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IN THE CIRCUIT COURT OF THE
FIFTH JUDICIAL CIRCUIT, IN
AND FOR LAKE COUNTY, FLORIDA

CASE NO. 87-1347-CF-A-01
and 88-262-CF

STATE OF FLORIDA,

Plaintiff,

v.

JAMES AREN DUCKETT,

Defendant.

THIS CAUSE came on for JURY TRIAL, before the Honorable
Jerry T. Lockett, Circuit Judge, at Lake County Courthouse,
Tavares, Florida 32778, on April 25, 1988 through May 10, 1988.

APPEARANCES: Mr. Jack T. Edmund, Esquire
423 Pool Branch Road
Fort Meade, Florida 33841
Attorney for Defendant

Mr. Stephen D. Hurm, Esquire
and
Mr. Thomas Hogan, Esquire
Office of State Attorney
Lake County Courthouse
Tavares, Florida 32778

Case: 1987 CF 001347



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Dkt: CFTRANS

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CLERK OF CIRCUIT
AND COUNTY COURTS
LAKE COUNTY
TAVARES, FLORIDA

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1 (WHEREUPON, DEFENDANT IS PRESENT IN COURTROOM WITH HIS
2 COUNSEL, MR. JACK T. EDMUND)

3 (WHEREUPON, COURT CONVENES AT 9:14 A. M.)

4 April 25, 1988

5 THE COURT: Good morning, ladies and gentlemen. My name
6 is Jerry Lockett. This is Circuit Court, Criminal Division.
7 We are here for the purpose of criminal trial week.

8 Before we begin, let me introduce to you some of the
9 courtroom personnel who some of you, at least, will be working
10 with throughout the course of the week. To my immediate left
11 and your right is a lady I think most of you have already
12 met, Ms. Faye Osebold. She is our Jury Clerk. She will be
13 with us throughout the course of jury selection and then we
14 will excuse her from further service throughout the course of
15 the trial.

16 To my right and your left are two court clerks. We are
17 going to use two young ladies for this trial. We have Ms.
18 Susan Spooner and Ms. Michelle Atkins. Their primary job is
19 to maintain the integrity of any evidence that is actually
20 introduced into evidence and preserve it for us throughout the
21 course of the trial and thereafter if necessary.

22 We have a young lady a lot of you all can't see down here
23 to your right and my left, Ms. Ruth Patz. She is our Official
24 Court Reporter. Her primary job and how she does it is always
25 a mystery to me, but she does it well, is by use of shorthand

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1 and with a backup tape recorder, to maintain a verbatim
2 transcript of everything that is said throughout the course of
3 the trial and retain that for us for use during the trial and
4 after, if that is necessary.

5 The person that most of you all will have the most contact
6 with if you actually serve with us is my Senior Bailiff,
7 Mr. Steve Corbett. Steve works with the Court and with me in
8 the Criminal Justice System here in Lake County. He is
9 responsible for the security of the courtroom and for seeing to
10 the comfort and convenience of jurors and as I said, if you
11 serve, you will see more of Steve as we go along.

12 We will introduce to you the attorneys and the other
13 parties in the action at a little bit later date this morning.

14 Let me give you a general idea of how we are going to
15 proceed. In just a moment, Madam Clerk is going to swear you
16 generally to answer certain questions regarding your
17 qualifications. We anticipate that this is going to be a
18 lengthy trial. I have spoken with the attorneys. Our best
19 estimate is that this trial could take at least two weeks.
20 We will try to start promptly at nine o'clock in the morning
21 and quit at five o'clock every afternoon as close as we can
22 do that. We take an hour and a half for lunch. For those
23 jurors that serve, lunch is provided for you at no expense to
24 you. You stay together and go to a restaurant we have an
25 arrangement with with the bailiff. We do provide lunch for you

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1 every day. We will not anticipate working on Saturday or
2 Sunday, although some of this, at least, is subject to
3 contingencies and how fast the trial proceeds otherwise, which
4 nobody can totally predict in advance. We will be in a posture
5 of sequestering the jurors that serve once deliberations begin.
6 That doesn't mean every day during the course of the trial,
7 but when we reach the stage that the Jury actually deliberates
8 at the very end of the trial, we will be required, under
9 Florida law, to sequester the Jury. That means you will be in
10 a motel room under the bailiff's supervision for the deliberation
11 procedure only with regard to this particular matter.

12 Madam clerk, if you would please swear all the jurors.

13 (WHEREUPON, PROSPECTIVE JURORS ARE SWORN BY THE CLERK OF
14 THE COURT)

15 THE COURT: Folks, as we have suggested, we have certain
16 elementary questions which we are required to ask you for the
17 purpose of determining your qualifications to serve as jurors
18 in and of this court. Each question is based upon a require-
19 ment of the law with respect to your qualifications. Each
20 question is propounded to each of you individually, although
21 I am going to ask them collectively in order to save time.

22 I am going to ask that each of you answer these questions
23 out loud. If your answer to a question seems different from
24 those around you, please get my attention. Just raise your
25 hand or stand up or whatever you might choose to do and we will

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1 explore why that might be so. We will ask each of you to
2 answer every question out loud.

3 While we are on the subject of questioning, throughout
4 the course of today and perhaps tomorrow, we are going to be
5 asking certain questions of those who are picked to serve as
6 prospective jurors in order to determine your qualifications,
7 not only these that I am going to ask, but others. All the
8 attorneys in my court are well aware that noone would
9 intentionally ask any prospective juror a question, the answer
10 to which might embarrass you. However, often we can't know
11 in advance whether or not that would be so. If any one of
12 us asks you a question, the answer to which would be embarrass-
13 ing, you simply get my attention; we will bring you up here
14 to the bench and talk to you individually about what your
15 answer might be and why. The attorneys will be here, of
16 course, with the court reporter, but we are not going to try
17 to do that to anybody. That is not our purpose. That is
18 not the reason we ask questions. We need to know if every-
19 one is qualified to serve on this jury.

20 If you would, please answer audibly.

21 Are you over the age of eighteen years?

22 PROSPECTIVE JURORS: Yes.

23 THE COURT: Were you summoned by your correct name?

24 PROSPECTIVE JURORS: Yes.

25 THE COURT: Alright, I have one lady who was not.

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1 If you would tell me what name you were summoned by, please,
2 ma'am?

3 PROSPECTIVE JUROR: Sharon Morrow.

4 THE COURT: This is not an alphabetical list, so it is
5 going to take me just a minute, Sharon, if you will bear
6 with me.

7 PROSPECTIVE JUROR: #103.

8 THE COURT: #103, gentlemen. And what is your correct
9 last name now, Sharon?

10 PROSPECTIVE JUROR: Mueller, M U E L L E R.

11 THE COURT: M U E L L E R. Thank you. Anyone else in
12 that situation?

13 Are you a resident of the State of Florida?

14 PROSPECTIVE JURORS: Yes.

15 THE COURT: Do you hold any official position under the
16 laws of the United States of American or the State of Florida?

17 PROSPECTIVE JURORS: No.

18 THE COURT: If you would stand up and give us your name,
19 please?

20 PROSPECTIVE JUROR: Greg Lawrence.

21 THE COURT: And what do you do, Greg?

22 PROSPECTIVE JUROR: I am Fire Chief for the City of
23 Eustis.

24 THE COURT: Alright, that wouldn't disqualify you. Just
25 make a note of that, if you would, please, gentlemen.

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1 Yes, sir?

2 PROSPECTIVE JUROR: Hugh Ashley, Seminole County
3 Sheriff's Department, Communications.

4 THE COURT: Okay, thank you, Hugh. That wouldn't
5 disqualify you necessarily.

6 Anyone else?

7 Are you a bonded deputy sheriff or minicipal police
8 officer?

9 Are you that, Hugh? Are you actually a bonded sheriff?

10 MR. ASHLEY: No.

11 THE COURT: You work in communications?

12 MR. ASHLEY: Yes, sir.

13 THE COURT: Have you ever been convicted of a felony
14 without having your civil rights restored by amnesty or
15 pardon?

16 PROSPECTIVE JURORS: No.

17 THE COURT: Is any criminal prosecution now pending
18 against you in any court?

19 PROSPECTIVE JURORS: No.

20 THE COURT: Are you a duly qualified elector, that is,
21 voter of Lake County, Florida?

22 PROSPECTIVE JURORS: Yes.

23 THE COURT: Alright, everyone seems to have the requisite
24 qualifications to serve. We understand that in some situations
25 and particularly when we are being quite straight with you up

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1 front and telling you we are looking at the possibility of a
2 two week trial, that service may constitute a hardship for
3 certain persons under certain circumstances. We are going to
4 give you an opportunity one at a time to come forward
5 commencing on your side of the room, Mr. Bailiff, and working
6 to the back and then on the other side and to the back, to
7 come forward and explain to me why you might request to be
8 excused. I am not going to be able to guarantee you in
9 advance that you will be allowed to be excused, even though
10 you request it. I will try to consider your request as
11 carefully as I can. I want to remind each and every one of
12 you that jury service is one of the public services that
13 we do require of our citizens in this Country and we do not
14 ask you to serve lightly.

15 Alright, Mr. Bailiff, attorneys, you can come forward
16 if you would.

17 I realize it is crowded in here, folks, so just bear
18 with us this morning, if you would.

19 (WHEREUPON, FIRST PROSPECTIVE JUROR APPROACHES BENCH)

20 THE COURT: # 15, Charles Finch. Charles, what is your
21 situation?

22 MR. FINCH: Your Honor, I couldn't get an answer on this
23 last week. My wife has some medical problems, but my
24 birthday falls in the middle of this term, I will be seventy
25 next Monday, and I wonder if I can be excused on that.

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1 THE COURT: Alright, Charles, just stand over here if you
2 will and I'll get back to you and I thank you.

3 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

4 THE COURT: Good morning, ma'am. Do you have your
5 summons with you?

6 (WHEREUPON, SUMMONS IS HANDED TO THE COURT)

7 THE COURT: #39. Connie Wilbarger. What is your
8 situation, Connie?

9 MS. WILBARGER: The company I work for won't pay me
10 anything for being off.

11 THE COURT: They are required by law to pay you for jury
12 service.

13 MS. WILBARGER: They are?

14 THE COURT: Yes, ma'am. Absolutely.

15 MS. WILBARGER: What do I do?

16 THE COURT: Why don't you stand over here and I will get
17 back to you.

18 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

19 THE COURT: Do you have your summons with you, sir?

20 PROSPECTIVE JUROR: Yes, sir.

21 THE COURT: I have William Snook, #55. What is your
22 situation, Mr. Snook?

23 MR. SNOOK: I have a wife that is ill at home and I
24 shouldn't be away from her too long. She has a circulatory
25 problem and has difficulty in walking.

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1 THE COURT: If you would wait right over there with us.
2 Thank you, Mr. Snook.

3 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

4 THE COURT: Do you have your summons with you?

5 PROSPECTIVE JUROR: No, in my rush, I left it in the
6 car. It is #50.

7 THE COURT: You are Barbara Schilling?

8 MS. SCHILLING: Yes, I am.

9 THE COURT: What is your situation, Barbara?

10 MS. SCHILLING: I am a nurse, a registered nurse at an
11 elderly people's home and our average age is almost seventy-
12 five, that was back in February, and I have a couple sick
13 people there and I am the only nurse there on call during the
14 day and at night and if I don't work, I don't bring any money
15 home. My husband is retired. He is just on social security.

16 THE COURT: Okay, stand over there with us, if you would,
17 Barbara.

18 MS. SCHILLING: Thank you.

19 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

20 THE COURT: Margaret Gilbert, #60. What is your
21 situation, Margaret?

22 MS. GILBERT: I have a severe allergy condition, which
23 causes severe headaches. Even the air conditioning bothers
24 it.

25 THE COURT: Okay, stand over there for me. Thank you,

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1 Margaret.

2 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

3 THE COURT: Do you have your summons with you?

4 PROSPECTIVE JUROR: #73.

5 THE COURT: You are Jody Hinebaugh?

6 MS. HINEBAUGH: Yes, sir, Jody.

7 THE COURT: What is your situation?

8 MS. HINEBAUGH: For me to be out of work two weeks and
9 not have the income I make, it is going to be tough.

10 THE COURT: Where do you work, ma'am?

11 MS. HINEBAUGH: Charles Townsend Corporation. Mr.
12 Townsend is also going to be out of town the second week and I'm
13 the only other one qualified to write checkes, etc.

14 THE COURT: Stand over there. Thank you.

15 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

16 THE COURT: Good morning, ma'am. Do you have your
17 summons with you? Barbara Johnson, #98.

18 What is your situation, Barbara?

19 MS. JOHNSON: My husband is retired police officer and
20 I don't feel like judging fairly...

21 THE COURT: He said her husband is a retired police
22 officer and she thinks she would have trouble being fair.

23 Okay, Barbara, if you would stand over there. Thank
24 you.

25 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

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1 THE COURT: Thank you, sir. James Sterling, #96. What
2 is your situation, Mr. Sterling?

3 MR. STERLING: I am under the doctor's care for high
4 blood pressure. These are the pills and poor circulation.
5 After sitting a while, I get leg cramps and get light headed-
6 ness and then they stuck on this blood elevation, high.

7 THE COURT: Thank you, Mr. Sterling, just stand over
8 here with me, please, sir.

9 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

10 THE COURT: Good morning, ma'am.

11 PROSPECTIVE JUROR: Good morning. I had surgery...

12 THE COURT: Let me just get your name here quick.

13 PROSPECTIVE JUROR: They just called me a few months ago.

14 THE COURT: This is Betty Facemire, gentlemen, #23.

15 PROSPECTIVE JUROR: That is the wrong one.

16 CLERK: She has got two summons.

17 THE COURT: She has got two summons. We have to adjust
18 that. It is still Betty Facemire, but she is #104.

19 What is your situation, Betty?

20 MS. FACEMIRE: Here is my doctor's note.

21 THE COURT: She has a doctor's note here that says she
22 had major surgery in November of '87; a hysterectomy and
23 disabled through December of 1987. Are you still having
24 trouble?

25 MS. FACEMIRE: I can't sit for three hours.

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THE COURT: She can't sit for long periods of time.

Alright, Betty, stand over there, please. Thank you.

(WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

THE COURT: We have Rebecca Sloan, #91. What is your situation, Rebecca?

MS. SLOAN: I have a two year old child at home.

THE COURT: Who takes care of him for you?

MS. SLOAN: I do. My mother has him today.

THE COURT: Okay, stand over there, please. Thank you.

(WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

THE COURT: Craig Haun, #135. What is your situation, Craig?

MS. HAUN: I am in the position of Fire Chief and it makes it extremely difficult for the City if I am not available for emergency service.

THE COURT: Okay, stand over there, if you would.

(WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

THE COURT: We have Michael Veltre, V E L T R E, #37. What is your situation, Michael?

MR. VELTRE: My daughter is going to be operated on the 2nd of next month, May. I would like to be up in Virginia at that time. See, this is my first appearance in any court. But I feel a little bit...

THE COURT: We finally caught up with you, didn't we, Michael? Stand over there and I will be back with you.

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1 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

2 THE COURT: Just a second here. I have John Schmale.

3 #125. What is your situation, John?

4 MR. SCHMALE: I work as a carpenter by the hour and I
5 just have a child support payment and a mortgage payment due
6 the first of the month and economically is my reason.

7 THE COURT: Alright, stand over there, please.

8 MR. BAILIFF: That will be all, Judge.

9 THE COURT: Thank you.

10 Okay, gents, that is thirteen out of the first fifty.
11 That leaves you with thirty-seven out of this group. My
12 inclination is to let them all go, but I will hear you all
13 on that.

14 MR. EDMOND: No objection from the Defense, Your Honor.

15 MR. HOGAN: We have no objection.

16 THE COURT: I will send the rest of this group back
17 and bring the other group over and start over. I'll just take
18 a short recess. We can bring the second group after we
19 finish and ask them if they know anything about the case.
20 One at a time up here, so we will have to do it twice.
21 Thank you all.

22 (WHEREUPON, BENCH CONFERENCE ENDS)

23 THE COURT: Ladies and gentlemen, for those of you that
24 have come forward, we appreciate your various situations. We
25 are going to be able to excuse you all from jury service.

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1 You don't need to call back or come back. You are free to go.
2 Thank you very much.

3 Folks, for those of you that are remaining with us, now
4 you come to find out that the first shall be last. You are
5 really our second group of prospective jurors. What we are
6 going to do with you all is ask you all to go back to the
7 jury room where you came from originally. We are going to
8 bring the second group over, the remaining jurors, and we are
9 going to start with jury selection with them. It may be and
10 it could well be that you all will be required to remain with
11 us throughout the course of the day and not hear from us
12 again. Understand that we will be working with the second
13 group. We will, of course, release you at noon for lunch.
14 I don't want to release you until then, because it is hard
15 to tell exactly how these things are going to go, but we will
16 ask you all to stay with us and bear with us. It may well be
17 that we will be back to see you before the day and tomorrow
18 ends, but for now, if you all would go back to the jury room,
19 we are going to take a short recess, Mr. Bailiff, so that you
20 can change your jurors around.

21 We will be in recess for about five or ten minutes.

22 (WHEREUPON, COURT IS IN RECESS AT 9:34 A. M.)

23 (WHEREUPON, SECOND GROUP OF PROSPECTIVE JURORS ARE IN
24 COURTROOM)

25 (WHEREUPON, DEFENDANT IS IN COURTROOM WITH HIS COUNSEL)

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1 (WHEREUPON, COURT RECONVENES AT 9:45 A. M.)

2 THE COURT: Good morning, ladies and gentlemen. My name
3 is Jerry Lockett. This is Circuit Court, Criminal Division.
4 We are here for the purpose of criminal trial week. Before
5 we start, let me give you an idea of what we think our
6 schedule is going to be like this week.

7 We anticipate that this trial is going to take two weeks.
8 We have one trial for your consideration. We will be
9 sequestering the jury only when deliberations begin. That means
10 we are not going to have jury sequestration each day during the
11 trial, but once deliberations in the trial begin, if it becomes
12 necessary, you will be sequestered in a local motel.

13 How we proceed day by day is we try to start as close to
14 nine o'clock as we can in the morning, and try to quit at
15 five o'clock, or as close as we can. We take an hour and a
16 half break for lunch. During that break, for those jurors
17 that actually serve, lunch is provided at no expense to you
18 by Lake County. The bailiff takes you and keeps you together.

19 Let me introduce to you some of the courtroom personnel
20 that some of you who may stay with us will be working with
21 throughout the course of the week.

22 To my left and your right is Ms. Faye Osebold. You have
23 all met her, I think. She is our Jury Clerk. She will be with
24 us just throughout the course of jury selection and then we
25 will excuse her from further service.

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1 To my right and your left, we have two court clerks that
2 are going to work with us throughout the course of the week,
3 Ms. Susan Spooner and Ms. Michelle Atkins. Their primary job
4 is to maintain the integrity of the evidence that is
5 introduced into evidence and keep it for us throughout the
6 course of the trial and later, should that be necessary.

7 Down to my left a young lady that many of you cannot see
8 because of the podium is Ms. Ruth Patz. She is our Official
9 Court Reporter. By use of shorthand and a backup tape
10 recorder, she maintains a verbatim transcript of everything
11 that is said and done throughout the course of the trial and
12 has that available for us, should it be necessary.

13 The person most of you will deal with most if you actually
14 serve is Mr. Steve Corbett. Steve is my Senior Bailiff here
15 in Lake County. He works with me in the criminal trial world.
16 He is responsible for the comfort and convenience of jurors
17 and for the security of the courtroom.

18 Folks, what we are going to do now is first ask madam
19 jury clerk to swear all of you in just to answer our questions
20 truthfully with regard to your qualifications to serve.

21 (WHEREUPON, CLERK OF THE COURT ADMINISTERS OATH TO THE
22 PROSPECTIVE JURORS)

23 THE COURT: Thank you, folks. Now, we are going to ask
24 you some very general questions that we are required by law to
25 ask to determine your qualifications to serve as jurors.

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1 Let me preface this questioning by telling you that through-
2 out the course of today and perhaps tomorrow, however long it
3 takes, myself and the attorneys for the respective parties
4 will be asking you questions. I am going to introduce them
5 to you at a little bit later date when it is more appropriate.

6 Noone is going to ask a question of any prospective
7 juror the answer to which would intentionally embarrass you.
8 If, for some reason, we do ask a question and we can't be
9 aware of what all the answers might be, and you feel like
10 that that answer might be embarrassing, you simply get my
11 attention. Just raise your hand or stand up. We will bring
12 you up here to the bench privately and talk with you with the
13 attorneys and the court reporter, and make sure that we don't
14 do that. Noone intends to do that. The only purpose of our
15 questioning is to determine your qualifications to serve.

16 I am going to propound these certain questions to you
17 individually. I am going to do it collectively, but ask that
18 you answer individually and answer out loud. If your response
19 seems different from those around you, please raise your
20 hand or stand up and get my attention so we can explore why
21 that might be so. I do ask all of you to answer these
22 questions audibly and individually if you would.

23 Are you over the age of eighteen years?

24 PROSPECTIVE JURORS: Yes.

25 THE COURT: Were you summoned by your correct name?

1 PROSPECTIVE JURORS: Yes.

2 THE COURT: Are you a resident of the State of Florida?

3 PROSPECTIVE JURORS: Yes.

4 THE COURT: Do you hold any official position under the

5 laws of the United States of America or the State of Florida?

6 PROSPECTIVE JURORS: No.

7 THE COURT: Excuse me, yes, sir?

8 PROSPECTIVE JUROR: What is an official position?

9 THE COURT: Well, if you will give me your name, sir, and

10 tell me what you hold, I'll tell you.

11 PROSPECTIVE JUROR: Tracy L. Halstead. I work for

12 Lake Correctional Institution.

13 THE COURT: You work at LCI? Alright. Thank you. We

14 will note that.

15 Are you a bonded deputy sheriff or municipal police

16 officer? Is anyone that?

17 PROSPECTIVE JURORS: No.

18 THE COURT: Are you an officer, Mr. Halstead?

19 Are you a bonded deputy sheriff or municipal police officer?

20 MR. HALSTEAD: By and large, yes.

21 THE COURT: Has anyone ever been convicted of a felony

22 without having your civil rights restored by amnesty or

23 pardon?

24 PROSPECTIVE JURORS: No.

25 THE COURT: Is any criminal prosecution now pending

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1 against you in any court?

2 PROSPECTIVE JURORS: No.

3 THE COURT: Are you a duly qualified elector, that is,
4 voter of Lake County, Florida?

5 PROSPECTIVE JURORS: Yes.

6 THE COURT: Alright, everyone seems to have the requisite
7 qualifications to serve as a juror in this court. We all
8 here understand that sometimes jury service can create a
9 personal or financial hardship for you. We are going to give
10 you an opportunity to come forward one at a time, beginning
11 with the first row over on my left and your right, if you
12 request to be excused. We will consider your request. That
13 is all I can promise you. We do have a case to try and we
14 do need jurors. I remind you it is your civic and public
15 service ... duty to serve. We will start over there, Mr.
16 Bailiff. When you come up, if you are going to ask to be
17 excused, please have your summons out if you have it with you
18 so we can discuss your situation with you.

19 Attorneys, you all can come up.

20 (WHEREUPON, BENCH CONFERENCE IS HELD AS FOLLOWS:)

21 (WHEREUPON, FIRST PROSPECTIVE JUROR APPROACHES BENCH)

22 THE COURT: We have Florence McCullough, #134.

23 Just a minute, Florence. What is your situation, ma'am?

24 MS. MC CULLOUGH: My father is ninety-three and one-half
25 years old and he lives with me and he just recently is out

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1 of the hospital and he can be only left a couple hours and
2 my husband has a heart condition and had heart surgery twice
3 and he is a diabetic. I don't leave him all day by himself.

4 THE COURT: Okay, stand over here, please, and I will
5 be back with you.

6 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

7 THE COURT: We have Edith Thomas, #131. What is your
8 situation, Ms. Thomas?

9 MS. THOMAS: I am retired.

10 THE COURT: Yes, ma'am, how old are you?

11 MS. THOMAS: I am seventy.

12 THE COURT: And why do you ask to be excused?

13 MS. THOMAS: I didn't ask to be excused. I just thought
14 I was supposed to come up anyway.

15 THE COURT: No, YOU don't need to necessarily. Thank
16 you very much.

17 MS. THOMAS: Do I have to serve?

18 THE COURT: I don't know yet. Why don't you stand over
19 here.

20 MS. THOMAS: Alright.

21 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

22 THE COURT: We have Theresa Kridel, #133.
23 What is your situation?

24 MS. KRIDEL: I have small children. I can't serve at
25 this time.

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1 THE COURT: How old are they?
2 MS. KRIDEL: Five and eight.
3 THE COURT: Who takes care of them?
4 MS. KRIDEL: I take them to school and I pick them up
5 and I take them after school.
6 THE COURT: Stand over there if you would, please.
7 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)
8 THE COURT: We have Norine Leahy, #126. What is your
9 situation, ma'am?
10 MS. LEAHY: I have a total adrenal deficiency and I am
11 on total social security disability and I cannot be exposed
12 to trauma.
13 THE COURT: Stand over there. We would appreciate it.
14 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)
15 THE COURT: I have Henry Jones, #151. What is your
16 situation, Mr. Jones?
17 MR. JONES: I work for Phillip Buick.
18 THE COURT: I am sorry. I can't hear?
19 MR. JONES: I work for Phillip Buick, Salesman.
20 THE COURT: I got it. And it is a problem... stand over
21 there if you would, Mr. Jones.
22 He works for Plymouth, Buick, Pontiac as a salesman.
23 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)
24 THE COURT: Good morning, sir. Alfred Collins, #144.
25 What is your situation, Mr. Collins?

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1 MR. COLLINS: I am on medication for arthritis and
2 vertebrae in my neck... I have to take pills for it.

3 THE COURT: How old are you Mr. Collins?

4 MR. COLLINS: Seventy-nine.

5 THE COURT: If you would stand over there, I would
6 appreciate it. Right there with those folks.

7 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

8 THE COURT: We have Sheryl Burleigh, #165. What is
9 your situation, Sheryl?

10 MS. BURLEIGH: I have three small children. I am a
11 housewife.

12 THE COURT: How old are they?

13 MS. BURLEIGH: Four, five and six.

14 THE COURT: You are the only one that takes care of them?

15 MS. BURLEIGH: Ahum. (Affirmative response)

16 THE COURT: Stand over there, okay?

17 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

18 THE COURT: I have Wilbur Schlager, #255. Just a
19 second, Wilbur. What is your situation, Mr. Schlager?

20 MR. SCHLAGER: I am retired.

21 THE COURT: And what is your problem with serving, sir?

22 MR. SCHLAGER: No problem.

23 THE COURT: You just want to let me know? You don't have
24 any particular problems about serving?

25 MR. SCHLAGER: No.

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1 THE COURT: Step over here with those folks. Thank you,
2 sir.

3 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

4 THE COURT: I have Robert Liming, #124. Let me find
5 you here, Robert. Just a second. L I M I N G.
6 Robert Liming, what is your situation, Robert?

7 MR. LIMING: Well, Judge, I would like to be excused
8 because I am self-employed.

9 THE COURT: Where do you work or what do you do?

10 MR. LIMING: I am a barber and I have got to close down
11 my shop, because I work by myself.

12 THE COURT: Stand over here Robert. I will be back to you.

13 MR. LIMING: Thank you, sir.

14 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

15 THE COURT: I have Nancy Reed, #227. Just a second,
16 Nancy, and I will be right with you. What is your situation,
17 Nancy?

18 MS. REED: Well, I work as a maid in a motel and there
19 is just myself and one other lady that works and I thought
20 that would make it kind of hard on her to have to work, of
21 course, that is ...

22 THE COURT: If you would stand over there. Thank you.

23 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

24 THE COURT: I have Mr. Lee Willis, #209. What is your
25 situation, Mr. Willis?

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MR. WILLIS: I am retired.

THE COURT: Do you have a problem with serving?

MR. WILLIS: Not necessarily, no, sir.

THE COURT: Thank you very much.

(WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

THE COURT: We have Mr. Eugene Wing, W I N G. #204.
What is your situation, Mr. Wing?

MR. WING: I have a prostate and bladder out and they
took part of the bladder and it is difficult and painful to
hold water for any length of time.

THE COURT: Stand over here with us, sir. Thank you,
sir.

(WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

THE COURT: This is Ms. Vonistine Williams, #237.
What is your situation, Ms. Williams?

MS. WILLIAMS: It is against my religion.

THE COURT: To sit in judgment? It is against your
religion to sit in judgment on anybody?

MS. WILLIAMS: Yes.

THE COURT: If you would wait over here with us
please, thank you.

(WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

THE COURT: Your jury number?

PROSPECTIVE JUROR: 236.

THE COURT: James Aker. What is your situation?

1 MS. AKER: My situation is not physical. It is more
2 one of a personal problem. I have left with good intentions
3 of coming here, but on the way my truck and trailer are
4 imbedded in sand. It is not a private road. It is a multi-
5 traveled road and it is stuck there and if I am on the witness,
6 it is going to be there for a week or more and the other
7 neighbors won't be able to get out and there are other people
8 that live there, but they are not neighbors. Nobody wants
9 to help me, because I tried to get some help this morning,
10 and I just couldn't get it out.

11 THE COURT: Stand over here with us, please.

12 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES THE BENCH)

13 THE COURT: I have George Fletcher, #223. What is
14 your situation, George?

15 MR. FLETCHER: I don't hear very well and I was just
16 operated on, a quadruple bi-pass.

17 THE COURT: Alright, stand over there, George. Thank
18 you.

19 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

20 THE COURT: This is Mr. Dan Dural, @241. What is your
21 situation, Dan?

22 MR. DURAL: I just want to keep doing God's work in
23 helping these people in Eustis, Lake Hills Plaza. They depend
24 on me to get the things they need. I feel guilty sitting
25 here doing nothing, but I would be doing something.

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1 God has ordained us to.

2 THE COURT: Stand over here, Dan, thank you.

3 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

4 THE COURT: I have Helen Turk. #245. What is your
5 situation, Helen?

6 MS. TURK: I live in Groveland, but since I work at
7 Mascotte Elementary School, I take my son to school every
8 day where I work and I bring him home and he wouldn't have
9 transportation if I had to be here every day.

10 THE COURT: Stand over here, Helen. Thank you.

11 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

12 THE COURT: I have Ms. Alice Beebe. What is your
13 situation, Ms. Beebe. #252.

14 MS. BEEBE: First of all, I am a diabetic and secondly,
15 I have a thirteen year old daughter, who wears a full body
16 brace and a ten month old grandchild, who also lives with me,
17 who will be left alone at night because my husband works.
18 He works the midnight shift, if I were to be sequestered.

19 THE COURT: Thank you, Alice. Stand over there.

20 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

21 THE COURT: I have Mrs. Boston, #254. What is your
22 situation, ma'am?

23 MS. BOSTON: I am taking medicine for pain and I am
24 dizzy and nauseated.

25 THE COURT: Alright, stand over here, if you would.

1 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

2 THE COURT: We have Ms. Elsie Keith, #250. What is your
3 situation, Ms. Keith? What is your problem?

4 MR. EDMUND: What is your problem?

5 THE COURT: Can you hear me, ma'am?

6 MR. EDMUND: Can you hear the Judge, ma'am?

7 MS. KEITH: Not too well.

8 THE COURT: Stand over there. Thank you.

9 MR. BAILIFF: That will be all, Judge.

10 THE COURT: I think we can salvage those that just came
11 up and told me they were retired and there were no problems.
12 How many do we have total?

13 MS. OSEBOLD: Twenty.

14 THE COURT: That will give you eighteen excused. We
15 had fifty-three here... That is thirty-three in this group
16 and thirty-seven in the other group. That gives us seventy.

17 I am going to excuse all of them except the two retired
18 fellas.

19 Thank you.

20 MR. DURAL: Judge, are you the judge that changed my
21 name about eight years ago?

22 THE COURT: I am not sure if I did or not, sir. I don't
23 think eight years ago.

24 Alright, folks, for those of you that are up here with
25 me now, we are going to ask Mr. Schlager to remain with us in

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1 the courtroom, bear with me a second. We have a long list,
2 and Mr. Willis. The rest of you all are free to go. You
3 don't need to call back or come back. Thank you very much for
4 coming in.

5 (WHEREUPON, PROSPECTIVE JURORS WHO ARE EXCUSED FROM
6 JURY SERVICE LEAVE COURTROOM AT THIS TIME)

7 THE COURT: Ladies and gentlemen, for those of you that
8 are remaining with us, now we are going to commence the first
9 phase of our jury selection process. First, I want to
10 introduce to you the attorneys for the respective sides.

11 To your right and my left we have Mr. Thomas Hogan and
12 Mr. Steve Hurm. These gentlemen are Assistant State Attorneys.
13 They represent the State of Florida. Mrs. Pauline Albion is
14 their secretary, who will be sitting at the desk with them.
15 Let me ask any of you if you think you know any of those
16 persons. If you do, please raise your hand.

17 Alright, to my right and your left, we have Mr. Jack
18 Edmund, who will be representing the Defendant. We have an
19 investigator from his office, who will be sitting at his
20 table, Mr. Bob Nipper. We have the Defendant, Mr. James Aren
21 Duckett. Do any of you know any of these persons in any way
22 and if you do, please raise your hands.

23 Now, folks, I am going to at this time, advise you a
24 very thumb nail sketch with regard to the matters, which are
25 before the Court. We have two cases which on joint stipulation

1 of both counsel for the State and for the Defendant, have been
2 consolidated for trial. We have Lake County Case 87-1347- and
3 Lake County Case 88-262. As you certainly have surmised, both
4 of those cases are the State of Florida versus James Aren
5 Duckett, the Defendant who is present here in court with us
6 and who has been present since we commenced this morning.

7 I am going to read to you a Grand Jury Indictment in the
8 one case and an Information filed by the Office of the State
9 Attorney in the other case. They set forth the charges against
10 the defendant. The Indictment and the Information are not
11 to be considered by anyone as evidence, but are mere formal
12 accusations of the Defendant. You must not consider them as
13 evidence of the Defendant's guilt and you must not be
14 influenced by the fact that the Information and the Indictment
15 have been filed. The purpose of my reading the Information and
16 the Indictment is simply to inquire of you after this has been
17 done, whether or not you think you have any knowledge of this
18 case independent of whatever you might have gleaned here in the
19 courtroom. This is very important. If you feel like you have
20 any knowledge concerning this case that you heard someone
21 discuss it, you have read something in the newspaper, or
22 otherwise about it, you have heard something on television or
23 radio about it, or from any other source outside this
24 courtroom, I am going to ask that you not tell us what that is,
25 but that you simply, at the appropriate time, just as we did a

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1 minute ago, and starting with Mr. Bailiff's side, one at a
2 time come forward and make clear to us what that knowledge
3 might be. It is very important that you not mention out loud
4 in this courtroom what your knowledge might be, because
5 obviously once you do that, you tell everyone in the court-
6 room, so you just let us know if you feel like you have any
7 knowledge. You will come forward to the bench and I am going
8 to ask you in a very whispered tone when you come up here,
9 discuss with us what that knowledge might be. Everyone clear
10 on our procedure?

11 Alright. We first have a Grand Jury Indictment, in
12 the Circuit Court of the Fifth Judicial Circuit, on the State
13 of Florida, in and for Lake County, at the Fall Term thereof,
14 in the Year of Our Lord, One Thousand Nine Hundred and Eighty-
15 Seven, the State of Florida versus James Aren Duckett,
16 Case No. 87-1347CF Indictment for Murder in the First Degree,
17 in the name and by the authority of the State of Florida,
18 the Grand Jurors of the State of Florida impaneled and
19 sworn to inquire and true presentment make, in and for the
20 body of the County of Lake, upon their oath, do present that
21 James Aren Duckett, of the County of Lake and State of
22 Florida, on the 12th day of May, in the Year of Our Lord
23 One Thousand Nine Hundred and Eighty-Seven, in the County and
24 State aforesaid, did unlawfully and from a premeditated
25 design to effect the death of Teresa Mae McAbee, a human

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1 being, kill and murder the said Teresa Mae McAbee by
2 strangling and/or drowning, in violation of Florida Statute
3 782.04(1)(a)(1), contrary to the form of the Statute in such
4 cases made and against the peace and dignity of the people of
5 the State of Florida. Signed, a True Bill by the foreman
6 of the Grand Jury.

7 Also, we have an Information, in the Circuit Court of the
8 Fifth Judicial Circuit of the State of Florida, in and for
9 Lake County, in the Year of Our Lord One Thousand Nine Hundred
10 and Eighty-Eight, the State of Florida versus James Aren
11 Duckett, Case No. 88-262-CF-A-01, Information for: Capital
12 Sexual Battery. In the name and by the authority of the
13 State of Florida, S. Ray Gill, State Attorney for the Fifth
14 Judicial Circuit of the State of Florida, prosecuting for the
15 State of Florida, by and through the undersigned Assistant
16 State Attorney, in the said County, under oath, Information
17 makes that James Aren Duckett, in the County of Lake and
18 State of Florida, between the 11th and 12th day of May in the
19 Year of Our Lord, One Thousand Nine Hundred and Eighty-seven,
20 did, being a person eighteen years of age or older, unlawfully
21 injure the sexual organs of Teresa McAbee, date of birth,
22 July 10, 1975, a person less than twelve years of age, while
23 in an attempt to commit sexual battery upon said person, in
24 violation of Florida Statute 794.011(2), contrary to the form
25 of the Statute in such cases made and provided and against the

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1 peace and dignity of the State of Florida. That is signed by
2 Stephen Hurm, Assistant to S. Ray Hill, State Attorney, Fifth
3 Judicial Circuit of the State of Florida, under oath.

4 Again, bear with me carefully. If anyone to my left and
5 your right feels like you have any knowledge concerning this
6 case apart from what you may have gleaned here in this
7 courtroom, beginning with the first row, I ask you to raise
8 your hand.

9 I see one. Come forward please, ma'am. Attorneys come
10 up please and madam reporter.

11 (WHEREUPON, BENCH CONFERENCE IS HELD AS FOLLOWS:)

12 THE COURT: Could I ask your name, please, ma'am?

13 PROSPECTIVE JUROR: Jewel Symmes. I am #136, if
14 you need that.

15 THE COURT: Ms. Symmes, #136. Right. If you could tell
16 me generally what you think you might know?

17 MS. SYMMES: I am not sure, I think this might be the
18 one I heard something about in the South part of the County.
19 There was maybe an ex-policeman. I am not real sure if that
20 is the same one that was accused of the crimes. I may be
21 mistaken. I don't recognize the names.

22 THE COURT: Suppose, for the sake of our discussion, it
23 might be the same one, tell me what you remember about that?

24 MS. SYMMES: Something about a person that was a
25 policeman or used to be or currently was, I don't know which it

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1 was, was accused of the crimes.

2 THE COURT: Did you hear or read about this recently or
3 has it been some time ago?

4 MS. SYMMES: It was about a year ago, it seems like.

5 THE COURT: Do you think you know anything else about
6 this matter other than what you told me? Do you believe
7 you could put aside anything you think you might know and
8 give this gentleman a fair trial, based upon the evidence
9 presented here in this courtroom and that alone?

10 MS.SYMMES: Yes, sir.

11 MR. HOGAN: Likewise, Mr. Hurm and I represent the
12 State. Could you also put aside and give our client the
13 State of Florida a fair trial as well as the Defendant?

14 MS. SYMMES: Sure.

15 MR. HOGAN: Thank you.

16 MR. EDMUND: I don't have such a loaded question to ask.

17 THE COURT: Thank you, ma'am. You can take your seat.
18 I appreciate it.

19 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

20 THE COURT: We have with us, gentlemen, Mr. William
21 Rogers, #149. Mr. Rogers works with us here in the courthouse.
22 I know that these gentlemen know that. You are in finance,
23 correct?

24 MR. ROGERS: Right.

25 THE COURT: What do you know about this situation?

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1 MR. ROGERS: Well, I think I probably know too much
2 about the case. I have seen it in the paper. I have discussed
3 it with individuals at work.

4 THE COURT: Do you think you could take what you have heard
5 and what you have discussed and put it aside and give this
6 gentleman a fair trial based on the evidence only in this
7 courtroom?

8 MR. ROGERS: I am not sure.

9 THE COURT: Gentlemen?

10 MR. HOGAN: Do you understand that if you were on the
11 Jury, the Judge would instruct you to do that, to follow the
12 law and make your decision based on the facts and testimony
13 that you heard here in court and not on what you heard before
14 you got here today. That should not influence your situation.
15 Do you think you cannot be a fair and impartial juror in this
16 case?

17 MR. ROGERS: Right.

18 MR. EDMUND: Mr. Hogan, did he say he could not be
19 fair?

20 THE COURT: He did say that.

21 MR. EDMUND: You have discussed the case and you stated
22 opinions?

23 MR. ROGERS: Yes, sir.

24 MR. EDMUND: Others stated opinions to you?

25 MR. ROGERS: Yes, sir.

1 THE COURT: Just take your seat for now. We will get
2 back to you.

3 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

4 THE COURT: I have Mr. Gunter Wittig. #139. Thank you,
5 Mr. Wittig. What have you heard about this?

6 MR. WITTIG: I have read the whole story in the
7 newspaper, Your Honor.

8 THE COURT: Did you read that recent article?

9 MR. WITTIG: Yes, sir.

10 THE COURT: Have you had any discussions with anybody
11 about the matter?

12 MR. WITTIG: With my family.

13 THE COURT: Have you come to a conclusion about the
14 matter?

15 MR. WITTIG: In a way, yes.

16 THE COURT: Do you think it is possible that you could
17 put aside everything you have read and discussed and render
18 a fair verdict to the State and to the Defendant, based upon
19 just the testimony and evidence you heard in this courtroom
20 and nothing prior?

21 MR. WITTIG: I don't know that I could. I don't know.
22 It is difficult for me to answer that.

23 MR. HOGAN: I don't have any questions, Judge.

24 MR. EDMUND: Have you formed opinions as to guilt or
25 innocence? I don't want to know which?

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1 MR. WITTIG: In a way, yes.

2 MR. EDMUND: Have you discussed those opinions with other
3 people?

4 MR. WITTIG: Yes.

5 MR. EDMUND: Have they discussed their opinions with you?

6 MR. WITTIG: Yes.

7 MR. EDMUND: Have you started your thought making process
8 against James Duckett, in the sense you made a decision whether
9 or not...

10 MR. WITTIG: Not a hundred percent.

11 MR. EDMUND: Can you put all that out of your mind? Are
12 you certain you can?

13 MR. WITTIG: If you read something and talking about things
14 I don't think you can be totally...

15 MR. EDMUND: Thank you.

16 THE COURT: Anything else? Step back, please, Mr.
17 Wittig. We will be back with you.

18 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

19 THE COURT: Tracy L. Halstead, #150. H A L S T E A D.

20 What is your situation? What have you read or heard
21 about?

22 MR. HALSTEAD: In the back of my mind, I am thinking that
23 I heard something in the newspaper about he was supposed to
24 be taken to a swampy area and committed the offense. That is
25 all I know about it. Just what I read in the newspaper.

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1 THE COURT: Did you read that recently?

2 MR. HALSTEAD: Quite some time ago... I don't even know
3 the dates on it when it was.

4 THE COURT: Do you think you could put aside whatever you
5 might have read and give the State of Florida and the Defendant
6 a fair trial, based on the evidence and testimony in this
7 courtroom?

8 MR. HALSTEAD: That is how I make my living.

9 THE COURT: Do you think you could do that without any
10 trouble?

11 MR. HALSTEAD: Yes, sir.

12 MR. HOGAN: No questions.

13 MR. EDMUND: No questions, Your Honor.

14 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

15 THE COURT: Could I ask your name, please?

16 MR. FLACK: Phillip Flack, #160.

17 THE COURT: What is your situation, Phillip?

18 MR. FLACK: I just heard it was going to start today.

19 THE COURT: You heard it on the news that it was going
20 to start today?

21 MR. FLACK: Yes.

22 THE COURT: Did you hear any details at all?

23 MR. FLACK: Just what it was a sexual assault case.

24 THE COURT: Do you think you could take what you have
25 heard today and put it aside and give the State of Florida and

1 the Defendant a fair trial, based on the evidence and testimony
2 only in the case?

3 MR. FLACK: Yes.

4 MR. HOGAN: No questions.

5 MR. EDMUND: Mr. Flack, do you subscribe to the Orlando
6 Sentinel?

7 MR. FLACK: Yes, sir.

8 MR. EDMUND: Did you get the Sunday Edition yesterday?
9 There was a Lake County slip section?

10 MR. FLACK: I didn't get it.

11 MR. EDMUND: Thank you.

12 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

13 THE COURT: We have Ms. Constance Klump. #175.

14 K L U M P. What have you heard about this case?

15 MS. KLUMP: I read about the article in the Leesburg
16 Commercial that this case was going to take place and that
17 you were considering not presenting some evidence about some
18 teenage girls that had allegedly had something to do with the
19 gentleman.

20 THE COURT: You read about that about a week or so ago
21 then?

22 MS. KLUMP: Ahum. (Affirmative response)

23 THE COURT: Have you read or heard anything else about
24 that?

25 MS. KLUMP: No. Not after I got this. Because it did

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1 say in the article that you were going to be in on that.

2 THE COURT: Do you think whatever you might have
3 read or heard you could totally put out of your mind and give
4 the State of FLorida and the Defendant a fair trial based on
5 the evidence and testimony in this courtroom only?

6 MS. KLUMP: Yes, I do.

7 THE COURT: Gentlemen?

8 MR. HOGAN: No questions.

9 MR. EDMUND: No questions.

10 THE COURT: Thank you very much.

11 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

12 THE COURT: Good morning.

13 PROSPECTIVE JUROR: My number is #178. My name is
14 Merle Odom. I have read about this in the paper since the
15 crime was committed a year ago.

16 THE COURT: When did you read that? Recently, Ms. Odom,
17 or some time ago?

18 MS. ODOM: From the time it happened, almost anything in
19 the paper.

20 THE COURT: You have read numerous accounts about it?

21 MS. ODOM: Yes, sir.

22 THE COURT: Everything about it...

23 MS. ODOM: And all the people that we know talk about it
24 all the time.

25 THE COURT: Where are you from?

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1 MS. ODOM: Sorrento. My husband's friend was over from...
2 he lives up near the Ocala Forest and he was talking about it
3 too.

4 THE COURT: Have you reached an opinion in this case?
5 I don't want to know what it is?

6 MS. ODOM: Yes.

7 THE COURT: Do you think you could put aside all that you
8 have read and all that you have heard and any opinion you might
9 have about it...

10 MS. ODOM: I don't think so.

11 THE COURT: You really have trouble, because you know so
12 much about it?

13 MS. ODOM: Yes, sir.

14 MR. HOGAN: No questions.

15 MR. EDMUND: No questions.

16 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

17 THE COURT: Good morning. Can I ask your name?

18 PROSPECTIVE JUROR: Betty Ann Prevatt, #164.

19 THE COURT: #164. What is your situation, Ms. Prevatt?

20 MS. PREVATT: I have simply read the newspaper and
21 I am employed at South Lake Memorial Hospital and I have heard
22 casual conversations pros and cons.

23 THE COURT: Did you read any recent articles about this
24 or was it some time ago?

25 MS. PREVATT: As recent as yesterday.

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1 THE COURT: You read the Lake Sentinel?
2 MS. PREVATT: Yes, I did.
3 THE COURT: Have you formed an opinion about this case?
4 MS. PREVATT: No, I have not.
5 THE COURT: Do you think you could put aside what you read
6 and give the State of Florida and the Defendant a fair trial,
7 based just on the evidence and the testimony in this courtroom?
8 MS. PREVATT: I have no opinion on it.
9 THE COURT: Do you think you could do that?
10 MS. PREVATT: Yes.
11 MR. HOGAN: No questions.
12 MR. EDMUND: No questions, Your Honor.
13 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)
14 THE COURT: Geraldine Emerson, #186. What is your
15 situation, Ms. Emerson?
16 MS. EMERSON: I read, and the Sunday Lake edition it was
17 on the front page, so I glanced at it. I didn't read it in
18 great detail, and I might have heard about it sometime in the
19 past. I don't know.
20 THE COURT: Do you have any opinion about it, as to the
21 guilt or innocence?
22 MS. EMERSON: At this point, not at this point, but I
23 have a question for you. Did you say that once this starts,
24 any jurors can't go home for two weeks?
25 THE COURT: No, ma'am.

1 MS. EMERSON: I didn't understand.

2 THE COURT: Only when we start to deliberate.

3 MS. EMERSON: That is what I thought. I wanted to make
4 sure I understood.

5 THE COURT: Do you think, Ms. Emerson, whatever you might
6 have already read, you can put aside and just give the State
7 of Florida and the Defendant a fair trial, based on the
8 evidence in this courtroom?

9 MS. EMERSON: As good as anybody could, I think.

10 MR. HOGAN: No questions.

11 MR. EDMUND: No questions.

12 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

13 THE COURT: We have Mrs. Emma Dupuis, #181, D U P U I S.
14 What do you know about this situation, Emma?

15 MS. DUPUIS: Well, as soon as I heard what kind of case
16 it was going to be, it built up such a tension in me. I am
17 subject to such a severe migraine and right now, it made me so
18 keyed up inside just because of the nature of the case, I
19 would have a migraine attack every day.

20 THE COURT: Why don't you step back and I will be with you.
21 Thank you.

22 MS. DUPUIS: Do you want me to go back there?

23 THE COURT: For now. Thank you.

24 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

25 THE COURT: We have Mrs. Betty Gerber, #195. What is your

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1 situation, Betty? What do you know about this case?

2 MS. GERBER: I read about it in the newspaper.

3 THE COURT: Did you read the recent article about it?

4 MS. GERBER: Yes, I did.

5 THE COURT: I don't know what it might be, but have you
6 formed any opinions as to the guilt or innocence in this case?

7 MS. GERBER: Not really.

8 THE COURT: Have you discussed this case with anybody?

9 MS. GERBER: No.

10 THE COURT: Do you think you could put aside anything you
11 might have read and give the State of Florida and the Defendant
12 a fair trial, based upon only the evidence and testimony you
13 hear in this courtroom?

14 MS. GERBER: Yes, sir.

15 THE COURT: Do you have any reservations about that?

16 MS. GERBER: No, sir.

17 MR. HOGAN: No questions.

18 MR. EDMUND: No questions.

19 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

20 THE COURT: Good morning, sir. We have Mr. Oscar Berry,
21 #201. What is your situation, Oscar? What do you know about
22 this?

23 MR. BERRY: Well, they had it written up in the paper
24 yesterday.

25 THE COURT: You read that?

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1 MR. BERRY: Yes, sir.

2 THE COURT: Have you read or heard anything else about
3 the case?

4 MR. BERRY: No, I haven't.

5 THE COURT: Have you discussed it with anybody?

6 MR. BERRY: Well, my wife and so forth.

7 THE COURT: Did you come to any opinions about the
8 Defendant's guilt or innocence? Don't tell me what they
9 might be, but did you?

10 MR. BERRY: See, I am a Christian man and I am against
11 this man, because it would be against my religion. I was
12 talking with my wife and so forth.

13 THE COURT: What do you mean when you say you are against...
14 it is against your religion?

15 MR. BERRY: Well, I dn't believe the law intends this
16 kind of thing to happen and it is a sin for him to do something
17 like that, in my opinion. My opinion.

18 THE COURT: Have you reached any opinion as to whether
19 or not this Defendant is, in fact, guilty of this crime?

20 MR. BERRY: Well, I haven't. I haven't done that.

21 THE COURT: He comes in here presumed to be innocent,
22 do you understand that?

23 MR. BERRY: Yes.

24 THE COURT: My concern is simply this, Mr. Berry. If
25 you could put aside anything you read or heard and give the

1 State of Florida and the Defendant a fair trial, impartial
2 trial, based on the evidence and the testimony only in this
3 court... do you think you can do that? You need to be
4 honest with me? If you have a problem, we need to know now.
5 This is serious.

6 MR. BERRY: Like I said, that is above my religion.
7 I am being ... I am for the right thing, but I don't believe
8 the Lord will hold me or give me his blessing for doing this.

9 MR. HOGAN: Mr. Berry, are you saying that you think
10 it is a sin for someone to rape and murder an eleven year
11 old girl, or are you saying it is against your religion to
12 sit in judgment of a fellow man?

13 MR. BERRY: Sitting in judgment of a fellow man.

14 MR. HOGAN: I understand what you are saying.

15 THE COURT: Mr. Edmund, any questions?

16 MR. EDMUND: No, sir.

17 THE COURT: Anything else?

18 MR. HOGAN: I have one more questions, Judge. Mr. Berry,
19 are you telling us that if you were required to take an
20 oath to follow the law, that you would be governed by your
21 own beliefs and that you might not be able to follow the
22 law, that you would follow your own religious beliefs?

23 MR. BERRY: That's right.

24 THE COURT: Take your seat for now.

25 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

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1 THE COURT: We have Mr. Schlager again. Wilbur
2 Schlager, #255. Just like he was before. What is your
3 situation, Wilbur?

4 MR. SCHLAGER: Just every time you pick up a paper,
5 you read about it. That is the only thing I know. I mean,
6 you can't help it. Every paper you pick up.

7 THE COURT: Have you discussed it with anybody,
8 Mr. Schlager?

9 MR. SCHLAGER: No, sir.

10 THE COURT: Have you formed any opinion about the
11 Defendant's guilt or innocence?

12 MR. SCHLAGER: No, because everything you read is
13 different.

14 THE COURT: Do you think you could put aside everything
15 you have read and give the State of Florida and the Defendant
16 a fair trial based only on the evidence and the testimony
17 you hear in the courtroom?

18 MR. SCHLAGER: Yes, sir.

19 THE COURT: Mr. Hogan, any questions?

20 MR. HOGAN: No, sir.

21 MR. EDMUND: I am Jack Edmund. Mr. Schlager, you feel
22 that you can distinguish back and distinguish between what you
23 heard in the jury room and what you might have heard in the
24 newspapers?

25 MR. SCHLAGER: The newspaper it changes every day.

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1 MR. EDMUND: Can you put out of your mind something
2 you may have read that may not be in the trial?

3 MR. SCHLAGER: Yes.

4 MR. EDMUND: What you heard from the stand and see.
5 You will make every effort to make sure and not bring up
6 something in the courtroom...

7 MR. SCHLAGER: I don't do that.

8 THE COURT: Thank you very much, Mr. Schlager.

9 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

10 THE COURT: Good morning again, sir. We have Lee Willis
11 with us again. He is still #209. What is your situation,
12 Mr. Willis?

13 MR. WILLIS: I have been following the publicity pretty
14 much in the papers.

15 THE COURT: Have you discussed this case with anybody,
16 Mr. Willis? Talked about it with anybody?

17 MR. WILLIS: I haven't talked about it with anybody.

18 THE COURT: Have you formed any opinion at all about the
19 Defendant's guilt or innocence?

20 MR. WILLIS: No, I haven't done that.

21 THE COURT: Do you think you could take anything you
22 might have read and put it out of your mind and give the State
23 of Florida and the Defendant a fair trial, based on the
24 evidence and testimony you hear in this courtroom?

25 MR. WILLIS: I will try my best. That is all I can say.

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1 I don't know any of the people. I have been taking the
2 Leesburg paper. That is where the publicity has come from.
3 I wanted you to know about that.

4 THE COURT: Help me understand, because it is so
5 important. If you have any reservations about being able to
6 put aside what you have read before and try this case just
7 on what you head in this courtroom, I ask you to be honest
8 and tell me at this time.

9 MR. WILLIS: I am retired. I am a High School Principal.
10 I am just being honest with you.

11 THE COURT: That is exactly what we want. That is
12 exactly what we want. Nobody is going to criticize you for
13 being honest.

14 MR. HOGAN: Are you telling us, sir, you feel that
15 whatever opinion you may have formed, you cannot put out of
16 your mind?

17 MR. WILLIS: It might be a little hard as far as I have
18 read about the case.

19 MR. HOGAN: Sir, do you think that you would not be able
20 to dismiss that? In other words, the Judge instructs you
21 to make your decision based on the testimony and evidence
22 you hear in this courtroom, and you are not to remember what
23 you read in the paper, inasmuch as the newspapers don't
24 run under the same rules as we do. They don't have the same
25 rules of evidence or anything like that. But if your opinion

1 is stuck in your mind, we do appreciate knowing it.

2 MR. WILLIS: I just feel like it is a matter of
3 myself, that I might have trouble.

4 THE COURT: It is. Anything else, gentlemen?

5 MR. EDMUND: No, Your Honor.

6 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

7 THE COURT: We have Troy Barry, B A R R Y, #235.

8 What do you know about this situation, Troy?

9 MR. BARRY: I read it in the Orlando Sentinel yesterday.

10 THE COURT: You read that article recently?

11 MR. BARRY: Yes. I was at my grandfather's house.

12 THE COURT: Have you discussed this case with anybody?

13 MR. BARRY: No.

14 THE COURT: Do you have any opinion at all about the
15 Defendant's guilt or innocence at this time?

16 MR. BARRY: There isn't much in the paper.

17 THE COURT: Do you think what you read you can put it
18 completely out of your mind and give the State of Florida and
19 the Defendant a fair trial just based on the evidence and
20 testimony you hear?

21 MR. BARRY: I think so.

22 THE COURT: Any question about that?

23 MR. BARRY: No, sir.

24 MR. HOGAN: No questions.

25 MR. EDMUND: No, sir.

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1 (WHEREUPON, NEXT PROSPECTIVE JUROR APPROACHES BENCH)

2 THE COURT: I have Donald Hall, #239. What is your
3 situation, Donald? What do you know about this?

4 MR. HALL: Just what is in the papers and on TV.

5 THE COURT: Did you read the recent Sentinel article
6 yesterday, I think?

7 MR. HALL: No, I was out of town.

8 THE COURT: You just read some about it in the papers?

9 MR. HALL: Yes.

10 THE COURT: And you heard about it on TV?

11 MR. HALL: Yes, sir.

12 THE COURT: Have you discussed the case with anybody?

13 MR. HALL: No, sir.

14 THE COURT: Have you formed any opinion about the
15 Defendant's guilt or innocence?

16 MR. HALL: Well...

17 THE COURT: Don't tell me what you formed, but have you
18 formed one?

19 MR. HALL: I don't know anything about it.

20 THE COURT: Have you formed one from what you have seen
21 on TV and read or can you put that out of your mind and judge
22 this case being fair to the State of Florida and to the
23 Defendant, just on the evidence and testimony you hear here
24 in the courtroom?

25 MR. HALL: Yes, sir.

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MR. HOGAN: No questions.

MR. EDMUND: No questions.

MR. BAILIFF: That will be all, Judge.

THE COURT: Here is my initial impression. Let's recap.
The second person up, Mr. Rogers, #149 ought to be excused.
The third fellow up, Mr. Wittig, #139 ought to be excused.
The seventh person up, Mrs. Odom, #178 ought to be excused.
The eleventh person, Mrs. Dupuis for her migrain headaches,
should be excused and not for her knowledge of the case.
That was Mrs. Dupuis, D U P U I S.

The twelfth person up, Mr. Oscar Perry, the black
gentleman with the religious problem ought to be excused.
The fourteenth up, Mr. Lee Willis, #209, the principal with
his doubts about being fair should be excused. Those are
my suggestions. First, do we have any other suggestions or
do you quarrel with mine?

MR. HOGAN: May we have one second?

We have no others, Judge.

THE COURT: You have no objection to the ones I
mentioned?

MR. HOGAN: No, sir.

MR. EDMUND: No objection to the ones you mentioned, Your
Honor. I do have one more I would like to discuss with you
the sixth person, Ms. Klump. I am more concerned about the
material that she read. It might give some problems.

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1 THE COURT: She did read that article about the Williams
2 Rule. It doesn't matter. It is a little ...

3 MR. HURM: But Your Honor, she did indicate that she
4 could put all that aside and judge basically on what she
5 heard in court.

6 THE COURT: She did, but I am going to be abundantly
7 cautious in this trial. I am going to excuse her.

8 My rough calculations, that leaves about twenty-six in
9 this venire to start with. Why don't we take about a ten
10 minutes recess and start putting them in the box.

11 (WHEREUPON, BENCH CONFERENCE ENDS)

12 THE COURT: Alright, folks, presuming I can read my
13 own writing, when I read your name, you are excused. You
14 don't need to come back or call back. You are free to go.
15 You are free to leave the room at this time.

16 Mr. Rogers, Mr. Wittig, Mrs. Klump, Mrs. Odom,
17 Mrs. Dupuis, Mr. Barry, and Mr. Willis. Have I missed any
18 gentlemen, for either side?

19 MR. EDMUND: May we approach the bench, Your Honor.

20 (WHEREUPON, BENCH CONFERENCE IS HELD AS FOLLOWS:0

21 MR. EDMUND: This may not be necessary, but we may need
22 to be real sure we don't get the Barry and Perry mixed up.
23 We had Barry and Perry. You excused the one, the black one.

24 THE COURT: He is exactly right, because Mr. Barry is
25 standing up there. Mr. Bailiff, let me clarify the question

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1 I said. Mr. Perry and not Mr. Barry. B A R R Y stays with
2 us. We had a Mr. Barry and I realize that was my fault.
3 Mr. Barry has left.

4 Alright, folks, for those of you that remain with us,
5 you will be prospective jurors in this case. We are a long
6 ways from having reached that decision yet. We are going to
7 take about a fifteen minute recess and ask all of you to come
8 back here in fifteen minutes and we will start our jury
9 selection at that time.

10 (WHEREUPON, COURT IS IN RECESS AT 10:43 A. M.)

11 (WHEREUPON, COURT RECONVENES AT 11:07 A. M.)

12 (WHEREUPON, DEFENDANT IS PRESENT IN COURTROOM WITH HIS
13 COUNSEL, MR. EDMUND)

14 THE COURT: Ladies and gentlemen, how we proceed now
15 is as you know, you have a number on your summons and I have
16 a box with the numbers in it randomly. I am going to shake
17 it up good and then I am going to call a number and call your
18 name. As you hear your name called, please come forward to
19 our jury box to your right and my left. We start on the back
20 row of the jury box nearest you and fill across, and then the
21 middle row nearest you and fill across and then the front
22 row and across. The bailiff, of course, will help you find
23 your seats in the jury box.

24 If I mispronounce your name, now is certainly a good
25 time to correct all of us, so that we will try not to do that

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1 throughout the course of these proceeding., Please feel
2 free to do that.

3 I have #150. Tracy Halstead.

4 #200, Eileen Shepard.

5 #188, Charlene Chandler.

6 #2, Rebecca Hunt.

7 #244, James Ownby.

8 #190, Guy Stewart.

9 #148, Rita Lucille Fogarty.

10 #164, Betty Ann Prevatt.

11 #159, Jan Frances Stroud.

12 #239, Donald Hall.

13 #211, David Meaker.

14 #154, Dorothy Brown.

15 #136, Jewel Symmes.

16 #192, Hermann Graf.

17 Now, folks, for those of you who are not yet in the jury
18 box with us, as prospective jurors, let me suggest to you it
19 may well be that before this day concludes, you will be.
20 I am going to ask that you pay careful attention to the questions
21 we ask and the procedure that we use so that if you should
22 find yourself up here as a prospective juror, perhaps we can
23 expedite the process a bit.

24 Folks, for those of you that are up here with us, we
25 introduce the attorneys and the Defendant, Mr. Duckett to you.

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1 THE COURT: I want you to again advise me if any of you
2 feel like you know any of the attorneys or the Defendant in
3 this case. If you do, please raise your hand.

4 JUROR: Just this morning, I saw them in the hall.

5 THE COURT: This is Mr. Meeker. Other than that, you
6 don't know them, do you, Mr. Meeker?

7 MR. MEEKER: No, sir.

8 THE COURT: Okay, thank you very much.

9 Folks, do any of you have any physical defects, hearing,
10 sight or otherwise, which would render you incapable of
11 performing your duties as a juror in this cause and I ask you
12 to answer audibly?

13 JURORS: No.

14 THE COURT: Yes, sir, I have Mr. Halstead.

15 MR. HALSTEAD: I do use a hearing aid.

16 THE COURT: Have you been able to hear clearly everything
17 I have said today, Mr. Halstead?

18 MR. HALSTEAD: Yes.

19 THE COURT: Alright. Thank you very much. Anyone else?
20 Do any of you have any bias or prejudice either for or
21 against the defendant?

22 JURORS: No, sir.

23 THE COURT: If you are selected as a juror in this cause,
24 will you render a fair and impartial verdict based upon the
25 evidence presented in this courtroom and the law as it

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1 pertains to this particular case, as instructed by the
2 Court, can you all assure us you will do that?

3 JURORS: Yes.

4 THE COURT: Do you have any other reason why you cannot
5 give this case your undivided attention and render a fair
6 and impartial verdict?

7 JURORS: No.

8 THE COURT: Folks, I am going to ask you to bear with
9 me. This certainly is not intended to embarrass you, but to
10 expedite our process. Starting in the order that you were
11 seated with Mr. Halstead and I will help you through this,
12 of course, so don't sit there and think you have got to
13 memorize something, I am going to ask you to stand up one at
14 a time and introduce yourself to us. Give us your spouse's
15 name if you are married. Tell us where you are from, that
16 is, just what town you are from. Tell us where you work and
17 where your spouse works if it is outside the home. If you
18 are retired, where you used to work and your spouse and if you
19 have ever served on a jury and I'll take you through that if
20 I need to. This just lets us get to know you. Hopefully, it
21 speeds up the process a little bit.

22 Mr. Halstead, if you would begin, please.

23 MR. HALSTEAD: I am Tracy L. Halstead. I work at LCI.
24 That is Lake Correctional Institution. It is a prison.

25 THE COURT: What do you do there, Mr. Halstead?

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1 MR. HALSTEAD: I am a correctional officer.
2 THE COURT: Are you married, sir?
3 MR. HALSTEAD: I am single.
4 THE COURT: What town do you live in?
5 MR. HALSTEAD: At the present moment, Eustis.
6 THE COURT: Have you ever served on a jury?
7 MR. HALSTEAD: No, I haven't.
8 THE COURT: Thank you. Mrs. Shepard?
9 MRS. SHEPARD: I am Eileen B. Shepard. I work at
10 K-Mart in Mount Dora. I am separated. I live in Eustis.
11 I have never served on a jury.
12 THE COURT: Thank you, ma'am.
13 Mrs. Chandler?
14 MRS. CHANDLER: Charlene Chandler. My husband is
15 Harry.
16 THE COURT: Your husband is Harry, okay.
17 MRS. CHANDLER: I work at United Telephone.
18 THE COURT: You work at United Telephone. What do you
19 do there, please, ma'am?
20 MRS. CHANDLER: Directory assistance.
21 THE COURT: Where does your husband work, if you would?
22 MRS. CHANDLER: He is unemployed.
23 THE COURT: What town do you all live in?
24 MRS. CHANDLER: Howey-in-the-Hills.
25 THE COURT: Have you ever served on a jury before?

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1 MRS. CHANDLER: No, sir.
2 THE COURT: Mrs. Hunt?
3 MRS. HUNT: I am Rebecca Hunt. Most people know me as
4 Bubbles. My husband is John and people know him as William.
5 THE COURT: People know your husband as William although
6 his first name is John. Where do you all live, Ms. Hunt?
7 MRS. HUNT: Clermont.
8 THE COURT: You live in Clermont.
9 MRS. HUNT: We both are retired.
10 THE COURT: Alright, just a second. Both retired. What
11 did your husband do before he retired?
12 MRS. HUNT: We owned a feed and garden supply store.
13 THE COURT: You all had a feed and garden supply. That
14 is what you do, too?
15 MRS. HUNT: No, I was a school teacher.
16 THE COURT: Okay, let me ask you what grades you taught
17 and what subjects?
18 MRS. HUNT: I thought first through fifth.
19 THE COURT: That is everything, I guess, isn't it?
20 MRS. HUNT: Everything.
21 THE COURT: Have you ever served on a jury before,
22 Mrs. Hunt?
23 MRS. HUNT: No, sir.
24 THE COURT: Thank you kindly. Mr. Ownby?
25 MR. OWNBY: My name is James D. Ownby. My wife is

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1 Vera M. She works for Witford and I am retired.
2 THE COURT: Let me go back to who she works for?
3 MR. OWNBY: Witford Appliances.
4 THE COURT: Witford Appliances in Eustis.
5 What did you retire from Mr. Ownby?
6 MR. OWNBY: Lance, Incorporated, in Charlotte, North
7 Carolina.
8 THE COURT: Is that the cookie company?
9 MR. OWNBY: Yes, sir.
10 THE COURT: Where do you all live? What town?
11 MR. OWNBY: Eustis.
12 THE COURT: Have you ever served on a jury?
13 MR. OWNBY: No.
14 THE COURT: Okay, thank you, sir. Mr. Stewart?
15 MR. STEWART: My name is Guy Stewart. I live in Leesburg.
16 I am retired from Chrysler. I am single.
17 THE COURT: What did you do there at Chrysler, sir?
18 MR. STEWART: Foreman at Chrysler.
19 THE COURT: Have you ever served on a jury before?
20 MR. STEWART: No, sir.
21 THE COURT: Thank you kindly. Mrs. Fogarty?
22 MRS. FOGARTY: I am Rita Fogarty. My husband's name is
23 Edward. We are retired. I live in Lake Mack area.
24 THE COURT: I'll catch up with you in just a second,
25 Ms. Fogarty. What did you all do before you retired, ma'am?

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1 MRS. FOGARTY: I was a mother. I had eight children.
2 THE COURT: You deserve to retire. Mother of eight
3 children. What did your husband do before he retired?
4 MRS. FOGARTY: Worked for Bendex.
5 THE COURT: What type of work did he do there, if you
6 know?
7 MRS. FOGARTY: Everything, but he wound up a truck
8 driver.
9 THE COURT: Okay, he did it all. You all live in the
10 Lake Mack area. Have you ever served on a jury?
11 MRS. FOGARTY: No, sir.
12 THE COURT: Okay. thank you.
13 Mrs. Prevatt?
14 MRS. PREVATT: I am Betty Ann Prevatt. I am married
15 to Edwin E. Prevatt. He is an engineer at Martin Marietta.
16 I am employed by South Lake Memorial Hospital in Clermont
17 as a Director of Personnel.
18 THE COURT: What town do you live in, ma'am?
19 MRS. PREVATT: Clermont.
20 THE COURT: Have you ever served on a jury?
21 MRS. PREVATT: No, I have not.
22 THE COURT: Okay. Thank you. Mrs. Stroud?
23 MRS. STROUD: I am Jan Stroud. I live at Lady Lake.
24 My husband's name is Robert. We are both retired.
25 THE COURT: Let's just catch up with you, Mrs. Stroud.

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1 What did your husband do before he retired?
2 MRS. STROUD: He was a die setter up north.
3 THE COURT: How about yourself?
4 MRS. STROUD: I was supervisor of an electronics firm.
5 THE COURT: Have you ever served on a jury?
6 MRS. STROUD: I did a long long time ago, but never came
7 to a decision. They settled it out of court.
8 THE COURT: Do you remember if that was civil or criminal?
9 MRS. STROUD: I think civil.
10 THE COURT: Okay, one jury service, probably civil.
11 Thank you.
12 Mr. Hall?
13 MR. HALL: My name is Donald Hall. I worked for Medigold
14 Ice Cream, ...out of Leesburg. My wife's name is Vickie.
15 She works for K-Mart in Mount Dora. We live in Umatilla.
16 THE COURT: You are faster than I am, Donald, just hang
17 on. I will be with you.
18 I missed what you did if you don't mind again, Donald?
19 MR. HALL: Route Salesman for Medigold Ice Cream.
20 I have served on a jury before.
21 THE COURT: Was it civil or criminal, do you remember?
22 MR. HALL: It was criminal.
23 THE COURT: Okay. Thank you. Mr. Meaker?
24 MR. MEAKER: My name is David Meaker. I live in Howey-in-
25 the-Hills and my wife's name is Mary. I work at the landfill

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1 and my wife works for Rainbow. I haven't served on a jury.
2 THE COURT: Okay, thank you, sir. That is all we need.
3 Mrs. Brown?
4 MRS. BROWN: I am Dorothy Brown. I work at Dora Oaks in
5 Mount Dora. I live in Sorrento and my husband works at
6 farm labor and he drives tractor.
7 THE COURT: You are way ahead of me, Ms. Brown, just a
8 second. You work at Dora Oaks. You all live in Sorrento.
9 Your husband does what, I am sorry?
10 MRS. BROWN: Does farm labor. He drives tractor.
11 THE COURT: Tractor. I understand that. For Farm Labor.
12 Have you ever been on a jury?
13 MRS. BROWN: No, I haven't.
14 THE COURT: Okay, thank you, ma'am. Mrs. Symmes?
15 MRS. SYMMES: My name is Jewel Symmes. My husband's
16 name is Joe. he works at Florida Power Corporation in
17 Clermont. I work at Orlando-Orange County Expressway
18 Authority in Orlando and we live outside of Groveland area,
19 and I have never served on a jury before.
20 THE COURT: If you don't mind, ma'am, just give us an
21 idea of what you do there at the Expressway Authority?
22 MS. SYMMES: I am the Manager of Communications.
23 THE COURT: Thank you. Mr. Graf?
24 MR. GRAF: My name is Hermann Graf. I live in Mount
25 Dora. I am a widower.

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1 THE COURT: I think you would be retired, Mr. Graf?

2 MR. GRAF: I am retired, yes, sir.

3 THE COURT: What did you do before you retired?

4 MR. GRAF: I worked in the upholstery shop.

5 THE COURT: Upholstery business, yes, sir.

6 You live in Mount Dora. Have you ever served on a jury,
7 Mr. Graf?

8 MR. GRAF: I did, forty years ago.

9 THE COURT: Alright. If you recall, was it civil or
10 criminal, Mr. Graf?

11 MR. GRAF: It was civil.

12 THE COURT: Civil case?

13 MR. GRAF: That's right.

14 THE COURT: Thank you.

15 The State may inquire.

16 VOIR DIRE EXAMINATION

17 BY MR. HOGAN:

18 Good morning, everyone. This is what they call the
19 voir dire process and it allows the attorneys to ask you a
20 few questions about yourself so that we can get a feeling for
21 who we would like to have on the jury.

22 Can you all hear me out there? It would help if you
23 would pay attention so if some of these people up here get
24 lucky enough or unlucky enough depending on how you look
25 at it, to be bumped out of the box, and you end up here.

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1 If you kind of pay attention to the questions I am asking,
2 we can save some time when you have to get up to the jury
3 box, okay?

4 If you do happen to get removed from the jury box during
5 the process, don't take it personally, because there is no
6 scientific method. There is no real answers. It is just a
7 matter of superstition really. Don't be offended or think
8 we don't like you. It is a matter of the type of person we
9 are looking for for this particular case, okay?

10 Now, one thing about this part of the trial, this will
11 be the only time during the trial process, which the Judge has
12 told you may take as long as two weeks, that you will be able
13 to talk back to the lawyers. After the trial starts, we will
14 be talking at you and you will have to sit there and take it.
15 So during this time, you are welcome to, and in fact, I
16 encourage you to speak back to me. If I say something to you
17 during this voir dire process that requires a response in your
18 mind, you let me know and we will discuss it. I would
19 appreciate it. Okay?

20 My name is Tom Hogan and I work for the State Attorney,
21 Ray Gill, who is the Chief Prosecutor for the Fifth Circuit.
22 That is a five County area and Lake County is in that area.

23 Mr. Hurm is also a prosecutor and we are going to be
24 presenting the case, presenting the evidence to the Jury.
25 Does everyone understand that?

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1 That is our job. Alright? What is going to happen is
2 we are going to have this voir dire process and the Defense
3 Attorney will ask you questions and I will ask you questions
4 and this will go back and forth and you will make statements
5 and then we will choose a jury and you will be sworn in. Then
6 comes the opportunity for opening statements. Then you will
7 hear the evidence and testimony in the case. Then comes the
8 closing arguments. The next thing that will happen will be
9 the Judge will instruct you on the law and that is very
10 important, because the Judge, Judge Lockett, is the one that
11 will tell you what the law is in the case and you are to apply
12 the law as he tells you to the facts and evidence that you
13 have determined from the witness stand.

14 The next thing that happens will be that you will
15 deliberate and you will reach your verdict. Now, if Mr. Hurm
16 and myself are successful, we will have proven this case to
17 you beyond a reasonable doubt and you will return a verdict
18 of guilty. Does everyone understand that so far?

19 One thing that you will have will be a foreman of a
20 jury, a foreperson, it can be a woman or a man, of course,
21 and that person will act as the chairman of your meeting when
22 you deliberate and you reach your verdict and you will come
23 back into the courtroom. As I said, if we are successful,
24 which we, of course, intend to try to be and to prove the
25 case to you beyond a reasonable doubt, then we will enter what

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1 is called a penalty phase, because it is in the First Degree
2 Murder case as you also now know. In Florida, in First Degree
3 Murder cases, the Jury makes a recommendation to the Judge as
4 to what they feel a sentence should be. If the Defendant is
5 convicted of First Degree Murder, there is only two possible
6 sentences. The Judge, of course, Judge Lockett will make the
7 final decision. You understand that? The Jury does not
8 sentence. The Judge does the sentencing.

9 The first choice is life in prison without possibility
10 of parole for twenty-five years or capital punishment. In the
11 second stage of the trial, we will be much the same as the
12 first, with evidence and closing arguments and your deliberation.
13 Then you will come back in and make a recommendation to the
14 Judge as to what you recommend the sentence to be.
15 Either the life imprisonment or the capital punishment. Does
16 everyone understand that so far? Any questions?

17 Any time you have a question, stop me.

18 JUROR: Is the life sentence, is that twenty-five years?
19 He would serve the twenty-five years and then there is a parole
20 of is there ...

21 MR. HOGAN: Well, all I can tell you is what the law says
22 and the Judge will instruct you on the law and the law says
23 life imprisonment without possibility of parole for twenty-five
24 years. I don't know what that means. I know that is what the
25 law says.

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1 Now, there is one difference. In the guilt phase or the
2 first phase, where you are deciding whether we have been
3 successful in proving our case to you, in that phase, you
4 have to have a unanimous verdict. Everyone must agree on the
5 verdict.. In the penalty phase, if we have one, then you
6 will vote and if the majority of you, seven or more, recommend
7 capital punishment, then that would be the Jury's recommendation.
8 If six of you or more recommend life, then that will be your
9 recommendation. So that portion of the trial is by vote and
10 the first portion has to be unanimous decision. Does everyone
11 understand that?

12 THE COURT: I never interrupt, but I am going to. I just
13 want to make clear, no juror's individual vote is ever made
14 known. Noone will know how you voted. Simply the vote number
15 is revealed, should we reach that stage.

16 MR. HOGAN: Thank you, Judge.

17 Now, do any of you feel uncomfortable already, knowing
18 that this is the type of decision that is going to be put to
19 you? It is a very, very, very important decision. Does any-
20 one feel like you are just not up to sitting on this case and
21 you are already starting to squirm? It is fine, but I would
22 like to know it now.

23 Okay, Mr. Ownby, I will note that. Yes, ma'am?

24 JUROR: I attended a murder trial in December and I knew
25 the victim and his family and I don't think I would prefer that.

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1 MR. HOGAN: Excuse me, ma'am?

2 MRS. HUNT: I don't think I would be a good juror.

3 MR. HOGAN: Well, the question, it is Mrs. Hunt, is that
4 correct?

5 MRS. HUNT: Yes.

6 MR. HOGAN: Mrs. Hunt, the question would be whether you
7 could sit here and fairly and impartially evaluate the
8 evidence and then follow the law. Do you think you could do
9 that, or do you think you could not?

10 MRS. HUNT: I think I could do that.

11 MR. HOGAN: Well, I understand that may be an emotional
12 experience for all of you. In fact, I think that probably
13 there would be something wrong with you if it wasn't an
14 emotional experience, because of the gravity of it, the
15 importance of your decision, but the question is whether or
16 not you can overcome that emotion and make a decision based on
17 the facts and the law. The Judge will tell you that sympathy
18 plays no role in your decision. You can't make your
19 decision because you are mad at somebody or feel sorry for
20 somebody or any of those emotions. Your decision in the
21 guilt phase when you are deciding if the Defendant is guilty
22 or not and also in the penalty phase, is based on the law.
23 It is more or less a cold hearted decision. You are asked to
24 put your emotions aside and follow the instructions of the
25 Court. I know that sounds like something that may be difficult

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1 to do and that is why I am asking this question now.

2 JUROR: I am not comfortable.

3 MR. HOGAN: I wouldn't expect you to be real comfortable
4 with it. It is new to you and you are facing not an easy
5 decision. Do you think you can follow the law?

6 JUROR: Yes.

7 MR. HOGAN: Alright. We have a ways to go, so if you
8 feel differently you let me know.

9 I want you to understand one thing right now. You have
10 answered my question or you haven't raised your hand at this
11 point, thinking somewhere in your mind maybe this won't happen
12 or maybe he is just kidding and he is not going to ask me to
13 recommend the death penalty if the defendant is found guilty,
14 you can take it out of your mind. That is exactly what I
15 intend to do if we prove this case beyond a reasonable doubt
16 and you find the Defendant guilty of First Degree Murder, I
17 will be standing at this same podium asking you to recommend
18 capital punishment. This is serious. That is what I intend
19 to try to make happen. Okay? Anybody else at this point?

20 Now, Mrs. Symmes, let me ask you a couple questions and
21 make sure that maybe I can help you understand the process.
22 Judge Lockett will give you a detailed set of instructions
23 as to what the law is during the guilt phase when you are
24 trying to decide whether the Defendant is guilty or not.
25 You will follow his instructions if you follow your oath as

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1 a juror. You will apply the law that Judge Lockett gives you
2 to the facts ... whatever you determine the facts to be.
3 That is your job as a juror to determine the facts and you
4 determine the facts based upon the testimony and the exhibits
5 entered during the trial, and you make the decision as to
6 guilt or innocence of the Defendant. Do you understand
7 that?

8 MRS. SYMMES: Yes, I do.

9 MR. HOGAN: Now, should you find the Defendant guilty of
10 First Degree Murder, you will then be given additional
11 information and additional instructions during the second
12 hearing, or second phase portion of the trial. Now, during
13 that portion of the trial, the prosecutors, Mr. Hurm and myself,
14 will present to you what is called aggravating factors. Certain
15 things called aggravating factors that you can consider when
16 deciding whether or not to recommend to Judge Lockett that he
17 impose capital punishment or life imprisonment.

18 The Defendant will present certain things called
19 mitigating factors, or certain good things or mitigation about
20 the Defendant. You don't count those up and say one is three
21 and one is five. You weigh them. Which is more important.
22 Which weighs the greatest and then you make your recommendation
23 based on the weight that you have given to those factors.
24 In other words, it is not an emotional decision. It is a
25 legal decision. It is your following the law and here again,

1 as the Judge pointed out, you are not responsible for the
2 sentence. The Judge gives great weight to your recommendation
3 but he is the one that sits in final judgment and makes the
4 final determination. Okay? Does that help you?

5 MRS. SYMMES: Some.

6 MR. HOGAN: Now, Judge Lockett explained that you will
7 not be sequestered during the testimony part of the trial.
8 You all understand that? You may be sequestered, or I guess
9 you will be sequestered during the deliberation portion of the
10 trial and possibly sequestered thereafter if the Defendant
11 is found guilty, until you have made your recommendation of
12 sentence.

13 Now, none of us attorneys or the Judge want you to be
14 sequestered, but that is the way the Supreme Court case law
15 reads and the Judge has no choice, I have no choice, the
16 Defense Attorney has no choice. None of us would take that
17 decision to send you off to a hotel lightly. That is a
18 decision that has been made for us. Do you understand that?

19 MS. SYMMES: I have a question about the length of the
20 trial. I understood throughout the proceedings would be two
21 weeks. How do you know that it is going to be completed in
22 two weeks?

23 MR. HOGAN: That is a very good question. That is based
24 on our combined years of experience and an estimated guess.

25 THE COURT: We certainly cannot guarantee that, folks.

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1 We have an idea of the general number of witnesses that will
2 be called and we all make an estimate among ourselves of how
3 long this trial will take. It can take less than that and it
4 could take more than that. We can't guarantee the length of
5 a trial. That is our best professional judgment collectively.

6 MR. HOGAN: One thing I will tell you is that we will
7 expedite this as quickly as possible. In other words, we will
8 not be wasting any time. There will be times when you folks
9 will be locked together in the jury room or send home or
10 possibly sent to your hotel during the day and you may be
11 wondering if we are out playing golf or something. I will
12 assure you that we are not. There are certain legal matters
13 that do come up during these type of trials that take a lot
14 of arguments and the Judge has to make decisions and we have
15 to do research and those kind of things, and those are the
16 kind of things that cannot be done in front of the Jury.
17 That is part of the legal process, but we are not presenting
18 evidence but we are arguing over what evidence is admissible
19 or not admissible or some other issue. Those are facts that
20 the Jury does not need to hear, so if you are locked in the
21 room playing cards for hours, don't think that we are doing
22 the same or we have our feet up somewhere. We are working
23 and will be working and Judge Lockett, believe me, will keep
24 our feet to the fire the entire time. Okay?

25 And again, if you do end up sequestered for any period of

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1 time, I apologize and understand your frustration. You will
2 be locked together with only... do any of you people know each
3 other?

4 JUROR: I know one of the other folks.

5 MR. HOGAN: Okay, a few ... four of you know each other,
6 but the rest don't know each other and the only thing in common
7 will be the trial and the Judge will tell you not to talk about
8 the trial, so it will be a little difficult and we understand
9 it and we appreciate it.

10 JUROR: We will know each other afterwards.

11 MR. HOGAN: I would imagine so.

12 Mrs. Hunt, do you have any children?

13 MRS. HUNT: Yes, I have four children.

14 MR. HOGAN: Where are they? What are they doing?

15 MRS. HUNT: My sun is in Lake City. He is a Public
16 Defender.

17 MR. HOGAN: Public Defender?

18 MRS. HUNT: Yes. I have one daughter in Lakeland that
19 works for Watson Clinic, and I have one daughter that is a
20 farmer's wife and one daughter that she works for the other
21 daughter and also for her husband.

22 MR. HOGAN: Do you have any grandchildren?

23 MRS. HUNT: Yes.

24 MR. HOGAN: How old are they?

25 MRS. HUNT: From twenty-two down to four.

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1 MR. HOGAN: Very good. Mrs. Hunt, do you ever discuss
2 any cases that your son, the Public Defender, handles?
3 Do you ever have any detailed discussions with him about
4 his cases?

5 MRS. HUNT: No, he doesn't discuss his work but very
6 little. I did attend a murder trial in December. The first
7 time that I had attended one of his trials. He has been a
8 Public Defender for fifteen years. I thought it was about
9 time I would hear him.

10 MR. HOGAN: Where was that?

11 MRS. HUNT: Crosse City.

12 MR. HOGAN: Do you understand that you may have sat
13 through portions of that trial where the Judge may have
14 given some instructions on the law. Did you sit through
15 that portion?

16 MRS. HUNT: I can remember that.

17 MR. HOGAN: Do you understand that I don't know what
18 the instructions were in that case. I assume they were
19 correct, but whether they were or they weren't, you need to
20 disregard what you learned in that trial and follow the
21 instructions that Judge Lockett gives.

22 MRS. HUNT: This was quite different. The prosecutor
23 was quite different.

24 MR. HOGAN: Do you think you could do that and put that
25 case out of your mind?

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1 MRS. HUNT: Yes. I won't be involved in this. I
2 won't be waiting up for him to come home.
3 MR. HOGAN: Do you go to church, Mrs. Hunt?
4 MRS. HUNT: Yes, when I am home, I do.
5 MR. HOGAN: What church is that?
6 MRS. HUNT: Lakeland Church.
7 MR. HOGAN: Is there anything about your religious
8 training or background that is going to make it difficult or
9 impossible for you to recommend capital punishment if the
10 Defendant is found guilty of First Degree Murder?
11 How do you feel about capital punishment?
12 MRS. HUNT: I think it is necessary sometimes.
13 MR. HOGAN: Mrs. Hunt, did you understand the discussion
14 that I had with Mrs. Symmes about the aggravating and mitigating
15 factors? The two parts of the trial?
16 MRS. HUNT: Yes, sir.
17 MR. HOGAN: Mrs. Hunt, do you understand and Judge Lockett
18 explained it, but I want to make sure very briefly, do you
19 understand there are two charges here, two separate charges,
20 but one trial?
21 MRS. HUNT: Yes.
22 MR. HOGAN: And all the charges will be taken care of
23 in this one trial, does everyone understand that? In other
24 words, you will return two verdicts. One for the First
25 Degree Murder and one for the Sexual Battery?

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1 MRS. HUNT: Yes.
2 MR. HOGAN: Do you have any questions for me, Mrs. Hunt?
3 MRS. HUNT: No. That's fine.
4 MR. HOGAN: Ms. Chandler, how are you doing?
5 MS. CHANDLER: Fine.
6 MR. HOGAN: Ms. Chandler, do you have any children?
7 MS. CHANDLER: Yes, sir, I have four.
8 MR. HOGAN: How old are they?
9 MS. CHANDLER: Twenty-three, twenty-two, twenty-one,
10 and fifteen.
11 MR. HOGAN: Kind of busy three years, didn't you?
12 MRS. CHANDLER: Yes.
13 MR. HOGAN: Do you have any grandchildren?
14 MRS. CHANDLER: No, sir.
15 MR. HOGAN: What do your children do?
16 MS. CHANDLER: My daughter, my second daughter is in the
17 military. My oldest son is in the millitary. My youngest
18 son attends school...
19 MR. HOGAN: He lives at home with you?
20 MS. CHANDLER: Yes, sir.
21 MR. HOGAN: Do you have a curfew for your son?
22 MRS. CHANDLER: Yes, I do.
23 MR. HOGAN: What time is that?
24 MRS. CHANDLER: He is normally in by nine.
25 On the weekends, he is given until ten.

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1 MR. HOGAN: Is your son ... does he like to play video
2 games? That you know of?
3 MRS. CHANDLER: Yes, he does enjoy some. Every once in
4 a while.
5 MR. HOGAN: How do you feel about capital punishment?
6 MRS. CHANDLER: I think it is necessary.
7 MR. HOGAN: Did you understand the discussion we had
8 so far about the two parts of the trial?
9 MRS. CHANDLER: Yes.
10 MR. HOGAN: And that your decision is a legal one?
11 MRS. CHANDLER: Yes, sir.
12 MR. HOGAN: Do you have any questions for me?
13 MRS. CHANDLER: No, sir.
14 MR. HOGAN: Would you like to be on this Jury?
15 MRS. CHANDLER: Yes, and no.
16 MR. HOGAN: What is the no part?
17 MRS. CHANDLER: Well, just that we have to be locked
18 up. I don't think I want to be away from my family that long.
19 MR. HOGAN: Other than that?
20 MRS. CHANDLER: No.
21 MR. HOGAN: Do you go to church?
22 MRS. CHANDLER: Yes, sir.
23 MR. HOGAN: What church do you go to?
24 MRS. CHANDLER: Baptist.
25 MR. HOGAN: Is there anything about your religious

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1 training that would make it difficult or impossible for you
2 to sit on this jury and consider capital punishment?
3 MRS. CHANDLER: No, sir.
4 MR. HOGAN: Thank you, ma'am. Ms. Shepard, how are you
5 doing?
6 MS. SHEPARD: Fine.
7 MR. HOGAN: Ms. Shepard, do you have any children?
8 MS. SHEPARD: Yes, I do.
9 MR. HOGAN: How many?
10 MS. SHEPARD: Five.
11 MR. HOGAN: What are their ages and what are they doing?
12 MS. SHEPARD. Forty-four to twenty-seven.
13 I have three children in Indiana, the oldest one is at a
14 hospital. The oldest son is ill with cancer and my other
15 son is in construction in Missouri. My daughter is a housewife.
16 My youngest son at this time is now sitting in jail.
17 MR. HOGAN: Locally?
18 MS. SHEPARD: Yes.
19 MR. HOGAN: That is a son or daughter?
20 MS. SHEPARD: Son.
21 MR. HOGAN: Alright, Mrs. Shepard, then I would take it
22 you had some contact with the criminal justice system through
23 your son?
24 MS. SHEPARD: Yes, I have.
25 MR. HOGAN: Mrs. Chandler, did you have any contact with

1 the criminal justice system?

2 MRS. CHANDLER: Yes.

3 MR. HOGAN: What is that?

4 MRS. CHANDLER: My youngest son.

5 MR. HOGAN: What happened?

6 MRS. CHANDLER: He was arrested.

7 MR. HOGAN: Here locally?

8 MRS. CHANDLER: Yes, locally, yes, sir.

9 MR. HOGAN: What was the result of that?

10 MRS. CHANDLER: Not guilty.

11 MR. HOGAN: Was that by a trial?

12 MRS. CHANDLER: No, sir.

13 MR. HOGAN: Was that by a plea agreement or charges were

14 dropped?

15 MRS. CHANDLER: The charges were dropped.

16 MR. HOGAN: Was that by the State Attorney's Office?

17 MRS. CHANDLER: yes.

18 MR. HOGAN: And the State Attorney's Office reviewed the

19 case and determined that he should not be charged?

20 MRS. CHANDLER: Yes, sir.

21 MR. HOGAN: Mrs. Shepard, I haven't forgotten you. I

22 skipped back and forth a moment. Ms. Chandler, I would

23 presume that since the State Attorney's Office reviewed the

24 case and determined that he should not have been charged, you

25 have no ill feelings with the State Attorney's Office?

1 MS. CHANDLER: No.

2 MR. HOGAN: But how about law enforcement in general?

3 MS. CHANDLER: No, I thought they were doing what they
4 thought was their job.

5 MR. HOGAN: How long ago was that?

6 MS. CHANDLER: That was three years ago.

7 MR. HOGAN: Do you understand that whatever happened
8 to the State Attorney's Office... I am assuming that you were
9 ... you thought that was the correct action, correct?

10 MS. CHANDLER: Yes, sir.

11 MR. HOGAN: Either way, you understand that neither
12 Mr. Hurm nor myself had anything to do with that?

13 MS. CHANDLER: I don't really know who had anything to
14 do with it.

15 MR. HOGAN: I am telling you, because I wasn't here.

16 MS. CHANDLER: I don't recall seeing either one of you
17 here.

18 MR. HOGAN: Okay. We have five Counties and I get
19 around and I wasn't here.

20 MR. HOGAN: How, about you, Mrs. Hunt, I know that you
21 had some contact with the system, because your son is a
22 Public Defender. Any other contacts?

23 MRS. HUNT: No, sir.

24 MR. HOGAN: Ms. Shepard, what I need to ask you is with
25 the understanding that your son is in some trouble with the

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1 law?

2 MRS. SHEPARD: Yes, sir.

3 MR. HOGAN: Do you understand that has nothing to do
4 with this case here today?

5 MRS. SHEPARD: Yes, sir.

6 MR. HOGAN: Do you have any ill feelings toward law
7 enforcement, the Sheriff's Office or the local police
8 department?

9 MRS. SHEPARD: No, sir.

10 MR. HOGAN: Any ill feelings toward the State Attorney's
11 Office?

12 MRS. SHEPARD: No, sir.

13 MR. HOGAN: Do you think that you can be fair and
14 impartial in other words?

15 MRS. SHEPARD: Yes.

16 MR. HOGAN: Do you go to church, Mrs. Shepard?

17 MRS. SHEPARD: Not regularly.

18 MR. HOGAN: When you do, what church do you go to?

19 MRS. SHEPARD: Church of Christ on Orange Avenue in
20 Eustis.

21 MR. HOGAN: Is there anything about your training that
22 would cause you problems with capital punishment?

23 MRS. SHEPARD: No.

24 MR. HOGAN: How do you feel about capital punishment?

25 MRS. SHEPARD: I feel sometimes it is necessary.

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1 MR. EDMUND: I am sorry, I didn't hear you.
2 MRS. SHEPARD: Sometimes it is necessary.
3 MR. HOGAN: Do you understand the process we go through
4 when we determine whether the Jury will recommend capital
5 punishment?
6 MRS. SHEPARD: Yes.
7 MR. HOGAN: Weighing the aggravating factors against the
8 mitigating factors?
9 MRS. SHEPARD: Right.
10 MR. HOGAN: Do you have any questions for me?
11 MRS. SHEPARD: No.
12 MR. HOGAN: Mr. Halstead, how are you doing, sir?
13 MR. HALSTEAD: Good.
14 MR. HOGAN: How long have you been in the Corrections
15 Officer business?
16 MR. HALSTEAD: Five years.
17 MR. HOGAN: What did you do before that?
18 MR. HALSTEAD: Selling.
19 MR. HOGAN: How did you happen to go into Corrections?
20 MR. HALSTEAD: It was a steady job without any layoffs.
21 MR. HOGAN: There is certainly no shortage of business.
22 MR. HALSTEAD: No, sir.
23 MR. HOGAN: Mr. Halstead, do you have any children?
24 MR. HALSTEAD: Seven.
25 MR. HOGAN: Where are they and what are they doing?

1 MR. HALSTEAD: Cape Code, Massachusetts where I am
2 originally from. I am divorced. They range in ages from
3 thirty-four to twenty, I guess. Six grandchildren.

4 MR. HOGAN: What do your children do for professions
5 or for a living?

6 MR. HALSTEAD: My oldest daughter is a housewife and
7 assists in her husband's insurance business. I have a son
8 installs cabineting and tile and in the National Guard. My
9 next daughter works as a secretary for the oldest sister
10 in the insurance business. The next daughter is a full time
11 warrant officer in the Air National Guard. I have one that
12 works for the opera society... I guess.

13 MR. HOGAN: I don't know... you missed one?

14 MR. HALSTEAD: Probably. I am not so sure.

15 MR. HOGAN: Do you have any contact with the criminal
16 justice system other than your job?

17 MR. HALSTEAD: My youngest son got into some trouble
18 with drugs, breaking and entry in the night time; firearm
19 involved. He was sent to his uncle's house in Jackson
20 Parish, Louisiana, who was an Investigator for the system
21 down there, for a year and a half. The Judge felt it would
22 be a good association. After that, a year and a half, he
23 went back home again and finished out his stay in the
24 judicial system and was out oin about six months.
25 He never went to jail. He was to a wayward children's home

1 for six months.

2 MR. HOGAN: How do you feel about that?

3 MR. HALSTEAD: It seems he is doing the right thing now.
4 He was the only one out of four and I didn't think that was
5 right. Maybe that is the reason. I don't know.

6 MR. HOGAN: Do you have anything against the judicial
7 system or against law enforcement or the State Attorney's
8 Office as a result of that?

9 MR. HALSTEAD: No.

10 MR. HOGAN: Do you go to church?

11 MR. HALSTEAD: No.

12 MR. HOGAN: If you did go, which church would you go to?

13 MR. HALSTEAD: Congregational.

14 MR. HOGAN: Anything about your background, religious
15 background that would cause you any problems with recommending
16 capital punishment?

17 MR. HALSTEAD: No.

18 MR. HOGAN: Do you understand the process that we would
19 go through with the aggravating and mitigating factors?

20 MR. HALSTEAD: Yes.

21 MR. HOGAN: Do you think you could follow the law?

22 MR. HALSTEAD: Very definitely.

23 MR. HOGAN: Do you think that if you felt that the
24 aggravating factors had been proven beyond a reasonable doubt,
25 and if those aggravating factors outweighed the mitigating

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1 factors, that you could recommend to Judge Lockett that he
2 impose the death penalty?

3 MR. HALSTEAD: Yes.

4 MR. HOGAN: Do you have any questions for me?

5 MR. HALSTEAD: No.

6 MR. HOGAN: Thank you, sir. Ms. Stroud, how are you
7 doing?

8 MRS. STROUD: Fine.

9 MR. HOGAN: Mrs. Stroud, do you have any children?

10 MRS. STROUD: I have one son.

11 MR. HOGAN: What does your son do?

12 MS. STROUD: He works for the Air National Guard at
13 Hancock Field in Syracuse, New York.

14 MR. HOGAN: Did you have any contact with the criminal
15 justice system?

16 MRS. STROUD: No.

17 MR. HOGAN: And you were a juror before, on a civil case?

18 MS. STROUD: Yes, it was so long ago, I don't even
19 remember what it was all about.

20 MR. HOGAN: Okay, but you understand that the law that
21 would apply to this case Judge Lockett will give it to you
22 and that is the law that you consider and that is the only
23 law you consider?

24 MS. STROUD: Right.

25 MR. HOGAN: Do you have any grandchildren?

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1 MS. STROUD: I have a granddaughter.
2 MR. HOGAN: How old is she?
3 MS. STROUD: Nineteen.
4 MR. HOGAN: Ms. Stroud, I think you would agree would
5 you all agree that the Defendant in this case is entitled to
6 a fair trial?
7 MS. STROUD: Yes.
8 MR. HOGAN: And this is his attorney, Mr. Edmund, sitting
9 here with his client on the other end, and the defendant is
10 entitled to a fair trial and his client is entitled to a fair
11 trial, do we all agree with that?
12 JURORS: Yes.
13 MR. HOGAN: Now, I am sitting at this table with
14 Mr. Hurm and this is Pauline Albon, our secretary, a paralegal
15 in our office, and you can't see my client, but you all under-
16 stand that I have a client. My client is the people of the
17 State of Florida, and would you all agree that my client is
18 entitled to a fair trial?
19 JURORS: Yes.
20 MR. HOGAN: Now, that is a fair trial, Mrs. Stroud, not
21 a perfect trial?
22 MRS. STROUD: Yes.
23 MR. HOGAN: Do you understand there is no such thing as
24 a perfect trial?
25 MRS. STROUD: Yes, sir.

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1 MR. HOGAN: Do you go to church, Mrs. Stroud?

2 MRS. STROUD: Not lately. Since we came to Florida we
3 haven't been.

4 MR. HOGAN: You retired from it?

5 MRS. STROUD: Right.

6 MR. HOGAN: What is your training? Which denomination
7 do you train with?

8 MRS. STROUD: Methodist.

9 MR. HOGAN: Is there anything about your religious
10 training or background that would make it difficult or
11 impossible for you to consider capital punishment if we get
12 that far? Is the aggravating factors outweigh the mitigating
13 factors, could you recommend to Judge Lockett that he impose
14 capital punishment?

15 MRS. STROUD: Yes.

16 MR. HOGAN: And which part of the County did you live
17 in? I didn't get that?

18 MRS. STROUD: Now?

19 MR. HOGAN: Yes, ma'am?

20 MRS. STROUD: Lady Lake.

21 MR. HOGAN: Do you have any questions for me?

22 MRS. STROUD: No.

23 MR. HOGAN: Thank you very much. I'm coming, Mr. Graf.
24 I'll get down there in a minute. I am a little worried,
25 that you might have a hard question for me, so I am coming.

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1 I'm afraid you are going to ask me something I don't know.
2 MR. GRAF: No, not yet.
3 MR. HOGAN: Okay. Ms. Prevatt, is that correct?
4 MS. PREVATT: Yes, Prevatt.
5 MR. HOGAN: Do you have any children?
6 MS. PREVATT: Ys, I do.
7 MR. HOGAN: How many?
8 MS. PREVATT: Two lovely daughters.
9 MR. HOGAN: How old are your daughters?
10 MS. PREVATT: One is twenty-one and one is fourteen.
11 MR. HOGAN: What is your twenty-one year old doing?
12 MS. PREVATT: She is a Senior in Florida Christian
13 College.
14 MR. HOGAN: And your fourteen year old daughter?
15 MS. PREVATT: A Freshman.
16 MR. HOGAN: Which school?
17 MS. PREVATT: Clermont High School.
18 MR. HOGAN: Either one of your daughters ever like to play
19 video games?
20 MS. PREVATT: I don't think it is a big hang up.
21 MR. HOGAN: They have played them?
22 MS. PREVATT: I am sure they did.
23 MR. HOGAN: Do you go to church, ma'am?
24 MS. PREVATT: Yes, I do.
25 MR. HOGAN: Which church is that?

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1 MS. PREVATT: I am active in the First Christian Church
2 in Clermont.

3 MR. HOGAN: Anything about your beliefs or training
4 that would make it difficult or impossible for you to
5 recommend capital punishment?

6 MS. PREVATT: Not with my religious training. I have
7 a problem with it.

8 MR. HOGAN: Well, if you understand...

9 MS. PREVATT: Not involved, but I would rather not be
10 here.

11 MR. HOGAN: To tell you the truth, I don't think any
12 of us would like to be here. This is my job and I have taken
13 an oath to do my job and all you have been here because you
14 are citizens of this County, and you have a duty just like
15 we do. It is not a matter of wanting to be here.
16 Would you agree with that?

17 MS. PREVATT: Right.

18 MR. HOGAN: The problem you have with the decision
19 of capital punishment, is that one that is going to make it
20 difficult or impossible for you to follow the law?

21 MS. PREVATT: No.

22 MR. HOGAN: In other words, Mrs. Prevatt, if we get to
23 the penalty phase, in other words, the Defendant is guilty of
24 First Degree Murder, would you be willing to recommend
25 capital punishment to Judge Lockett, if you felt the

1 aggravating factors outweighed the mitigating factors?

2 MS. PREVATT: I would, yes.

3 MR. HOGAN: You understand, you would take an oath to
4 follow the law?

5 MS. PREVATT: Yes.

6 MR. HOGAN: Does anyone on the jury think that you might
7 get to that point during the guilt phase of the trial and
8 start deliberating and you don't want to make that decision
9 about capital punishment, that you might vote for a lesser
10 crime or you might vote for not guilty, just to avoid having
11 to make the ultimate decision on capital punishment? Does
12 anyone feel you would try to avoid the penalty phase of the
13 trial or avoid the recommendation of the sentence to such
14 extent you would not vote your conscience during the guilt
15 phase of the trial, does anyone feel that way?

16 Ms. Prevatt?

17 MS. PREVATT: No, I just cannot tell you how I would
18 react at that time.

19 MR. HOGAN: Let me ask this another way. Do you feel
20 that if the evidence proved beyond a reasonable doubt that the
21 defendant was guilty of First Degree Murder, that you could
22 vote for First Degree Murder conviction, knowing that you
23 would then be asked for a recommendation on the penalty with
24 death as a possible penalty?

25 MS. PREVATT: If I am convinced, yes.

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1 MR. HOGAN: Thank you. Do you have any questions?
2 MS. PREVATT: No.
3 MR. HOGAN: Ms. Prevatt, are you familiar with the
4 Mascotte area? Knight Lake?
5 MS. PREVATT: I am not familiar with Knight Lake. I
6 know the Mascotte area.
7 MR. HOGAN: Ms. Fogarty, is that correct?
8 MS. FOGARTY: Yes.
9 MR. HOGAN: How are you doing?
10 MS. FOGARTY: Fine.
11 MR. HOGAN: Ms. Fogarty, you have eight children?
12 MS. FOGARTY: Right.
13 MR. HOGAN: And ...
14 MS. FOGARTY: Do you want their ages?
15 MR. HOGAN: If you could?
16 MS. FOGARTY: I can give them.
17 MR. HOGAN: Okay, I figured you could.
18 MS. FOGARTY: I have twin girls, forty-eight; a boy
19 forty-seven; twin girls that are forty-five; and a boy that
20 is forty-five and a girl that is thirty-six and a boy that
21 is thirty-five. Is that all?
22 MR. HOGAN: That looks good to me.
23 MS. FOGARTY: The first six are in five years.
24 MR. HOGAN: Are you a twin?
25 MS. FOGARTY: No, but my sister had twins and my sister-

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1 in-law had twins.

2 MR. HOGAN: What do your children do?

3 MS. FOGARTY: The older twins are secretaries, both of
4 them, in the banking business in South Bend, Indiana.

5 The oldest boy lives in Texas. I really don't know what you
6 call him. He was a head hunter for the different banks, but
7 now he goes to auto salvage places and tells them how to do
8 things... makes good money, whatever he does.

9 MR. HOGAN: Consultant?

10 MS. FOGARTY: Yes, consultant.

11 MR. HOGAN: Okay.

12 MS. FOGARTY: So then the younger twin girls are
13 also secretaries. One with the school city in South Bend
14 and the other with a roofer's union. Her husband is a
15 business agent, and she is secretary. The second boy, who is
16 in the Navy twenty years, is now in South Carolina and the
17 fifth daughter, who is a secretary in a steel company in
18 Indiana and the baby, he is kind of a jack of all trades.
19 Roofer, truck driver, trying to get a plumbers license in
20 Indianapolis but couldn't pass the test.

21 MR. HOGAN: Well, I'll tell you it is a tough profession.
22 Did you have any contact with the criminal justice system?

23 MS. FOGARTY: No, outside of that youngest one, when he
24 was about seventeen years old, he had marijuana and spent a
25 day or two in jail, I believe.

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1 MR. HOGAN: Do you harbour any ill feelings against law
2 enforcement of the State Attorney's Office for that?

3 MS. FOGARTY: No.

4 MR. HOGAN: Do you feel that you could be fair to my
5 client?

6 MS. FOGARTY: I think so.

7 MR. HOGAN: Do you go to church, Ms. Fogarty?

8 MS. FOGARTY: Yes, I do.

9 MR. HOGAN: What church?

10 MS. FOGARTY: St. Peters in Deland, Catholic Church.

11 MR. HOGAN: Anything about your religious training or
12 background that makes it difficult or impossible for you to
13 recommend capital punishment?

14 MS. FOGARTY: No, I don't think so.

15 MR. HOGAN: Do you understand the process that you go
16 through, the aggravating and mitigating factors?

17 MS. FOGARTY: Ahum. (Affirmative response)

18 MR. HOGAN: And you would take an oath to follow the
19 law?

20 MS. FOGARTY: Yes.

21 MR. HOGAN: And if you felt the aggravating factors
22 outweighed the mitigating factors, that would be your decision?

23 MS. FOGARTY: Ahum. (Affirmative response)

24 MR. HOGAN: Any questions?

25 MS. FOGARTY: No.

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1 MR. HOGAN: Mr. Stewart, how are you, sir?
2 MR. STEWART: Pretty fair.
3 MR. HOGAN: And what did you do for Chrysler?
4 MR. STEWART: I was foreman for Chrysler for thirty-
5 eight years.
6 MR. HOGAN: How many men or women, how many people on
7 your crew?
8 MR. STEWART: Oh, they probably averaged about forty.
9 MR. HOGAN: Do you hire and fire people?
10 MR. STEWART: No.
11 MR. HOGAN: You just ran them, managed them?
12 MR. STEWART: Yes.
13 MR. HOGAN: Do you have any children?
14 MR. STEWART: Two boys.
15 MR. HOGAN: And what do they do?
16 MR. STEWART: I have one that is forty-two. He is a
17 production control supervisor at Chrysler and the other,
18 the younger son is thirty-two and he works in Longwood.
19 MR. HOGAN: Do you have any grandchildren?
20 MR. STEWART: Three.
21 MR. HOGAN: How old are they?
22 MR. STEWART: One is eighteen and one is fourteen and
23 one is nine.
24 MR. HOGAN: Any girls in that?
25 MR. STEWART: No.

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1 MR. HOGAN: All boys?

2 MR. STEWART: All boys.

3 MR. HOGAN: Ms. Fogarty, how many grandchildren do you
4 have?

5 MS. FOGARTY: Fourteen of my own and then step-grand-
6 children and three and one-half great-grand children.

7 MR. HOGAN: You must have to rent an auditorium for
8 your family reunions?

9 MS. FOGARTY: Just about.

10 MR. HOGAN: Do you have some granddaughters mixed in
11 there, I presume?

12 MS. FOGARTY: Yes, seven and seven.

13 MR. HOGAN: Mr. Stewart, do you go to church?

14 MR. STEWART: No.

15 MR. HOGAN: If you did go to church, what church would
16 you go to?

17 MR. STEWART: Baptist Church.

18 MR. HOGAN: Anything about your religious training that
19 would make it difficult or impossible for you to recommend
20 death?

21 MR. STEWART: Absolutely not.

22 MR. HOGAN: Are you familiar with the Mascotte area?

23 MR. STEWART: No.

24 MR. HOGAN: Mr. Stewart, and ladies and gentlemen, let
25 me read you a list of witnesses that I anticipate that we

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1 may call in this case. If any of you recognize any of these
2 names, if you would stop me and let me know.

3 Jay Horbelt, of the Lake County Sheriff's Office.
4 Virgil Smith, Sheila McBee of the Lake County Sheriff's Office.
5 Randy Swails of the Lake County Sheriff's Office.

6 JUROR: I recognize that name.

7 MR. HOGAN: Do you know Mr. Swails or just recognize the
8 name?

9 JUROR: I think I would recognize him. I am not certain.

10 MR. HOGAN: Is there anything about the fact that you
11 might know him that would cause you to have any problems being
12 a fair and impartial juror?

13 JUROR: No.

14 MR. HOGAN: Billy Marsh, Thomas Shrout, Louise Braswell,
15 Susan Clark, Linda Laws, Christine Pickett, Emiliano Rodriquez,
16 Don Campbell, James Williams.

17 MRS. HUNT: James Williams, the other name...

18 MR. HOGAN: This man is Manager of the Jiffy Store in
19 Mascotte. Different one?

20 MRS. HUNT: Yes.

21 MR. HOGAN: Tony Carlton Bougart.

22 MRS. HUNT: I am recognizing some of these names. I
23 live in the Groveland area. I can't place where I heard them,
24 but I heard some of the names.

25 MR. HOGAN: Okay, is there anything about the names that

1 you heard so far that would cause you to be unfair to the State
2 or to the Defendant? No close personal friends or enemies or
3 anything like that?

4 JURORS: No.

5 MR. HOGAN: Mark Sharp, Richard Davis, Maureen Eastwood,
6 Bob Cherry, Daniel Doherty, Benny McDaniels, Tina Holbrooks,
7 Sherry Holton, Becky Crawford, Peggy Kahle, Marion Linda
8 McJunkin, Dr. Thomas Techman, Mrs. Samona Brady, Susan Carol,
9 Enrique Hernandez, Richard Hall, Shelby Ann Dow, Vicky M.
10 Davis, Jesse James Gaitan, Angela Denise Williams, Beth Holmes,
11 Connie Gray, A. Herbst, R. A. Asbury, Wanda Tatum, Dave
12 Houston, Doris Guerlich, Patty Wiley, Dr. R. Wright, Renee
13 Harding, M. C. Hagge, J. Watkins, Witt Graves, G. McKnight,
14 Bud Lamb, Greg Scala, Ida Marion Press, Al Gusti, Michael
15 Baird, Robert Shlaer, C. Mattox, W. H. Windley, James Horner,
16 G. Terry, Ivan Balaza, Katherin Hensley, Grace Gwendolyn
17 Gurley, Tammy Savala, Herbert Spiegel, Wesley Randall Parrish,
18 Jim Clark, Michael Brady, John North, Dorothy McAbee, Randy
19 Aleno, William Shutze, James Morris, Claude Gnann, Jimmy
20 Horner, Chuck Johnson, Dan Wimberly, Bill Hampton, Rocky
21 Harris, Lynn Wagner, Gerard King, Michael Howard, Joe Jannesick,
22 and I know this is boring, but I have to do it.

23 Johnny Lancaster, Carrie Bennett, Gary Nelson, James
24 Mock, Armando Villareal.

25 JUROR: Is that James Mock of the Tavares Police

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1 Department?

2 MR. HOGAN: Yes, ma'am.

3 JUROR: I worked with his mother. I don't know him
4 personally, but used to do work with his mother.

5 MR. HOGAN: Alright, anything about that?

6 MS. PREVATT: Mary Bennett, is she a school teacher?

7 MR. HOGAN: That is right. Ms. Bennett is a teacher in
8 Mascotte. Same question of Mr. Mock. The fact that you know
9 him or know his mother, does that cause you to be unfair to
10 either side?

11 JUROR: No.

12 MR. HOGAN: With regard to the school teacher?

13 MS. PREVATT: No.

14 MR. HOGAN: Thank you very much. Salvador Calisto,
15 Charles Palmer, Maximinio Rubio, Mike Rafferty, Paul Brackman,
16 Leroy Parker, Jean Ahern, Shirley Williams, Armando Gonzalez,
17 Art Ekiert, Dick Kerr...

18 MRS HUNT: Art Ekiert?

19 MR. HOGAN: Mr. Ekiert owns a Goodyear Store in
20 Clermont.

21 MRS. HUNT: Yes.

22 MR. HOGAN: The fact that Mr. Ekiert may testify in
23 this trial, would that cause you to be unfair... you say you
24 know him. I assume that you like him, so would that cause
25 you to be unfair to the Defendant?

1 MRS. HUNT: No.

2 MR. HOGAN: Would it cause you to be unfair to the State
3 for any reason?

4 MRS. HUNT: No.

5 MR. HOGAN: It would not affect your decision?

6 MRS. HUNT: No.

7 MR. HOGAN: Pedro Savala, Edward Crumbley, Gary
8 Miller, Wendy Ann Gray, Joyce Reynolds, Kimberly Vargas,
9 Mayetta Rose, Troy Smith, Michael Poole, James Cooper, Terrell
10 Kingery, Polly Carr, Margaret Tabor, Kimberly Fowler, Becky
11 Purvis, Denise Anderson, Linda Upshaw, Michelle Wampler,
12 Roy Wagoner, Ronald Wright, Deborah Steger, Shirley Fernandez,
13 Sylvia May Anderson, Mary Yates, Dr. Robert Shaler, David
14 Hall, Dave Rawson, Bruce Pahaley, Rocky Barr. The end.

15 Anybody know any of those names other than the people
16 that have spoken up?

17 Those are all potential witnesses in this case and
18 some are now saying we are never going to get through with
19 this trial in two weeks. Let me assure you that neither I,
20 nor Mr. Hurm, do not intend to call all those witnesses, but
21 I have to read those names to you, because they are potential
22 witnesses.

23 It could happen they would get called. We may call a
24 variety of those witnesses.

25 If we do ...

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1 THE COURT: Mr. Hogan, I hate to interrupt. Could you
2 all come up to the bench for a second, please.

3 (WHEREUPON, BENCH CONFERENCE IS HELD AS FOLLOWS:)

4 THE COURT: Understandably, we are going to go quite
5 awhile more. You are at about the half way mark or a little
6 past. It is 12:15. Do you think we ought to go ahead and
7 recess for lunch.

8 MR. HOGAN: It would be fine with me, Judge.

9 MR. EDMUND: Fine, Judge.

10 THE COURT: Why don't we come back at 1:30. It is 12:15.
11 We will start at 1:30.

12 MR. HOGAN: No objection.

13 (WHEREUPON, BENCH CONFERENCE ENDS)

14 THE COURT: Folks, it is apparently and obvious to all
15 of you that we have a way yet to go. What we are going to do
16 is take our noon recess at this time. I am talking to both
17 the folks out here not yet in the box and those of you that
18 are up here that are. We are going to ask that you come back
19 at 1:30 everyone. For you in the box, I am going to ask you
20 to try to remember where you are seated, although we have a
21 chart that can help you find your seats if we need to.

22 I think it would not be inappropriate to go ahead and
23 address some basic admonitions even at this early stage of
24 the trial to everyone, and that is all the folks out here and
25 all of you here, that you are not to discuss the case among

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1 yourselves or with anyone else during this stage of the trial,
2 or frankly, at all, until finally a jury is selected and that
3 jury retires to deliberate their verdict. Please don't talk
4 to each other about this case. You don't talk to anyone
5 about the case. That means not spouses, friends, neighbors,
6 noone, nor casual strangers. You don't attempt to visit the
7 scene of the alleged occurrence if you think you could do that.
8 You must not do that. From this time forward, it must be
9 clear, noone will read any newspaper accounts concerning trial
10 or listen to any television or radio accounts of the trial.
11 Obviously, we have the press here with us and they are welcome
12 to be here, but if you should be scanning the newspaper of
13 any sort from now on, and I am talking to everyone, so we
14 are clear. The folks out here behind the bar as well as in
15 the box, and you see anything that even catches your attention
16 and makes you think it might be about this case, you are to
17 immediately put it aside and not let anyone draw it to your
18 attention. If you are watching television or listening to the
19 radio and you see something that seems to even seem to be
20 about this case, you immediately turn it off. It is most
21 important that this case be tried only on the testimony
22 presented here in this courtroom that is actually admitted into
23 law and the evidence that is admitted.

24 Every time we come back, we are going to ask every one,
25 every prospective juror to assure us that you did abide by

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1 these admonitions. Failure to do that could require a
2 mistrial and cause us to have to start all over with regard
3 to this proceedings.

4 It is crucially important that everyone understands you
5 don't talk about the case period, with anyone. Not now.
6 Not throughout the whole course of these proceedings, until
7 the Jury is finally selected and retires to deliberate.
8 Not even casual conversation if your spouse or friend or
9 neighbor or child says, "What were you doing at the court-
10 house?", you simply say that the Judge said I can't discuss
11 it. It is really that simple. The rule is bright lined and
12 hard. I can't discuss it. I will not discuss it with you.
13 I won't tell you what it is about. If they sayd, "Well, is
14 it about the so and so case I read in the newspaper?". I
15 can't discuss it. The only answer is, "I can't discuss it
16 and I will not discuss it with anyone." This is absolutely
17 important and fundamental to our entire justice system.

18 Does any prospective juror in the box have any question
19 whatsoever about that?

20 Does anyone who might be a prospective juror out on the
21 other side of the bar have any questions about that?

22 Yes, ma'am?

23 MS. SYMMES: If you anticipate we would be tied up
24 two weeks, is it accessible for us to mention to our spouses
25 that we may be involved for a couple weeks in case we need to

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1 make arrangements?

2 THE COURT: Sure. You can make personal arrangements,
3 certainly. You can say, "I think it may take two weeks and I
4 may be sequestered during the last few days", those types of
5 things. We wouldn't object to that, would we, gentlemen, just
6 so folks can arrange their families?

7 Mr. Edmund?

8 MR. EDMUND: No, Your Honor.

9 THE COURT: But in terms of what the case is about,
10 the merits of it, if you will, but substance of it as opposed
11 to the procedure, that is what we wouldn't talk about.

12 Yes, ma'am?

13 MS. PREVATT: What about making arrangements with employers?

14 THE COURT: With your employer? I think the same thing.
15 Just tell them that you think you could be gone for as long
16 as two weeks and frankly, I know that this is going to take
17 a while. These procedures do. But all of us are going to
18 know a lot more by this afternoon or tomorrow, as to whether
19 or not we are even going to be on this jury. Please under-
20 stand everyone, just because you are still in this room, does
21 not necessarily mean you are going to serve when all of this
22 finally happens. So it may well be that for any one
23 individual, you will not have to be planning on two weeks away,
24 but surely if you do find yourself serving on this Jury, you
25 can contact your employer and simply tell him you are going to

1 be gone for approximately two weeks and they can make their
2 necessary arrangements, but again, no discussion with regard
3 to the merits of the case. That is, what it is about. Are
4 we all clear on that? We really can't have any questions.
5 Everyone out here absolutely clear about that?

6 Okay, thank you all, folks. We will see you back at
7 1:30.

8 I am sorry, just a second, please.

9 MR. EDMUND: May we approach the bench.

10 (WHEREUPON, BENCH CONFERENCE IS HELD AS FOLLOWS:)

11 MR. EDMUND: They don't have this problem, but there is
12 an awful lot of mingling when we go to smoke. Could you let
13 them know that we must avoid saying "hello" to them and things
14 like that.

15 THE COURT: Normally, I leave this for a little bit later,
16 but we can now.

17 (WHEREUPON, BENCH CONFERENCE ENDS)

18 THE COURT: Normally, we reach this particular little
19 matter a little bit later in the proceedings, but it is fair
20 to tell you about this now. The attorneys in this trial
21 are well aware of my personal rules with regard to how I
22 conduct trials and one of those rules is from the very
23 beginning, throughout and until the end, should they encounter
24 you casually as a prospective juror and naturally as a serving
25 juror, whether it be out here in the hall or outside the

1 courthouse or anywhere else, that they simply are instructed
2 to ignore your presence. That you not even engage in the
3 basic pleasantries of life, such as saying "good morning" or
4 "good afternoon" or "How are you today?", and the reason for
5 that is simple. It avoids even the appearance of impropriety.
6 If one of the lawyers should see another one get on the
7 elevator with two or three of you all, and see some words
8 exchanged, they might well feel it necessary to bring that to
9 my attention and say, "What were they talking about?" and
10 after we conducted some long inquiry, we would find out it was
11 just a "good morning" or "good afternoon" or what have you,
12 so to avoid all of that, to keep us from ever having to go
13 into that, we simply ask the attorneys to go about their
14 business as though you did not exist at all. They are not
15 being rude or impolite. They are just abiding by my
16 instructions and I think we all understand that, and the
17 reasons for that, so please bear with them when they do that.

18 Do we have anything else, Mr. Hogan or Mr. Hurm?
19 Or Mr. Edmund?

20 COUNSEL: No, Your Honor.

21 THE COURT: Alright, we will see you folks back here at
22 1:30. We will be in recess until that time.

23 (WHEREUPON, COURT IS IN RECESS AT 12:22 P. M.)

24 (WHEREUPON, COURT RECONVENES AT 1:38 P. M.)

25 (WHEREUPON, DEFENDANT IS PRESENT IN COURTROOM WITH HIS

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1 COUNSEL, MR. EDMUND)

2 THE COURT: Good afternoon, folks.

3 (WHEREUPON, BENCH CONFERENCE IS HELD AS FOLLOWS:)

4 THE COURT: Madam jury clerk tells me over the lunch
5 recess, juror #90 Cecil Santy who was in the first row in this
6 part over there, became ill and said he was real sick and I
7 told her with your permission I will excuse him and send him
8 home.

9 MR. HOGAN: No objection, Your Honor.

10 MR. EDMUND: No objection.

11 (WHEREUPON, BENCH CONFERENCE ENDS)

12 THE COURT: Folks, can all of you, both the prospective
13 jurors here in the box and those out on the other side of the
14 bar with us, assure us you did abide by our admonitions that
15 we gave you?

16 PROSPECTIVE JURORS: Yes.

17 THE COURT: Thank you very much. Mr. Hogan.

18 MR. HOGAN: Thank you, Judge.

19 VOIR DIRE EXAMINATION CONTINUES

20 BY MR. HOGAN:

21 Good afternoon. Did everybody get lunch?

22 I believe I was talking to you, Mr. Stewart, when we
23 broke and I had just read you a lengthy witness list and we
24 had been over people that you know and everyone agrees that
25 noone on the witness list is going to cause you a problem

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1 sitting on this jury is you are chosen.

2 Mr. Stewart, you understand that we don't anticipate
3 calling all those witnesses. In fact, Mr. Hurm and myself
4 will call only witnesses we feel are necessary to prove this
5 case and once we feel we have proved the case, we won't call
6 any more witnesses and the State will rest. That will be my
7 decision, our decision. So I feel very certain you will not
8 hear all those witnesses, but just because you don't hear
9 from all those witnesses, that doesn't mean there is anything
10 wrong with the case, or that there is a reasonable doubt.

11 MR. EDMUND: Your Honor, I object to the argument, if
12 it please the Court, to the jury at this point in time.

13 THE COURT: What say you, Mr. Hogan?

14 MR. HOGAN: Judge, I would like to try to point out to
15 them that just because...

16 MR. EDMUND: Your Honor, if it please the Court, may
17 we approach the bench.

18 THE COURT: Yes.

19 (WHEREUPON, BENCH CONFERENCE IS HELD AS FOLLOWS:)

20 MR. EDMUND: I object to the argument, if it please
21 the Court, to the Jury at this time. I object to any
22 argument or otherwise with regard to why the State is not
23 going to call the witnesses, particularly if they are going
24 to make a decision at some point in time, with three witnesses
25 or otherwise, and leave that implication psychologically

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1 implanted in the jury's mind. It is improper during voir
2 dire.

3 MR. HOGAN: Well, Judge, I feel that I have an
4 obligation on one hand to read the complete witness list
5 just on the off chance that we have to call all the witnesses,
6 which I don't think will happen. On the other hand, it is a
7 catch 22 situation. I need to make sure that they understand
8 that just because we don't call all those witnesses that
9 doesn't necessarily mean there is a reasonable doubt.

10 MR. EDMUND: If it please Your Honor, I don't say that
11 things have been done that are objectionable, but there are
12 things that have been done that I may have objected to, but
13 I didn't object when he first made his explanation. It is
14 only when he went back to it a second time and went through
15 it again that I decided to object, because it makes sense but
16 now let's don't beat a dead horse.

17 MR. HOGAN: I think I was through.

18 THE COURT: Let's move on.

19 (WHEREUPON, BENCH CONFERENCE ENDS)

20 MR. HOGAN: Do you have any questions for me, Mr. Stewart?
21 About that issue or any other?

22 MR. STEWART: No.

23 MR. HOGAN: Mr. Ownby, how are you doing, sir?

24 MR. OWNBY: Fine.

25 MR. HOGAN: Do you have any children?

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1 MR. OWNBY: Five of my own and three step children.

2 MR. HOGAN: What do they do?

3 MR. OWNBY: One is a housewife and one a mechanic and
4 one is a carpenter; my children are grown.

5 MR. HOGAN: Do you go to church, Mr. Ownby?

6 MR. OWNBY: Occasionally.

7 MR. HOGAN: What church is that?

8 MR. OWNBY: Victory Baptist in Eustis.

9 MR. HOGAN: Anything about your training or background
10 that is going to make it difficult or impossible for you
11 to be a juror, knowing that capital punishment is a possible
12 penalty?

13 MR. OWNBY: No.

14 MR. HOGAN: Do you understand the discussions we have
15 had so far about the aggravating and mitigating factors, the
16 two phases of the trial?

17 MR. OWNBY: Yes.

18 MR. HOGAN: Now, Mr. Ownby, you have heard me mention
19 reasonable doubt a couple times, correct?

20 MR. OWNBY: Right.

21 MR. HOGAN: And I anticipate you will hear it quite a few
22 times before this trial is over and Judge Lockett will give
23 you a detailed instruction on what reasonable doubt is and
24 I ask you to please listen to that instruction as well as
25 all the instructions. My concern is that you do listen to it

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1 closely and you hold me to that burden; hold the State of
2 Florida to the burden of proving this case to you beyond a
3 reasonable doubt. I accept that burden. That is my job.
4 That is what we are here to do. That is what we intend to do.
5 But you understand that the reasonable doubt burden is the
6 only burden we have. No higher burden. In other words,
7 I don't have to prove this case to you beyond all doubt.
8 Sometimes on Perry Mason or some of the lawyer shows on TV,
9 you will hear the term "beyond a shadow of a doubt". Do you
10 understand that is not the burden the State of Florida has.
11 That is not my burden. My burden is to prove the elements
12 of the crime, Murder and Sexual Battery, to you beyond a
13 reasonable doubt. A doubt that you can attach a good reason
14 to. Okay?

15 Hold me to that burden of reasonable doubt and no higher
16 burden, will you do that?

17 Do you understand I can't prove anything to you beyond
18 all doubt. I can't prove to you the sun is going to shine
19 outside beyond all doubt. it is impossible. I don't have
20 to prove the case beyond a shadow of a doubt. I only have to
21 prove the case beyond a reasonable doubt. Okay?

22 In other words, Mr. Ownby, this is a murder case. This
23 is the most important type of case you can have in a criminal
24 court and my burden is to prove that case to you beyond a
25 reasonable doubt. If we were here on a reckless driving case,

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1 that is the same burden. Reasonable doubt. Okay?

2 There is no greater burden here in this courtroom then
3 there would be if we were in traffic court on a reckless
4 driving case.

5 Mr. Ownby, another question I have for you is I want to
6 ask you if you realize that you have heard the Judge read the
7 Information and the Indictment, and you know that the crime
8 occurred almost a year ago, and you all understand that human
9 beings testifying about what they saw, what they heard, and
10 what they remember, so naturally there are going to be some
11 conflict in the testimony, because these are human beings and
12 not computers we are dealing with.

13 Would you agree, Mr. Ownby, that if there is a great
14 great conflict in the evidence, certainly that could give you
15 some doubt, but just because there is a conflict, the mere
16 presence of conflict in the testimony, in other words, each
17 witness does not exactly match up with the others, that in and
18 of itself does not necessarily give rise to a reasonable
19 doubt.

20 MR. EDMUND: Your Honor, I object. As a matter of fact
21 the instruction says reasonable doubt can be found from a
22 conflict in the evidence, if it please the Court. I would
23 object to the State's improper recitation of the charge.

24 MR. HOGAN: I believe what I said, Judge, was that there
25 can, yes, if there is a great conflict, but not necessarily.

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1 MR. EDMUND: It doesn't have to be a great conflict,
2 Your Honor. Just a conflict.

3 MR. HOGAN: I believe I have correctly recited the law,
4 Judge.

5 THE COURT: I understand both your positions. A reason-
6 able doubt as you will be instructed later, can be found from
7 a conflict in the evidence.

8 VOIR DIRE EXAMINATION CONTINUES

9 BY MR. HOGAN:

10 My point, Mr. Ownby, was just because there is a conflict
11 does not necessarily mean there is reasonable doubt. Okay?

12 MR. OWNBY: Yes, sir.

13 MR. HOGAN: If we put on a whole bunch of witnesses,
14 twenty witnesses, and all said exactly the same thing, word
15 for word, what they saw a year ago, then you should be
16 suspicious. Okay?

17 Do you have any questions for me, Mr. Ownby?

18 MR. OWNBY: No, sir.

19 MR. HOGAN: How do you feel about capital punishment?

20 MR. OWNBY: Mixed emotions.

21 MR. HOGAN: Do you think you could follow the law and
22 you could recommend ...

23 MR. OWNBY: I think I could, yes.

24 MR. HOGAN: Do you think there are occasions where
25 capital punishment is appropriate?

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1 MR. OWNBY: Yes.

2 MR. HOGAN: Do you understand the process of weighing
3 the aggravating factors against the mitigating factors?

4 MR. OWNBY: Yes.

5 MR. HOGAN: Thank you, sir.

6 Mr. Graf. How are you, sir?

7 MR. GRAF: Fine.

8 MR. HOGAN: Do you have a question for me?

9 MR. GRAF: Not right now. Later on.

10 MR. HOGAN: You understand that Judge Lockett won't let
11 me talk to you, okay? If you have a question for me, you
12 have to ask me now, unless it is when the trial is over.

13 MR. GRAF: The questions, what you are telling us right
14 now, is to say the same principles what the Judge is going to
15 tell us.

16 MR. HOGAN: I think so.

17 MR. GRAF: This is what I hope they are both the same.

18 MR. HOGAN: If I were to tell you something that is not
19 the same, Mr. Edmund would object and we would go to the
20 bench and the Judge will resolve it and that is the reason for
21 objections and I will do the same if I disagree with something
22 he says. If he is not interpreting the law right or rules
23 right, we have objections. The Judge settles our disputes.

24 MR. GRAF: That is why we have a Judge. To have it
25 right.

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1 MR. HOGAN: Exactly. Yes, sir. Yes, sir.
2 Do you have any children?
3 MR. GRAF: Yeah, two.
4 MR. HOGAN: Where are they and what do they do?
5 MR. GRAF: One is in Illinois and the other one is in
6 Tavares.
7 MR. HOGAN: The one in Tavares, is he a newspaper
8 reporter?
9 MR. GRAF: No, he is a clinical doctor right over here.
10 MR. HOGAN: And you were on a jury forty years ago?
11 MR. GRAF: Right, in New Jersey.
12 MR. HOGAN: You understand the law that you may recall
13 from that jury?
14 MR. GRAF: That is years ago. How can I remember that.
15 I have trouble remembering things yesterday.
16 MR. HOGAN: Okay, so you are telling me you could follow
17 the law here as Judge Lockett explains it to you?
18 MR. GRAF: Very well.
19 MR. HOGAN: You go to church, sir?
20 MR. GRAF: Yes, sir. Presbyterian.
21 MR. HOGAN: Is there anything about your religious
22 training or background that makes it difficult or impossible
23 for you to ...
24 MR. GRAF: No, sir.
25 MR. HOGAN: Okay, good. You understand the burden of

1 proof, I have to prove this case beyond a reasonable doubt
2 but that is as high as the burden goes?

3 MR. GRAF: Yes, I do.

4 MR. HOGAN: Not beyond all doubt; not beyond a shadow
5 of a doubt; only until you have an abiding conviction of
6 guilt. Once you have that gut feeling, that abiding conviction
7 of guilt, that is it, okay?

8 MR. GRAF: I am with you all the way.

9 MR. HOGAN: Thank you. I appreciate that.

10 Do you have any questions for me?

11 MR. GRAF: Not right away, but I will pick some so
12 maybe you can answer them.

13 MR. HOGAN: I'll do the best I can.

14 MR. GRAF: Good.

15 MR. HOGAN: Thank you, sir.

16 Ms. Symmes, how are you doing?

17 MS. SYMMES: Very well, thank you.

18 MR. HOGAN: Your concerns somewhat alleviated or
19 do you understand the process more?

20 MS. SYMMES: It is not my concerns. I do understand
21 and recognize the gravity of the situation.

22 MR. HOGAN: Do you understand, Ms. Symmes, you may in
23 fact, if you are on the Jury, reach the conclusion of the
24 trial and still have questions about certain details or the
25 way certain things could have happened; just because you have

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1 questions, that doesn't mean there is a reasonable doubt
2 necessarily.

3 Do you understand that there is only one eye witness in
4 this case and that eye witness is dead?

5 MS. SYMMES: I didn't understand that until you just said
6 it.

7 MR. HOGAN: So there may be questions in your mind and
8 those questions may not raise to the level of reasonable
9 doubt. Do you understand, Ms. Symmes, that you can use your
10 common sense? In fact, that is the very reason and foundation
11 of the jury system?

12 MS. SYMMES: Yes, I understand.

13 MR. HOGAN: Do you have any children?

14 MS. SYMMES: Yes, sir, I do.

15 MR. HOGAN: How old are they and what do they do?

16 MS. SYMMES: I have one son thirteen, living at home,
17 a student.

18 MR. HOGAN: Do you keep a curfew on your son?

19 MS. SYMMES: I have a general rule.

20 MR. HOGAN: Does your son like to play video games?

21 MS. SYMMES: Computer games, I assume that is what you
22 mean?

23 MR. HOGAN: Yes, ma'am.

24 MS. SYMMES: Right.

25 MR. HOGAN: Ms. Symmes, and Mrs. Chandler, you keep

1 a very tight rein on your fifteen year old son; he has to be
2 home at nine o'clock.

3 In this particular case, we are going to hear about an
4 eleven year old girl who was allowed to go to a convenience
5 store some four hundred yards from her home about ten or
6 10:30 at night alone, to buy a pencil.

7 You both understand that just because she was allowed to
8 do that, which is something you may not allow your child to do,
9 that does not in any way become a defense. In other words,
10 she is not legally at fault, do you understand that?

11 Likewise, the child's mother is not on trial here today.
12 You may disagree with whether or not the child should have been
13 allowed out, but that is not the issue here today.

14 MRS. SYMMES: I understand.

15 MR. HOGAN: Mrs. Symmes, have you ever watched a
16 television lawyer show and heard someone like Perry Mason
17 jump up and yell "circumstantial evidence" like it is a bad
18 word? Like there is something wrong with it?

19 MS. SYMMES: Yes, I have.

20 MR. HOGAN: Any of the rest of you?

21 JUROR: I watch it every day.

22 MR. HOGAN: Good, Mr. Graf, have you ever heard that?
23 Heard them say something bad about circumstantial evidence?

24 MR. GRAF: Within a shadow of a doubt, just what you
25 mentioned before. Exactly what he says.

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1 MR. HOGAN: That is right, but you understand that is
2 not the law in Florida.

3 MR. GRAF: I know. I am very aware of it.

4 MR. HOGAN: And circumstantial evidence is good
5 evidence and can be considered by you. Understand that,
6 Mrs. Symmes?

7 MRS. SYMMES: Yes.

8 MR. HOGAN: There are several examples of circumstantial
9 evidence, to try to explain to you what I mean. If you were
10 to go to the beach and the waves had washed the beach nice
11 and smooth and you took a chair out there and sat down in
12 that chair and you fell asleep for three or four or five
13 minutes, and when you woke up, there was a set of footprints
14 in front of your chair. That is circumstantial evidence
15 that somebody walked in front of your chair, do you under-
16 stand?

17 MR. GRAF: Yes.

18 MR. HOGAN: How many of you are from up north?

19 Well, for those of you who didn't grow up at the beach,
20 let me change it a little bit.

21 You are out in the woods and there is a fresh snow
22 and you see a set of rabbit tracks in the newly fallen snow,
23 and you follow those rabbit tracks and they lead to a hole.
24 There is no other tracks around that hole. Certainly, that
25 evidence would suggest to you that that rabbit was in the

1 hole. Okay? Everybody clear on that?

2 JURORS: Yes.

3 MR. HOGAN: In other words, things like fingerprints
4 are circumstantial evidence. Do you understand you can
5 consider circumstantial evidence and if there is enough
6 circumstantial evidence, you can convict somebody of a
7 crime based on circumstantial evidence.

8 One good thing about circumstantial evidence, it doesn't
9 change. An eye witness may change or forget, but circum-
10 stances don't change. Does everybody understand that?

11 Mrs. Symmes, let me ask you one more question and I'll
12 quit picking on you.

13 What do you, you are the Manager of the Expressway?

14 MRS. SYMMES: Manager of Communications for the Orlando
15 Orange County Expressway Board.

16 MR. HOGAN: What do you do in that capacity?

17 MRS. SYMMES: Actually, I serve three fold. First of
18 all, I am public information officer. I answer questions
19 of the homeowners and affected property owners when they
20 come into the Expressway Office with their concerns about
21 any of our projects, either on-going projects or future
22 projects.

23 Another phase of my position, I am responsible for writing
24 press releases for the Expressway and the third job of my
25 responsibility is I am responsible for any communications that

1 go out of the office and come into the office as far as
2 distribution of material and I handle public relations.

3 MR. HOGAN: How long have you been doing that?

4 MS. SYMMES: Two months.

5 MR. HOGAN: What did you do before that?

6 MS. SYMMES: I was a Secretary for a group of developers.

7 MR. HOGAN: Mrs. Symmes, another form of testimony that
8 I expect to present in this case is that of expert witnesses.
9 Witnesses who can give their opinion, based on their
10 expertise. Do you understand, do all of you understand
11 that that is another form of testimony or evidence that is
12 acceptable? We use that a lot in court. Expert witnesses.

13 Do you also understand that experts don't create
14 evidence, they merely analyze evidence that is already there
15 and help us understand what that evidence means. Okay?
16 Like fingerprints. You have to have someone who is an
17 expert to tell you what that fingerprint means, or body fluid
18 analysis, or hair or tracks. Those things, we need someone
19 to help. We know the evidence is there, but you need someone
20 to help you understand it and analyze it. Everyone under-
21 stand it?

22 In other words, experts don't create the evidence.
23 They analyze it. Everyone understand that?

24 Mrs. Hunt?

25 MRS. HUNT: Yes.

1 MR. HOGAN: It is much like when you have some sort of
2 symptom of pain. You know you have the pain, but you have
3 to go to the doctor, to the expert, to explain to you or tell
4 you why you have that pain, and you go to the doctor and you
5 trust the doctor and you take the medication or whatever
6 the doctor prescribes to take care of that symptom.
7 Does everyone understand that analogy?

8 Mr. Halstead? In other words, Mr. Halstead, I can't
9 explain to you how a heart transplant is done, or how it
10 works, but I believe it does, because experts tell me it
11 does. Do you understand the analogy?

12 MR. HALSTEAD: I understand it, yeah.

13 MR. HOGAN: I can't tell you how Neil Armstrong got to
14 the moon, in detail, but I believe he made those footprints
15 on the moon. Experts got him there. That is the point I am
16 trying to make.

17 Every time you go to the doctor, you trust an expert.
18 Every time you put your foot on the brake in your car, you
19 trust an expert.

20 Mr. Ownby?

21 MR. OWNBY: I was just laughing.

22 MR. HOGAN: I was making sure you didn't work for
23 Chrysler. Mr. Stewart is liable to get mad at you if you
24 laugh at that joke.

25 Any questions, Mrs. Symmes?

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1 MRS. SYMMES: No, sir.

2 MR. HOGAN: Thank you very much. Mrs. Brown, how are
3 you doing?

4 MRS. BROWN: Just fine.

5 MR. HOGAN: Do you have any children?

6 MRS. BROWN: No.

7 MR. HOGAN: Mrs. Symmes, do you go to church?

8 MRS. SYMMES: You said you were going to stop picking
9 on me.

10 MR. HOGAN: This is the last time.

11 MRS. SYMMES: No, I don't.

12 MR. HOGAN: Do you have any philosophical or religious
13 beliefs that would make it difficult for you to recommend
14 capital punishment?

15 MRS. SYMMES: No.

16 MR. HOGAN: You think you can follow the law?

17 MRS. SYMMES: Yes, I do.

18 MR. HOGAN: Mrs. Brown, do you go to church?

19 MRS. BROWN: Yes.

20 MR. HOGAN: What church do you go to?

21 MRS. BROWN: First Teaching Baptist Church.

22 MR. HOGAN: Anything about your religious background or
23 training that would make it difficult or impossible for you
24 to recommend capital punishment?

25 MRS. BROWN: No.

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1 MR. HOGAN: Do you understand the discussions we have
2 had so far about aggravating and mitigating factors?
3 MRS. BROWN: Yes.
4 MR. HOGAN: Do you understand that it is a legal decision
5 where you follow the law. It is not something that is
6 going to call for you to reach down...
7 MRS. BROWN: I understand.
8 MR. HOGAN: Did you understand the discussion we had
9 about reasonable doubt?
10 MRS. BROWN: Ahum. (Affirmative response)
11 MR. HOGAN: That I have to prove this case to you beyond
12 that reasonable doubt burden, but no higher burden?
13 MRS. BROWN: Ahum. (Affirmative response)
14 MR. HOGAN: I have to prove this case to you until you
15 have an abiding conviction of guilt?
16 MRS. BROWN: Yes, sir.
17 MR. HOGAN: Using your common sense?
18 MRS. BROWN: Yes, sir.
19 MR. HOGAN: Do you understand the discussion that we
20 just had about expert testimony?
21 MRS. BROWN: Yes.
22 MR. HOGAN: Now, Mrs. Brown, I anticipate probably it is
23 coming out during the trial, and you have already heard
24 the Judge read the Indictment, that was handed down by the
25 Grand Jury, where this Defendant was indicted in May ... excuse

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1 me, in October of 1988 and the homicide or murder of Teresa
2 McAbee and the sexual battery of Teresa McAbee occurred in
3 May of 1987?

4 MRS. BROWN: Ahum. (Affirmative response)

5 MR. HOGAN: Okay, so a few months passed between the
6 time of the homicide and the time of the indictment.

7 MRS. BROWN: I understand.

8 MR. HOGAN: Do you understand that it takes time for
9 experts to do their analysis and their work and investigation...

10 MR. EDMUND: Your Honor, I object. May we approach
11 the bench.

12 THE COURT: Yes, sir.

13 (WHEREUPON, BENCH CONFERENCE IS HELD AS FOLLOWS:)

14 MR. EDMUND: I object to the further apologies and
15 explanation why the State had not brought this to trial. I
16 don't think that is a matter for voir dire. I don't think
17 it is a matter for the trial of this murder case, unless it
18 should come into evidence in a material form and I object
19 on those grounds.

20 MR. HOGAN: Judge, I think I should be able to clear up
21 that that is not necessarily reasonable doubt just because
22 there was a long investigation. They have been already given
23 that information.

24 THE COURT: Anything further?

25 MR. EDMUND: No response, Judge.

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1 THE COURT: Mr. Hogan, I think you are going a little
2 bit beyond voir dire. You are going a little close to arguments.
3 Mr. Edmund is correct. The only matter on voir dire ... you
4 are going to have an opening statement and a closing argument.
5 You are starting to get somewhat close to argument. This is
6 voir dire and I sustain the objection.

7 (WHEREUPON, BENCH CONFERENCE ENDS)

8 MR. HOGAN: Mrs. Brown, do you understand that in a
9 case like this, it is not necessary to have eye witnesses?

10 MRS. BROWN: Yes, sir, I understand.

11 MR. HOGAN: Do you understand the case can be proven
12 totally on circumstantial evidence?

13 MRS. BROWN: Yes, I do, yes, sir.

14 MR. HOGAN: On scientific evidence?

15 MRS. BROWN: I understand.

16 MR. HOGAN: Mrs. Brown, I anticipate there is going to
17 be some rather graphic testimony and photographs in this
18 case. Do you think you are up to examining that evidence?

19 MRS. BROWN: I think so.

20 MR. HOGAN: The rest of you ladies and gentlemen? You
21 understand it is necessary in this type of case to present
22 photographs that may be described as gruesome or graphic
23 but it is not done lightly. It is done because it is
24 necessary. Do you all feel that you are up to looking at
25 those photographs? Mrs. Fogarty?

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1 MRS. FOGARTY: I wouldn't like it, but...
2 MR. HOGAN: Mrs. Hunt?
3 MRS. HUNT: That is pretty rough talking.
4 MR. HOGAN: Do you think you could do it as a juror?
5 MRS. HUNT: I think so.
6 MR. HOGAN: Mrs. Chandler?
7 MRS. CHANDLER: Yes.
8 MR. HOGAN: Do you have any questions?
9 MRS. CHANDLER: No.
10 MR. HOGAN: Ms. Shepard?
11 MRS. SHEPARD: No, I have no questions.
12 MR. HOGAN: Thank you very much.
13 Mr. Meaker, how are you doing?
14 MR. MEAKER: I am a little nervous.
15 MR. HOGAN: You don't need to be nervous, Mr. Meaker.
16 Do you want me to repeat anything, or do you want me to go
17 over anything?
18 MR. MEAKER: No, I was following right along. Now, it is
19 my turn.
20 MR. HOGAN: It is your turn. I am going to pick on you
21 for a while. How many children do you have?
22 MR. MEAKER: I have three step children.
23 MR. HOGAN: How old are they?
24 MR. MEAKER: Fifteen, seventeen... no... yeah...
25 seventeen, fifteen and ten...eleven. I am in trouble. You

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1 can't say nothing outside the courtroom, right?

2 MR. HOGAN: You are doing fine. Now, your eleven year
3 old, a son or daughter?

4 MR. MEAKER: Son.

5 MR. HOGAN: How about your fifteen year old?

6 MR. MEAKER: Son.

7 MR. HOGAN: And the seventeen year old?

8 MR. MEAKER: Daughter.

9 MR. HOGAN: Do you go to church?

10 MR. MEAKER: Yes.

11 MR. HOGAN: What church is that?

12 MR. MEAKER: Penticostal.

13 MR. HOGAN: Anything about your religious background and
14 training that would make it difficult for you to sit in on
15 this case and recommend capital punishment if it is appropriate?

16 MR. MEAKER: If I believe that ... I don't ... well,
17 I could do it.

18 MR. HOGAN: Okay.

19 MR. MEAKER: I just... it is like... I don't know... I
20 know that is your job to keep asking.

21 MR. HOGAN: Unfortunately, it is my job to keep asking
22 these questions and I...

23 MR. MEAKER: What I am saying, I have heard that before,
24 but it is like to me you are trying... I don't know... but I
25 feel you are like trying to already...I know in my heart,

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1 okay, that I can do that. Okay?

2 MR. HOGAN: That is all I need to know. I am not trying
3 to put words in your mouth, if that is what you are saying.
4 I need to ask the questions in such a way that I get an honest
5 answer and I need to put some pressure on you, in other words,
6 to try to force you to give me an honest answer. If I am being
7 a little forceful, I apologize, if that makes you uneasy, but
8 understand that I have a client to represent and that being
9 the people of the State of Florida, so I have to try and make
10 sure that I am doing the best job I can do. Okay?

11 MR. MEAKER: Yeah. (Affirmative response)

12 MR. HOGAN: You are not holding that against me, are you?

13 MR. MEAKER: No, no, no, I just... I understand you got
14 to... I understand. I just .. and I could do it.

15 MR. HOGAN: If you can follow the law, that is all I
16 really want to know, because there are people who have
17 religious or philosophical beliefs or for whatever reason, they
18 say no matter what, I could never recommend capital punishment,
19 or I could never find someone guilty of First Degree Murder
20 knowing that the death penalty is a possibility and so they
21 are not going to listen to what I have to say and not going to
22 listen to the evidence. They have already made up their minds.
23 See? They have already said to themselves, "I am not finding
24 this man guilty", or "I am not going to recommend capital
25 punishment no matter what". They are against the death

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1 penalty for some reason or other, which is fine, as long as
2 you tell the truth about it and I know it now. That is
3 the point of the question. I am not trying to put words in
4 your mouth or push you in any direction at all. I just want
5 to know how you feel about it.

6 MR. MEAKER: Yeah, I could.

7 MR. HOGAN: But you understand that it is not ... all
8 you really have to be able to do is follow the law, because
9 you have to weigh the aggravating factors and the mitigating
10 factors and if the aggravating factors outweigh the mitigating
11 factors, then you have to recommend capital punishment.
12 If the mitigating factors outweigh the aggravating factors,
13 then you recommend life in prison. It is not as difficult
14 or not as personal a decision as it may sound like on the
15 surface. Okay?

16 MR. MEAKER: Yeah, you know, you asked me about my
17 religious convictions and I believe that everybody has to
18 deal with the Lord on his terms when it is his turn and
19 I believe that is why we have the system we have today.

20 MR. HOGAN: Well, I think that is fine. That is fine,
21 but if you take an oath as a juror, then you have to be able
22 to swear to all of us that you are going to be able to
23 follow the law.

24 MR. MEAKER: I think that is what I was saying. That is
25 what the system is for, and that is what it represents.

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1 MR. HOGAN: Okay, you probably understand it better than
2 I do.

3 MR. MEAKER: I understand what I believe anyway.

4 MR. HOGAN: That's fine.

5 MR. MEAKER: Do you believe in capital punishment?
6 Is it my turn to ask you a question?

7 THE COURT: Let me help Mr. Hogan, Mr. Meaker. That
8 actually is not a proper question and I would not require him
9 to respond to it.

10 MR. MEAKER: I am sorry.

11 MR. HOGAN: I will be glad to answer most any question,
12 Mr. Meaker, but I can't put myself in the jury box and
13 try to influence you from a personal standpoint, okay?

14 MR. MEAKER: Okay, I am sorry.

15 MR. HOGAN: Okay. No problem. Mr. Meaker, you heard
16 me read the witness list?

17 MR. MEAKER: Yeah.

18 MR. HOGAN: I won't do it again, but what I need to
19 know, if you noticed, we have several hispanic or mexican
20 names on the list. Rubio Maximo and Savala and so forth.

21 Those people are going to require an interpreter, because
22 they speak Spanish. Would you try to give their testimony
23 the same weight that you give to every other witness and not
24 hold it against them that they speak Spanish and not English?

25 MR. MEAKER: Do that again?

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1. MR. HOGAN: These witnesses do not speak English.

2. MR. MEAKER: Correct. So they are going to have an
3. interpreter.

4. MR. HOGAN: Right. They are going to testify to you
5. through an interpreter. What I am asking you is if you can
6. give their testimony the same consideration that you give
7. to the other ones' testimony and not ...

8. MR. MEAKER: They would be sworn in just like the rest?

9. MR. HOGAN: Yes, sir, absolutely, and not hold it
10. against them, because they don't speak English?

11. MR. MEAKER: No. I hardly do sometimes.

12. MR. HOGAN: Do you have any bias or prejudice against
13. Hispanic or Mexican people?

14. MR. MEAKER: No.

15. MR. HOGAN: Mr. Meaker, were you ever told as a child if
16. you would get lost, you could trust a police officer? Go
17. find a policeman?

18. MR. MEAKER: Yeah. (Affirmative response)

19. MR. HOGAN: Do you feel it is reasonable for a child
20. eleven years old, to trust a police officer, would that be
21. reasonable?

22. MR. MEAKER: Yeah. (Affirmative response)

23. MR. HOGAN: Do any of you have any bias or prejudice for
24. or against police officers? Or would you all agree with the
25. statement that police officers are human beings and there

1 are some bad apples in every barrel?

2 In other words, just because someone is a police officer
3 doesn't mean that he is incapable of committing a crime. Do
4 you agree with that?

5 Thank you, Mr. Meaker. Do you have any questions?

6 MR. MEAKER: No.

7 MR. HOGAN: You did fine. Mr. Hall, how are you doing?

8 MR. HALL: Fine.

9 MR. HOGAN: Okay, sir. Mr. Hall, do you have any
10 children?

11 MR. HALL: Two.

12 MR. HOGAN: How old are they?

13 MR. HALL: I have got a daughter fifteen going on
14 twenty-one and a son nine.

15 MR. HOGAN: Mr. Hall, is your daughter a player of video
16 games? The computer games?

17 MR. HALL: Not that much, really.

18 MR. HOGAN: Do you have a curfew?

19 MR. HALL: Yes, sir.

20 MR. HOGAN: What do you usually tell your daughter?

21 MR. HALL: Well, she only... she just has got where she
22 can go out. She goes out on the weekends until about ten
23 o'clock on Saturday night, one night a week. School nights,
24 she can't go anywhere but school.

25 MR. HOGAN: You understand in this case an eleven year

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1 old girl went to a convenience store by herself, walked to the
2 store. Do you understand that does not in any way justify
3 what happened to her. That is not an issue.

4 MR. HALL: Yeah.

5 MR. HOGAN: And likewise, her mother is not on trial
6 for allowing her child to walk to a convenience store,
7 even though you might not allow that, that is not relevant?

8 MR. HALL: Yes.

9 MR. HOGAN: Mr. Hall, have you ever heard of the term
10 pedophilia? Or pedophile?

11 MR. HALL: No, I don't think I have.

12 MR. HOGAN: Have you ever heard of any adult being
13 sexually attracted to a child?

14 MR. HALL: Heard of it?

15 MR. HOGAN: Yes, sir?

16 MR. EDMUND: May we approach the bench?

17 (WHEREUPON, BENCH CONFERENCE IS HELD AS FOLLOWS:)

18 MR. EDMUND: Unless the State is going to ensure the
19 Court he has testimony to that effect now, I am going to
20 move for a mistrial. He has now put a red herring in this
21 trial. He is not going to be able to substantiate that by
22 any evidence and testimony and I suggest to the Court that
23 he has so implanted in the minds of these prospective jurors
24 it would be impossible to erase it by an instruction by the
25 Court.

1 MR. HOGAN: Judge, I intend to prove that this defendant
2 sexually assaulted this eleven year old girl and that he is
3 thirty some years old. I need to find out if the jurors
4 think that it is just not possible for an adult to be
5 attracted to a child sexually and if they say that never
6 happens, I need to know that, so I can have a fair trial.

7 MR. EDMUND: He is making implications that he is not
8 going to be able to substantiate by any expert testimony
9 and not even by circumstantial evidence. If this thing
10 occurred, it occurred, but not based upon scientific
11 explanations by any witness called in this trial. That is
12 to which I make my objection. Now he has implanted this
13 in their minds. I ask that they disregard any reference made
14 by the State Attorney in his last remarks and look to the
15 evidence to determine whether or not there is any proof of
16 any mental instability.

17 MR. HOGAN: Judge, pedophilia is not necessarily... it is
18 a generic term for someone who is sexually attracted to
19 young children. It is not necessarily a mental illness.
20 I am going to prove, in fact, that he was sexually attracted
21 to this girl and other girls.

22 MR. EDMUND: Judge, he is making a real stiff assurance
23 if he is going to prove this guy sexually attracted to this
24 little girl. If we want to get into a philosophical
25 description, we are not talking about a sexual attraction.

1 We are talking about someone crazy who really doesn't even
2 get gratification out of the horrendous assault that he
3 commits and we are not going to deal with sexual attraction
4 whatsoever. We are dealing with a rape here to get back to
5 old terms we use. Nothing to do with what he is referring
6 to.

7 MR. HOGAN: I am going to prove that he was sexually
8 attracted to this young girl and other young girls.
9 And also, Judge, I am still entitled to find out from this
10 jury, this prospective jury, if there are people on this
11 jury who have the distinct idea that this is impossible.

12 MR. EDMUND: If he wants to ask this jury if they have
13 any feelings as to whether or not it would be impossible for
14 a grown man to sexually assault a child, I have no objection,
15 but when he starts couching it in terms of ... to convey to
16 the jury again, I get back to the mental instability. It is
17 a matter of a scientific nature and then I have to object
18 if it please the Court. I don't object if he asks if they
19 do have an opinion as to whether or not it would be impossible
20 for some brawny man to rape an eleven year old girl. I
21 don't object to that.

22 MR. HOGAN: I have made my argument.

23 THE COURT: I think in this case out of an abundance of
24 caution, let's limit it to where we talk about that and rather
25 than go the way Mr. Edmund suggested and ask if you think

1 it is impossible for a grown man to do that.

2 I deny your Motion for a Mistrial. It is in my best
3 judgment not to give the Jury an instruction, but rather
4 just to limit the subject...

5 MR. EDMUND: You are right. I withdraw that Motion.

6 THE COURT: Alright.

7 (WHEREUPON, BENCH CONFERENCE ENDS)

8 VOIR DIRE EXAMINATION CONTINUES

9 BY MR. HOGAN:

10 Mr. Hall, do you think it is possible that a grown
11 adult man could rape or sexually batter an eleven year old
12 girl?

13 MR. HALL: Yes.

14 MR. HOGAN: Does anyone on this jury panel think for
15 some reason that that is impossible, an adult would sexually
16 attack an eleven year old girl?

17 JUROR: Anyone that does a thing like that is out of his
18 mind.

19 MR. HOGAN: Mr. Graf, sanity is not an issue in this
20 case.

21 MR. GRAF: I know.

22 MR. HOGAN: But you understand it is possible?
23 Mr. Hall, you understand that maybe you might not be aware
24 that crimes charged such as Murder in the First Degree
25 and Sexual Battery, there are other lesser included offenses,

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1 Second Degree Murder, etcetera and Judge Lockett will explain
2 that to you. But you understand also that your job is to
3 ... if First Degree Murder is proven beyond a reasonable
4 doubt, you have to follow your oath. You have an obligation
5 to return a conviction for the highest crime proved. Do
6 you understand that?

7 MR. HALL: Yes, sir.

8 MR. HOGAN: In other words, if you feel that Murder in
9 the First Degree has been proven, it would be a violation
10 of your oath to return a Second Degree.

11 MR. HALL: Right.

12 MR. HOGAN: Do you go to church, sir?

13 MR. HALL: Yes, sir.

14 MR. HOGAN: What church?

15 MR. HALL: Presbyterian in Eustis.

16 MR. HOGAN: Anything about your religious training or
17 background that makes it difficult or impossible for you
18 to render capital punishment if it becomes appropriate?

19 MR. HALL: No.

20 MR. HOGAN: I believe we touched on this previously
21 before Mr. Hall, but you understand your verdict is based on
22 common sense, the law that Judge Lockett gives you and the
23 facts the Jury determines to be the facts and not based on
24 sympathy?

25 MR. HALL: Right. I just don't want to be here about

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1 nine months ago for a DWI case and we went through the same
2 procedures for that.

3 MR. HOGAN: Do you recall then the burden of proof in
4 that DWI case was on the State was a reasonable doubt?
5 The same exact burden we have here in this courtroom. No
6 higher burden. Is that right?

7 Do you understand the law that you use in this court-
8 room here today when you deliberate will be given to you
9 by Judge Lockett. I don't know who the other judge was, but
10 by what Judge Lockett says in this case is what we go by.

11 We don't, in other words, the laws in this State are
12 made in Tallahassee and Judge Lockett makes sure that we
13 follow that law. We don't try to change that law. The
14 jury does not change the law and I don't change the law.
15 We follow the law. Correct?

16 Mr. Hall, if I prove this case to you, all the elements
17 of the crime of Sexual Battery and the crime of First Degree
18 Murder, if we prove all those elements, to you beyond a
19 reasonable doubt, and you have that abiding conviction of
20 guilt, will you return a verdict of guilty?

21 MR. HALL: Yes, sir.

22 MR. HOGAN: May I have one moment, Judge.

23 Mr. Hall and all you folks, one of the things that you
24 will be instructed on about the First Degree Murder is the
25 fact that First Degree Murder is distinguished from Second

1 Degree Murder by what we call premeditation. In other words,
2 it was an intentional act. The word premeditation does not
3 ... it is not the same as the word planned. Do you under-
4 stand that, Mr. Hall?

5 MR. HALL: Yes.

6 MR. HOGAN: In other words, if I intentionally hit that
7 desk, I didn't put it in my mind and plan how I was going
8 to do it, but I intentionally did it. That was an intentional
9 act.

10 If you intend your actions and it was an intended
11 action that results in the death, then that is premeditation.
12 You don't have to prove motive. Sometimes on television
13 shows, Perry Mason, they talk about the motive... what is
14 the motive... why did they do it? Why was the murder
15 committed? Understand motive is not an element of First
16 Degree Murder. Okay? You might be sitting here expecting
17 to hear that, but that is not the way it is. Okay?

18 MR. HALL: Okay.

19 MR. HOGAN: The Judge will also give you, I anticipate,
20 instructions on Second Degree Murder, but I am asking you to
21 find the Defendant guilty of the highest crime charged, do
22 any of you agree with that?

23 Do you all understand me? Any other questions you
24 thought of so far?

25 MR. GRAF: I was wondering you asked so many questions

1 over here. I thought the way you were going on, I thought
2 I was on trial.

3 MR. HOGAN: Well, I apologize if it appeared that way.
4 Like I say, I am trying to do a good job, okay?

5 MR. GRAF: Well, alright. You are doing alright.

6 THE COURT: Mr. Meaker has his hand up, Mr. Hogan.

7 MR. MEAKER: Because you are asking a lot about video
8 games, I don't know... I think that will... is it a fair...
9 I mean, he has been mentioning video games a lot. I was
10 wondering if it was a fair question to ask.

11 THE COURT: Under an adversary system, if Mr. Edmund
12 thinks it is not a fair question, he will object and then
13 I will decide.

14 MR. HOGAN: You will see what relevance it has when you
15 sit through the case and hear the testimony, okay?
16 It is no big deal.

17 MR. MEAKER: My kids play and I play.

18 MR. HOGAN: That is fine. I have played them. I admit
19 it.

20 MR. MEAKER: I am not trying...

21 MR. HOGAN: No, no, that is a good question. That is a
22 good question. It is just that we are restricted as to how
23 far I can go and talk about the case at this point.

24 MR. MEAKER: I understand.

25 MR. HOGAN: Any other questions? Anybody that does not

1 want to be on this jury?

2 MR. GRAF: The more I hear, the more I am interested.

3 MR. HOGAN: Do you understand that what we want from you
4 is to follow the law and return an honest verdict.

5 Mrs. Prevatt?

6 MRS. PREVATT: Yes. I have to say when you asked me
7 before do we want to be on the jury, I don't want to be, but
8 I recognize it is my duty. I don't want to be here.

9 MR. HOGAN: Well, you accept the responsibility for your
10 civic duty to be on this jury?

11 MRS. PREVATT: Yes, sir.

12 MR. HOGAN: We all appreciate that. Thank you very much.
13 Thank you, Mr. Graf.

14 THE COURT: Thank you, Mr. Hogan. Mr. Edmund?

15 VOIR DIRE EXAMINATION

16 BY MR. EDMUND:

17 If it please, Your Honor. Ladies and gentlemen, I am
18 Jack Edmund. I am from Polk County, down South of here.

19 I take substantial issue with a number of things that
20 Mr. Hogan said and I ask you to rely upon the Court to
21 instruct you in the law with regard to the conflict in the
22 evidence; with regard to the premeditation; with regard to
23 just how much weight you have to give an expert's testimony.

24 The Court is going to tell you you can disbelieve every-
25 thing the expert says if you want to if you think he is some

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1 charlatan; if you think that conflicts that make him look
2 like a nut; if you think it is like going to a second doctor
3 for a second opinion, because experts make mistakes and that
4 is what it will all be about today.

5 Now, the Court, I think, will tell you at the conclusion
6 of the trial that my client, Jimmie Duckett, comes into this
7 case presumed to be innocent and that the presumption carries
8 with him throughout every stage of the trial until it is
9 stripped with competent evidence and testimony. I suggest
10 to you what that means is when you retire to deliberate,
11 at that point in time, he is still presumed innocent, because
12 if you don't reach a verdict and the jury mistries, and we
13 try this case again, he will go into the next trial presumed
14 to be innocent.

15 I make my living practicing criminal defense law, but I
16 know I don't give the presumption of innocence the weight
17 that I think our founding fathers intended it to have.

18 For example, I have never been riding down the highway
19 and saw the policeman with his blue light stopping somebody
20 on the side of the road, that I didn't wonder how fast he
21 was going. Now, I don't know that any of you have experienced
22 that. I don't know if any of you have experienced the
23 thought when you saw a particular heinous crime described
24 on the television, well, like this crime. You think they
25 ought to take him out and kill him. If you felt those

1 feelings or thought those thoughts, then you are like me and
2 you don't really give people the benefit of the presumption
3 of innocence.

4 Mr. Hall, will you consciously give Jimmie Duckett the
5 benefit of the presumption of innocence? Can you presume him
6 innocent at this time?

7 MR. HALL: He has to be proved guilty.

8 MR. EDMUND: There you go. Will you start your
9 deliberations if you are selected as a juror with the thought
10 in mind that Jimmie Duckett, right then is presumed innocent
11 and start from square one?

12 MR. HALL: Yes, you have to weigh everything.

13 MR. EDMUND: There you do. But you will start him out
14 presumed innocent back there in the jury room?

15 MR. HALL: Yes.

16 MR. EDMUND: Mr. Meaker, how about you? Will you do
17 the same?

18 MR. MEAKER: Right now, he is innocent now.

19 MR. EDMUND: There you go. Now, you got to start your
20 deliberations with the fact that he is innocent, can you do
21 that?

22 You heard a lot of stuff between now and the time you all
23 go back there to deliberate. I want to ask you to keep your
24 mind as open as you can. You are not supposed to really
25 start forming opinions. It is impossible. You are going to

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1 start forming some opinions, but you are not supposed to
2 discuss, but even after you rendered your opinion, the
3 nucleus of an opinion in your mind and you start your
4 discussions in that jury room, somebody has got to say to
5 everybody else, "Hey, we got to start with the presumption
6 of innocence". We presume him innocent. Now, did the State
7 prove him guilty. Can you do that?

8 MR. MEAKER: Yeah. (Affirmative response)

9 MR. EDMUND: Will you do it is what I am asking.

10 MR. MEAKER: Yes, I will.

11 MR. EDMUND: There you go.

12 MR. MEAKER: Like when I was guilty of something and
13 my dad had got some kind of punishment. If he could be
14 like... if it was... showing him that maybe it wasn't, that
15 he could change his mind and I was raised that same way.

16 MR. EDMUND: Dads could be more understanding sometimes
17 boys wouldn't get whipped as bad as they get whipped.
18 Is that what you are saying?

19 I think I know what you mean.

20 If you will apply that here, starting with presumption
21 of innocence, that is what I will be asking you to do.
22 Mr. Stewart can you do the same thing and presume Jimmie
23 innocent at this time?

24 MR. STEWART: Yes.

25 MR. EDMUND: Ms. Shepard? Will you, ma'am?

1 MS. SHEPARD: Yes.

2 MR. EDMUND: Do you have any reservations about the
3 presumption of innocence?

4 MS. SHEPARD: No.

5 MR. EDMUND: If you are selected as a juror, Ms. Shepard,
6 will you make a conscious effort to remember when you
7 start to deliberate just to remind the rest of the panel to
8 start from the presumption of innocence?

9 MS. SHEPARD: Yes, sir.

10 MR. EDMUND: Mr. Halstead, how about you?

11 MR. HALSTEAD: Yes, sir.

12 MR. EDMUND: Do you have some problem with that,
13 Mr. Halstead?

14 MR. HALSTEAD: No, I just have to wait until the
15 conclusion...

16 MR. EDMUND: I can't hear you, sir. My arms got bad
17 and my arms, but I believe I am getting deaf.

18 MR. HALSTEAD: I have to do it five days a week.

19 MR. EDMUND: Do you do it?

20 MR. HALSTEAD: Yes.

21 MR. EDMUND: It is a different thing between having to do
22 it and doing it. Do you really give these guys the benefit
23 of the presumption of innocence?

24 MR. HALSTEAD: I trust them.

25 MR. EDMUND: Do you think that the majority of the people

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1 who work with you do?

2 MR. HALSTEAD: At LCI, I can truthfully say the majority
3 do.

4 MR. EDMUND: It must be a rare fine place.

5 MR. HALSTEAD: Well, on the outside, it might not look
6 that way, but from the inside, knowing the individuals you
7 are working with, how they feel, I have had many inmates say
8 this is the finest camp they have ever been to.

9 MR. EDMUND: I know they think it is a good place to go
10 and they are lucky.

11 Alright, you will give him the benefit of the presumption
12 of innocence?

13 MR. HALSTEAD: He is innocent until somebody proves
14 him guilty.

15 MR. EDMUND: Mr. Ownby?

16 MR. OWNBY: I feel the same way.

17 MR. EDMUND: You will give him the benefit of the
18 presumption of innocence?

19 MR. OWNBY: Yes.

20 MR. EDMUND: Ms. Brown?

21 MS. BROWN: I will.

22 MR. EDMUND: Ms. Symmes, how about you?

23 MS. SYMMES: Yes.

24 MR. EDMUND: Mr. Graf?

25 MR. GRAF: Yes.

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1 MR. EDMUND: Have you got any problem with the
2 presumption of innocence, pardner?

3 MR. GRAF: No, I don't, but everybody is innocent until
4 they are proven guilty.

5 MR. EDMUND: There you go. Would you remind everybody
6 else of that if you are sitting on this jury?

7 MR. GRAF: You can't say anything unless you hear what
8 is going on first.

9 MR. EDMUND: Alright, fine. How about you, Ms. Brown?

10 MS. BROWN: I feel the same way.

11 MR. EDMUND: Ms. Prevatt, how about you?

12 MS. PREVATT: Yes.

13 MR. EDMUND: Any problem at all with the presumption of
14 innocence?

15 MS. PREVATT: No, sir.

16 MR. EDMUND: Ms. Hunt, your son talked to you about the
17 presumption of innocence?

18 MRS. HUNT: We don't discuss his work very much. I
19 think maybe a few times, but usually we don't.

20 MR. EDMUND: Alright, in other words, will you give
21 Jimmie's mother's son the benefit of the presumption of
22 innocence?

23 MS. HUNT: Yes, sir.

24 MR. EDMUND: Okay. Ms. Fogarty?

25 MS. FOGARTY: Yes, sir.

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1 MR. EDMUND: Ms. Chandler?

2 MS. CHANDLER: Yes.

3 MR. EDMUND: Ms. Chandler, would you tell me your
4 hobbies, ma'am?

5 MS. CHANDLER: Working. It seems like that is all I do.
6 I like to go hunting and fishing.

7 MR. EDMUND: If you are happy in your work, that is
8 fine.

9 MS. CHANDLER: I do a little hunting and fishing with
10 my sons.

11 MR. EDMUND: How about you, Ms. Hunt, what are your
12 hobbies?

13 MS. HUNT: Fishing.

14 MR. EDMUND: If you watch television, what are you
15 likely to watch, ma'am?

16 MS. HUNT: My husband is the TV watcher. I am usually
17 playing cards. I usually watch Murder She Wrote and the
18 Judge...

19 MR. EDMUND: Which one?

20 MS. HUNT: The one that is on in the morning that
21 usually has ...

22 MR. EDMUND: Spread around through the TV now so much,
23 I don't know anymore.

24 MS. HUNT: The one that is on at nine o'clock in the
25 morning. The Judge is the name of the program.

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1 MR. EDMUND: You understand that this is the Judge
2 here, talking about Judge Lockett, and he will run this trial
3 and tell you what the law is to apply to this case.

4 MS. SHEPARD, what are your hobbies, ma'am, and if you
5 watch TV, what do you watch?

6 MS. SHEPARD: I bowl and I like Miami Vice whenever I
7 have the opportunity to watch it. I work most of the time.

8 MR. EDMUND: Are there any of you who watch the local
9 and the national and international news regularly?

10 MS. SHEPARD: If I am not working.

11 MR. EDMUND: Well, are there any of you who, I don't
12 want to know what, who may have picked up anything on this
13 case while watching the local news over the past year or so.
14 I don't want to know what it is, only if in fact you did?

15 Mr. Halstead, what are your hobbies and your TV watching
16 pardner?

17 MR. HALSTEAD: I watch TV at 5:30 in the morning when
18 I get out of bed, generally the financial report and so forth.
19 My hobbies are reloading ammunition, rifle, hunting... I get
20 a chance to... I shoot... fishing... a little of what young
21 single men do.

22 MR. EDMUND: I reckon. How about you, Mr. Ownby, what
23 are your hobbies?

24 MR. OWNBY: House work and yard work.

25 MR. EDMUND: That is an honest man.

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1 MR. OWNBY: I am a house husband.
2 MR. EDMUND: That is an honest man. How about when you
3 watch TV, do you watch soap operas?
4 MR. OWNBY: I watch the news every night.
5 MR. EDMUND: How about you? ...Sir?
6 MR. OWNBY: I know your next question.
7 MR. EDMUND: Well, I asked it generally...
8 MR. OWNBY: I heard it when it first happened.
9 MR. EDMUND: Well, but nothing as you indicated earlier
10 that would cause you any bias or prejudice or nothing you
11 can't put out of your mind?
12 MR. OWNBY: No.
13 MR. EDMUND: How about you, Mr. Hall, what are your
14 hobbies, sir? What do you watch on television?
15 MR. HALL: I like hunting and fishing. I watch Highway
16 to Heaven and Matlock. Those two.
17 MR. EDMUND: Mr. Meaker, what are your hobbies?
18 What do you watch on TV if you watch? I guess I assume
19 everybody watches TV. Do they? Somebody who doesn't?
20 MR. MEAKER: I watch... I go out a lot. I don't spend
21 a lot of time watching it.
22 MR. EDMUND: Boy, you better hope that don't get out
23 of this courtroom.
24 MR. MEAKER: Where I go, that is okay.
25 MR. EDMUND: Incidentally, folks, I know that Mr. Hogan

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1 and Mr. Hurm are good lawyers and I think we will try this
2 case as well as we can, but there is no way we can try
3 any case, no matter how serious, without some humor, and
4 they know and I want you to know and I know, humor doesn't
5 mean that we don't know that it is serious, so when it
6 happens, so often it is just a safety valve for me. Just to
7 keep from blowing my stack, you know.

8 Well, what do you watch on TV since you sneak out?

9 MR. MEAKER: I like to watch shows, usually about
10 Wednesday, the Smuthers Brothers.

11 MR. EDMUND: They are back?

12 MR. MEAKER: Yeah. (Affirmative response)

13 MR. EDMUND: How about you, Mr. Stewart?

14 MR. STEWART: I like the act, Charlie Bronson movies...

15 MR. EDMUND: You have a VCR then, is that what you do?

16 MR. STEWART: Yeah, I rent some.

17 MR. EDMUND: What do you do for hobbies?

18 MR. STEWART: Do a little gardening, a little trimming,
19 a little fishing once in a while. Haven't done much since
20 I moved to Florida.

21 MR. EDMUND: Are you truly just relaxing?

22 MR. STEWART: Do a little work around the park.

23 MR. EDMUND: How about you Ms. Fogarty? What are your
24 hobbies?

25 MS. FOGARTY: I do a lot of reading.

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1 MR. EDMUND: How about TV, do you watch it?
2 MS. FOGARTY: Not too much. My husband watches TV.
3 I like Aaron's Way occasionally...
4 MR. EDMUND: Ms. Brown, what are your hobbies, ma'am?
5 MS. BROWN: I don't have other than singing with the
6 church.
7 MR. EDMUND: Singing. And do you watch TV at all?
8 MS. BROWN: Yes, Matlock, I like to go look at Superior
9 Court and things like that.
10 MR. EDMUND: You let this Judge do the judging of this
11 courtroom?
12 MS. BROWN: Yes.
13 MR. EDMUND: Ms. Prevatt?
14 MS. PREVATT: I watch very little TV.
15 MR. EDMUND: What are your hobbies?
16 MS. PREVATT: My family and I enjoy spectator sports.
17 MR. EDMUND: Ms. Symmes, what are your hobbies and what
18 do you watch on TV?
19 MS. SYMMES: I don't watch TV. I listen to the news
20 while I am getting dressed for work. I read a lot. I am a
21 licensed pilot and I occasionally travel.
22 MR. EDMUND: You are one of those. What do you fly?
23 MS. SYMMES: Cessna 152s and 172s.
24 MR. EDMUND: Mr. Graf, what are your hobbies, sir?
25 What do you watch on TV?

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1 MR. GRAF: Mostly all sports. If there is anything on,
2 but I like my hobbies are lawn bowling and alley bowling.
3 MR. EDMUND: What kind of bowling?
4 MR. GRAF: Lawn bowling.
5 MR. EDMUND: And alley bowling?
6 MR. GRAF: And alley bowling.
7 MR. EDMUND: Alright, and on TV you watch mostly sports,
8 you say?
9 MR. GRAF: I like almost all sports.
10 MR. EDMUND: Good enough. Ms. Stroud?
11 MS. STROUD: My hobby, I like to play golf, but I knit
12 and read and I like adventure stories and action on TV.
13 Some sports.
14 MR. EDMUND: On the television?
15 MS. STROUD: Yes, sir.
16 MR. EDMUND: Okay, thank you. Now, any of you here
17 now, I don't want to know what it was, who have been the
18 victim of a crime of violence?
19 Alright, sir? Is there anything about that that would
20 cause you such prejudice that and such anger, that you
21 couldn't sit in fair judgment of Jimmie Duckett, Mr. Ownby?
22 MR. OWNBY: I don't think so.
23 MR. EDMUND: Only you and God know, so suppose you...?
24 MR. OWNBY: It wouldn't.
25 MR. EDMUND: It wouldn't do it?

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1 MR. OWNBY: It wouldn't no.

2 MR. EDMUND: Do any of you have any close friends or
3 relatives who have been the victim of crimes of violence?

4 Are there any of you who have law enforcement experience
5 in your background and didn't use to ask the ladies, but I
6 do that now. I understand where you are coming from,
7 Mr. Halstead. Anyone else?

8 Or have particularly close friends or close relatives
9 who are so involved?

10 Have any of you worked other than what you have disclosed
11 as either State or City or County employees doing your job?

12 And are there any... yes, sir?

13 JUROR: I worked for the County right now, but I
14 work for the Landfill part time.

15 MR. EDMUND: I understand that. Does that bring you
16 in particularly close association with deputy sheriffs and
17 law enforcement officers?

18 JUROR: Not really, but I mostly haul the garbage
19 containers, so I just go to the transfer station and go
20 to the beach there in Astatula.

21 MR. EDMUND: Go to the beach with the garbage?

22 JUROR: Well, it is all sand, you know. It looks like
23 a beach and sometimes there is water there.

24 MR. EDMUND: Okay. Did any of you realize when you
25 got your jury summons that you were going to be sitting on

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1 this particular case?

2 JURORS: No.

3 MR. EDMUND: Ms. Prevatt, do you ever just stop like the
4 man said and smell the roses?

5 MS. PREVATT: Yes, I do.

6 MR. EDMUND: Can you find pleasure just being with
7 yourself?

8 MS. PREVATT: Yes.

9 MR. EDMUND: Do you have problems making decision when
10 you are alone?

11 MS. PREVATT: No, I don't believe I do.

12 MR. EDMUND: Do you have problems making decisions when
13 you are with other people?

14 MS. PREVATT: No.

15 MR. EDMUND: Are you the type person that you would like
16 to have for a friend?

17 MS. PREVATT: Yes, I am.

18 MR. EDMUND: Then you like yourself?

19 MS. PREVATT: Yes.

20 MR. EDMUND: As Mr. Hogan said, we are dealing with a
21 homicide and probably as horrible a homicide as this person can
22 imagine.

23 Do you think the exposure, for example, the testimony of
24 the pathologist who performed that performed the autopsy and
25 made the decision as to cause of death, and the photographs

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1 that Mr. Hogan referred to, do you think that a person who
2 feels about themselves like you do, might be so overly shocked
3 it would become too emotional to sit in a case like this and
4 I didn't sneak up blind sided. I am really coming to this
5 point.

6 MS. PREVATT: No, I don't.

7 MR. EDMUND: Ms. Stroud, do you, ma'am, ever stop and
8 smell the roses?

9 MS. STROUD: Yes.

10 MR. EDMUND: Do you like you?

11 MS. STROUD: Yes.

12 MR. EDMUND: Can you be alone with you?

13 MS. STROUD: Ahum. (Affirmative response)

14 MR. EDMUND: Can you make those decisions with you?

15 MS. STROUD: Most of the time.

16 MR. EDMUND: Can you make those decision with eleven
17 other folks?

18 MS. STROUD: Yes.

19 MR. EDMUND: Can you still be your own person and
20 make your decisions with eleven other folks?

21 MS. STROUD: Ahum. (Affirmative response)

22 MR. EDMUND: Alright, now, again, as I asked Ms. Prevatt,
23 since you feel this way about yourself and since you are of
24 that nature, do you think you can handle the emotional
25 impact that the testimony of a trial like this is going to

1 have upon everybody?

2 MS. STROUD: I think so. I will try.

3 MR. EDMUND: Ms. Symmes, do you stop and smell the
4 roses?

5 MS. SYMMES: Yes.

6 MR. EDMUND: Do you like you?

7 MS. SYMMES: Yes, sir, I do.

8 MR. EDMUND: Do you do a lot of solo?

9 MS. SYMMES: Yes.

10 MR. EDMUND: Do you enjoy yourself when you are up there
11 with just God?

12 MS. SYMMES: I love it.

13 MR. EDMUND: Did you wonder the first time you got up
14 there, what in the world am I doing? How am I going to get
15 this bird back on the ground?

16 MS. SYMMES: Well, no, I had God on my side.

17 MR. EDMUND: There you go. What is that guy sitting on
18 that T down there. He needs to be up here with me.

19 How about you, ma'am. Could you handle the emotional
20 aspects of what you are going to hear and see in this trial?

21 MS. SYMMES: I'll do my best.

22 MR. EDMUND: Mr. Graf, do you stop and smell the roses,
23 pardner, or do you think men can't do that?

24 MR. GRAF: You can try.

25 MR. EDMUND: There you go. Men have got to do that or

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1 go bonkers or something.

2 Do you like you? Do you like yourself?

3 Would you like you for a friend?

4 MR. GRAF: Well, I tell you, right now everybody is my
5 friend, because I am a long way from home. I have to make
6 my own decisions and I have been like that for five years.

7 MR. EDMUND: If you were somebody else, would you want
8 you as a friend? A man who thinks like you do and acts
9 like you do?

10 MR. GRAF: Not necessarily.

11 MR. EDMUND: You don't like you?

12 MR. GRAF: No.

13 MR. EDMUND: How come you don't like you?

14 MR. GRAF: Because there are times when you think you
15 are right and you know you are wrong.

16 MR. EDMUND: What you are saying is that you do have a
17 pretty close association with yourself and you really know
18 what kind of man you are, is that a true statement?

19 MR. GRAF: I know what I am doing.

20 MR. EDMUND: There you go. Do you think you can handle
21 the emotional impact of this trial and what you are going to
22 see and what you are going to hear?

23 MR. GRAF: Without any trouble.

24 MR. EDMUND: Without any trouble at all?

25 Okay, fine. How about you, Ms. Brown?

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1 MS. BROWN: Oh, yes.
2 MR. EDMUND: How about those roses?
3 MS. BROWN: Yes.
4 MR. EDMUND: Do you enjoy doing that?
5 MS. BROWN: Ahum. (Affirmative response)
6 MR. EDMUND: You enjoy some aloneness?
7 MS. BROWN: Yes.
8 MR. EDMUND: Can you spend goodly periods of time alone?
9 MS. BROWN: Yes, I can.
10 MR. EDMUND: Do you have to look for somebody to be with?
11 MS. BROWN: No.
12 MR. EDMUND: You will be happy when you are like that?
13 MS. BROWN: Yes.
14 MR. EDMUND: Can you handle those things that are going
15 to come from that witness stand?
16 MS. BROWN: I hope so.
17 MR. EDMUND: Can you stop and smell the roses,
18 Mr. Meaker?
19 MR. MEAKER: Yeah.
20 MR. EDMUND: Can you be alone with yourself?
21 MR. MEAKER: Yeah, I do like to be with other people,
22 too.
23 MR. EDMUND: That is fine, but you can like being alone
24 with yourself?
25 MR. MEAKER: Yeah. (Affirmative response)

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1 MR. EDMUND: Would you like you if you were sitting
2 next to you?

3 MR. MEAKER: Yeah.

4 MR. EDMUND: Can you handle what is coming from the
5 stand?

6 MR. MEAKER: Yes, sir.

7 MR. EDMUND: Ms. Fogarty, how about you, ma'am?

8 MS. FOGARTY: I think I can.

9 MR. EDMUND: Would your response be the same as the
10 rest?

11 I have fourteen happy folks up there, I believe, and
12 it ain't all of us who can do that. It is such a nice thing
13 to do. Stop and smell those roses.

14 JUROR: Probably not as often as I should.

15 MR. EDMUND: There you go, pardner. You live longer
16 if you will. Will you give it a shot?

17 If you did it, will you enjoy yourself?

18 JUROR: I enjoy myself now.

19 MR. EDMUND: Okay, the times that you are alone, do you
20 like you?

21 MR. MEAKER: Yes.

22 MR. EDMUND: Are you going to be able to handle this
23 emotional impact here?

24 MR. MEAKER: I should say so. You don't know until...

25 MR. EDMUND: Any reason that you know of why you

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1 couldn't?

2 MR. MEAKER: No.

3 MR. EDMUND: How about you, Mr. Stewart?

4 MR. STEWART: I am alone now and have no problems.

5 MR. EDMUND: There you go. You still like yourself?

6 MR. STEWART: Yeah. (Affirmative response)

7 MR. EDMUND: Mr. Ownby?

8 MR. OWNBY: You put doubt in my mind.

9 MR. EDMUND: Partner, I don't mean to put doubt in
10 anybody's mind.

11 MR. OWNBY: I am a casualty from World War II and I
12 am a very emotional person and I don't know whether I can take
13 it.

14 MR. EDMUND: I am sure His Honor will understand whatever
15 you have to say and where you are coming from. I know a
16 little bit of his background.

17 THE COURT: I came back from Vietnam, Mr. Ownby, you
18 share with us what you want to if you want to, and we can
19 talk to you privately if you don't.

20 MR. OWNBY: I appreciate it.

21 MR. EDMUND: You go right ahead.

22 MR. OWNBY: I can't talk about it.

23 MR. EDMUND: Alright, sir. Would you prefer not to
24 serve on this jury under the circumstances that might bring
25 back memories...

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1 MR. OWNBY: You brought it back already.

2 MR. EDMUND: Well, maybe it is good. Why don't we leave
3 you alone for a bit.

4 MR. OWNBY: Thank you.

5 MR. EDMUND: There you go. Mr. Halstead?

6 MR. HALSTEAD: Yes?

7 MR. EDMUND: Can you do that? Can you stop and smell
8 the roses?

9 MR. HALSTEAD: I do it quite often.

10 MR. EDMUND: Do you like doing it?

11 MR. HALSTEAD: Yes, it is good for you.

12 MR. EDMUND: It sure is. Are you going to have any
13 problems with the emotional issues of this trial?

14 MR. HALSTEAD: It is going to be a new experience for me.
15 I think I can handle it, but it will be new.

16 MR. EDMUND: Ms. Shepard?

17 MS. SHEPARD: Yes, sir.

18 MR. EDMUND: Will you stop every once in a while and
19 smell the roses?

20 MRS. SHEPARD: I have quite frequently.

21 MR. EDMUND: And are you handling your situation in
22 that manner and handling it well enough so that you can
23 sit through this trial and listen to this emotional testimony
24 and photographs and things like that?

25 MS. SHEPARD: I think I can.

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1 MR. EDMUND: Good enough. Ms. Chandler?
2 MS. CHANDLER: Yes, sir.
3 MR. EDMUND: How about you, ma'am?
4 MS. CHANDLER: Yes.
5 MR. EDMUND: Do you stop, ma'am and smell the roses?
6 MS. CHANDLER: Yes.
7 MR. EDMUND: Do you like Mrs. Chandler?
8 MRS. CHANDLER: Definitely.
9 MR. EDMUND: Do you like from time to time being alone
10 with her?
11 MS. CHANDLER: Yes.
12 MR. EDMUND: Do you also like being around other folks?
13 MS. CHANDLER: Yes.
14 MR. EDMUND: Can you discuss things with yourself?
15 MS. CHANDLER: Yes.
16 MR. EDMUND: Can you discuss things with other people?
17 MS. CHANDLER: Yes.
18 MR. EDMUND: Can you listen to yourself?
19 MS. CHANDLER: Yes.
20 MR. EDMUND: Can you listen to other people?
21 MS. CHANDLER: Yes.
22 MR. EDMUND: The real key is can you listen to yourself
23 whdn there are other people around saying things that perhaps
24 you might not want to agree with? Can you still listen to
25 yourself?

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1 MS. CHANDLER: Yes.

2 MR. EDMUND: I suppose what I am asking is whether you
3 will be your person back there and vote the verdict of your
4 conscience and not for the eleven other people telling you
5 what you should do?

6 MS. CHANDLER: I do what I think.

7 MR. EDMUND: How about you, Ms. Hunt?

8 MRS. HUNT: I am the youngest of twelve. I learned to
9 stand on my feet a long time ago.

10 MR. EDMUND: You will vote your conscience, will you
11 not, ma'am?

12 MRS. HUNT: I will, yes.

13 MR. EDMUND: Is there anyone who feels that they would
14 have a problem in just maintaining their position even if
15 there were a minority of one, provided you were certain your
16 verdict, though it differed from that of the other eleven,
17 was the proper verdict and what you remembered from the
18 testimony and what you remembered and what the Judge told you
19 the law was? May I ask, Your Honor, on a First Degree case,
20 do you follow the general and send back the instructions?

21 THE COURT: Yes.

22 MR. EDMUND: You will have a copy of the jury instructions.
23 That is the law His Honor tells you to follow, back in the
24 jury room with you. Can each of you stand hitched to what
25 you think is your proper verdict, notwithstanding getting

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1 whipped up around the head and the ears or whatever it is
2 jurors do to jurors who hang juries, but will you stand on
3 your verdict, Ms. Symmes?

4 MS. SYMMES: Yes, sir.

5 MR. EDMUND: The Judge will tell you certain things that
6 you should do if the Jury reaches an impass, such as take it
7 out and look at it again; attempt to poke holes in your own..
8 this isn't how he is going to say it, but what it amounts to
9 is poke holes in your own position and try to point out
10 the weaknesses of your own position, but after you have done
11 all that and if you are still satisfied that you are correct,
12 will you stay there, even if you are a minority of one?
13 Mr. Graf? Can you do that?

14 MR. GRAF: Yes, in weighing the testimony either way.

15 MR. EDMUND: Yes, sir. There you go. Ms. Stroud?

16 MS. STROUD: Yes.

17 MR. EDMUND: Ms. Prevatt?

18 MS. PREVATT: Yes.

19 MR. EDMUND: Ms. Brown?

20 MS. BROWN: Yes.

21 MR. EDMUND: Will you also, Mr. Stewart?

22 MR. STEWART: Sure.

23 MR. EDMUND: Mr. Hall?

24 MR. HALL: Yes.

25 MR. EDMUND: Mr. Halstead?

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1 MR. HALSTEAD: Yes.

2 MR. EDMUND: May we approach the bench?

3 THE COURT: Yes, sir.

4 (WHEREUPON, BENCH CONFERENCE IS HELD AS FOLLOWS:)

5 MR. EDMUND: I struck such a nerve with Mr. Ownby that

6 I haven't had that in a long time. Do you think we might

7 recess or to you want me to go on. I have got plenty more

8 to go around him.

9 THE COURT: What do you say, gentlemen?

10 MR. EDMUND: He is hurting.

11 MR. HOGAN: I think that perhaps you ought to ask him

12 either private or now whether he thinks he is going to be able

13 to do this or not.

14 MR. EDMUND: I can go around him a little more and not

15 make it so obvious, and just stop me when you are ready, sir.

16 THE COURT: I hate to make you walk around somebody.

17 MR. EDMUND: I will talk occasionally to him if I can.

18 THE COURT: I have a thought about him. I am not sure

19 that he wants to talk now, but I did have a thought that we

20 could take the whole crowd and bring him in and let me ask

21 if he wants to discuss it with us or tell us what his problems

22 are. He may not want to period. We can walk around him. It

23 is really your decision.

24 MR. EDMUND: I will just be gentle with him a couple of

25 times and when you are ready to break, tell me, sir, and I

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1 will stop.

2 MR. HOGAN: It seems to me if you would ask him if he
3 thinks he can be on this jury and handle this stress, he is
4 going to say "no". When he says "no", then we can excuse
5 him without having to go.

6 THE COURT: I agree, but filling that hole now isn't
7 the time. We have to start all over. Obviously, he will be
8 gone. Carry on.

9 (WHEREUPON, BENCH CONFERENCE ENDS)

10 THE COURT: Folks, sometimes maybe if the lawyers will
11 permit me, sometimes we forget to ask the jurors their
12 own pleasure. Would anybody like to take a short recess at
13 this time? I will be glad to honor that if you would, or
14 we will press on.

15 Do I see any affirmative responses?

16 Alright, why don't we just press on for a while.

17 Mr. Edmund?

18 VOIR DIRE EXAMINATION CONTINUES

19 BY MR. EDMUND:

20 Mr. Meaker, have you ever stopped and thought of the
21 importance of the jury system? Sitting where you are sitting?

22 MR. MEAKER: Since I got the notice, I sort of have
23 thought about it. Before, I never really ... I guess I never
24 really was put in the position to think about it.

25 MR. EDMUND: Since you got the notice, have you also

1 given any thought to maybe there is something to these
2 Constitutional rights?

3 MR. MEAKER: I, for one, am very grateful for them.

4 MR. EDMUND: You have given thought to that?

5 MR. MEAKER: Oh, yes.

6 MR. EDMUND: Have you ever had the feeling that we
7 coddle criminals in the United States?

8 MR. MEAKER: That we coddle criminals?

9 MR. EDMUND: That we are too easy on them? Most of us
10 say that, have you ever said that?

11 MR. MEAKER: I would imagine conditions are better
12 here...

13 MR. EDMUND: No, no, we make it too easy for appeals
14 and make it too easy for this and make it too easy for that
15 and it takes too long to do these things. Have those things
16 ever crossed your mind?

17 MR. MEAKER: No, when you are trying to find the truth,
18 the best way to do it is to take the time it needs.

19 MR. EDMUND: How about you, Mr. Hall? Have you ever
20 given thought to the jury system and given thought to our
21 Constitutional rights?

22 MR. HALL: Yes, you think about it all the time. It
23 affects you about every day.

24 MR. EDMUND: Mr. Stewart, how about you? Have you given
25 thought before you got your jury summons?

1 MR. STEWART: No.

2 MR. EDMUND: Ms. Shepard?

3 MS. SHEPARD: I had thought about it too and wondered
4 what it would feel like to have the responsibilities to do
5 something like this.

6 MR. EDMUND: Mr. Ownby, have you given it any thought,
7 sir?

8 MR. OWNBY: Yeah, a lot of times.

9 MR. EDMUND: Mr. Halstead?

10 MR. HALSTEAD: In the last five years, I started working
11 in the profession I have now and I have thought about it.

12 MR. EDMUND: Until then you didn't give it much thought?

13 MR. HALSTEAD: Didn't really have time.

14 MR. EDMUND: I thought you said you stopped to smell the
15 roses?

16 MR. HALSTEAD: Five years ago... more than five years
17 ago, I found other things. Very busy.

18 MR. EDMUND: Ms. Chandler, how about you? You ever given
19 any thought to how important the jury system is in the United
20 States?

21 MS. CHANDLER: To some extent.

22 MR. EDMUND: Did you ever give any thought with a very,
23 very few exceptions the only country in the world that has
24 any sort of fair trial. A lot of times they don't even
25 have trials, just drag them out and shoot them dead.

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1 Do you feel any reluctance that Jimmie is here availing
2 himself of a right to a jury trial or think that is what he
3 ought to do? Ma'am?

4 JUROR: What is that you said?

5 MR. EDMUND: Ma'am, I said do you have any reluctance
6 that to sit here because Jimmie is here availing himself
7 of his right to a jury trial. The State said he did it and
8 he said, "No". You all are going to decide. Ms. Fogarty,
9 what about you?

10 MS. FOGARTY: Everybody has a right to a trial.

11 MR. EDMUND: Do you think that a man who asks for a trial
12 that is any indication at all that he is guilty?
13 Mr. Fogarty?

14 MS. FOGARTY: Not necessarily.

15 MR. EDMUND: How about you, Ms. Hunt?

16 MS. HUNT: I don't think... in a day... what that would
17 mean and I just think some of them have much better than
18 they do at home...

19 MR. EDMUND: You think they take care of them too well?

20 MS. HUNT: I wouldn't say too well, but some of them
21 are much better off in prison than they are at home. I met
22 one I think that was high. He was in prison.

23 MR. EDMUND: Does this upset you, Ms. Hunt?

24 MS. HUNT: No, it doesn't. It is a place to be and he
25 likes to be there. That surprised me that a prisoner could

1 get it in there.

2 MR. EDMUND: You have run across people who want to be
3 in prison, ma'am?

4 MS. HUNT: Well, I would say so, because he was in
5 prison several times.

6 MR. EDMUND: You talk about these old pros that are
7 institutionalized and can't live in the real world?

8 MS. HUNT: That is right. He was better off in prison
9 than he was out.

10 MR. EDMUND: Ms. Prevatt, the reason I am talking about
11 whether or not you could give thought to our system, the
12 right to our jury system, the right to trial by jury; any
13 real thought to this part of the American system and how
14 important it is?

15 MS. PREVATT: Sure.

16 MR. EDMUND: You have no problems with Jimmie availing
17 himself to his Constitutional right to a trial by a jury?

18 MS. PREVATT: No.

19 MR. EDMUND: Ms. Brown, do you feel the same way?

20 MS. BROWN: Yes, I do.

21 MR. EDMUND: How about you, Ms. Stroud?

22 MS. STROUD: It always bothered me whenever I heard people
23 who received a jury summons and called to jury duty, and they
24 did everything possible to get out of it, and maybe originally
25 I had that attitude until a few years ago, a friend of mine

1 made me stop and realize what if it were a friend or a
2 relative of mine on trial. I would want the best possible
3 jury I could possibly get.

4 MR. EDMUND: Alright. It took that, though, to make
5 you really realize how important our system is, did it not?

6 MS. STROUD: Yes.

7 MR. EDMUND: Somebody said that a person will try to
8 get out of a jury summons when they are selected or show up
9 they will do the very best job possible. Fortunately, that
10 is how it works, anyway.

11 Have you ever given much thought to a jury trial process
12 prior to being summoned, although you tried one once before,
13 Mr. Graf?

14 MR. GRAF: I have been thinking about it ever since I got
15 the summons, how much difference it is or what it would be.
16 So far, I didn't see much difference.

17 MR. EDMUND: Alright. It is probably because it is pretty
18 standard and that is what is making it work.

19 Ms. Prevatt?

20 MS. PREVATT: I feel the same way.

21 MR. EDMUND: Thank you. Now, at least one representative
22 of the Federal Bureau of Investigation, the FBI, is likely
23 to be called as a witness in this case, as an expert. Now,
24 when I say FBI, did you form any sort of mental picture of
25 what this man or woman may look like, Ms. Symmes?

1 MS. SYMMES: Yes, I did.
2 MR. EDMUND: Did you exalt it to some degree?
3 MS. SYMMES: No.
4 MR. EDMUND: Did you make him a better police officer
5 than if I had said Deputy Sheriff?
6 MS. SYMMES: No, sir.
7 MR. EDMUND: Did you make him a better police officer
8 than if I had said a Florida Highway Patrolman?
9 MS. SYMMES: No, sir.
10 MR. EDMUND: Did you make him a him?
11 MS. SYMMES: Yes, sir.
12 MR. EDMUND: I am saying him. Did you make him a better
13 police officer or expert than if I had said municipal police
14 officer?
15 MS. SYMMES: No.
16 MR. EDMUND: Can you judge his testimony then by the same
17 standard that you judge everybody else's testimony and not
18 give it any greater weight simply because he comes stamped
19 USDA Choice or whatever they stamp FBI Agents?
20 MS. SYMMES: I believe I have an open mind.
21 MR. EDMUND: Would your response be the same, Ms. Brown?
22 MS. BROWN: Yes, sir.
23 MR. EDMUND: Mr. Graf?
24 MR. GRAF: Very much the same.
25 MR. EDMUND: How about you, Ms. Brown?

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1 MS. BROWN: Yes.

2 MR. EDMUND: Mr. Meaker?

3 MR. MEAKER: Yes.

4 MR. EDMUND: How about you, Mr. Hall?

5 MR. HALL: Yes.

6 MR. EDMUND: Mr. Stewart?

7 MR. STEWART: I think the FBI man has got more stuff going
8 for him than the men who are local.

9 MR. EDMUND: Can you give me, without blowing my case
10 wide open, okay, can you give me some reason that you would
11 come to such a conclusion?

12 MR. STEWART: They have a lot of investigative stuff in
13 Washington that they have privy to that the local sheriff
14 doesn't have.

15 MR. EDMUND: Mr. Stewart, are you aware, sir, that for
16 every case the FBI solves, the Lake County Sheriff's Office
17 probably solves forty? Were you aware that every time the...

18 MR. HOGAN: Objection, Judge. That is misleading.

19 THE COURT: Frankly, I don't know if it is true or not.

20 MR. EDMUND: Judge, I have an uncle that said if you quote
21 statistics and nobody inquired about them, you can quote
22 statistics.

23 MR. HOGAN: I am inquiring. I object. It is misleading.

24 MR. EDMUND: Well, I have those statistics...

25 MR. HOGAN: May we approach the bench, please.

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1 (WHEREUPON, BENCH CONFERENCE IS HELD AS FOLLOWS:)

2 MR. HOGAN: First of all, I would like to see some basis
3 for that statement about the Lake County Sheriff's Office and
4 the Federal Bureau of Investigation. I don't believe it.
5 Secondly, the FBI particularly this particular witness, does
6 not solve cases. He is an expert that analyzes cases and in
7 fact, helped the Lake County Sheriff's Office solve this case,
8 so it is a very misleading question.

9 MR. EDMUND: I didn't mean to strike such a nerve, to
10 be perfectly frank with you. I just wanted to know who thought
11 that the FBI walked on water. That is all I wanted to know.
12 Now, I found at least one guy that said they walked on water
13 and that one I am challenging for cause.

14 THE COURT: Alright, let's tell you what, let's strike
15 reference to the statistics and go on. What do you think
16 about that?

17 MR. EDMUND: Yes, sir.

18 MR. HOGAN: Thank you, Judge.

19 (WHEREUPON, BENCH CONFERENCE ENDS)

20 THE COURT: Folks, we are not certain that our statistics
21 on who solves how many crimes relatively and necessarily
22 accurate, although I am not saying that it is not, so let's
23 just sort of strike that and move on. How about that?

24 MR. EDMUND: Anyone else that feels like the FBI walks
25 on water?

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1 Anyone else who would be inclined to give greater weight
2 to the testimony of a representative of the Federal Bureau of
3 Investigation coming all the way down here from Washington
4 than they would any other expert who might be called; any lay
5 witness who might be called; any city police officer who might
6 be called; any deputy sheriff who might be called? Any of
7 you other than Mr. Stewart, who might be inclined to give
8 greater weight to that person, to the FBI guy's testimony?

9 Thank you.

10 Is there anyone sitting here now who feels whether for
11 ethical reasons, moral reasons or whatever, that if someone
12 takes a human life, regardless of what the circumstances are,
13 they should pay with their own? Do you feel that way?

14 JUROR: Yes.

15 MR. EDMUND: Then you would not be able to fairly apply
16 the law that the Judge would give you. Let's assume now
17 for purposes of this and I don't say it is going to happen,
18 because I don't think it will, but if you were to return a
19 verdict of guilty, you couldn't follow the law the Judge
20 instructed you to follow in the penalty stage, could you?
21 Because you would go in with your mind made up if he is found
22 guilty that he is going to die. Isn't that what you are saying?

23 JUROR: Well, in the second phase, I would recommend the
24 First Degree Murder.

25 MR. EDMUND: Sure, because you wouldn't give any thought

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1 whatsoever to ... if he was the greatest guy that ever walked
2 the face of this earth, and he committed this homicide, but
3 your mind would be pre-made up when you went back in there that
4 if you convicted him, he is going to fry, right?

5 JUROR: I guess that is about it.

6 MR. EDMUND: You couldn't follow the law when the Judge
7 said you can weigh the mitigating factors against the
8 aggravating factors?

9 JUROR: I could still do that.

10 MR. EDMUND: How are you going to do that? When you
11 already got your mind made up?

12 JUROR: I didn't make up my mind.

13 MR. EDMUND: Well, didn't you say if you found him guilty
14 as far as you were concerned, right then he was going to the
15 electric chair? Isn't that in essence what you said?

16 JUROR: I guess so.

17 MR. EDMUND: Then you wouldn't pay any attention at all
18 to the law that Judge Lockett instructed you to follow in the
19 penalty phase, because your mind would have been made up,
20 right?

21 JUROR: I guess.

22 MR. EDMUND: Thank you. Alright, sir.

23 As Mr. Hogan told you, the trial is broken down into
24 certain segments and as Mr. Hogan very properly didn't say to
25 you and I appreciate it, after the State puts on its case,

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1 the Defense may put on a case if it so desires. If Mr. Hogan
2 had said that, I would have been jumping up and screaming.
3 But truth, in essence, at least Jimmie Duckett is going to
4 testify in this case. And at least you are going to hear two
5 sides of this story and will you make every effort to keep
6 your mind open, Ms. Symmes, throughout the entire trial, all
7 the way through and including perhaps the most important
8 part, when Judge Lockett reads you the law that you swear you
9 will apply to the facts of this case. Is there anyone who
10 has a problem with that?

11 Now, when the Judge tells you don't discuss this case with
12 anybody else, anybody means your wife or your husband,
13 including anybody else, and will you completely refrain except
14 as Mrs. Symmes had inquired and I think Ms. Prevatt had
15 inquired, let them know you are in a trial, but nothing else
16 about the facts; nothing about any decisions you may have made.
17 You are not supposed to make any. Someone said you start
18 discussing it and start giving opinion, and you start forming,
19 and that is why the Court asks you not to discuss it, so will
20 you totally refrain from discussing the case, the facts of the
21 case, with anyone?

22 JURORS: Yes, sir.

23 MR. EDMUND: Your Honor, may I have a seat over here for
24 a moment? Or may we approach the bench?

25 (WHEREUPON, BENCH CONFERENCE IS HELD AS FOLLOWS:)

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1 MR. EDMUND: Your Honor, I am about as dry as I have been
2 in a long time. Is it about time for an afternoon recess?

3 MR. HOGAN: That is fine with us.

4 THE COURT: Fifteen minutes.

5 MR. EDMUND: Thank you, Judge.

6 (WHEREUPON, BENCH CONFERENCE ENDS)

7 THE COURT: Folks, counsel for both sides have agreed
8 that it would be appropriate to take our afternoon recess.
9 We are going to be out, Mr. Bailiff, for about fifteen
10 minutes. I am going to continue to re-remind each person
11 that might be involved in this trial as a prospective juror,
12 at every stage, you must not discuss the case among yourselves
13 or with anyone else, nor read nor listen to anything about the
14 case. We are all still clear on that?

15 We will see everyone back in fifteen minutes.

16 (WHEREUPON, COURT IS IN RECESS AT 3:15 P. M.)

17 (WHEREUPON, COURT RECONVENES AT 3:30 P. M.)

18 (WHEREUPON, DEFENDANT IS PRESENT IN COURTROOM WITH HIS
19 COUNSEL, MR. EDMUND)

20 THE COURT: Pardon my tardiness, I know I am a little late,
21 I have been trying to manage this whole affair. It is obvious
22 to us that we have a hole group of folks that came in earlier
23 this morning that have waited patiently with us outside and in
24 the jury room. What I think I am going to do and I have talked
25 to the attorneys about this, even though it is going to be

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1 awkward for just a minute, I am going to ask Mr. Bailiff and
2 Madam Jury Clerk to go and get all those people and bring them
3 in here. I know there are not seats enough for all of them
4 but they can stand. We will give them the standard admonitions
5 that we have been giving you all and then let them go on and
6 go home. It is clear we are not going to get to them today.
7 There is no need for them to hang around with us. We will
8 have them come back in the morning and then they will be
9 available for us as they have been. If you all will do that
10 at this time.

11 (WHEREUPON, BAILIFF AND MADAM JURY CLERK LEAVE COURTROOM
12 TO GET OTHER JURORS FROM JURY ROOM)

13 THE COURT: That is probably a good idea, folks. I
14 appreciate your cooperation. If you can sort of scoot over to
15 the end, so that at least there will be the maximum number of
16 available seats for them. I don't mean to suggest you all have
17 not been just as patient as they have, because you certainly
18 have and I do appreciate it.

19 (WHEREUPON, REMAINING PROSPECTIVE JURORS ENTER COURTROOM
20 AT 3:45 P. M.)

21 THE COURT: Folks, just come on in and take a seat where
22 you can find one, if you will, please. I know there is not
23 going to be room enough for everybody, but just fill on up the
24 seats if you would.

25 Come on in and make yourself comfortable wherever you can

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1 find a seat. We will just be with you for a minute.

2 Is that everyone, madam clerk?

3 JURY CLERK: Yes.

4 THE COURT: Thank you.

5 Folks, for those of you who have just come in, I know how
6 impatient it can be sitting out there and not even realizing
7 what we are doing and we do impose upon your time when we ask
8 you to serve as prospective jurors and we understand that.
9 This is a case of significant magnitude, as I know the people
10 in the room know and some of you may find out as well.
11 Nothing is more difficult than just to be sitting out there
12 and not knowing what we are doing. We do appreciate your
13 cooperation.

14 What we determined is appropriate for all of you who have
15 just come in the room, our first panel, if you will, is to
16 go ahead and send you home at this time, but I must go over
17 with you some extremely important admonitions and make absolutely
18 certain that all of us understand how important these are.
19 You are still prospective jurors in this cause. It is entirely
20 possible that before this entire jury selection process is
21 completed, you may serve with us. This is not just some
22 figment of my imagination. It is a real possibility and I
23 suggest to you that these admonitions are just as important
24 to you as they are to those who have been in the room working
25 with us all day. The admonitions are as follows:

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1 Number one, you must not discuss this case with anyone.
2 Not now, not when you go home this evening, not throughout
3 the course of your potential jury selection, not until you are
4 either selected to serve as a juror and actually serve,
5 complete your service, complete your deliberations. At
6 deliberation stage, you then discuss the case. Until that time,
7 you don't discuss this case among yourselves or with anyone
8 else and that means just what it says, and I can't state it
9 any more absolutely than I have. You do not go home and
10 talk to your friends, your neighbors, your spouse, about what
11 this case is about at all. Do not read anything in the local
12 media about it. You don't watch any television coverage or
13 any radio coverage. If you or someone that you live with
14 should notice an article about this case, you immediately
15 put the paper aside. You do not let anyone draw that to your
16 attention. If you are watching television and something
17 comes on that you think even might be about this case, you
18 immediately change the channel or turn your television off
19 and the same with the radio. Likewise, you do not visit
20 the scene of the alleged occurrence if you should happen to
21 think from anything that you might know where that might be.
22 These are extremely important admonitions and we do ask you
23 all at the appropriate time to assure us individually that
24 you have abided by these admonitions.

25 If someone attempts to discuss the case with you, that

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1 would be very natural. That your spouse or neighbor or child
2 might say, "Well, what were you doing at the Lake County
3 Courthouse all day." The rest of you can answer, "Well, we
4 were sitting in a room wondering what on earth is going on",
5 and I suppose that is appropriate. Beyond that, I suggest
6 to you no discussion and I just can't make the rule any more
7 simple or bright lined. You do not talk about the case even
8 if you think you know what the case is about. You just say,
9 "The Judge said I can't discuss it", and that is the end of
10 it. There is no more discussion.

11 It is critically important that this case be tried only
12 on the testimony and the evidence presented in this courtroom
13 in my presence and the attorneys' and the defendant's. All
14 sorts of extraneous information comes in from news media and
15 otherwise that may or may not ultimately be allowed to be
16 presented to the jury that sits on this case.

17 I think you all understand how important this is. While
18 we are here, I don't think we had an opportunity to tell our
19 first group about my standard rule with regard to attorneys
20 and jurors, prospective jurors.

21 The lawyers are well aware of the simple fact that should
22 they encounter any of you in the halls, casually or outside,
23 or anywhere, that they are not to speak to you; not even
24 socially; not even politely; not even to acknowledge your
25 presence. This is to avoid even the appearance of

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1 impropriety. The problem would be if one of the lawyers saw
2 another one speak to several prospective jurors. Naturally,
3 they might feel the need to bring to my attention that fact
4 that that conversation took place. After we conducted some
5 lengthy inquiry, we would find out it was just that. Just
6 a good morning or a good afternoon. So to avoid all that,
7 the lawyers just don't talk to you at all. They absolutely
8 ignore your presence.

9 Let me suggest for your own convenience, those of you
10 that are on the first panel, you might want to bring some
11 reading material with you tomorrow. It indeed may be that
12 again for a while, you will be sitting with us in the lobby
13 or in the jury room.

14 I can only tell you this, that we are mindful of your
15 presence. We appreciate your service. We are working
16 diligently here in this room to enable us to pick a jury
17 and I do want to impress upon you, because I know it may not
18 seem that way after a day of having to sit in our courthouse
19 without any real involvement other than your initial appearance
20 here in this courtroom. I want to impress on each of you
21 the solemn fact that you may well yet find yourself up in
22 that jury box like these folks are and it is that important.
23 It is extremely important.

24 Do you have any questions about what I said at all from
25 any person on the first panel?

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1 We are going to ask you to come back to the jury room at
2 nine o'clock tomorrow morning. The room where you were right
3 over there. Check in with madam clerk, who will be sure
4 everyone is back.

5 Any questions at all? I should say one more thing.
6 One of our prospective jurors asked me, "Judge, can I tell
7 my employer that it might be that I will be away from work
8 two weeks.". Sure. In terms of discussing the general
9 procedures that we are going to engage in and the fact that
10 if you should be selected on this jury, you may well be away
11 from your private work or your family, sure, you can tell
12 people things like that. I think I could be gone for two
13 weeks. I think I might be sequestered for a short period of
14 time at the end of the trial. Employer, you need to know you
15 need to cover my job for as long as two weeks if I should be
16 selected. That is fine. What I am talking about is not
17 talking about the merits of the case. That is, what the
18 charges are or anything you might have heard or read about
19 the case.

20 Are we all absolutely clear on that? I cannot over stress
21 the importance. Let me thank all of you on the first panel
22 for your service. You all are free to go home at this time,
23 unless counsel for either party has anything more they wish
24 me to suggest.

25 MR. EDMUND: No, Your Honor.

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1 MR. HOGAN: No, Your Honor.

2 THE COURT: Thank you all very much. You all are free to
3 go, the first panel.

4 (WHEREUPON, THE FIRST PANEL OF PROSPECTIVE JURORS LEAVES
5 COURTROOM)

6 THE COURT: Alright, folks, Mr. Edmund?

7 VOIR DIRE EXAMINATION CONTINUES

8 BY MR. EDMUND:

9 If it please, Your Honor, I have no further questions.
10 May we approach the bench?

11 THE COURT: Yes, sir.

12 (WHEREUPON, BENCH CONFERENCE IS HELD AS FOLLOWS:)

13 THE COURT: We will put on our understanding and
14 stipulation and agreement, as they will be stricken for cause.

15 MR. HOGAN: Yes, sir.

16 MR. EDMUND: Yes, sir.

17 THE COURT: Mr. Graf will be stricken for cause. The
18 State agrees?

19 MR. HOGAN: Yes, sir.

20 MR. EDMUND: Yes, sir.

21 THE COURT: Now, I will ask if there are any other
22 challenges for cause? First from the State?

23 MR. HOGAN: For cause, none.

24 MR. EDMUND: Mr. Stewart, Your Honor. He has continued
25 notwithstanding his responses that his mind is made up and

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1 he would not apply the law Your Honot will be instructing
2 the venire and that his vote of guilty during the trial
3 stage automatically is a vote for the death penalty during
4 the penalty phase.

5 MR. HOGAN: Judge, I believe first that what Mr. Stewart
6 said was that his personal belief was in favor of capital
7 punishment, but that he did feel that if he was a juror, as
8 a juror, he could follow the law. I don't think he can be
9 excused for cause.

10 THE COURT: He concerns me sufficiently, I am going to
11 strick him for cause.

12 MR. EDMUND: Would the Court wish to maybe voir dire...

13 THE COURT: No, I have heard enough from him frankly.
14 That leaves us with eleven jurors. This is where we have
15 got to talk. This process is going to get real long. The
16 only thing we can do is move everyone up and fill up the box
17 and work with those three and we are not at the stage of
18 preemptory yet, because we don't have enough in the box
19 to even pick a jury.

20 Alright, we will start preemptory striking, and
21 I certainly will do that. If you don't want to, because
22 you are feeling you don't know what is coming at the end, I
23 certainly understand. I am not going to force anybody to do
24 that. You see what is going to happen to us is we are going
25 to fill this box at one or two at a time and we are going to

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1 go over and over and over if we just add one or two.

2 MR. EDMUND: I go with the preemptory if the State does.

3 MR. HOGAN: May I have one moment. Your Honor, I just
4 don't know what is coming and I just can't, if I have the
5 option of not starting now, I would rather not.

6 THE COURT: Do you object to that, Mr. Edmund?

7 MR. EDMUND: I object to it. I would like to go now
8 and move this thing along.

9 THE COURT: I am going to accept the State's wishes and
10 we are going to do it at this time. It is just going to take
11 longer, that is all.

12 (WHEREUPON, BENCH CONFERENCE ENDS)

13 THE COURT: Alright, folks, now you are going to have
14 to bear with me. I will concede that things get a bit
15 awkward, but we will work together and make it work. At
16 this time, the following persons may step down from the
17 jury box. Your jury service will be considered to be complete.
18 You will not need to come back or call back. Thank you very
19 much for bearing with us for what I know has been a long day.

20 Mr. Stewart may come down. Mr. Ownby may come down.
21 Mr. Graf may come down. Thank you all very much for your
22 service. I do appreciate it.

23 Alright, gentlemen, our next step is to rebox your jury
24 exactly. The back row will remain exactly in the order it
25 is in, as it is in, if you will just rebox that again, please.

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1 This takes just a few minutes, folks, but there is no other
2 way that I know to do it.

3 Now, we will rearrange the second row. Bear with me.
4 Mrs. Fogarty, you will move all the way over to the first
5 seat. Mrs. Prevatt will move next to you. Mrs. Stroud
6 will move next to her. And that only began to get awkward.
7 Now, the easiest way is for all of you in the front, if you
8 will bear with me, just come right down in front of the
9 whole jury box and you won't be climbing all over each other.
10 Just come down and right out here in front.

11 Mr. Hall, you are going to go in the next seat in the
12 back row. That kept you from climbing over all those
13 folks.

14 MR. HALL: Back row?

15 THE COURT: I am sorry, the middle row. I misspoke,
16 I apologize. Next to Mr. Hall will be Mr. Meaker. If you
17 wonder what on earth I am doing, I am actually keeping you
18 in the same order you were in and just removing the people
19 out of the middle. Next to Mr. ... I am sorry, in the front
20 row on the far side will be Mrs. Brown. And next to Mrs.
21 Brown will be Mrs. Symmes.

22 If I have done this thing right, I have three vacant
23 seats, and we fill those seats, folks. Please come up as
24 your name is called.

25 I have #186, Geraldine Emerson.

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1 If some of you were thinking this is going to take a while,
2 you are exactly right. As one of our prospective jurors said
3 the idea is take your time and do it right and that is what
4 we intend to do.

5 Our next number is #163, Francheon Elders.

6 #251, Patricia Warren.

7 These questions from me, ladies, will be directed just
8 to the three of you who have taken the jury box, please.

9 Do any of you have any physical defects, hearing, sight
10 or otherwise, which would render you incapable of performing
11 your duty as a juror in this cause?

12 JURORS: No, sir.

13 THE COURT: Do you have any bias or prejudice either for
14 or against the Defendant?

15 JURORS: No, sir.

16 THE COURT: If you are selected as a juror in this cause,
17 will you render a fair and impartial verdict, based upon the
18 evidence presented in this courtroom and the law as it
19 pertains to this particular case, as instructed by the Court?

20 JURORS: Yes.

21 THE COURT: Do you have any other reason why you cannot
22 give this case your undivided attention and render a fair
23 and impartial verdict?

24 JURORS: No.

25 THE COURT: Alright. Thank you very much. Mr. Hogan?

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1 Oh, I am sorry. I should let you all introduce yourselves.
2 I apologize. Mrs. Emerson, if you would first, please.
3 I will help you through that little thing we did.

4 MS. EMERSON: I forgot the first question.

5 THE COURT: Are you married, ma'am?

6 MS. EMERSON: I have been a widow for almost seventeen
7 years.

8 THE COURT: Alright, what town do you live in?

9 MS. EMERSON: I live in the Umatilla area. I don't live
10 in anything, but Lake County.

11 THE COURT: Are you employed outside the home or have
12 you ever been?

13 MS. EMERSON: Well, I have a grove I am re-doing. I
14 have been retired ... I retired. I was a Professor at the
15 Medical Center at the University of Alabama, Birmingham.

16 THE COURT: Exactly what did you teach, ma'am?

17 MS. EMERSON: Well, Medical Biochemistry, General
18 Biochemistry, geritalistics, physiology, pathology... what
19 you call basic medical sciences.

20 THE COURT: Have you ever served on a jury before?

21 MR. EMERSON: No, sir.

22 THE COURT: Thank you kindly. Ms. Elders.

23 MS. ELDERS: My name is Francheon Elders and I live
24 in Leesburg, and my husband is Dallas Elders. He retired
25 from the Department of Transportation. I work for the

1 Leesburg Nursing Center on Dixie Avenue.

2 THE COURT: You said the Leesburg Nursing Center?

3 MS. ELDERS: Yes, sir.

4 THE COURT: What do you do there?

5 MS. ELDERS: I am a Nursing Assistant.

6 THE COURT: Have you ever served on a jury?

7 MS. ELDERS: No, sir.

8 THE COURT: Thank you. Mrs. Warren?

9 MS. WARREN: My name is Patricia Warren. I work at

10 Haliday, Bair and Hux, a CPA firm.

11 THE COURT: Are you a CPA, ma'am, or do you work there

12 with them?

13 MS. WARREN: I am a certified operator.

14 THE COURT: Are you married?

15 MS. WARREN: No, sir.

16 THE COURT: You live in Leesburg?

17 MS. WARREN: Yes, sir.

18 THE COURT: Have you ever served on a jury before?

19 MS. WARREN: No, sir.

20 THE COURT: Thank you. Mr. Hogan?

21 VOIR DIRE EXAMINATION

22 BY MR. HOGAN:

23 Good afternoon, ladies. Were you able to hear most of

24 my questions from this morning and earlier this afternoon?

25 JURORS: Yes.

1 MR. HOGAN: Were you able to hear the witness list
2 that I read?
3 JURORS: Yes.
4 MR. HOGAN: Did you recognize any names on there?
5 JURORS: No, sir.
6 MR. HOGAN: Very good. Ms. Emerson, do you have a
7 Doctorate Degree?
8 MS. EMERSON: Yes, sir.
9 MR. HOGAN: Dr. Emerson. And your degree is what?
10 In Medicine?
11 MS. EMERSON: Medical science.
12 MR. HOGAN: How long were you working at the University
13 of Alabama in Birmingham?
14 MS. EMERSON: About thirty years.
15 MR. HOGAN: When did you leave there?
16 MS. EMERSON: I retired on January 31, 1986.
17 MR. HOGAN: You used to work there at the bottom of the
18 hill where Vulcan is, correct?
19 MS. EMERSON: Yes, right. Southern Research is across
20 there.
21 MR. HOGAN: They have remodeled and are redoing a lot
22 of buildings, right? It is not a bad place these days.
23 MS. EMERSON: I thought it was beautiful anyway.
24 MR. HOGAN: Do you have any children?
25 MS. EMERSON: We raised a boy. I don't legally have one.

1 We raised a young man and sent him through school.

2 MR. HOGAN: Have you had any contact with the criminal
3 justice system as a witness or a victim, or...?

4 MS. EMERSON: Well, at one time, I was in law school
5 at the University of Florida for two summer accelerated
6 quarters in 1946 and '47 and before that I worked for the
7 Circuit Court in Duval County, where I grew up. Just filled
8 in some.

9 My stepfather was a Chief Child Clerk of the Circuit
10 Court in Duval County back many years ago, so, you know,
11 I have had a little bit of acquaintance.

12 MR. HOGAN: But you have never been the victim or a
13 witness?

14 MS. EMERSON: No, sir.

15 MR. HOGAN: Have you ever done work with medical
16 examiners and pathology?

17 MS. EMERSON: Not directly.

18 MR. HOGAN: Have you done any work in criminal forensics?

19 MS. EMERSON: No, sir.

20 MR. HOGAN: Your area of expertise, would that include
21 examination of human hairs by any chance?

22 MS. EMERSON: Not really. Not really.

23 I know a little bit about a lot of things, but I am not an
24 expert on anything.

25 MR. HOGAN: I bet that is not true. Doctor, do you

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1 understand the steps of the trial and the way we proceed
2 in this case up to the time that you will be asked to reach
3 a verdict?

4 MS. EMERSON: Yes, I believe so.

5 MR. HOGAN: Do you understand that myself, Mr. Hurm,
6 we have a client and our client is entitled to a fair
7 trial?

8 MS. EMERSON: Right.

9 MR. HOGAN: You understand that we are seeking a First
10 Degree Murder conviction in this case? You understand that
11 that would then lead to a penalty phase?

12 MS. EMERSON: Yes.

13 MR. HOGAN: How do you feel about capital punishment?

14 MS. EMERSON: I believe it is necessary.

15 MR. HOGAN: Do you understand the process that has been
16 briefly explained to you? I believe I explained it. I
17 don't know how well, but I tried?

18 MS. EMERSON: I believe I have got the picture.

19 MR. HOGAN: And you believe you could follow that process
20 and follow the law?

21 MS. EMERSON: Yes, sir.

22 MR. HOGAN: Do you go to church?

23 MS. EMERSON: Yes, sir.

24 MR. HOGAN: What church do you go to?

25 MS. EMERSON: It is an independent bible church, Tri-City

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