tendered are --

10 MR. EVANS: That is not the couple that said --

11 THE COURT: It was actually a couple that had a
12 ten-year-old child at home that said that one of them
13 needed to be with that child. That is one -- the ones
14 that this morning that everybody when we went through the
15 qualifications had assured them that one of them would be
16 home to take care of the child. This is the couple that
17 did not indicate they had any children at home or
18 anything that would interfere with them both serving.

19 So again, we've got 64, 65 and 67 tendered as
20 present. I believe two strikes left by the defense --
21 for the defense.

22 MR. BAUM: We accept number 64, Your Honor.
23 Number 65 will be D-11. Number 67 will be D-12.

24 THE COURT: We need two more tendered by the
25 State.

26 MR. EVANS: Give me just one second, Your
27 Honor.

28 THE COURT: Okay.

29 MR. EVANS: Number 70.

1 THE COURT: You got 69.

2 MR. EVANS: You struck that for cause, Your
3 Honor.

4 THE COURT: Right. I neglected to write
5 through that. I wrote out there cause.

6 MR. EVANS: Seventy will be S-7. We will take
7 73 and 74.

8 THE COURT: That puts 73 and 74 on the panel
9 since the defense is out of strikes.

10 I will now have the State tender two alternates.

11 MR. EVANS: Tender 77 and 78.

12 MS. STEINER: Your Honor, will there be strikes
13 on the alternate?

14 THE COURT: You get two strikes, the same
15 number of strikes as you do alternates. So you do have
16 two strikes.

17 MR. BAUM: Number 77 will be D-A-1. We accept
18 number 78 as an alternate.

19 THE COURT: State to tender one more alternate.

20 MR. BAUM: Your Honor, 79 is the wife of the
21 juror picked. I am not clear on that, whether she was
22 going to be excused because of that.

23 THE COURT: We will see if the State tenders.

24 MR. EVANS: I don't have any problem with
25 agreeing to just strike her since the husband is already

26 --

27 THE COURT: Is that agreeable to the defense?

28 MR. BAUM: Yes, sir, Your Honor.

29 THE COURT: Okay.

Peremptory Challenges

1 MR. EVANS: All right. So that gives me -- we
2 will tender 82.

3 MR. BAUM: We accept 82, Your Honor.

4 THE COURT: Eighty-two will now be the
5 alternate, second alternate.

6 Let me now read what I show my list to show who the
7 jurors are. If I have missed something, I definitely
8 want you to speak up.

9 I show Andrea Louise Richardson, number 7. Chad
10 Kirk.

11 MR. EVANS: Six.

12 THE COURT: I'm sorry. Six. I got the name
13 right and number wrong.

14 Andrea Louise Richardson, number 6. Chad Kirk
15 Eskridge, number 10. Johnny Clifton Stewart, 26. Mary
16 Kathyren McCluney, number 27. Laura Candida Ward, number
17 29. Mary Wylene Brewer, number 38. Then Sidney Eugene
18 Hendricks, number 59. Leonard Jones, number 60. Gloria
19 Gean Howell, number 61. William Fred Johnson, number 64.
20 David Little, number 73. Jeffrey Shane Counts, 74. And
21 then the alternates, Nathalie Drake Tramel, number 78;
22 and Lisa Shirley Wilburn, number 82.

23 Do both sides show that?

24 MR. EVANS: Yes, sir, Your Honor.

25 MR. BAUM: Yes, sir.

26 THE COURT: Those of you in the courtroom, if
27 you will, have the a seat in the back of the courtroom
28 until the jury has been seated. Then you can move
29 wherever you want.

1 You can bring them in.

2 (THE JURY RETURNED TO THE COURTROOM.)

3 THE COURT: Court will come back to order. As
4 your names are called, if you would, come forward please
5 and take a seat in the jury box. You have been selected
6 as jurors to try the case. Andrea Louise Richardson.
7 Chad Kirk Eskridge. Johnny Clifton Stewart. Mary
8 Catherine McCluney. Laura Candida Ward. Mary Wylene
9 Brewer. Sidney Eugene Hendricks. Leonard Jones. Gloria
10 Gean Howell. William Fred Johnson. David Little.
11 Jeffrey Shane Counts.

12 And the next two, you will be the alternates. What
13 happens is we have 12 regular panel members. But should
14 one of them fall sick or have some reason where they had
15 to be discharged during the course of their service, we
16 would move the first alternate up. And then if we had a
17 second juror that had to be dismissed, excused for
18 something, then the second alternate would be moved up in
19 that place.

20 So the alternates are Nathalie Drake Tramel. If you
21 will, come forward and have a seat. And then Lisa
22 Shirley Wilburn.

23 JUROR NATHALIE TRAMEL: Are the alternates
24 sequestered?

25 THE COURT: Yes ma'am.

26 Ladies and gentlemen, you are welcome to remain and
27 view the proceeding but you certainly are free to go at
28 this time. I do appreciate your attendance and your
29 service here today.

1 MS. STEINER: Your Honor, may we approach?

2 (MR. EVANS, MR. HILL, MR. CARTER, MR. BAUM AND MS.

3 STEINER APPROACHED THE BENCH FOR THE FOLLOWING BENCH

4 CONFERENCE HAD OUTSIDE THE HEARING OF THE JURY.)

5 MS. STEINER: At some point the defense is
6 going to want to reserve both its Batson objection and a
7 straight for Tenth Amendment racial discrimination.

8 THE COURT: You have already made it in the
9 record so I am of the opinion it is in the record.

10 MS. STEINER: I don't want to let the paneling
11 of the jury go by without having those objections.

12 THE COURT: I think you already made those, and
13 they are clear in the record. For the reasons previously
14 stated, first the Court finds there to be no -- well, all
15 the reasons were race neutral as to members that were
16 struck by the district attorney's office. And so the,
17 the Court finds there to be no Batson violation.

18 And then as to the other issues, the Court has
19 already ruled that based on prior rulings from the United
20 States Supreme Court and the State of Mississippi that
21 jury selection was appropriate.

22 As I say, they are noted for the record.

23 MS. STEINER: Allow us to state into the record
24 there is one of 12 -- of fourteen jurors, are non-white,
25 whereas this county is approximately, what, 40 percent?

26 MR. BAUM: The county is 40 percent black.

27 THE COURT: I don't know about the racial
28 makeup, but I will note for the record there is one
29 ~~regular member~~ of the panel that is black,

Jury and Bailiffs Administered the Oath

1 African-American race.

2 MS. STEINER: And only one.

3 THE COURT: Right. There is one period.

4 MS. STEINER: Right. Thank you.

5 (THE BENCH CONFERENCE WAS CONCLUDED.)

6 THE COURT: Ladies and gentlemen, if you will,
7 please stand now and the clerk will swear you in at this
8 time. If you will, raise your right hands and be sworn.

9 CIRCUIT CLERK: Do you solemnly swear or affirm
10 that you will well and truly try the issues between the
11 State of Mississippi and the defendant, Terry Pitchford,
12 cause number 2005-009-CR, and a true verdict give
13 according to the evidence and the law, so help you God?

14 JURY PANEL: I do.

15 THE COURT: You can be seated.

16 If the bailiffs will come forward. I need the
17 bailiffs to be sworn in at this time by the clerk as
18 well.

19 (THE BAILIFFS APPROACHED THE BENCH.)

20 THE COURT: If you will, raise your right hand.

21 CIRCUIT CLERK: Do you solemnly swear to attend
22 on this jury in cause number 2005-009-CR, State of
23 Mississippi versus Terry Pitchford, and perform such
24 duties as the Court may prescribe for you, so help you
25 God?

26 THE BAILIFFS: I do.

27 THE COURT: The rule is invoked at this time.
28 If there are any witnesses in the courtroom that are
29 expected to be called during the course of the trial,

Juror Information Questionnaire

1. Your Full Name: PATRICIA ANNE Tidwell
2. Present Address: 110 Lula Rd. Apt 20
3. Telephone Number: Home (42) 809-7183
Work ()
4. Place of Birth: GRENADA CO.
5. Age: 37 Gender: F Race: B
6. Have you lived at any other addresses in the last five years? YES: NO: ✓
If yes, what addresses?
(a)
(b)
7. Please state your highest level of education completed: 10th
Degrees or diplomas which you hold:
List schools attended and locations: GRENADA High
8. Who is your employer: NONE
How long have you worked for this employer:
9. What is your position, and what are your duties in that position?
10. Who else have you worked for in the past five years?
(a)
(b)
11. Have you ever been in the military? NO
If yes, what branch?
12. Have you or any family member or close personal friend ever worked as a volunteer or employee in a law enforcement agency, prosecutor's office, prison, jail, correctional institution or mental health facility on the local, state, or federal level? NO
If yes, please state who, when and where:

13. Have you or any family members or close personal friends worked for a donated time or money to organizations supporting crime victims or preventing crime? NO

If yes, who, what organizations and when? _____

14. Have you ever appeared as a witness before a Grand Jury? YES: _____ NO: ✓

When and where: _____

15. Have you ever appeared as a witness in a criminal prosecution? YES: _____ NO: ✓

When and where: _____

Were you a witness for the State? _____ or for the defendant? _____

16. Have you ever served on a Grand Jury before? YES: _____ NO: ✓

17. Have you ever served on a Trial Jury before? YES: _____ NO: ✓

Have you served as a juror on a Civil case? NO

When and where: _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

Have you served as a juror on a Criminal case? NO

When and where: _____

What was the charge? _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

18. Have you ever been a party to a legal action? YES: _____ NO: NO

Was it Civil? _____ or Criminal? _____

If it was Civil, were you the Plaintiff? _____ or the Defendant? _____

If it was Civil, was the verdict in your favor? _____

If it was Criminal, what were the charges involved? _____

Were you the one who filed charges? _____

Or were charges filed against you? _____

What was the result? _____

19. Has any member of your family or any close friend ever been charged with a criminal offense other than traffic offenses? YES: ✓ NO: _____

If yes, please state your relationship to that person, the charges involved and the outcome.

~~he is my brother~~ he is my brother, sexual battery,
he ^{was} convicted for 5 years and 5 on papers.

20. Has any member of your family or any close friend ever been arrested for a criminal offense other than traffic offenses, but not charged? YES: _____ NO: ☒

If yes, please state your relationship to that person and the charges involved.

21. Have you OR, any member of your family ANY, or a close friend has ever been the victim of a violent crime?

What was the crime? _____

Was anyone arrested _____ and/or convicted _____ in connection with that crime?

22. What is your political party preference? D

Religious affiliation

23. Please list the organizations to which you belong (Social, Fraternal, Service, Charitable, etc.)

24. What newspapers do you read? All of them

What magazines? NO

What is your favorite t.v. show? LAW & ORDER

25. Do you regularly watch the local news? yes; national news? _____

26. Thinking about the neighborhood where you live, are the people you usually run into:

All White _____ All Black ☒ Mix of white and black residents _____

27. What is your marital status? Married _____ Divorced _____ Widowed _____ Never married ☒

If married or widowed, how many years are/were you married? _____

What is/was your spouse's occupation? _____

Highest grade spouse completed in school _____

Spouse's Political Party Preference _____

Spouse's Religious Affiliation _____

28. How many children do you have? two

List their ages, gender and occupation if applicable:

20 years old - she's ~~male~~ Female (none)

15 years old - he's male (none)

29. What do you think about the death penalty?

(Please circle the letter that most accurately represents your opinion. You may provide more information on the lines below.)

- A. Strongly Favor
- ☒ B. Generally Favor
- C. No Opinion
- D. Generally Against
- E. Strongly Against

if it represents the crime.

30. Is there any other information you believe might be important for the Court or for the lawyers to know about you as a potential juror?

I'm A very open
mined person,

Patricia Anne Tidwell

Juror please sign full name here

1-14-04

Date signed

D

- A-

13. Have you or any family members or close personal friends worked for a donated time or money to organizations supporting crime victims or preventing crime? NO

If yes, who, what organizations and when? _____

14. Have you ever appeared as a witness before a Grand Jury? YES: _____ NO: X

When and where: _____

15. Have you ever appeared as a witness in a criminal prosecution? YES: _____ NO: X

When and where: _____

Were you a witness for the State? _____ or for the defendant? _____

16. Have you ever served on a Grand Jury before? YES: _____ NO: X

17. Have you ever served on a Trial Jury before? YES: _____ NO: X

Have you served as a juror on a Civil case? _____

When and where: _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

Have you served as a juror on a Criminal case? NO

When and where: _____

What was the charge? _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

18. Have you ever been a party to a legal action? YES: _____ NO: X

Was it Civil? _____ or Criminal? _____

If it was Civil, were you the Plaintiff? _____ or the Defendant? _____

If it was Civil, was the verdict in your favor? _____

If it was Criminal, what were the charges involved? _____

Were you the one who filed charges? _____

Or were charges filed against you? _____

What was the result? _____

19. Has any member of your family or any close friend ever been charged with a criminal offense other than traffic offenses? YES: _____ NO: X

If yes, please state your relationship to that person, the charges involved and the outcome.

2
636

Pitchford-OCDC-004120

20. Has any member of your family or any close friend ever been arrested for a criminal offense other than traffic offenses, but not charged? YES: _____ NO: X

If yes, please state your relationship to that person and the charges involved.

21. Have you _____, any member of your family _____, or a close friend _____ ever been the victim of a violent crime? NO

What was the crime? _____

Was anyone arrested _____ and/or convicted _____ in connection with that crime?

22. What is your political party preference? _____

Religious affiliation _____

23. Please list the organizations to which you belong (Social, Fraternal, Service, Charitable, etc.) _____

24. What newspapers do you read? The Daily Star

What magazines? Vibe, Ebony, Jet

What is your favorite t.v. show? Fresh Prince, Sanford, Son Good times

25. Do you regularly watch the local news? Yes; national news? Sometimes

26. Thinking about the neighborhood where you live, are the people you usually run into:

All White _____ All Black _____ Mix of white and black residents X

27. What is your marital status? Married X Divorced _____ Widowed _____ Never married _____

If married or widowed, how many years are/were you married? 5 1/2

What is/was your spouse's occupation? Wendy's

Highest grade spouse completed in school 12th

Spouse's Political Party Preference _____

Spouse's Religious Affiliation Christian

28. How many children do you have? 1

List their ages, gender and occupation if applicable:

8
Female
goes to school

bad like murder then ^{yes I think they should get the death penalty.} if someone did something

29. What do you think about the death penalty?

(Please circle the letter that most accurately represents your opinion. You may provide more information on the lines below.)

- A. Strongly Favor
- ☒ B. Generally Favor
- C. No Opinion
- D. Generally Against
- E. Strongly Against

30. Is there any other information you believe might be important for the Court or for the lawyers to know about you as a potential juror? NO

Linda R. Lee
Juror please sign full name here

1-14-06
Date signed

0

Juror Information Questionnaire

1. Your Full Name: Christopher Leonard T. Hume
2. Present Address: 211 Spain Drive
3. Telephone Number: Home (402) 226-1771
Work (402) 226-7000
4. Place of Birth: Grenada
5. Age: 27 Gender: male Race: Black
6. Have you lived at any other addresses in the last five years? YES: NO
If yes, what addresses?
(a) _____
(b) _____
7. Please state your highest level of education completed: College
Degrees or diplomas which you hold: B.B.A., Criminal Justice
List schools attended and locations: MS Valley State University
8. Who is your employer: Heatercraft
How long have you worked for this employer: 1 month
9. What is your position, and what are your duties in that position?
Machine Operator
10. Who else have you worked for in the past five years?
(a) Delta Correctional
(b) _____
11. Have you ever been in the military? NO
If yes, what branch? _____
12. Have you or any family member or close personal friend ever worked as a volunteer or employee in a law enforcement agency, prosecutor's office, prison, jail, correctional institution or mental health facility on the local, state, or federal level? Yes
If yes, please state who, when and where: Myself, at Delta Correctional Facility, in Greenwood, MS

13. Have you or any family members or close personal friends worked for a donated time or money to organizations supporting crime victims or preventing crime? NO

If yes, who, what organizations and when? _____

14. Have you ever appeared as a witness before a Grand Jury? YES: _____ NO: ✓

When and where: _____

15. Have you ever appeared as a witness in a criminal prosecution? YES: _____ NO: ✓

When and where: _____

Were you a witness for the State? NO or for the defendant? _____

16. Have you ever served on a Grand Jury before? YES: _____ NO: ✓

17. Have you ever served on a Trial Jury before? YES: _____ NO: ✓

Have you served as a juror on a Civil case? NO

When and where: _____

Did the jury reach a verdict? YES: _____ NO: ✓

If not, please explain: _____

Have you served as a juror on a Criminal case? NO

When and where: _____

What was the charge? _____

Did the jury reach a verdict? YES: _____ NO: ✓

If not, please explain: _____

18. Have you ever been a party to a legal action? YES: _____ NO: ✓

Was it Civil? _____ or Criminal? _____

If it was Civil, were you the Plaintiff? _____ or the Defendant? _____

If it was Civil, was the verdict in your favor? _____

If it was Criminal, what were the charges involved? _____

Were you the one who filed charges? _____

Or were charges filed against you? _____

What was the result? _____

19. Has any member of your family or any close friend ever been charged with a criminal offense other than traffic offenses? YES: ✓ NO: _____

If yes, please state your relationship to that person, the charges involved and the outcome.

Brother, murder 1st degree, 15 yrs

20. Has any member of your family or any close friend ever been arrested for a criminal offense other than traffic offenses, but not charged? YES: ✓ NO: _____

If yes, please state your relationship to that person and the charges involved.

Same

21. Have you _____, any member of your family _____, or a close friend _____ ever been the victim of a violent crime?

What was the crime? NO

Was anyone arrested _____ and/or convicted _____ in connection with that crime?

22. What is your political party preference? None

Religious affiliation _____

23. Please list the organizations to which you belong (Social, Fraternal, Service, Charitable, etc.)

N/A

24. What newspapers do you read? Commercial Appeal, Daily Star

What magazines? Nibre, Source, Time

What is your favorite t.v. show? Outs

25. Do you regularly watch the local news? Yes; national news? CNN

26. Thinking about the neighborhood where you live, are the people you usually run into:

All White _____ All Black _____ Mix of white and black residents ✓

27. What is your marital status? Married _____ Divorced _____ Widowed _____ Never married ✓

If married or widowed, how many years are/were you married? _____

What is/was your spouse's occupation? _____

Highest grade spouse completed in school _____

Spouse's Political Party Preference _____

Spouse's Religious Affiliation _____

28. How many children do you have? None

List their ages, gender and occupation if applicable:

29. What do you think about the death penalty?

(Please circle the letter that most accurately represents your opinion. You may provide more information on the lines below.)

- ☒ A. Strongly Favor
- ☐ B. Generally Favor
- ☐ C. No Opinion
- ☐ D. Generally Against
- ☐ E. Strongly Against

30. Is there any other information you believe might be important for the Court or for the lawyers to know about you as a potential juror? *no*

Christopher James Tiller

Juror please sign full name here

01/15/06

Date signed

D

Juror Information Questionnaire

1. Your Full Name: Carlos Fitzgerald Ward
2. Present Address: 151 Tallahoma Drive
3. Telephone Number: Home () 226-3945
Work () _____
4. Place of Birth: Grenada, Ms
5. Age: 22 Gender: Male Race: Negro
6. Have you lived at any other addresses in the last five years? YES: _____ NO: X
If yes, what addresses?
(a) _____
(b) _____
7. Please state your highest level of education completed: Sophomore at Holmes Comm. College.
Degrees or diplomas which you hold: none
List schools attended and locations: Holmes Community College - Grenada
8. Who is your employer: Heatcraft
How long have you worked for this employer: 14 months
9. What is your position, and what are your duties in that position?
Sub brazer. braze headers
10. Who else have you worked for in the past five years?
(a) ADP
(b) Domino's
11. Have you ever been in the military? No
If yes, what branch? _____
12. Have you or any family member or close personal friend ever worked as a volunteer or employee in a law enforcement agency, prosecutor's office, prison, jail, correctional institution or mental health facility on the local, state, or federal level? No
If yes, please state who, when and where: _____

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Pitchford-OCDC-004294

13. Have you or any family members or close personal friends worked for a donated time or money to organizations supporting crime victims or preventing crime? NO
If yes, who, what organizations and when? _____
14. Have you ever appeared as a witness before a Grand Jury? YES: _____ NO: X
When and where: _____
15. Have you ever appeared as a witness in a criminal prosecution? YES: _____ NO: X
When and where: _____
Were you a witness for the State? no or for the defendant? no
16. Have you ever served on a Grand Jury before? YES: _____ NO: X
17. Have you ever served on a Trial Jury before? YES: _____ NO: X
Have you served as a juror on a Civil case? no
When and where: _____
Did the jury reach a verdict? YES: _____ NO: _____
If not, please explain: _____
Have you served as a juror on a Criminal case? no
When and where: _____
What was the charge? _____
Did the jury reach a verdict? YES: _____ NO: _____
If not, please explain: _____
18. Have you ever been a party to a legal action? YES: _____ NO: X
Was it Civil? _____ or Criminal? _____
If it was Civil, were you the Plaintiff? _____ or the Defendant? _____
If it was Civil, was the verdict in your favor? _____
If it was Criminal, what were the charges involved? _____
Were you the one who filed charges? _____
Or were charges filed against you? _____
What was the result? _____
19. Has any member of your family or any close friend ever been charged with a criminal offense other than traffic offenses? YES: _____ NO: X
If yes, please state your relationship to that person, the charges involved and the outcome.

20. Has any member of your family or any close friend ever been arrested for a criminal offense other than traffic offenses, but not charged? YES: _____ NO: X

If yes, please state your relationship to that person and the charges involved.

21. Have you _____, any member of your family _____, or a close friend _____ ever been the victim of a violent crime?

What was the crime? _____

Was anyone arrested _____ and/or convicted _____ in connection with that crime?

22. What is your political party preference? _____

Religious affiliation Baptist

23. Please list the organizations to which you belong (Social, Fraternal, Service, Charitable, etc.)

None

24. What newspapers do you read? Daily Star

What magazines? None

What is your favorite t.v. show? the news

25. Do you regularly watch the local news? yes; national news? yes

26. Thinking about the neighborhood where you live, are the people you usually run into:

All White _____ All Black X Mix of white and black residents _____

27. What is your marital status? Married _____ Divorced _____ Widowed _____ Never married X.

If married or widowed, how many years are/were you married? _____

What is/was your spouse's occupation? _____

Highest grade spouse completed in school _____

Spouse's Political Party Preference _____

Spouse's Religious Affiliation _____

28. How many children do you have? one

List their ages, gender and occupation if applicable:

Son - 2 years old

29. What do you think about the death penalty?

(Please circle the letter that most accurately represents your opinion. You may provide more information on the lines below.)

- A. Strongly Favor
- B. Generally Favor
- C. No Opinion
- D. Generally Against
- E. Strongly Against

30. Is there any other information you believe might be important for the Court or for the lawyers to know about you as a potential juror? No

Caleb Fitzgerald Neal

Juror please sign full name here

1-18-06

Date signed

D

Juror Information Questionnaire

1. Your Full Name: Michael Tyson Sherman
2. Present Address: 1144 Windmill St. Grenada, MS 38901
3. Telephone Number: Home (w/2) 595-4613
Work (w/2) 229-3089
4. Place of Birth: Greenville, MS
5. Age: 27 Gender: male Race: white
6. Have you lived at any other addresses in the last five years? YES: ☒ NO: ☐
If yes, what addresses?
(a) 4602 Carrollton Road Grenada MS 38901
(b) _____
7. Please state your highest level of education completed: 4 year degree
Degrees or diplomas which you hold: BS Mechanical Engineering
List schools attended and locations: Mississippi State University, Starkville, MS

8. Who is your employer: Advanced Distributor Products
How long have you worked for this employer: 8 mos
9. What is your position, and what are your duties in that position?
manufacturing engineer

10. Who else have you worked for in the past five years?
(a) Viking Range Corporation
(b) _____
11. Have you ever been in the military? no
If yes, what branch? _____
12. Have you or any family member or close personal friend ever worked as a volunteer or employee in a law enforcement agency, prosecutor's office, prison, jail, correctional institution or mental health facility on the local, state, or federal level? no
If yes, please state who, when and where: _____

13. Have you or any family members or close personal friends worked for a donated time or money to organizations supporting crime victims or preventing crime? no

If yes, who, what organizations and when? _____

14. Have you ever appeared as a witness before a Grand Jury? YES: _____ NO: x

When and where: _____

15. Have you ever appeared as a witness in a criminal prosecution? YES: _____ NO: x

When and where: _____

Were you a witness for the State? _____ or for the defendant? _____

16. Have you ever served on a Grand Jury before? YES: _____ NO: x

17. Have you ever served on a Trial Jury before? YES: _____ NO: x

Have you served as a juror on a Civil case? no

When and where: _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

Have you served as a juror on a Criminal case? no

When and where: _____

What was the charge? _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

18. Have you ever been a party to a legal action? YES: _____ NO: x

Was it Civil? _____ or Criminal? _____

If it was Civil, were you the Plaintiff? _____ or the Defendant? _____

If it was Civil, was the verdict in your favor? _____

If it was Criminal, what were the charges involved? _____

Were you the one who filed charges? _____

Or were charges filed against you? _____

What was the result? _____

19. Has any member of your family or any close friend ever been charged with a criminal offense other than traffic offenses? YES: _____ NO: x

If yes, please state your relationship to that person, the charges involved and the outcome.

20. Has any member of your family or any close friend ever been arrested for a criminal offense other than traffic offenses, but not charged? YES: _____ NO: x

If yes, please state your relationship to that person and the charges involved.

21. Have you _____, any member of your family _____, or a close friend _____ ever been the victim of a violent crime? NO

What was the crime? _____

Was anyone arrested _____ and/or convicted _____ in connection with that crime?

22. What is your political party preference? Republican

Religious affiliation Baptist

23. Please list the organizations to which you belong (Social, Fraternal, Service, Charitable, etc.)

24. What newspapers do you read? Clarion Ledger, Grenada Star

What magazines? Car & Driver

What is your favorite t.v. show? _____

25. Do you regularly watch the local news? x; national news? x

26. Thinking about the neighborhood where you live, are the people you usually run into:

All White x All Black _____ Mix of white and black residents _____

27. What is your marital status? Married x Divorced _____ Widowed _____ Never married _____

If married or widowed, how many years are/were you married? 4 1/2 yrs

What is/was your spouse's occupation? homemaker

Highest grade spouse completed in school 4 year degree

Spouse's Political Party Preference Republican

Spouse's Religious Affiliation Baptist

28. How many children do you have? 2

List their ages, gender and occupation if applicable:

2 1/2 year Female

3 month male

29. What do you think about the death penalty?

(Please circle the letter that most accurately represents your opinion. You may provide more information on the lines below.)

- ☒ A. Strongly Favor
- ☐ B. Generally Favor
- ☐ C. No Opinion
- ☐ D. Generally Against
- ☐ E. Strongly Against

30. Is there any other information you believe might be important for the Court or for the lawyers to know about you as a potential juror? _____

Michael John Stern
Juror please sign full name here

1/14/06
Date signed

D

Juror Information Questionnaire

1. Your Full Name: Lisa Shirley Willbourn
2. Present Address: 3446 Robin Road
3. Telephone Number: Home (414) 226-8564
Work (414) 226-5969
4. Place of Birth: Pascagoula, MS
5. Age: 28 Gender: Female Race: White
6. Have you lived at any other addresses in the last five years? YES: ☒ NO: ☐
If yes, what addresses?
(a) 82 Walthall Street
(b) _____
7. Please state your highest level of education completed: Master's Degree
Degrees or diplomas which you hold: ^{H.S. diploma} A.A.S., B.S., M.S.
List schools attended and locations: Corinth High School, NE Community College, Mississippi State University
8. Who is your employer: Grenada School District
How long have you worked for this employer: 7 yrs.
9. What is your position, and what are your duties in that position?
Co-Op Teacher, Deca Advisor, Senior Sponsor
Homecoming Chairman
10. Who else have you worked for in the past five years?
(a) Jeffrey Interiors - part time 2nd job (2001-2003)
(b) _____
11. Have you ever been in the military? no
If yes, what branch? _____
12. Have you or any family member or close personal friend ever worked as a volunteer or employee in a law enforcement agency, prosecutor's office, prison, jail, correctional institution or mental health facility on the local, state, or federal level? no
If yes, please state who, when and where: _____

13. Have you or any family members or close personal friends worked for a donated time or money to organizations supporting crime victims or preventing crime? no

If yes, who, what organizations and when? _____

14. Have you ever appeared as a witness before a Grand Jury? YES: _____ NO: X

When and where: _____

15. Have you ever appeared as a witness in a criminal prosecution? YES: _____ NO: X

When and where: _____

Were you a witness for the State? _____ or for the defendant? _____

16. Have you ever served on a Grand Jury before? YES: _____ NO: X

17. Have you ever served on a Trial Jury before? YES: _____ NO: X

Have you served as a juror on a Civil case? no

When and where: _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

Have you served as a juror on a Criminal case? no

When and where: _____

What was the charge? _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

18. Have you ever been a party to a legal action? YES: _____ NO: X

Was it Civil? _____ or Criminal? _____

If it was Civil, were you the Plaintiff? _____ or the Defendant? _____

If it was Civil, was the verdict in your favor? _____

If it was Criminal, what were the charges involved? _____

Were you the one who filed charges? _____

Or were charges filed against you? _____

What was the result? _____

19. Has any member of your family or any close friend ever been charged with a criminal offense other than traffic offenses? YES: _____ NO: X

If yes, please state your relationship to that person, the charges involved and the outcome.

20. Has any member of your family or any close friend ever been arrested for a criminal offense other than traffic offenses, but not charged? YES: _____ NO: X

If yes, please state your relationship to that person and the charges involved.

21. Have you NO, any member of your family NO, or a close friend NO ever been the victim of a violent crime?

What was the crime? _____

Was anyone arrested _____ and/or convicted _____ in connection with that crime?

22. What is your political party preference? republican

Religious affiliation baptist

23. Please list the organizations to which you belong (Social, Fraternal, Service, Charitable, etc.)

Delta Alumni, Mississippi Association of Career Educators,
Mississippi Professional Educators

24. What newspapers do you read? none

What magazines? Parenting, Money

What is your favorite t.v. show? Plastic Surgery Before & After

25. Do you regularly watch the local news? NO; national news? NO

26. Thinking about the neighborhood where you live, are the people you usually run into:

All White _____ All Black _____ Mix of white and black residents X

27. What is your marital status? Married X Divorced _____ Widowed _____ Never married _____

If married or widowed, how many years are/were you married? 4 yrs

What is/was your spouse's occupation? Self-employed

Highest grade spouse completed in school B.S. @ Delta State

Spouse's Political Party Preference democrat

Spouse's Religious Affiliation methodist

28. How many children do you have? 1

List their ages, gender and occupation if applicable:

23 mths, boy, n/a

29. What do you think about the death penalty?

(Please circle the letter that most accurately represents your opinion. You may provide more information on the lines below.)

- A. Strongly Favor
- ☒ B. Generally Favor
- C. No Opinion
- D. Generally Against
- E. Strongly Against

30. Is there any other information you believe might be important for the Court or for the lawyers to know about you as a potential juror? no

Lisa S. Wilbourn

Juror please sign full name here

1/19/06

Date signed

Juror Information Questionnaire

1. Your Full Name: Lisa Griffiths Parker
2. Present Address: 3707 Griffiths Rd.
3. Telephone Number: Home () _____
Work () _____
4. Place of Birth: Shannon MS.
5. Age: 29 Gender: F Race: W
6. Have you lived at any other addresses in the last five years? YES: ☒ NO: ☐
If yes, what addresses?
(a) 3707 Griffiths Rd. Grenada MS. 38501
(b) _____
7. Please state your highest level of education completed: 11th grade
Degrees or diplomas which you hold: _____
List schools attended and locations: Kirk Academy Grenada
8. Who is your employer: N/A
How long have you worked for this employer: _____
9. What is your position, and what are your duties in that position?

10. Who else have you worked for in the past five years?
(a) _____
(b) _____
11. Have you ever been in the military? N/A
If yes, what branch? _____
12. Have you or any family member or close personal friend ever worked as a volunteer or employee in a law enforcement agency, prosecutor's office, prison, jail, correctional institution or mental health facility on the local, state, or federal level? yes
If yes, please state who, when and where: Husband Thomas R. Parker
Sheriffs Dept. Grenada

13. Have you or any family members or close personal friends worked for a donated time or money to organizations supporting crime victims or preventing crime? NO

If yes, who, what organizations and when? _____

14. Have you ever appeared as a witness before a Grand Jury? YES: _____ NO: X

When and where: _____

15. Have you ever appeared as a witness in a criminal prosecution? YES: _____ NO: X

When and where: _____

Were you a witness for the State? _____ or for the defendant? _____

16. Have you ever served on a Grand Jury before? YES: _____ NO: X

17. Have you ever served on a Trial Jury before? YES: _____ NO: X

Have you served as a juror on a Civil case? NO

When and where: _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

Have you served as a juror on a Criminal case? NO

When and where: _____

What was the charge? _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

18. Have you ever been a party to a legal action? YES: _____ NO: X

Was it Civil? _____ or Criminal? _____

If it was Civil, were you the Plaintiff? _____ or the Defendant? _____

If it was Civil, was the verdict in your favor? _____

If it was Criminal, what were the charges involved? _____

Were you the one who filed charges? _____

Or were charges filed against you? _____

What was the result? _____

19. Has any member of your family or any close friend ever been charged with a criminal offense other than traffic offenses? YES: _____ NO: X

If yes, please state your relationship to that person, the charges involved and the outcome.

20. Has any member of your family or any close friend ever been arrested for a criminal offense other than traffic offenses, but not charged? YES: _____ NO: X

If yes, please state your relationship to that person and the charges involved.

21. Have you _____, any member of your family _____, or a close friend _____ ever been the victim of a violent crime?

What was the crime? _____

Was anyone arrested _____ and/or convicted _____ in connection with that crime?

22. What is your political party preference? _____

Religious affiliation _____

23. Please list the organizations to which you belong (Social, Fraternal, Service, Charitable, etc.)

N/A

24. What newspapers do you read? _____

What magazines? _____

What is your favorite t.v. show? _____

25. Do you regularly watch the local news? NO; national news? _____

26. Thinking about the neighborhood where you live, are the people you usually run into:

All White X All Black _____ Mix of white and black residents _____

27. What is your marital status? Married X Divorced _____ Widowed _____ Never married _____

If married or widowed, how many years are/were you married? 8

What is/was your spouse's occupation? Waste Management (Truck Driver)

Highest grade spouse completed in school 12 yr High school + 2 yr college

Spouse's Political Party Preference _____

Spouse's Religious Affiliation _____

28. How many children do you have? 1

List their ages, gender and occupation if applicable: _____

6 yrs

29. What do you think about the death penalty?

(Please circle the letter that most accurately represents your opinion. You may provide more information on the lines below.)

- A. Strongly Favor
- B. Generally Favor
- C. No Opinion
- D. Generally Against
- E. Strongly Against

30. Is there any other information you believe might be important for the Court or for the lawyers to know about you as a potential juror? _____

Lisa J. Park
Juror please sign full name here

Jan 14, 2006
Date signed _____

D

Juror Information Questionnaire

1. Your Full Name: Nathalie Drake Tramel
2. Present Address: 339 Easley Dr Grenada
3. Telephone Number: Home 662 226-6329
Work 662 226-5135
4. Place of Birth: Knoxville TN
5. Age: 37 Gender: F Race: W
6. Have you lived at any other addresses in the last five years? YES: NO: ✓
If yes, what addresses?
(a)
(b)
7. Please state your highest level of education completed: Masters
Degrees or diplomas which you hold: BA, MEED
List schools attended and locations: MS Univ. for Women - Columbus, MS
Delta State Univ - Cleveland, MS
8. Who is your employer: Grenada School District
How long have you worked for this employer: 5 yrs
9. What is your position, and what are your duties in that position?
English teacher, I teach English/language arts
to 7th graders
10. Who else have you worked for in the past five years?
(a)
(b)
11. Have you ever been in the military? N
If yes, what branch?
12. Have you or any family member or close personal friend ever worked as a volunteer or employee in a law enforcement agency, prosecutor's office, prison, jail, correctional institution or mental health facility on the local, state, or federal level? NO yes
If yes, please state who, when and where: Cindy Long - women's prison
ministry through our church - she volunteers to
work with these women

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13. Have you or any family members or close personal friends worked for a donated time or money to organizations supporting crime victims or preventing crime? no

If yes, who, what organizations and when? _____

14. Have you ever appeared as a witness before a Grand Jury? YES: _____ NO: ✓

When and where: _____

15. Have you ever appeared as a witness in a criminal prosecution? YES: _____ NO: ✓

When and where: _____

Were you a witness for the State? _____ or for the defendant? _____

16. Have you ever served on a Grand Jury before? YES: _____ NO: ✓

17. Have you ever served on a Trial Jury before? YES: _____ NO: ✓

Have you served as a juror on a Civil case? no

When and where: _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

Have you served as a juror on a Criminal case? no

When and where: _____

What was the charge? _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

18. Have you ever been a party to a legal action? YES: _____ NO: ✓

Was it Civil? _____ or Criminal? _____

If it was Civil, were you the Plaintiff? _____ or the Defendant? _____

If it was Civil, was the verdict in your favor? _____

If it was Criminal, what were the charges involved? _____

Were you the one who filed charges? _____

Or were charges filed against you? _____

What was the result? _____

19. Has any member of your family or any close friend ever been charged with a criminal offense other than traffic offenses? YES: _____ NO: ✓

If yes, please state your relationship to that person, the charges involved and the outcome.

20. Has any member of your family or any close friend ever been arrested for a criminal offense other than traffic offenses, but not charged? YES: _____ NO: ☒

If yes, please state your relationship to that person and the charges involved.

21. Have you No, any member of your family No, or a close friend No ever been the victim of a violent crime?

What was the crime? _____

Was anyone arrested _____ and/or convicted _____ in connection with that crime?

22. What is your political party preference? Republican

Religious affiliation Christian/Methodist

23. Please list the organizations to which you belong (Social, Fraternal, Service, Charitable, etc.)

Fumc (church)

24. What newspapers do you read? none

What magazines? Quick Cooking

What is your favorite t.v. show? none

25. Do you regularly watch the local news? no; national news? no

26. Thinking about the neighborhood where you live, are the people you usually run into:

All White ☒ All Black _____ Mix of white and black residents _____

27. What is your marital status? Married ☒ Divorced _____ Widowed _____ Never married _____

If married or widowed, how many years are/were you married? 14

What is/was your spouse's occupation? self-employed - computer software

Highest grade spouse completed in school Some college

Spouse's Political Party Preference Republican

Spouse's Religious Affiliation Christian/Methodist

28. How many children do you have? 2

List their ages, gender and occupation if applicable:

5 - female

4 - male

29. What do you think about the death penalty?

(Please circle the letter that most accurately represents your opinion. You may provide more information on the lines below.)

- A. Strongly Favor
- B. Generally Favor
- ☒ C. No Opinion
- D. Generally Against
- E. Strongly Against

Its a tough issue. It is not that I have no opinion,
but rather that I have mixed feelings. I would tend more
toward against than for.

30. Is there any other information you believe might be important for the Court or for the lawyers to know about you as a potential juror? _____

Nathalie Drake Daniel

Juror please sign full name here

1-18-06

Date signed

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Juror Information Questionnaire

1. Your Full Name: Laura Candida Ward
2. Present Address: 643 Clay Rd Grenada, Ms 38901
3. Telephone Number: Home 662-226-9037
Work 662-226-5147
4. Place of Birth: Grenada County
5. Age: 33 Gender: F Race: W
6. Have you lived at any other addresses in the last five years? YES: ☒ NO: ☐
If yes, what addresses?
(a) 54 Rigdon Rd Grenada, Ms 38901
(b) _____
7. Please state your highest level of education completed: 12
Degrees or diplomas which you hold: High School Diploma
List schools attended and locations: GHS Grenada School District
8. Who is your employer: Grenada Family Medicine Clinic
How long have you worked for this employer: 7 yrs
9. What is your position, and what are your duties in that position?
Receptionist: phone, greet patients, new pt info, insurance, filing, etc...
10. Who else have you worked for in the past five years?
(a) _____
(b) _____
11. Have you ever been in the military? NO
If yes, what branch? _____
12. Have you or any family member or close personal friend ever worked as a volunteer or employee in a law enforcement agency, prosecutor's office, prison, jail, correctional institution or mental health facility on the local, state, or federal level? NO
If yes, please state who, when and where: _____

13. Have you or any family members or close personal friends worked for a donated time or money to organizations supporting crime victims or preventing crime? NO

If yes, who, what organizations and when? _____

14. Have you ever appeared as a witness before a Grand Jury? YES: _____ NO: ✓

When and where: _____

15. Have you ever appeared as a witness in a criminal prosecution? YES: _____ NO: ✓

When and where: _____

Were you a witness for the State? _____ or for the defendant? _____

16. Have you ever served on a Grand Jury before? YES: _____ NO: ✓

17. Have you ever served on a Trial Jury before? YES: _____ NO: ✓

Have you served as a juror on a Civil case? _____

When and where: _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

Have you served as a juror on a Criminal case? _____

When and where: _____

What was the charge? _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

18. Have you ever been a party to a legal action? YES: _____ NO: ✓

Was it Civil? _____ or Criminal? _____

If it was Civil, were you the Plaintiff? _____ or the Defendant? _____

If it was Civil, was the verdict in your favor? _____

If it was Criminal, what were the charges involved? _____

Were you the one who filed charges? _____

Or were charges filed against you? _____

What was the result? _____

19. Has any member of your family or any close friend ever been charged with a criminal offense other than traffic offenses? YES: _____ NO: _____

If yes, please state your relationship to that person, the charges involved and the outcome.

20. Has any member of your family or any close friend ever been arrested for a criminal offense other than traffic offenses, but not charged? YES: _____ NO: ☒

If yes, please state your relationship to that person and the charges involved.

21. Have you _____, any member of your family _____, or a close friend _____ ever been the victim of a violent crime? no

What was the crime? _____

Was anyone arrested _____ and/or convicted _____ in connection with that crime?

22. What is your political party preference? Republican

Religious affiliation Baptist

23. Please list the organizations to which you belong (Social, Fraternal, Service, Charitable, etc.)

24. What newspapers do you read? Grenada Star

What magazines? _____

What is your favorite t.v. show? _____

25. Do you regularly watch the local news? No; national news? NO

26. Thinking about the neighborhood where you live, are the people you usually run into:

All White ☒ All Black _____ Mix of white and black residents _____

27. What is your marital status? Married ☒ Divorced _____ Widowed _____ Never married _____

If married or widowed, how many years are/were you married? 15 yrs

What is/was your spouse's occupation? HC

Highest grade spouse completed in school 12 Attending college classes

Spouse's Political Party Preference R

Spouse's Religious Affiliation Baptist

28. How many children do you have? 3

List their ages, gender and occupation if applicable:

15 - M

10 - M

6 - F

29. What do you think about the death penalty?

(Please circle the letter that most accurately represents your opinion. You may provide more information on the lines below.)

- A. Strongly Favor
- B. Generally Favor
- ☒ C. No Opinion
- D. Generally Against
- E. Strongly Against

Depends on the situation

30. Is there any other information you believe might be important for the Court or for the lawyers to know about you as a potential juror? _____

Laura Candice Ward

Juror please sign full name here

Jan. 15, 2006

Date signed

D

Juror Information Questionnaire

1. Your Full Name: STEPHEN ABEL MARTER JR.
2. Present Address: 404 RIVER ROAD
3. Telephone Number: Home () 229-9500
Work () 226-6090
4. Place of Birth: WINONA, MS
5. Age: 37 Gender: M Race: W
6. Have you lived at any other addresses in the last five years? YES: NO: X
If yes, what addresses?
(a)
(b)
7. Please state your highest level of education completed: COLLEGE
Degrees or diplomas which you hold: B.S. FOREST MANAGEMENT
List schools attended and locations: KIRK ACADEMY, MISSISSIPPI STATE UNIVERSITY
8. Who is your employer: US ARMY CORPS OF ENGINEERS
How long have you worked for this employer: 12 YEARS
9. What is your position, and what are your duties in that position?
WILDLIFE MANAGEMENT FOR ENID AND GRENADE LAKES
WILDLIFE BIOLOGIST
10. Who else have you worked for in the past five years?
(a) N/A
(b)
11. Have you ever been in the military? NO
If yes, what branch?
12. Have you or any family member or close personal friend ever worked as a volunteer or employee in a law enforcement agency, prosecutor's office, prison, jail, correctional institution or mental health facility on the local, state, or federal level? YES
If yes, please state who, when and where: MARK FIELDER, DEPUTY VOLUNTEER, MONTGOMERY COUNTY S.O.

1
655

Pitchford-OCDC-004139

13. Have you or any family members or close personal friends worked for a donated time or money to organizations supporting crime victims or preventing crime? No

If yes, who, what organizations and when? _____

14. Have you ever appeared as a witness before a Grand Jury? YES: _____ NO: X

When and where: _____

15. Have you ever appeared as a witness in a criminal prosecution? YES: _____ NO: X

When and where: _____

Were you a witness for the State? _____ or for the defendant? _____

16. Have you ever served on a Grand Jury before? YES: _____ NO: X

17. Have you ever served on a Trial Jury before? YES: _____ NO: X

Have you served as a juror on a Civil case? No

When and where: _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

Have you served as a juror on a Criminal case? No

When and where: _____

What was the charge? _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

18. Have you ever been a party to a legal action? YES: _____ NO: X

Was it Civil? _____ or Criminal? _____

If it was Civil, were you the Plaintiff? _____ or the Defendant? _____

If it was Civil, was the verdict in your favor? _____

If it was Criminal, what were the charges involved? _____

Were you the one who filed charges? _____

Or were charges filed against you? _____

What was the result? _____

19. Has any member of your family or any close friend ever been charged with a criminal offense other than traffic offenses? YES: _____ NO: X

If yes, please state your relationship to that person, the charges involved and the outcome.

2
656

Pitchford-OCDC-004140

20. Has any member of your family or any close friend ever been arrested for a criminal offense other than traffic offenses, but not charged? YES: _____ NO: X

If yes, please state your relationship to that person and the charges involved.

21. Have you NO, any member of your family NO, or a close friend NO ever been the victim of a violent crime?

What was the crime? _____

Was anyone arrested _____ and/or convicted _____ in connection with that crime?

22. What is your political party preference? NONE

Religious affiliation BAPTIST

23. Please list the organizations to which you belong (Social, Fraternal, Service, Charitable, etc.)

SOCIETY OF AMERICAN FORESTERS

24. What newspapers do you read? CLARION LEDGER; DAILY STAR

What magazines? MISSISSIPPI OUTDOORS

What is your favorite t.v. show? ANDY GRIFFITH

25. Do you regularly watch the local news? NO; national news? YES

26. Thinking about the neighborhood where you live, are the people you usually run into:

All White _____ All Black _____ Mix of white and black residents X

27. What is your marital status? Married X Divorced _____ Widowed _____ Never married _____

If married or widowed, how many years are/were you married? 17 YEARS

What is/was your spouse's occupation? SCHOOL TEACHER

Highest grade spouse completed in school COLLEGE

Spouse's Political Party Preference NONE

Spouse's Religious Affiliation BAPTIST

28. How many children do you have? 3

List their ages, gender and occupation if applicable:

KELSEY, FEMALE - 13
MALE - 10
MALE - 4

3
657

Pitchford-OCDC-004141

29. What do you think about the death penalty?

(Please circle the letter that most accurately represents your opinion. You may provide more information on the lines below.)

- A. Strongly Favor
- ☒ B. Generally Favor
- C. No Opinion
- D. Generally Against
- E. Strongly Against

30. Is there any other information you believe might be important for the Court or for the lawyers to know about you as a potential juror? _____

Steph C. Mather
Juror please sign full name here

1-15-06
Date signed

4
658

Pitchford-OCDC-004142

D

Juror Information Questionnaire

1. Your Full Name: Michael L. Curry
2. Present Address: PO. Box 1 Holcomb, MS 38940
3. Telephone Number: Home (662) 226-3564
Work (662) 226-8844
4. Place of Birth: Leon County, Florida
5. Age: 41 Gender: M Race: W
6. Have you lived at any other addresses in the last five years? YES: NO: X
If yes, what addresses?
(a)
(b)
7. Please state your highest level of education completed: 4 yr degree
Degrees or diplomas which you hold: BS; Accounting/Finance + BSE; Math Ed.
List schools attended and locations: Delta State University
Cleveland, MS.
8. Who is your employer: Grenada School District.
How long have you worked for this employer: 11 yrs - Aug '94
9. What is your position, and what are your duties in that position?
Math Teacher - High School & Head Boys/Girls Soccer Coach
10. Who else have you worked for in the past five years?
(a) Dixie Auto Auction
(b)
11. Have you ever been in the military? NO
If yes, what branch?
12. Have you or any family member or close personal friend ever worked as a volunteer or employee in a law enforcement agency, prosecutor's office, prison, jail, correctional institution or mental health facility on the local, state, or federal level? NO
If yes, please state who, when and where:

13. Have you or any family members or close personal friends worked for a donated time or money to organizations supporting crime victims or preventing crime? NO

If yes, who, what organizations and when? _____

14. Have you ever appeared as a witness before a Grand Jury? YES: _____ NO: ☒

When and where: _____

15. Have you ever appeared as a witness in a criminal prosecution? YES: ☒ NO: ☒

When and where: Greenwood approx 1982

Were you a witness for the State? ☒ or for the defendant? _____

16. Have you ever served on a Grand Jury before? YES: ☒ NO: _____

17. Have you ever served on a Trial Jury before? YES: ☒ NO: ☒

Have you served as a juror on a Civil case? NO

When and where: _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

Have you served as a juror on a Criminal case? yes

When and where: OH in Greewood

What was the charge? drug charge

Did the jury reach a verdict? YES: ☒ NO: _____

If not, please explain: _____

18. Have you ever been a party to a legal action? YES: ☒ NO: _____

Was it Civil? ☒ or Criminal? _____

If it was Civil, were you the Plaintiff? ☒ or the Defendant? _____

If it was Civil, was the verdict in your favor? yes

If it was Criminal, what were the charges involved? _____

Were you the one who filed charges? _____

Or were charges filed against you? _____

What was the result? _____

19. Has any member of your family or any close friend ever been charged with a criminal offense other than traffic offenses? YES: _____ NO: ☒

If yes, please state your relationship to that person, the charges involved and the outcome.

20. Has any member of your family or any close friend ever been arrested for a criminal offense other than traffic offenses, but not charged? YES: NO: ✓

If yes, please state your relationship to that person and the charges involved.

21. Have you , any member of your family ✓, or a close friend ever been the victim of a violent crime?

What was the crime? Child Molestation

Was anyone arrested ✓ and/or convicted ✓ in connection with that crime?

22. What is your political party preference? Rep.

Religious affiliation Baptist

23. Please list the organizations to which you belong (Social, Fraternal, Service, Charitable, etc.)

National Assoc. of Educators ; Mississippi Assoc. of Coaches
Kappa Alpha Order

24. What newspapers do you read? The Daily Star

What magazines? Hunting Mags

What is your favorite t.v. show? Hunting Shows & History Ch.

25. Do you regularly watch the local news? NO ; national news? NO

26. Thinking about the neighborhood where you live, are the people you usually run into:

All White All Black Mix of white and black residents ✓

27. What is your marital status? Married ✓ Divorced Widowed Never married

If married or widowed, how many years are/were you married? 9

What is/was your spouse's occupation? Adm Asst. III

Highest grade spouse completed in school Jr. Coll.

Spouse's Political Party Preference Rep.

Spouse's Religious Affiliation Baptist

28. How many children do you have? 2

List their ages, gender and occupation if applicable:

Johnny Allen, 19, student

Easton Curry, 5, student

29. What do you think about the death penalty?

(Please circle the letter that most accurately represents your opinion. You may provide more information on the lines below.)

- ☒ A. Strongly Favor
- ☐ B. Generally Favor
- ☐ C. No Opinion
- ☐ D. Generally Against
- ☐ E. Strongly Against

Only if, beyond a doubt there was willful intent to take another human's life.

30. Is there any other information you believe might be important for the Court or for the lawyers to know about you as a potential juror? _____

Michael L. Cury
Juror please sign full name here

1-23-06
Date signed

Juror Information Questionnaire

1. Your Full Name: Chad Kirk Eskridge
2. Present Address: 180 Shadow Wood Cove
3. Telephone Number: Home (662) 226-1051
Work (662) 226-5551
4. Place of Birth: Grenada MS
5. Age: 25 Gender: male Race: White
6. Have you lived at any other addresses in the last five years? YES: ☒ NO: ☐
If yes, what addresses?
(a) 160 Windmill Cove apt A
(b) 760 Scenic Drive
7. Please state your highest level of education completed: High school
Degrees or diplomas which you hold: 1 diploma
List schools attended and locations: Maranatha Christian Academy -
Minter City, Grenada High
8. Who is your employer: Binswanger Mirror
How long have you worked for this employer: 6 yrs
9. What is your position, and what are your duties in that position?
Chief Inspector of specials dept. data entry,
inspection of glass + mirror.
10. Who else have you worked for in the past five years?
(a) NA
(b) _____
11. Have you ever been in the military? NO
If yes, what branch? _____
12. Have you or any family member or close personal friend ever worked as a volunteer or employee in a law enforcement agency, prosecutor's office, prison, jail, correctional institution or mental health facility on the local, state, or federal level? NO
If yes, please state who, when and where: _____

13. Have you or any family members or close personal friends worked for a donated time or money to organizations supporting crime victims or preventing crime? no

If yes, who, what organizations and when? _____

14. Have you ever appeared as a witness before a Grand Jury? YES: _____ NO: ☒

When and where: _____

15. Have you ever appeared as a witness in a criminal prosecution? YES: _____ NO: ☒

When and where: _____

Were you a witness for the State? _____ or for the defendant? _____

16. Have you ever served on a Grand Jury before? YES: _____ NO: ☒

17. Have you ever served on a Trial Jury before? YES: _____ NO: ☒

Have you served as a juror on a Civil case? no

When and where: _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

Have you served as a juror on a Criminal case? no

When and where: _____

What was the charge? _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

18. Have you ever been a party to a legal action? YES: _____ NO: ☒

Was it Civil? _____ or Criminal? _____

If it was Civil, were you the Plaintiff? _____ or the Defendant? _____

If it was Civil, was the verdict in your favor? _____

If it was Criminal, what were the charges involved? _____

Were you the one who filed charges? _____

Or were charges filed against you? _____

What was the result? _____

19. Has any member of your family or any close friend ever been charged with a criminal offense other than traffic offenses? YES: _____ NO: ☒

If yes, please state your relationship to that person, the charges involved and the outcome.

20. Has any member of your family or any close friend ever been arrested for a criminal offense other than traffic offenses, but not charged? YES: _____ NO: ☒

If yes, please state your relationship to that person and the charges involved.

21. Have you NO, any member of your family NO, or a close friend NO ever been the victim of a violent crime?

What was the crime? _____

Was anyone arrested _____ and/or convicted _____ in connection with that crime?

22. What is your political party preference? Republican

Religious affiliation Baptist

23. Please list the organizations to which you belong (Social, Fraternal, Service, Charitable, etc.)

N/A

24. What newspapers do you read? USA Today

What magazines? N/A

What is your favorite t.v. show? CSI

25. Do you regularly watch the local news? no; national news? not often

26. Thinking about the neighborhood where you live, are the people you usually run into:

All White ☒ All Black _____ Mix of white and black residents _____

27. What is your marital status? Married _____ Divorced _____ Widowed _____ Never married ☒

If married or widowed, how many years are/were you married? _____

What is/was your spouse's occupation? _____

Highest grade spouse completed in school _____

Spouse's Political Party Preference _____

Spouse's Religious Affiliation _____

28. How many children do you have? N/A

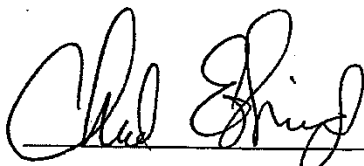
List their ages, gender and occupation if applicable:

29. What do you think about the death penalty?

(Please circle the letter that most accurately represents your opinion. You may provide more information on the lines below.)

- A. Strongly Favor
- ☒ B. Generally Favor
- C. No Opinion
- D. Generally Against
- E. Strongly Against

30. Is there any other information you believe might be important for the Court or for the lawyers to know about you as a potential juror? NO


Juror please sign full name here

1/16/06
Date signed

D

D-8
Juror Information Questionnaire

unmarked

1. Your Full Name: Kenton Lee Durham
2. Present Address: 90B Windmill Cove, Granada, MS 38901
3. Telephone Number: Home (662) 229-0016
Work (662) 229-2487
4. Place of Birth: Jackson, MS
5. Age: 44 Gender: Male Race: W
6. Have you lived at any other addresses in the last five years? YES: X NO:
If yes, what addresses?
(a) 1201 A N. Hico, Siloam Springs, AR 72761
(b) N/A
7. Please state your highest level of education completed: 4 years College
Degrees or diplomas which you hold: B.S. Mechanical Engineering
List schools attended and locations: Yazoo High School, Yazoo City MS; Holmes
Junior College, Goodman, MS; Hinds Junior College, Raymond, MS; Mississippi State Univer
Mississippi State MS
8. Who is your employer: Hatcraft
How long have you worked for this employer: 3 years
9. What is your position, and what are your duties in that position?
Manufacturing Engineer, Development of processes, and solving daily
Manufacturing Problems
10. Who else have you worked for in the past five years?
(a) Parker Hannifin Corp.
(b) N/A
11. Have you ever been in the military? NO
If yes, what branch? N/A
12. Have you or any family member or close personal friend ever worked as a volunteer or employee in a law enforcement agency, prosecutor's office, prison, jail, correctional institution or mental health facility on the local, state, or federal level? yes
If yes, please state who, when and where: Friends and Father in law, Mississippi
Highway Patrol; Brother Federal Game Warden, sister in law, private
law office

20. Has any member of your family or any close friend ever been arrested for a criminal offense other than traffic offenses, but not charged? YES: _____ NO: X

If yes, please state your relationship to that person and the charges involved.

N/A

21. Have you NO, any member of your family no, or a close friend NO ever been the victim of a violent crime?

What was the crime? N/A

Was anyone arrested N/A and/or convicted N/A in connection with that crime?

22. What is your political party preference? Republican

Religious affiliation Baptist

23. Please list the organizations to which you belong (Social, Fraternal, Service, Charitable, etc.)

None

24. What newspapers do you read? None

What magazines? Sports

What is your favorite t.v. show? Fox News

25. Do you regularly watch the local news? NO; national news? yes

26. Thinking about the neighborhood where you live, are the people you usually run into:

All White _____ All Black _____ Mix of white and black residents X

27. What is your marital status? Married _____ Divorced X Widowed _____ Never married _____

If married or widowed, how many years are/were you married? 13 years

What is/was your spouse's occupation? Teacher

Highest grade spouse completed in school Master's Degree

Spouse's Political Party Preference don't know

Spouse's Religious Affiliation Methatist

28. How many children do you have? _____

List their ages, gender and occupation if applicable:

14 years of age, Female

29. What do you think about the death penalty?

(Please circle the letter that most accurately represents your opinion. You may provide more information on the lines below.)

- A. Strongly Favor
- B. Generally Favor
- C. No Opinion
- D. Generally Against
- E. Strongly Against

30. Is there any other information you believe might be important for the Court or for the lawyers to know about you as a potential juror? _____

Kent Lee Durkin

Juror please sign full name here

1/14/06

Date signed

12

JUROR 2
Juror Information Questionnaire

20's
never
married

1. Your Full Name: Chad Kirk Eskridge
2. Present Address: 180 Shadow Wood Cove
3. Telephone Number: Home (662) 226-1051
Work (662) 226-5551
4. Place of Birth: Grenada MS
5. Age: 25 Gender: male Race: white
6. Have you lived at any other addresses in the last five years? YES: ☒ NO: ☐
If yes, what addresses?
(a) 160 Windmill Cove apt A
(b) 760 Scenic Drive
7. Please state your highest level of education completed: High school
Degrees or diplomas which you hold: 1 diploma
List schools attended and locations: Maranatha Christian Academy -
Winter City, Grenada High
8. Who is your employer: Binswanger Mirror
How long have you worked for this employer: 6 yrs
9. What is your position, and what are your duties in that position?
Chief Inspector of specials dept. data entry,
inspection of glass + mirror.
10. Who else have you worked for in the past five years?
(a) NA
(b) _____
11. Have you ever been in the military? no
If yes, what branch? _____
12. Have you or any family member or close personal friend ever worked as a volunteer or employee in a law enforcement agency, prosecutor's office, prison, jail, correctional institution or mental health facility on the local, state, or federal level? no
If yes, please state who, when and where: _____

Juror Information Questionnaire

1. Your Full Name: Mary Flanagan Brewer
2. Present Address: 131 Shurden Rd Gore Springs, MS 38929
3. Telephone Number: Home (662) 226-3134 / cell 307-0049
Work (662) 226-8900
4. Place of Birth: Vardaman, MS
5. Age: 59 Gender: F Race: W
6. Have you lived at any other addresses in the last five years? YES: NO ☒
If yes, what addresses?
(a) _____
(b) _____
7. Please state your highest level of education completed: 13
Degrees or diplomas which you hold: N/A
List schools attended and locations: Greenwood HS-MS; Holmes Com College
8. Who is your employer: Grenada School District - Lower Elem
How long have you worked for this employer: 3 yrs
9. What is your position, and what are your duties in that position?
Kindergarten Assistant Teacher - help teacher - work with students
10. Who else have you worked for in the past five years?
(a) Comfort Inn - part time Desk clerk
(b) 26 yrs AT&T - Operator
11. Have you ever been in the military? NO
If yes, what branch? NO
12. Have you or any family member or close personal friend ever worked as a volunteer or employee in a law enforcement agency, prosecutor's office, prison, jail, correctional institution or mental health facility on the local, state, or federal level? NO
If yes, please state who, when and where: _____

13. Have you or any family members or close personal friends worked for a donated time or money to organizations supporting crime victims or preventing crime? NO
If yes, who, what organizations and when? _____

14. Have you ever appeared as a witness before a Grand Jury? YES: _____ NO: NO
When and where: _____

15. Have you ever appeared as a witness in a criminal prosecution? YES: _____ NO: NO
When and where: _____

Were you a witness for the State? _____ or for the defendant? _____

16. Have you ever served on a Grand Jury before? YES: _____ NO: NO

17. Have you ever served on a Trial Jury before? YES: ✓ NO: _____

Have you served as a juror on a Civil case? _____

When and where: Oklahoma Co. - 20-30 yrs ago

Did the jury reach a verdict? YES: ✓ NO: _____

If not, please explain: _____

Have you served as a juror on a Criminal case? _____

When and where: _____

What was the charge? _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

18. Have you ever been a party to a legal action? YES: _____ NO: NO

Was it Civil? _____ or Criminal? _____

If it was Civil, were you the Plaintiff? _____ or the Defendant? _____

If it was Civil, was the verdict in your favor? _____

If it was Criminal, what were the charges involved? _____

Were you the one who filed charges? _____

Or were charges filed against you? _____

What was the result? _____

19. Has any member of your family or any close friend ever been charged with a criminal offense other than traffic offenses? YES: _____ NO: NO

If yes, please state your relationship to that person, the charges involved and the outcome.

Not
sure if
civil or
criminal

20. Has any member of your family or any close friend ever been arrested for a criminal offense other than traffic offenses, but not charged? YES: _____ NO: NO
If yes, please state your relationship to that person and the charges involved.

21. Have you _____, any member of your family _____, or a close friend _____ ever been the victim of a violent crime? NO
What was the crime? _____

Was anyone arrested _____ and/or convicted _____ in connection with that crime?

22. What is your political party preference? Republican
Religious affiliation Baptist

23. Please list the organizations to which you belong (Social, Fraternal, Service, Charitable, etc.)
N/A

24. What newspapers do you read? Grenada Daily Star; USA Today
What magazines? _____

What is your favorite t.v. show? MASH

25. Do you regularly watch the local news? No; national news? no

26. Thinking about the neighborhood where you live, are the people you usually run into:

All White ☒ All Black _____ Mix of white and black residents _____

27. What is your marital status? Married _____ Divorced _____ Widowed ☒ Never married _____

If married or widowed, how many years are/were you married? 11 1/2

What is/was your spouse's occupation? Maintenance Supv

Highest grade spouse completed in school 12

Spouse's Political Party Preference Republican

Spouse's Religious Affiliation Baptist

28. How many children do you have? 2

List their ages, gender and occupation if applicable:

Daughter 40 - Sara Corn
Daughter 35 - Great Spatherwood

29. What do you think about the death penalty?

(Please circle the letter that most accurately represents your opinion. You may provide more information on the lines below.)

- A. Strongly Favor
- ☒ B. Generally Favor
- C. No Opinion
- D. Generally Against
- E. Strongly Against

30. Is there any other information you believe might be important for the Court or for the lawyers to know about you as a potential juror? NO

Mary Fanagan Brewster
Juror please sign full name here

1-24-06
Date signed

4
422

Pitchford-OCDC-003952

Godbold D

Juror Information Questionnaire

1. Your Full Name: Brantley Godbold Clark
2. Present Address: 125 A Windmill Cove, Grenada
3. Telephone Number: Home (Hx) 226-0560
Work (Wx) 453-1078
4. Place of Birth: Grenada
5. Age: 22 Gender: Female Race: White American
6. Have you lived at any other addresses in the last five years? YES: ☒ NO: ☐
If yes, what addresses?
(a) 2150 Perry Rd. Grenada, MS 38901
(b) _____
7. Please state your highest level of education completed: College Degree
Degrees or diplomas which you hold: BFA - Graphic Design
List schools attended and locations: _____
HCC - Grenada + Delta State University
8. Who is your employer: Allan Hammons - Hammons & Associates
How long have you worked for this employer: 4.5 months
9. What is your position, and what are your duties in that position?
Graphic Designer - Design Ads for Magazines, Newspapers,
Brochure Design, Logo Design
10. Who else have you worked for in the past five years?
(a) Dolly Manascalco - Dolly's Boutique
(b) _____
11. Have you ever been in the military? No
If yes, what branch? _____
12. Have you or any family member or close personal friend ever worked as a volunteer or employee in a law enforcement agency, prosecutor's office, prison, jail, correctional institution or mental health facility on the local, state, or federal level? No
If yes, please state who, when and where: _____

13. Have you or any family members or close personal friends worked for a donated time or money to organizations supporting crime victims or preventing crime? No

If yes, who, what organizations and when? _____

14. Have you ever appeared as a witness before a Grand Jury? YES: _____ NO: ☒

When and where: _____

15. Have you ever appeared as a witness in a criminal prosecution? YES: _____ NO: ☒

When and where: _____

Were you a witness for the State? _____ or for the defendant? _____

16. Have you ever served on a Grand Jury before? YES: _____ NO: ☒

17. Have you ever served on a Trial Jury before? YES: _____ NO: ☒

Have you served as a juror on a Civil case? No

When and where: _____

Did the jury reach a verdict? YES: _____ NO: ☒

If not, please explain: _____

Have you served as a juror on a Criminal case? _____

When and where: _____

What was the charge? _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

18. Have you ever been a party to a legal action? YES: _____ NO: ☒

Was it Civil? _____ or Criminal? _____

If it was Civil, were you the Plaintiff? _____ or the Defendant? _____

If it was Civil, was the verdict in your favor? _____

If it was Criminal, what were the charges involved? _____

Were you the one who filed charges? _____

Or were charges filed against you? _____

What was the result? _____

19. Has any member of your family or any close friend ever been charged with a criminal offense other than traffic offenses? YES: _____ NO: ☒

If yes, please state your relationship to that person, the charges involved and the outcome.

20. Has any member of your family or any close friend ever been arrested for a criminal offense other than traffic offenses, but not charged? YES: _____ NO: ☒

If yes, please state your relationship to that person and the charges involved.

21. Have you No, any member of your family No, or a close friend No ever been the victim of a violent crime?

What was the crime? _____

Was anyone arrested _____ and/or convicted _____ in connection with that crime?

22. What is your political party preference? Republican

Religious affiliation Baptist

23. Please list the organizations to which you belong (Social, Fraternal, Service, Charitable, etc.)

Kappa Delta Sorority Alumni

24. What newspapers do you read? None

What magazines? Better Homes & Gardens

What is your favorite t.v. show? Everybody Loves Raymond

25. Do you regularly watch the local news? No; national news? Yes

26. Thinking about the neighborhood where you live, are the people you usually run into:

All White _____ All Black _____ Mix of white and black residents ☒

27. What is your marital status? Married ☒ Divorced _____ Widowed _____ Never married _____

If married or widowed, how many years are/were you married? 7 1/2 mos.

What is/was your spouse's occupation? Natural Resource Specialist - Camp McCain

Highest grade spouse completed in school Bachelor Degree

Spouse's Political Party Preference Republican

Spouse's Religious Affiliation Baptist

28. How many children do you have? None

List their ages, gender and occupation if applicable:

29. What do you think about the death penalty?

(Please circle the letter that most accurately represents your opinion. You may provide more information on the lines below.)

- A. Strongly Favor
- B. Generally Favor
- C. No Opinion
- D. Generally Against
- E. Strongly Against

If they have been charged for a crime deserving such a
penalty and proven guilty without a doubt.

30. Is there any other information you believe might be important for the Court or for the lawyers to know about you as a potential juror? _____

Brantley Didbold Clark

Juror please sign full name here

1-16-06

Date signed

P

Juror Information Questionnaire

1. Your Full Name: Jeffery Shann Counts
2. Present Address: 2000 Tuscola, Grenada, MS
3. Telephone Number: Home (662) 809-0239
Work (662) 226-5509
4. Place of Birth: Grenada, MS
5. Age: 32 Gender: M Race: W
6. Have you lived at any other addresses in the last five years? YES: X NO:
If yes, what addresses?
(a) 121, Paul Road Dr, Grenada 38901
(b) 9047 Sweet home Rd 38940
7. Please state your highest level of education completed: 12
Degrees or diplomas which you hold: High School diploma
List schools attended and locations: Grenada High, Grenada, MS
8. Who is your employer: Kirk Auto Co.
How long have you worked for this employer: 10 yrs.
9. What is your position, and what are your duties in that position?
Used Car Manager, Sales, Manager
10. Who else have you worked for in the past five years?
(a)
(b)
11. Have you ever been in the military? NO
If yes, what branch?
12. Have you or any family member or close personal friend ever worked as a volunteer or employee in a law enforcement agency, prosecutor's office, prison, jail, correctional institution or mental health facility on the local, state, or federal level?
If yes, please state who, when and where:

13. Have you or any family members or close personal friends worked for a donated time or money to organizations supporting crime victims or preventing crime? NO

If yes, who, what organizations and when? _____

14. Have you ever appeared as a witness before a Grand Jury? YES: X NO: _____

When and where: _____

15. Have you ever appeared as a witness in a criminal prosecution? YES: X NO: _____

When and where: Grenada, Summer 05

Were you a witness for the State? X or for the defendant? _____

16. Have you ever served on a Grand Jury before? YES: _____ NO: X

17. Have you ever served on a Trial Jury before? YES: _____ NO: X

Have you served as a juror on a Civil case? NO

When and where: _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

Have you served as a juror on a Criminal case? NO

When and where: _____

What was the charge? _____

Did the jury reach a verdict? YES: _____ NO: _____

If not, please explain: _____

18. Have you ever been a party to a legal action? YES: _____ NO: X

Was it Civil? _____ or Criminal? _____

If it was Civil, were you the Plaintiff? _____ or the Defendant? _____

If it was Civil, was the verdict in your favor? _____

If it was Criminal, what were the charges involved? _____

Were you the one who filed charges? _____

Or were charges filed against you? _____

What was the result? _____

19. Has any member of your family or any close friend ever been charged with a criminal offense other than traffic offenses? YES: X NO: X

If yes, please state your relationship to that person, the charges involved and the outcome.

uncle - forgery

20. Has any member of your family or any close friend ever been arrested for a criminal offense other than traffic offenses, but not charged? YES: _____ NO: X

If yes, please state your relationship to that person and the charges involved.

21. Have you _____, any member of your family _____, or a close friend _____ ever been the victim of a violent crime? no

What was the crime? _____

Was anyone arrested _____ and/or convicted _____ in connection with that crime?

22. What is your political party preference? _____

Religious affiliation _____

23. Please list the organizations to which you belong (Social, Fraternal, Service, Charitable, etc.)

None

24. What newspapers do you read? none

What magazines? none

What is your favorite t.v. show? Military

25. Do you regularly watch the local news? no; national news? _____

26. Thinking about the neighborhood where you live, are the people you usually run into:

All White X All Black _____ Mix of white and black residents _____

27. What is your marital status? Married _____ Divorced X Widowed _____ Never married _____

If married or widowed, how many years are/were you married? _____

What is/was your spouse's occupation? _____

Highest grade spouse completed in school _____

Spouse's Political Party Preference _____

Spouse's Religious Affiliation _____

28. How many children do you have? one

List their ages, gender and occupation if applicable:

13-male

29. What do you think about the death penalty?

(Please circle the letter that most accurately represents your opinion. You may provide more information on the lines below.)

- A. Strongly Favor
- ☒ B. Generally Favor
- C. No Opinion
- D. Generally Against
- E. Strongly Against

30. Is there any other information you believe might be important for the Court or for the lawyers to know about you as a potential juror? _____

Juror please sign full name here

Date signed

D

Juror Information Questionnaire

1. Your Full Name: HENRY GEORGE BERNREUTER
2. Present Address: 1364 Joplin Dr
3. Telephone Number: Home (662) 226 6243
Work (601) 940 9485
4. Place of Birth: Kosciusko, MS.
5. Age: 58 Gender: MALE Race: WHITE
6. Have you lived at any other addresses in the last five years? YES: ☒ NO: ☐
If yes, what addresses?
(a) Cleveland Mobile Home Park, Richland, MS.
(b) _____
7. Please state your highest level of education completed: College graduate
Degrees or diplomas which you hold: BS.
List schools attended and locations: Kosciusko High - Kosciusko
Holmes In. Goodman, William Carey College
8. Who is your employer: MS. ARMY NATIONAL Guard Hattiesburg, MS
How long have you worked for this employer: 25 YEARS
9. What is your position, and what are your duties in that position?
Admin. Officer, 66 Trp Cln.
10. Who else have you worked for in the past five years?
(a) Recruiting and Retention Commander
MS ARMY NATIONAL Guard
11. Have you ever been in the military? YES
If yes, what branch? ARMY / MS ARMY NATIONAL Guard
12. Have you or any family member or close personal friend ever worked as a volunteer or employee in a law enforcement agency, prosecutor's office, prison, jail, correctional institution or mental health facility on the local, state, or federal level? NO
If yes, please state who, when and where: _____

13. Have you or any family members or close personal friends worked for a donated time or money to organizations supporting crime victims or preventing crime? NO

If yes, who, what organizations and when? _____

14. Have you ever appeared as a witness before a Grand Jury? YES: _____ NO: ✓

When and where: NA

15. Have you ever appeared as a witness in a criminal prosecution? YES: _____ NO: ✓

When and where: NA

Were you a witness for the State? NA or for the defendant? NA

16. Have you ever served on a Grand Jury before? YES: _____ NO: ✓

17. Have you ever served on a Trial Jury before? YES: ✓ NO: _____

Have you served as a juror on a Civil case? NO

When and where: NA

Did the jury reach a verdict? YES: ✓ NO: _____

If not, please explain: NA

Have you served as a juror on a Criminal case? YES

When and where: GRENADA, MS

What was the charge? MURDER

Did the jury reach a verdict? YES: ✓ NO: _____

If not, please explain: NA

18. Have you ever been a party to a legal action? YES: _____ NO: ✓

Was it Civil? NA or Criminal? NA

If it was Civil, were you the Plaintiff? NA or the Defendant? NA

If it was Civil, was the verdict in your favor? NA

If it was Criminal, what were the charges involved? NA

Were you the one who filed charges? NA

Or were charges filed against you? NA

What was the result? NA

19. Has any member of your family or any close friend ever been charged with a criminal offense other than traffic offenses? YES: ✓ NO: _____

If yes, please state your relationship to that person, the charges involved and the outcome.

SOP - commercial burglary

stepson - forgery

20. Has any member of your family or any close friend ever been arrested for a criminal offense other than traffic offenses, but not charged? YES: _____ NO: ✓

If yes, please state your relationship to that person and the charges involved.

NA

21. Have you NO, any member of your family NO, or a close friend NO ever been the victim of a violent crime?

What was the crime? NA

Was anyone arrested NA and/or convicted NA in connection with that crime?

22. What is your political party preference? REPUBLICAN

Religious affiliation EPISCOPAL

23. Please list the organizations to which you belong (Social, Fraternal, Service, Charitable, etc.)

MS National Guard Officers' Assn.

24. What newspapers do you read? NONE

What magazines? NONE

What is your favorite t.v. show? OLD MOVIES

25. Do you regularly watch the local news? NO; national news? YES

26. Thinking about the neighborhood where you live, are the people you usually run into:

All White _____ All Black _____ Mix of white and black residents ✓

27. What is your marital status? Married ✓ Divorced _____ Widowed _____ Never married _____

If married or widowed, how many years are/were you married? 18 YEARS

What is/was your spouse's occupation? Radiology Technologist

Highest grade spouse completed in school COLLEGE GRADUATE

Spouse's Political Party Preference REPUBLICAN

Spouse's Religious Affiliation PRESBYTERIAN

28. How many children do you have? 3

List their ages, gender and occupation if applicable:

34 male UNEMPLOYED

31 female NURSE

26 male AUTO MOTIVE TECH.

29. What do you think about the death penalty?

(Please circle the letter that most accurately represents your opinion. You may provide more information on the lines below.)

- ☒ A. Strongly Favor
- ☐ B. Generally Favor
- ☐ C. No Opinion
- ☐ D. Generally Against
- ☐ E. Strongly Against

30. Is there any other information you believe might be important for the Court or for the lawyers to know about you as a potential juror? NO

HENRY G. BERENDTSEN

Juror please sign full name here

Henry G. Berendtsen
16 JAN 06

Date signed