

COPY

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SUPREME COURT
FILED

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Frank A. McGuire Clerk

Deputy

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IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

v.

DONTE LAMONT MCDANIEL,

Defendant and Appellant.

No. S171393

Los Angeles
Superior Ct. No.
TA074274

MOTION FOR JUDICIAL NOTICE

DEATH PENALTY

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MOTION FOR JUDICIAL NOTICE

TO THE HONORABLE TANI CANTIL-SAKAUYE, CHIEF JUSTICE, AND TO THE HONORABLE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE STATE OF CALIFORNIA:

Appellant Donte Lamont McDaniel, through his attorney, the State Public Defender, requests that this Court take judicial notice pursuant to

Evidence Code sections 452, subdivision (d), and 459, subdivision (a) of the *Batson/Wheeler*¹ proceedings in co-defendant Kai Harris's separately tried capital case. (See *People v. Kai Harris*, Los Angeles County Superior Court Case No. TA74314 at 10 CT 2743-2744, 2754-2755, and 11 RT 1959-2172.)² The prosecutor who prosecuted both appellant and Mr. Harris was Los Angeles County Deputy District Attorney Halim Dhanidina. In both appellant's case and Harris's, Mr. Dhanidina was found to have violated *Batson/Wheeler*. In Mr. Harris's case, the court declared a mistrial and a new jury was empaneled. Following the retrial, Mr. Harris received the death penalty. Mr. Harris's automatic appeal is pending before this Court in *People v. Harris*, No. S178239.

The *Batson/Wheeler* proceedings in Mr. Harris's case are relevant to the Court's consideration of appellant's Argument I ("The Prosecutor Violated *Batson* and *Wheeler* in His Peremptory Challenge of Prospective Juror No. 28") in that they support appellant's argument that Mr. Dhanidina's decision to strike an African-American prospective juror from appellant's jury was improperly influenced by race.

¹ *Batson v. Kentucky* (1986) 476 U.S. 79; *People v. Wheeler* (1978) 22 Cal.3d 258.

² "CT" refers to the Clerk's Transcript in Mr. Harris's case, and "RT" refers to the Reporter's transcript in Mr. Harris's case. Copies of the relevant CT and RT pages in Mr. Harris's case are attached to this motion as Exhibit A.

Appellant's request for judicial notice is based on the attached Memorandum of Points and Authorities and the files and records in this case.

Dated: August 6, 2015

Respectfully Submitted,

MICHAEL J. HERSEK
State Public Defender

A handwritten signature in black ink, appearing to read "P. + Uu", positioned above the typed names of the attorneys.

PETER R. SILTEN
Supervising Deputy State Public Defender
ELIAS BATCHELDER
Deputy State Public Defender

Attorneys for Appellant

MEMORANDUM OF POINTS AND AUTHORITIES

I. THE TRANSCRIPTS AND MINUTE ORDER OF CO-DEFENDANT'S TRIAL ARE PROPER SUBJECTS FOR JUDICIAL NOTICE

Evidence Code section 459, subdivision (a) provides, in relevant part, that the “reviewing court . . . may take judicial notice of any matter specified in Section 452.” Among the items set forth in Evidence Code section 452 which may be judicially noticed are: “(c) official acts of . . . judicial departments of . . . any state of the United States and (d) “records of (1) any court of this state” (Evid. Code, § 452, subds. (c) & (d)(1).) Evidence Code section 453 converts permissive judicial notice into mandatory judicial notice whenever a party seeking judicial notice has advised each adverse party of the items sought to be judicially noticed and provided them with sufficient information concerning the items sought to be judicially noticed.

Attached to this request is one volume of reporter's transcripts, and related minute orders, from the case of *People v. Kai Harris*, Los Angeles County Superior Court Case No. TA74314, an automatic appeal which is currently pending before this Court. (See attached Exh. A.)

The documents listed above are “records” of a court of the state of California, as defined by Evidence Code section 452, subdivision (d)(1). In addition, the minute orders appellant asks to be judicially noticed reflect “official acts” as defined by Evidence Code section 452, subdivision (c). A copy of this request has been served on each adverse party. Accordingly, appellant submits that the requested items may be judicially noticed by this court pursuant to section 459. (See *People v. Howard* (2010) 51 Cal.4th 15, 43, fn. 21 [granting motion for judicial notice transcripts in co-defendant's

trial].)

II. THE DOCUMENTS ARE RELEVANT TO APPELLANT'S CLAIM OF *BATSON/WHEELER* ERROR

Even if a matter is a proper subject of judicial notice, it must still be relevant. (See e.g., *People v. Payton* (1992) 3 Cal.4th 1050, 1073.) The documents at issue demonstrate that a mistrial due to a *Batson/Wheeler* violation was granted in the co-defendant's penalty phase retrial within months of the alleged *Batson/Wheeler* violation at issue in appellant's case. Because the records show that the same prosecutor violated *Batson/Wheeler* twice within the span of several months, these documents are unquestionably relevant.

Under *Batson*, pattern and practice evidence has always been admissible to assist in the showing of discrimination required to make out a claim. (See *Batson*, *supra*, 476 U.S. at p. 80 [inference of discrimination could be supported by showing that the prosecutor "in case after case . . . is responsible for the removal of Negroes who have been selected as qualified jurors"]; see also *Miller-El v. Cockrell* (2003) 537 U.S. 322, 346-347 [historical evidence of discrimination by the prosecutor's office "is relevant to the extent it casts doubt on the legitimacy of the motives underlying the State's actions in petitioner's case"].)

The evidence in Mr. Harris's case is probative even though it arose shortly after appellant's trial. (See *Williams v. Woodford* (9th Cir. 2005) 396 F.3d 1059, 1064 (Rawlinson, J., dis. from denial of reh'g. en banc) [arguing that evidence that prosecutor "continued to engage in this reprehensible and unconstitutional practice [of *Batson* violations] after Williams' trial" should have been considered in support of claimed discrimination]; see also *U.S. v. Hughes* (8th Cir. 1988) 864 F.2d 78, 79

[judicial notice taken of the frequency of the charge of systematic exclusion of black jurors in the Eastern District of Missouri in criminal cases]; *Riley v. Taylor* (3d Cir. 2001) 277 F.3d 261, 280) [office's strikes in other cases "within one year" of trial relevant to *Batson* inquiry].)

As this Court has recently recognized, the issue in *Batson/Wheeler* cases is not simply whether the trial court erred in not finding discrimination, but whether the public's "confidence in the rule of law" suffers by an unduly rigid method of review that – by ignoring highly relevant evidence – permits discrimination to occur without consequence. (See *People v. Scott* (2015) 61 Cal.4th 363, 390 [allowing for consideration of discriminatory statements made by the prosecutor even if made subsequent to the trial court's non-erroneous denial of prima facie case].) To ensure that the interests of justice are served, this Court has not hesitated to take into account evidence that was not necessarily placed before the trial court by the parties. (See *People v. Lenix* (2008) 44 Cal.4th 602, 622 [comparative analysis must be undertaken by reviewing court for the first time on appeal even if not presented to the trial court].)

Looking to the Title VII context from which the *Batson/Wheeler* doctrine derives, courts frequently take into consideration discriminatory conduct that post-dates the alleged act at issue. (See, e.g., *Ryder v. Westinghouse Elec. Corp.* (3d Cir.1997) 128 F.3d 128, 132–133 [age-discriminatory comments made by CEO and other supervisors one year after plaintiff's termination were relevant to show managerial attitudes]; *Ansell v. Green Acres Contracting Co.* (3d Cir.2003) 347 F.3d 515, 524–525 [subsequent discriminatory conduct may be relevant to finding of discrimination].)

In appellant's case the prosecutor claimed that, because the victims

and many of the prosecution witnesses were black, he could have no motivation to excuse black jurors. (5 RT 1076-1077.) Obviously, there are invidious stereotypes other than the existence of shared racial identity which may tempt prosecutors to allow race to infect their decision-making. (See, e.g., *People v. Williams* (2013) 56 Cal.4th 630, 652 [trial court espoused stereotype that “[b]lack women are very reluctant to impose the death penalty”].) If nothing else, the fact that the same prosecutor – in case involving the same crimes, with the same African American victims and witnesses – was found to have violated the tenets of *Batson/Wheeler* undermines his protestations that race could not have possibly affected his decisions. In short, the instant documents subject to the request for judicial notice are relevant to appellant’s claim. Therefore, the motion should be granted.

CONCLUSION

For each of the reasons set forth herein, this Court should grant appellant’s motion for judicial notice.

Dated: August 6, 2015

Respectfully submitted,

MICHAEL J. HERSEK
State Public Defender



PETER R. SILTEN
Supervising Deputy State Public Defender
ELIAS BATCHELDER
Deputy State Public Defender

Attorneys for Appellant

002743

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 02/23/09

CASE NO. TA074314

THE PEOPLE OF THE STATE OF CALIFORNIA
VS:
DEFENDANT 02: KAI HARRIS

INFORMATION FILED ON 08/02/04.

COUNT 01: 187(A) PC FEL - MURDER.
COUNT 02: 187(A) PC FEL - MURDER.
COUNT 03: 664-187(A) PC FEL - ATTEMPTED MURDER.
COUNT 04: 664-187(A) PC FEL - ATTEMPTED MURDER.
COUNT 05: 215(A) PC FEL - CARJACKING.

ON 02/23/09 AT 930 AM IN CENTRAL DISTRICT DEPT 108

CASE CALLED FOR JURY TRIAL IN PROGRESS

PARTIES: MICHAEL JOHNSON (JUDGE) DONNA PEALE (CLERK)
SABA MCKINLEY (REP) HALIM DHANIDINA (DA)
LORA JOHNSON (REP2)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY JOHN B SCHMOCKER BAR PANEL ATTORNEY

BAIL SET AT NO BAIL

MATTER IS CALLED FOR RE-TRIAL OF DEATH PENALTY PHASE.

VOIR DIRE COMMENCES WITH PANEL A.

OUT OF THE PRESENCE OF THE JURY:

DEFENSE WITNESSES ARTISIA PRICE, JAMEKA GLASPIE, CARL WILLIAMS JR. AND MARTELIS DAVIS ARE PLACED ON CALL TO THE DEFENSE.

IN THE PRESENCE OF THE JURY:

VOIR DIRE RESUMES.

DEFENSE REQUEST A WHEELER/BATTEN MOTION.

PAGE NO. 1

JURY TRIAL IN PROGRESS
HEARING DATE: 02/23/09

002744

CASE NO. TA074314
DEF NO. 02

DATE PRINTED 02/23/09

JUROR NUMBER P9765 IS REQUESTED TO RETURN ON WEDNESDAY AT
9:00 A.M. WITH ALL REMAINING JURORS WHO ARE ADMONISHED.

PARTIES ARGUE THE WHEELER/BATTEN MOTION. THE COURT GRANTS THE
MOTION. THE PEOPLE REQUEST THE COURT TO WITH HOLD THE RULING
UNTIL TOMORROW AT 1:30 P.M. WHEN THE PEOPLE WILL SUBMIT CASE
LAW AND FURTHER ARGUMENT.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:

02/24/09 130 PM JURY TRIAL IN PROGRESS. DIST CENTRAL DISTRICT DEPT 108

CUSTODY STATUS: DEFENDANT REMANDED

002754

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 02/25/09

CASE NO. TA074314

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 02: KAI HARRIS

INFORMATION FILED ON 08/02/04.

COUNT 01: 187(A) PC FEL - MURDER.
COUNT 02: 187(A) PC FEL - MURDER.
COUNT 03: 654-187(A) PC FEL - ATTEMPTED MURDER.
COUNT 04: 654-187(A) PC FEL - ATTEMPTED MURDER.
COUNT 05: 215(A) PC FEL - CARJACKING.

ON 02/24/09 AT 130 PM IN CENTRAL DISTRICT DEPT 108

CASE CALLED FOR JURY TRIAL IN PROGRESS

PARTIES: MICHAEL JOHNSON (JUDGE) DONNA PEALE (CLERK)
LORA JOHNSON (REP) HALIM DHANIDINA (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY JOHN B SCHMOCKER BAR PANEL
ATTORNEY

BAIL SET AT NO BAIL

-DDA HALIM DHANIDINA **DEATH PENALTY PHASE
MOTION IN LIMINE REGARDING AGGRAVATING FACTOR OF 3/22/94.

MARK THARP IS SWORN AND TESTIFIES ON BEHALF OF THE PEOPLE.

PARTIES ARGUE THE MOTION.

THE COURT RULES THE SEARCH MAY BE ADMITTED AS REFLECTED IN THE
OFFICIAL NOTES OF THE COURT REPORTER.

THE PEOPLE ARGUE FOR THE COURT NOT TO DECLARE A MISTRIAL
BASED UPON WHEELER/BATSON.
THE COURT AFTER REVIEWING THE PEOPLE'S MOTION AND HEARING FROM
DEFENSE COUNSEL DECLARES A MISTRIAL.

MISTRIAL MOTION IS GRANTED BASED ON THE WAYING OF EVIDENCE.

PAGE NO. 1

JURY TRIAL IN PROGRESS
HEARING DATE: 02/24/09

002755

CASE NO. TA074314
DEF NO. 02

DATE PRINTED 02/25/09

THE COURT DETERMINES THE DEFENSE SUSTAINED ITS BURDEN OF PROOF UNDER BATSON. THE COURT DOES NOT FIND ANY KIND OF INVIVIOUS CONDUCT OR OTHER MISCONDUCT BY THE PROSECUTION, IT'S SIMPLY A FACTOR OF WAYING THE EVIDENCE.

* PARTIES ALL AGREE THAT ALL QUESTIONNAIRES AND SIGNATURE PAGES FROM THE QUESTIONNAIRES MAY BE DESTROYED.

* PARTIES AGREE THAT TRIAL WILL START ON 8/17/09 AS 8 OF 10.

* FURTHER TRIAL READINESS IS SET FOR 6/5/09.

* JUROR INFORMATION SHEETS FROM PANEL A AND B ARE ORDERED SEALED AND PLACED IN THE COURT FILE.

* JURORS ORDERED TO RETURN ON 2/25/09 WILL BE RELEASED OFF THE RECORD WITHOUT THE DEFENDANT OR COUNSEL PRESENT.

COURT ORDERS AND FINDINGS:

-THE COURT DECLARES A MISTRIAL.

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:
06/05/09 830 AM JURY TRIAL (RE-TRIAL) DIST CENTRAL DISTRICT DEPT 108

CUSTODY STATUS: DEFENDANT REMANDED

1 CASE NUMBER: TA074314
2 CASE NAME: PEOPLE VS. KAI HARRIS
3 LOS ANGELES, CALIFORNIA MONDAY; FEBRUARY 23, 2009
4 DEPARTMENT NO. 108 HON. MICHAEL JOHNSON, JUDGE
5 REPORTER: SABA MC KINLEY, CSR NO. 9051
6 TIME: 9:55 A.M.

7

8 APPEARANCES:

9 DEFENDANT HARRIS, PRESENT WITH
10 COUNSEL, JOHN SCHMOCKER, ATTORNEY
11 AT LAW AND LYNDA VITALE, ATTORNEY
12 AT LAW; HALIM DHANIDINA, DEPUTY
13 DISTRICT ATTORNEY, REPRESENTING
14 THE PEOPLE OF THE STATE OF
15 CALIFORNIA.

16

17 (THE FOLLOWING PROCEEDINGS WERE
18 HELD IN OPEN COURT OUTSIDE THE
19 PRESENCE OF THE PROSPECTIVE
20 JURORS:)

21

22 THE COURT: PEOPLE VS. HARRIS.
23 THE DEFENDANT AND COUNSEL PRESENT.
24 MR. SCHMOCKER, YOU HAVE SOME WITNESSES?
25 MR. SCHMOCKER: YES, I DO, YOUR HONOR.

26

27 THE FIRST ONE I'D LIKE ORDERED BACK WOULD BE
28 ARTRISIA PRICE. SHE'S PRESENT HERE IN THE PINK SUIT.
THIS IS JAMEKA GLASPIE STANDING BY HER.

1 THE COURT: WHEN WOULD YOU LIKE THEM -- WOULD
2 YOU LIKE THEM ORDERED BACK OR TO BE PLACED ON CALL OR
3 WHAT'S YOUR PLEASURE?

4 MR. SCHMOCKER: I'D LIKE THEM TO BE PLACED ON
5 CALL -- ORDERED BACK ON CALL.

6 THE COURT: FOR YOUR CONVENIENCE, IT'S NOT
7 NECESSARY FOR YOU TO WAIT IN THE COURTHOUSE UNTIL YOU'RE
8 CALLED AS A WITNESS, BUT YOU WILL BE ON CALL, WHICH
9 MEANS THAT ONCE MR. SCHMOCKER OR ANOTHER MEMBER OF THE
10 DEFENSE TEAM CALLS YOU AND TELLS YOU TO COME TO THE
11 COURTHOUSE, YOU MUST AGREE TO BE HERE AT THE TIME THEY
12 TELL YOU.

13 DO YOU BOTH AGREE TO THAT?

14 MS. PRICE: YES.

15 MS. GLASPIE: YES.

16 THE COURT: THEN YOU'RE FREE TO GO SUBJECT TO
17 THAT UNDERSTANDING.

18 MR. SCHMOCKER: I ALSO HAVE A NUMBER OF OTHER
19 WITNESSES. ONE IS CARL WILLIAMS, JR.

20 MR. DAVIS: MARTELIS DAVIS.

21 MR. SCHMOCKER: IF THE REST OF THEM COULD BE
22 ORDERED BACK, YOUR HONOR.

23 THE COURT: FOR THE -- FOR THOSE OF YOU WHO ARE
24 NOT (SIC) IN THE COURTROOM, IT'S THE SAME UNDERSTANDING,
25 THAT IT'S FOR YOUR CONVENIENCE. IT'S NOT NECESSARY FOR
26 YOU TO WAIT OUT IN THE HALLWAY OR TO EVEN BE IN THE
27 COURTHOUSE UNTIL YOU'RE CALLED AS A WITNESS, BUT YOU
28 MUST AGREE THAT WHEN MR. SCHMOCKER OR ANOTHER MEMBER OF

1 THE DEFENSE TEAM CALLS YOU AND TELLS YOU TO COME BACK TO
2 THIS COURTROOM, THEN YOU'LL BE HERE AT THE TIME THEY
3 TELL YOU.

4 DO YOU EACH AGREE TO DO THAT?

5 AN UNIDENTIFIED WITNESS: YES.

6 AN UNIDENTIFIED WITNESS: YES.

7 AN UNIDENTIFIED WITNESS: YES.

8 THE COURT: THEN, YOU'RE FREE TO GO SUBJECT TO
9 THAT UNDERSTANDING.

10 MR. SCHMOCKER: THANK YOU VERY MUCH,
11 YOUR HONOR.

12 THE COURT: ARE WE READY TO ADDRESS THE
13 STIPULATIONS?

14 MR. DHANIDINA: I THINK SO.

15 MR. SCHMOCKER: WE'RE READY, YOUR HONOR.

16 THE COURT: WHO'S GOING TO STATE THEM?

17 MR. DHANIDINA: I WILL.

18 THE COURT: LET THE RECORD REFLECT THAT BOTH
19 SIDES EXCHANGED PROPOSED JURORS TO BE EXCUSED BASED UPON
20 THE WRITTEN QUESTIONNAIRES, AND HAVING REVIEWED THEIR
21 PROPOSALS, THE PARTIES ARE READY TO STIPULATE.

22 MR. DHANIDINA: THANK YOU. IS THE NUMBER OKAY
23 OR YOU WANT THE INITIAL AND THE NUMBER?

24 THE COURT: IT WOULD BE EASIER WITH INITIAL.

25 MR. DHANIDINA: OKAY. THE FOLLOWING JURORS ARE
26 JURORS THAT THE PEOPLE AND THE DEFENSE HAVE STIPULATED
27 TO EXCUSING FOR CAUSE IN THIS CASE:

28 G-4661.

1 THE COURT: LET'S GO SLOWLY HERE.
2 MR. DHANIDINA: OKAY.
3 THE COURT: GO AHEAD.
4 MR. DHANIDINA: G-3083.
5 THE COURT: NEXT.
6 MR. DHANIDINA: 0-1355.
7 THE COURT: NEXT.
8 MR. DHANIDINA: Z-1993.
9 THE COURT: NEXT.
10 MR. DHANIDINA: H-2186.
11 THE COURT: NEXT.
12 MR. DHANIDINA: S-4222.
13 THE COURT: NEXT.
14 MR. DHANIDINA: V-3237.
15 THE COURT: NEXT.
16 MR. DHANIDINA: N-1951.
17 THE COURT: NEXT.
18 MR. DHANIDINA: T-0206.
19 THE COURT: I'M SORRY. JUST A SECOND HERE.
20 MR. DHANIDINA: THAT'S ALL RIGHT.
21 THE COURT: T-0206.
22 NEXT.
23 MR. DHANIDINA: YES.
24 MR. SCHMOCKER: IT'S ON THE FRONT PAGE OF
25 THE -- FIRST PAGE, SECOND GROUP FROM THE BOTTOM. SECOND
26 ONE.
27 THE COURT: I FOUND IT. I'M READY FOR THE
28 NEXT.

1 MR. SCHMOCKER: I APOLOGIZE.
2 MR. DHANIDINA: M-6314.
3 THE COURT: YES.
4 MR. DHANIDINA: B-7054.
5 THE COURT: YES.
6 MR. DHANIDINA: G-7991.
7 THE COURT: YES.
8 MR. DHANIDINA: N-2217.
9 THE COURT: YES.
10 MR. DHANIDINA: S-6634.
11 THE COURT: YES.
12 MR. DHANIDINA: B-4817.
13 THE COURT: YES.
14 MR. DHANIDINA: P-0059.
15 THE COURT: YES.
16 MR. DHANIDINA: P-7436.
17 THE COURT: YES.
18 MR. DHANIDINA: R-0140.
19 THE COURT: YES.
20 MR. DHANIDINA: P-9597.
21 THE COURT: YES.
22 MR. DHANIDINA: B-8629.
23 THE COURT: YES.
24 MR. DHANIDINA: H-5246.
25 THE COURT: YES.
26 MR. DHANIDINA: D-3343.
27 THE COURT: YES.
28 MR. DHANIDINA: M-8295.

1 THE COURT: YES.

2 MR. DHANIDINA: AND V-3635.

3 THE COURT: BOTH SIDES AGREE TO THE EXCUSAL OF
4 THESE JURORS FOR CAUSE?

5 MR. DHANIDINA: YES.

6 MR. SCHMOCKER: YES.

7 THE COURT: THERE WAS ONE OTHER JUROR THAT I
8 HAD HAD AN ISSUE WITH, AND THAT'S S-8640, WHO WAS ON THE
9 SECOND PAGE NEAR THE BOTTOM.

10 MR. DHANIDINA: DO I NEED TO READ THAT JUROR'S
11 NAME?

12 THE COURT: SHE IS PREGNANT.

13 MR. DHANIDINA: YOU KNOW WHAT, THAT WAS A NAME
14 I INTENDED TO READ. I MAY HAVE SKIPPED OVER IT.

15 THE COURT: I DIDN'T HEAR IT.

16 THE CLERK: I DIDN'T EITHER.

17 MR. DHANIDINA: THAT'S ONE WE AGREED TO ALSO.

18 MR. SCHMOCKER: I'M LOOKING FOR THAT ONE RIGHT
19 NOW.

20 THE COURT: IT'S ON PAGE 2, THE SECOND GROUP
21 FROM THE BOTTOM.

22 MR. DHANIDINA: THAT'S RIGHT.

23 THE COURT: IN THE MIDDLE, S-8640.

24 HER --

25 MR. SCHMOCKER: YES. WE HAVE THAT SCRATCHED
26 OUT.

27 THE COURT: HER CONTENT IS NOT REMARKABLE, BUT
28 SHE'S EIGHT-AND-A-HALF WEEKS (SIC) PREGNANT AND IS DUE

1 ON MARCH 28 AND HAS GREAT CONCERNS ABOUT HER ABILITY TO
2 PARTICIPATE, AS WELL AS THE FACT THAT SHE HAS MANY
3 DOCTOR APPOINTMENTS.

4 BOTH SIDES AGREE TO S-8640?

5 MR. DHANIDINA: YES. THANK YOU.

6 MR. SCHMOCKER: YES, YOUR HONOR.

7 THE CLERK: WAS M-8404 CALLED?

8 MR. DHANIDINA: M-8404?

9 THE CLERK: YES.

10 MR. DHANIDINA: I DON'T THINK SO.

11 THE COURT: NO.

12 THE CLERK: OKAY.

13 MR. SCHMOCKER: THERE WAS ONE OTHER THAT I WAS
14 HAVING TROUBLE WITH. I THINK WE ADDRESSED IT. I THINK
15 IT WAS 6208. THIS IS THE ONE THAT HAD THE DIFFERENT
16 NUMBER.

17 MR. DHANIDINA: RIGHT.

18 MR. SCHMOCKER: I WILL SEE IF I CAN FIND IT
19 AGAIN. I DON'T KNOW WHAT THAT NUMBER WAS.

20 MR. DHANIDINA: IT WAS ONE WHO WE BELIEVE IS
21 3458.

22 MS. VITALE: RIGHT.

23 MR. DHANIDINA: BUT SHE WROTE DOWN 6208.

24 THE COURT: THERE IS A JUROR THAT I NOTICED THE
25 SAME THING FOR. SHE MARKED HER QUESTIONNAIRE AS M-6208.

26 MS. VITALE: YES.

27 THE COURT: HOWEVER, HER TRUE IDENTIFICATION
28 NUMBER IS M-3458. SHE IS ON THE FIRST PAGE, FOURTH

1 GROUP.

2 MR. SCHMOCKER: VERY GOOD.

3 THE COURT: LET ME SEE IF THERE WERE ANY
4 OTHERS.

5

6 (BRIEF PAUSE).

7

8 THE COURT: ONE THAT WAS SOMEWHAT ILLEGIBLE WAS
9 THE JUROR WHO HAD WRITTEN SHE HAS A CAST, K-6804.

10 MR. SCHMOCKER: YES.

11 THE COURT: SHE WAS ACTUALLY PRETTY LEGIBLE I
12 THOUGHT.

13 MR. DHANIDINA: I THOUGHT SO.

14 MR. SCHMOCKER: WHEN SHE HAD TROUBLE, SHE PUT
15 IT DOWN MORE THAN ONCE.

16 THE COURT: THOSE WERE THE ONLY NUMBER ERRORS
17 THAT I SAW OF THE JURORS WHO SURVIVED. THERE WERE SOME
18 THAT WE STIPULATED WERE IN ERROR. I DID CORRECT THEM ON
19 THE FACE OF THE QUESTIONNAIRE.

20 THOSE JURORS CAN BE EXCUSED IN THE HALLWAY.

21 THE RECORD SHOULD REFLECT THAT WE'RE WORKING
22 OFF OF THE RANDOM LIST, WHICH INCLUDES THE FULL NAME OF
23 THE JURORS, AS WELL AS THE IDENTIFICATION NUMBERS THAT
24 WE'RE USING FOR CONVENIENCE.

25 THE PROCEDURE THAT I'D LIKE TO FOLLOW IS THE
26 SAME AS WE DID IN THE FIRST TRIAL, AND JUST SO EVERYONE
27 MAY REMEMBER, I'LL GIVE SOME BRIEF WELCOMING REMARKS,
28 AND THEN CALL UP THE FIRST 27 JURORS INTO THE JURY SEATS

1 IN THE JURY BOX.

2 I WILL GO THROUGH SOME PRELIMINARY REMARKS. IF
3 YOU HAVE ANY, YOU CAN SUGGEST THEM, BUT I THOUGHT THE
4 ONES THAT WERE MOST PERTINENT WERE UNJOINED PERPETRATOR,
5 JUST TO SIMPLY POINT OUT THAT THE NAME DONTE MC DANIEL
6 WILL BE MENTIONED IN THE CASE. HE'S NOT HERE. THERE
7 ARE MANY REASONS THAT HE'S NOT HERE. THEY'RE ALL
8 IRRELEVANT. AND THEY'RE SIMPLY TO FOCUS ON THE ISSUES
9 PRESENTED HERE.

10 I'LL ALSO MENTION GANGS, AS NOTED IN THE
11 QUESTIONNAIRE. THERE WERE QUESTIONS ABOUT THE BOUNTY
12 HUNTER BLOODS, AS WELL AS OTHER EXPERIENCES WITH GANGS
13 THAT PEOPLE HAVE HAD. THAT THE EVENTS IN THIS CASE WERE
14 IN A GANG NEIGHBORHOOD, SO MANY OF THE PEOPLE INVOLVED
15 IN THE CASE MAY BE IDENTIFIED WITH GANGS, AS WELL AS THE
16 PEOPLE THAT THEY HEAR ABOUT DIRECTLY, SUCH AS THE
17 DEFENDANT, MR. BROOKS AND A NUMBER OF THE WITNESSES.

18 I'D LIKE TO POINT OUT THAT GANG INVOLVEMENT IS
19 NOT A FACTOR IN AGGRAVATION OR MITIGATION. IT'S SIMPLY
20 PART OF THE BACKGROUND OR BACKDROP FOR THE CASE.
21 EVIDENCE MAY BE RELEVANT TO EXPLAIN WHY PEOPLE ACTED IN
22 CERTAIN WAYS, AND WE'RE LOOKING FOR JURORS WHO CAN
23 SIMPLY CONSIDER THE EVIDENCE REGARDING GANGS FOR VALID
24 PURPOSES AND NOT JUST REACT BY SAYING THINGS LIKE, IF A
25 WITNESS IS A GANG MEMBER, MUST BE A LIAR. IF BROOKS WAS
26 A GANG MEMBER, WHO CARES IF HE WAS KILLED, OR IF THE
27 DEFENDANT'S A GANG MEMBER, HE DESERVES SOME FORM OF
28 PUNISHMENT.

1 AND THEN GO OVER AGAIN THE CRITERIA REGARDING
2 THE DEATH PENALTY, MUCH AS I DID AT THE PRELIMINARY
3 STAGE, JUST TO REFRESH THEIR MEMORY AS TO THE PROCEDURES
4 AND THINGS OF THAT NATURE.

5 MR. DHANIDINA: ALL RIGHT.

6 THE COURT: THEN I WOULD GO THROUGH THE
7 QUESTIONNAIRES WITH EACH JUROR. THERE ARE A COUPLE OF
8 AREAS THAT I FLAGGED TO CLARIFY. I WOULD ALSO ASK THE
9 JURORS IF THEY HAVE ANYTHING FURTHER TO ADD, AND THEN AT
10 THAT POINT I WOULD TURN IT OVER TO THE ATTORNEYS WITH
11 THIS GROUP OF 27. I'M LOOKING AT APPROXIMATELY 40, 45
12 MINUTES, SOMETHING ALONG THOSE LINES, PER SIDE, WITH
13 THIS GROUP. YOU NEED MORE, YOU CAN CERTAINLY TELL ME
14 THAT, BUT THAT'S SORT OF A TARGET.

15 ONCE WE'VE COMPLETED YOUR QUESTIONS, I'LL
16 RECEIVE ANY MOTIONS FOR CAUSE AFTER THE JURY HAS LEFT.
17 ONCE WE'VE RESOLVED MOTIONS FOR CAUSE, FOR THOSE JURORS
18 THAT REMAIN, WE'LL EXERCISE PEREMPTORY CHALLENGES, AND
19 ONCE WE'VE DONE THAT, WE DON'T HAVE A JURY, WE'LL CALL
20 UP MORE JURORS AND GO THROUGH THE SAME KIND OF
21 PROCEDURES.

22 DOES ANYONE HAVE ANY OBJECTION TO THAT?

23 MR. DHANIDINA: NO. THANK YOU.

24 MR. SCHMOCKER: THAT SOUNDS FINE, YOUR HONOR.

25 THE COURT: ARE THERE ANY AREAS THAT YOU WANT
26 ME TO GO INTO PRELIMINARILY, BESIDES THOSE THAT I
27 IDENTIFIED?

28 MR. DHANIDINA: I THINK THE ONLY OTHER THING

1 THAT'S WORTH BRINGING UP AT THIS POINT IS TO REMIND THE
2 JURORS OF THEIR ROLE AS PENALTY PHASE JURORS, AS OPPOSED
3 TO HAVING TO DETERMINE GUILT OR INNOCENCE.

4 THE COURT: YES.

5 MR. DHANIDINA: OKAY.

6 THE COURT: AS SOON AS WE'RE READY TO CALL THEM
7 IN, WE'LL HAVE THEM COME IN.

8

9 (BRIEF PAUSE).

10

11 THE COURT: JUST FOR YOUR INFORMATION, A JUROR
12 HAS SUBMITTED A NOTE. IT'S ON THE SECOND PAGE, FIRST
13 NAME ON THE SECOND GROUP, R-3749. YOU'RE WELCOME TO
14 LOOK AT THIS NOTE, BUT IT'S QUITE SHORT. HE BASICALLY
15 SAYS:

16

17 FIVE MONTHS AGO I WAS
18 DIAGNOSED WITH PROSTATE CANCER AND
19 UNDERWENT A RADICAL PROSTATECTOMY.
20 SINCE THEN I HAVE HAD TO USE THE
21 RESTROOM OFTEN, AND IT'S HARD FOR
22 ME TO SIT FOR LONG PERIODS OF
23 TIME.

24

25 LAST WEEK IT WAS VERY
26 DIFFICULT FOR ME TO SIT WITHOUT
27 GOING TO THE RESTROOM. I WOULD
28 LIKE TO ASK IF I CAN BE EXCUSED.

I'M PREPARED TO KEEP HIM HERE AND SEE HOW
THINGS GO.

1 IF YOU BOTH HAVE ANY DIFFERENT THOUGHTS, YOU'RE
2 WELCOME TO EXPRESS THEM.

3 MR. SCHMOCKER: MAY I JUST HAVE A MOMENT,
4 YOUR HONOR? I'M LOOKING FOR HIS NUMBER.

5 THE COURT: YES.

6 MR. SCHMOCKER: 3749.

7 THE COURT: R-3749.

8 MR. SCHMOCKER: I'D AGREE TO STIPULATE TO HIS
9 REMOVAL.

10 MR. DHANIDINA: I AGREE WITH THE COURT. MAYBE
11 WE SHOULD SEE HOW IT GOES THIS MORNING. IF IT BECOMES
12 UNBEARABLE FOR THE JUROR, WE CAN REASSESS.

13 THE COURT: ALL RIGHT. THERE'S NO STIPULATION.
14 WE'LL KEEP HIM HERE.

15 THE CLERK: READY?

16 THE COURT: YES. WE'RE READY.

17
18 (THE FOLLOWING PROCEEDINGS WERE
19 HELD IN OPEN COURT IN THE PRESENCE
20 OF THE PROSPECTIVE JURORS:)

21
22 THE COURT: GOOD MORNING, EVERYONE.
23 WELCOME BACK TO DEPARTMENT 108.
24 YOU MAY REMEMBER. I'M JUDGE MICHAEL JOHNSON.
25 THIS IS THE CASE OF PEOPLE OF THE STATE OF
26 CALIFORNIA VERSUS KAI HARRIS.
27 THE DISTRICT ATTORNEY IS HALIM DHANIDINA.
28 THE DEFENSE ATTORNEYS ARE JOHN SCHMOCKER AND

1 LYNDA VITALE. AND MR. HARRIS IS SEATED AT THE TABLE AS
2 WELL.

3 FIRST OF ALL, I WANT TO THANK YOU ALL FOR
4 FILLING OUT YOUR QUESTIONNAIRES. YOU, AS WELL AS SOME
5 OF THE JURORS WHO HAVE BEEN EXCUSED, WE APPRECIATE IT.
6 YOU WERE VERY COMPLETE. THAT HELPS US A GREAT DEAL.

7 WHAT WE'RE GOING TO DO TODAY IS ASK SOME
8 FOLLOW-UP QUESTIONS. WE'RE GOING TO CALL JURORS UP INTO
9 THE JURY BOX AND BEGIN THE PROCESS WHICH WILL BE THE
10 SECOND PHASE OF JURY SELECTION.

11 WE WILL CALL YOU UP AT RANDOM. THERE ARE
12 NUMBERS ON EACH SEAT, SO WE'LL ASSIGN YOU TO A
13 PARTICULAR SEAT.

14 SEAT NUMBER 1 IS IN THE TOP ROW ALL THE WAY TO
15 MY LEFT. SEAT NUMBER 2 IS NEXT TO THAT AND SO FORTH. A
16 TOTAL OF 27 JURORS WILL BE CALLED UP TO THESE SEATS.

17 THEN I WILL ASK YOU SOME FOLLOW-UP QUESTIONS
18 REGARDING YOUR QUESTIONNAIRES, SOME THINGS THAT OCCURRED
19 TO ME AS I WENT THROUGH THEM.

20 YOU'RE ALSO WELCOME TO ADD ANY ADDITIONAL
21 COMMENTS. IN OTHER WORDS, IF YOU'VE THOUGHT ABOUT
22 THINGS A LITTLE BIT AND MAYBE YOU'VE NOW HAD SOME FIRMER
23 IDEAS ABOUT SOME OF THE ISSUES, OR IF YOU FORGOT TO ADD
24 SOMETHING TO THE QUESTIONNAIRE THAT YOU THOUGHT ABOUT AS
25 YOU DROVE HOME OR THAT SORT OF THING, YOU'RE WELCOME TO
26 ADD THOSE.

27 ONCE I'VE DONE THAT, THEN THE ATTORNEYS WILL
28 HAVE THE OPPORTUNITY TO ASK FOLLOW-UP QUESTIONS, AND

1 THEY TOO WILL ASK VARIOUS JURORS SOME FOLLOW-UP
2 QUESTIONS OR ASK ABOUT OTHER THINGS CONCERNING THE CASE.

3 PLEASE KEEP IN MIND THAT YOU ARE ALL UNDER
4 OATH. YOU'RE UNDER THE SAME OATH THAT YOU TOOK THE
5 FIRST DAY THAT YOU WERE HERE. YOU SHOULD MAKE SURE THAT
6 ALL OF YOUR ANSWERS ARE TRUTHFUL AND COMPLETE.

7 IF THERE'S SOMETHING THAT YOU WOULD FIND
8 EMBARRASSING OR DIFFICULT TO TALK ABOUT IN FRONT OF
9 EVERYONE, IF THERE'S SOMETHING PERSONAL THAT YOU JUST
10 DON'T WANT TO TALK ABOUT IN FRONT OF EVERYONE, PLEASE
11 DON'T AVOID THE QUESTION, BUT JUST LET ME KNOW THAT YOU
12 WOULD PREFER TO TALK ABOUT IT MORE PRIVATELY. THEN I'LL
13 CALL JURORS OVER TO THE SIDE AND WE CAN TALK WITH THE
14 LAWYERS ONLY ABOUT THOSE ISSUES THAT YOU REGARD AS
15 SENSITIVE OR EMBARRASSING TO TALK ABOUT IN FRONT OF
16 EVERYONE.

17 THAT ALL BEING SAID, WE WILL CALL YOU UP TO THE
18 SEATS.

19 WE WILL USE THE FIRST LETTER OF YOUR LAST NAME,
20 THE LAST FOUR NUMBERS OF YOUR JUROR BADGE.

21 PLEASE COME UP TO THE SEATS AS INDICATED.

22 THE CLERK: D-3563, YOU'LL BE SEAT NUMBER 1.

23 IT'S IN THE TOP ROW.

24 S-3050, SEAT 2.

25 G-4450, SEAT 3.

26 G-4450.

27 (NO AUDIBLE RESPONSE).

28 THE COURT: G-4450. [NAME REDACTED].

1 JUROR [NAME REDACTED]. [NAME REDACTED].
2 THE CLERK: I WILL CHECK IN THE JURY ROOM AND
3 SEE IF HE LEFT.
4 THE COURT: [NAME REDACTED].
5 NOT HERE?
6 (NO AUDIBLE RESPONSE).
7 THE COURT: DO THE PARTIES AGREE THAT THIS
8 JUROR CAN GO TO THE END OF THE LIST, AND WE'LL CHECK ON
9 HIS LOCATION?
10 MR. DHANIDINA: THAT'S FINE.
11 MR. SCHMOCKER: THAT'S AGREEABLE, YOUR HONOR.
12 THE COURT: B-7993, YOU'LL BE SEAT NUMBER 3.
13 R-5857, SEAT 4.
14 T-5208, SEAT 5.
15 P-9765, SEAT 6.
16 H-4884, SEAT 7.
17 V-4528, SEAT 8.
18 J-0750, YOU'LL BE SEAT NUMBER 9.
19 THE CLERK: R-6693, SEAT 10.
20 MR. SCHMOCKER: I'M SORRY. WHAT NUMBER WAS
21 THAT?
22 THE CLERK: R-6693.
23 M-3458. SEAT 11.
24 M-3458.
25 (NO AUDIBLE RESPONSE).
26 THE COURT: M-3458. [NAME REDACTED].
27 MR. DHANIDINA: WANT TO TRY 6208?
28 THE WITNESS: OH, I'M SORRY.

1 THE COURT: I THINK YOU PUT DOWN 6208 ON YOUR
2 QUESTIONNAIRE. IT'S M-3458.

3 PROSPECTIVE JUROR NO. M-3458: WHAT NUMBER?

4 THE COURT: SEAT 11.

5 THE CLERK: B-9815, SEAT 12.

6 D-5849, SEAT 13.

7 J-2466, SEAT 14.

8 M-7169, SEAT 15.

9 K-6084, SEAT 16.

10 J-9579, SEAT 17.

11 J-6556, SEAT 18.

12 B-7054, SEAT 19.

13 THE COURT: WAIT A MINUTE.

14 THE CLERK: I'M SORRY.

15 THE COURT: THAT JUROR'S EXCUSED.

16 THE CLERK: R-8493, SEAT 19.

17 A-1180, SEAT 20.

18 R-34 -- I'M SORRY. 3749, SEAT 21.

19 A-0298, SEAT 22.

20 G-6179, SEAT 23.

21 C-6782, SEAT 24.

22 R-9855, SEAT 25.

23 V-4099, SEAT 26.

24 G-6745, SEAT 27.

25 THE COURT: EVERYONE IS SEATED.

26 WELCOME.

27 LET ME GO OVER, FIRST OF ALL, SOME BROAD ISSUES
28 THAT WERE RAISED IN A COUPLE -- OR MORE THAN A COUPLE --

1 A NUMBER OF QUESTIONNAIRES, AND JUST TO REITERATE A FEW
2 THINGS.

3 FIRST OF ALL, THE QUESTIONNAIRE MENTIONED A
4 PERSON WHO IS NOT HERE, THAT IS DONTE MC DANIEL, AS
5 BEING INVOLVED IN CONDUCT THAT IS INVOLVED IN THIS CASE.

6 ALTHOUGH YOU'LL HEAR ABOUT HIM IN THE EVIDENCE,
7 HE'S NOT A PARTY, AND HE'S NOT -- OBVIOUSLY NOT IN THE
8 COURTROOM. THERE ARE MANY REASONS WHY A PERSON WHO IS
9 ALLEGED TO HAVE BEEN INVOLVED IN CONDUCT THAT IS THE
10 SUBJECT OF A CRIMINAL CASE MAY NOT BE INVOLVED IN THE
11 TRIAL OF THE CASE. NONE OF THOSE REASONS ARE RELEVANT,
12 AND WE'RE NOT GOING TO EXPLAIN ANY OF THEM BECAUSE IT
13 JUST DOESN'T MATTER.

14 WE WANT YOU TO BE AWARE THAT YOUR JOB IS SIMPLY
15 TO FOCUS ON THE ISSUES THAT RELATE TO THE DEFENDANT WHO
16 IS HERE, KAI HARRIS. YOU OF COURSE WILL HEAR AND
17 CONSIDER EVIDENCE REGARDING DONTE MC DANIEL, BUT HE'S
18 NOT GOING TO BE INVOLVED IN THIS CASE, AND YOU SHOULD
19 NOT BE CONCERNED ABOUT THAT.

20 ANOTHER BROAD ISSUE THAT CAME UP CONCERNS
21 GANGS. AS WE TOLD YOU, WE EXPECT THAT THERE WILL BE
22 GANG EVIDENCE CONCERNING THE GROUP CALLED THE BOUNTY
23 HUNTER BLOODS IN NICKERSON GARDENS HOUSING AREA.

24 I EXPECT, ACTUALLY, THAT THERE WILL BE
25 ARGUMENTS AND CONTENTIONS THAT MANY OF THE PEOPLE
26 INVOLVED IN THIS CASE ARE INVOLVED IN THAT GANG.
27 OBVIOUSLY THE PEOPLE CONTEND THAT THE DEFENDANT,
28 KAI HARRIS, WAS INVOLVED IN THE GANG. THEY WILL CONTEND

1 THAT DONTE MC DANIEL WAS INVOLVED IN THE GANG. I THINK
2 THERE WILL ALSO BE EVIDENCE THAT GEORGE BROOKS, ONE OF
3 THE PEOPLE KILLED, WAS INVOLVED IN THE GANG. AND THERE
4 MAY BE OTHER PEOPLE WHO COME IN AND TESTIFY OR WHOSE
5 NAMES MAY BE MENTIONED IN THE CASE AS ALSO BEING
6 INVOLVED IN THE GANG.

7 THE SIMPLE FACT IS THAT THE EVENTS IN THIS CASE
8 OCCURRED IN A NEIGHBORHOOD WHERE MANY PEOPLE ARE IN SOME
9 WAY INVOLVED WITH OR WHO ASSOCIATE WITH THIS PARTICULAR
10 GANG OR OTHERS, AND THAT'S JUST PART OF THE BACKDROP OR
11 FACTS OR BACKGROUND OF THIS CASE.

12 KEEP IN MIND, GANG INVOLVEMENT IS NOT A FACTOR
13 IN AGGRAVATION OR MITIGATION AS IT CONCERNS THE ISSUES
14 TO BE PRESENTED TO THE JURY. IT'S SIMPLY PART OF THE
15 BACKDROP AND BACKGROUND OF THIS CASE.

16 EVIDENCE OF GANG MEMBERSHIP MAY BE RELEVANT IN
17 VARIOUS WAYS. IT MAY BE HELPFUL TO UNDERSTAND WHY
18 CERTAIN CONDUCT OCCURRED. IT MAY BE HELPFUL TO
19 UNDERSTAND WHY CERTAIN WITNESSES TESTIFY IN THE WAY THAT
20 THEY DO, BUT AGAIN, IT'S NOT A FACTOR IN AGGRAVATION OR
21 MITIGATION. IT'S JUST PART OF THE OVERALL BACKGROUND OF
22 THE CASE.

23 WHAT WE'RE LOOKING FOR ARE JURORS WHO CAN
24 CAREFULLY CONSIDER THE EVIDENCE FOR THESE VALID PURPOSES
25 AND NOT JURORS WHO JUST REACT AND WHO SAY, WELL, IF YOU
26 TELL ME THAT A CERTAIN PERSON WAS INVOLVED IN A GANG,
27 I'M GOING TO REACT IN A CERTAIN WAY. IF THE DEFENDANT
28 WAS INVOLVED IN A GANG, THAT'S JUST GOING TO LEAD ME TO

1 A CERTAIN CONCLUSION ABOUT PUNISHMENT. IF A WITNESS
2 SAYS THAT HE OR SHE IS INVOLVED IN A GANG, I'M NOT GOING
3 TO BELIEVE ANYTHING THAT THAT PERSON HAS TO SAY. OR IF
4 YOU HEAR THAT MR. BROOKS, ONE OF THE PEOPLE KILLED, WAS
5 INVOLVED IN A GANG, WE DON'T WANT JURORS WHO SAY, WELL,
6 THEN, YOU KNOW, HE DESERVED WHAT HE GOT, OR ANYTHING
7 LIKE THAT.

8 WHAT WE WANT ARE JURORS WHO APPRECIATE THAT THE
9 GANG ISSUES ARE PART OF THE CASE AND WHO LOOK AT THEM IN
10 THE APPROPRIATE WAY TO EXPLAIN CONDUCT OR TO EXPLAIN
11 WITNESSES.

12 THE LAST BIG ISSUE I WANT TO GO OVER WITH YOU
13 AGAIN IS THE PENALTY PROCEDURE AND THE ISSUES RELATED TO
14 THAT. WE TALKED ABOUT THAT A GOOD DEAL LAST WEEK WHEN
15 YOU WERE HERE. THERE WERE SOME THINGS MENTIONED IN THE
16 QUESTIONNAIRE, BUT I JUST WANT TO REFRESH YOUR MEMORIES
17 AND SUMMARIZE SOME OF THE PROCEDURES AND THE ISSUES.

18 KEEP IN MIND THAT I AM GOING TO GIVE YOU
19 DETAILED INSTRUCTIONS AT A LATER POINT IN TRIAL, AND
20 THOSE WILL GOVERN YOUR DECISION MAKING. WHAT I WANT TO
21 SAY NOW, AGAIN, IS TO HELP PUT THINGS IN CONTEXT SO THAT
22 WHEN WE ASK YOU QUESTIONS ABOUT WHAT YOU SAID IN YOUR
23 QUESTIONNAIRE, OR THE OTHER ISSUES, YOU'LL HAVE IN MIND
24 THE PROCEDURES.

25 FIRST OF ALL, THIS IS ONLY A PENALTY TRIAL.
26 THERE ARE NO ISSUES OF GUILT. THOSE HAVE BEEN
27 DETERMINED EARLIER. THE ONLY ISSUE TO BE DETERMINED BY
28 THE JURY IS THE APPROPRIATE PENALTY.

1 DURING THE TRIAL, THE PROSECUTION PUTS ON
2 EVIDENCE OF WHAT WE CALL AGGRAVATING FACTORS. THOSE ARE
3 BASICALLY BAD THINGS OR NEGATIVE THINGS ABOUT THE
4 CIRCUMSTANCES OF THIS CASE OR THE DEFENDANT AND HIS
5 BACKGROUND. THOSE ARE THINGS THAT THE PROSECUTION
6 CONTENDS SHOULD PUSH THE JURY IN THE DIRECTION OF A
7 DETERMINATION OF NEGATIVE THINGS ABOUT THE DEFENDANT.

8 THE DEFENSE CAN PUT ON EVIDENCE OF WHAT WE CALL
9 MITIGATING FACTORS. THOSE ARE ESSENTIALLY GOOD THINGS
10 OR POSITIVE THINGS ABOUT THE DEFENDANT AND HIS PAST, OR
11 OTHER FACTORS WHICH THEY CONTEND SHOULD LEAD TOWARD A
12 PENALTY DETERMINATION MORE FAVORABLE TO THE DEFENDANT.

13 IT'S THE JOB OF THE JURY TO CONSIDER ALL OF
14 THESE PIECES OF EVIDENCE THAT ARE INTRODUCED, ALL OF THE
15 FACTORS, AGGRAVATING AND MITIGATING, AND TO WEIGH THEM,
16 TO CONSIDER ALL OF THESE CIRCUMSTANCES IN REACHING THE
17 APPROPRIATE PENALTY.

18 ALTHOUGH WE USE THE TERM "WEIGHING," YOU SHOULD
19 KEEP IN MIND THAT THE PROCESS IS ACTUALLY SOMEWHAT
20 DIFFICULT TO DESCRIBE. IT'S NOT JUST TALLYING UP. IT'S
21 NOT PUTTING TOGETHER A LIST AND SAYING, WELL, HERE ARE
22 THE AGGRAVATING FACTORS, HERE ARE THE MITIGATING
23 FACTORS, AND THEN PUTTING TOGETHER THE NUMBERS AND
24 PICKING THE ONE WHICH HAS THE MOST NUMBERS. THAT'S NOT
25 IT AT ALL.

26 IT IS A MATTER IN WHICH JURORS ARE FREE TO
27 ASSIGN THEIR OWN VALUE TO EACH FACTOR BASED ON WHAT YOU
28 THINK IS IMPORTANT. YOU CAN INCLUDE MORAL AND

1 SYMPATHETIC VALUE. WE'RE GOING TO GIVE INSTRUCTIONS
2 THAT WILL DESIGNATE CERTAIN THINGS AS AGGRAVATING OR
3 MITIGATING, BUT YOU SHOULD LOOK AT THEM IN YOUR OWN WAY,
4 IN YOUR OWN PERSONAL PERSPECTIVE. THAT'S WHAT THE
5 INSTRUCTIONS WILL TELL YOU.

6 THE INSTRUCTIONS WILL SAY THAT IF AT THE END OF
7 THIS WEIGHING PROCESS, WHERE YOU LOOK AT ALL OF THE
8 EVIDENCE AND ASSIGN VALUES TO IT, IF THE MITIGATING
9 EVIDENCE OUTWEIGHS THE AGGRAVATING EVIDENCE, THEN THE
10 JURORS ARE TOLD THAT THEY MUST VOTE FOR THE PENALTY OF
11 LIFE IN PRISON WITHOUT PAROLE.

12 I SAY "MUST" BECAUSE THE JURORS HAVE NO CHOICE.
13 IF THE FACTORS IN MITIGATION OUTWEIGH THE FACTORS IN
14 AGGRAVATION, THEN THE PENALTY MUST BE LIFE IN PRISON
15 WITHOUT THE POSSIBILITY OF PAROLE.

16 ONLY IF THE AGGRAVATING EVIDENCE SUBSTANTIALLY
17 OUTWEIGHS THE MITIGATING EVIDENCE MAY THE JURORS VOTE
18 FOR DEATH. I SAY "MAY" BECAUSE EVEN IN THAT
19 CIRCUMSTANCE, THE JURORS HAVE A CHOICE. EVEN IF THEY
20 DETERMINE THAT THE AGGRAVATING EVIDENCE SUBSTANTIALLY
21 OUTWEIGHS THE MITIGATING EVIDENCE, THE JURORS, BASED
22 UPON ALL THEIR EVALUATION OF THE CIRCUMSTANCES OF THE
23 CASE, CAN, IF THEY CHOSE TO DO SO, SHOW MERCY AND VOTE
24 FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE AS A PENALTY.

25 WHAT WE'RE LOOKING FOR, AS WE TOLD YOU LAST
26 WEEK AND REITERATED IN THE QUESTIONNAIRE, ARE JURORS WHO
27 HAVE THE ABILITY TO FAIRLY JUDGE THE EVIDENCE AND WHO
28 WILL FOLLOW THE LAW, NOT THEIR OWN PREFERENCE, BUT

1 FOLLOW THE LAW, THE INSTRUCTIONS AND THE FRAMEWORK THAT
2 I WILL TELL YOU AND WILL DETERMINE THE APPROPRIATE
3 PENALTY.

4 NOW, I KNOW THAT IN FILLING OUT THESE
5 QUESTIONNAIRES AND RESPONDING TO QUESTIONS IN COURT,
6 IT'S SOMETIMES DIFFICULT BECAUSE WE ARE TALKING ABOUT
7 ABSTRACT PRINCIPLES. WE OBVIOUSLY CAN'T FILL YOU IN ON
8 ALL THE EVIDENCE. THAT'S WHAT THE TRIAL IS ALL ABOUT.
9 WE'RE NOT ASKING ANY OF YOU TO PREDICT A RESULT. WE'RE
10 NOT ASKING ANY OF YOU TO PREDICT, YES, FROM WHAT YOU'VE
11 TOLD ME, I'M GOING TO VOTE THIS WAY OR I'M GOING TO VOTE
12 THAT WAY. THAT'S NOT WHAT WE'RE ASKING ABOUT HERE.

13 WHAT WE ARE ASKING IS WHETHER YOU CAN ENGAGE IN
14 THE PROCESS IN A FAIR AND OPEN-MINDED WAY. IN OTHER
15 WORDS, WHETHER, BASED ON ALL THE THINGS THAT WE TELL
16 YOU, YOU CAN SAY, YES, I'M UP FOR THIS JOB. I CAN
17 FAIRLY JUDGE THESE FACTORS. I CAN WEIGH THE AGGRAVATING
18 AND THE MITIGATING THINGS IN THE WAY THAT YOU'VE TOLD
19 ME, AND I CAN FOLLOW THE LAW, AND I CAN CONSIDER A
20 DECISION BETWEEN LIFE WITHOUT THE POSSIBILITY OF PAROLE
21 AND THE DEATH PENALTY. I CAN DO THAT. I HAVE AN OPEN
22 MIND, AND I CAN LOOK AT THOSE FACTORS AND WEIGH THEM IN
23 THE WAY THAT YOU DESCRIBED.

24 AGAIN, I KNOW IT'S HARD BECAUSE IT'S SOMEWHAT
25 ABSTRACT. WHAT WE'RE ASKING, BASICALLY, IS WHETHER YOU
26 THINK FROM WHAT WE TELL YOU, YOU CAN APPROACH THIS WITH
27 AN OPEN MIND. IF YOU CAN'T, NO ONE'S GOING TO CRITICIZE
28 YOU. IF YOU SAY, YOU KNOW, I'VE THOUGHT ABOUT THIS AND

1 I REALLY DO BELIEVE THAT I CAN'T APPROACH THIS WITH AN
2 OPEN MIND. I FEEL SO STRONGLY ABOUT THIS ISSUE OR I
3 FEEL SO STRONGLY ABOUT THAT ISSUE THAT I CANNOT GIVE YOU
4 MY ASSURANCE THAT I'LL APPROACH THIS IN AN OPEN-MINDED
5 WAY, THEN TELL US. NO ONE'S GOING TO CRITICIZE YOU.

6 IF YOU'RE UP FOR THE TASK AND YOU CAN TELL US,
7 YES, I KNOW I CAN DO THIS IN AN OBJECTIVE, OPEN-MINDED
8 WAY, THEN THAT'S WHAT WE'RE INTERESTED IN.

9 I'VE SAID ENOUGH.

10 LET ME GO THROUGH THE QUESTIONNAIRE.

11 FIRST, I'LL START WITH THE JUROR IN SEAT 1.

12 HOW ARE YOU TODAY?

13 PROSPECTIVE JUROR NO. D-3563: GOOD. HOW ARE
14 YOU?

15 THE COURT: FINE, THANK YOU.

16 I REVIEWED YOUR QUESTIONNAIRE. DID YOU HAVE
17 ANYTHING TO ADD, ANY CHANGES OR ANY THOUGHTS THAT YOU
18 DID NOT PUT IN YOUR ANSWERS TO THE QUESTIONNAIRE?
19 ANYTHING NEW?

20 PROSPECTIVE JUROR NO. D-3563: AS OF NOW IT
21 STAYS THE SAME.

22 THE COURT: OKAY. THANK YOU.

23 JUROR NUMBER 2, GOOD MORNING.

24 PROSPECTIVE JUROR NO. S-3050: GOOD MORNING.

25 THE COURT: DID YOU HAVE ANY CHANGES OR
26 ADDITIONS?

27 PROSPECTIVE JUROR NO. S-3050: NO, I DID NOT.

28 THE COURT: YOU HAD SAID, IN RESPONSE TO SOME

1 OF THE QUESTIONS ABOUT ANY RELIGIOUS BELIEFS OR PERSONAL
2 BELIEFS THAT COULD MAKE IT HARD FOR YOU TO JUDGE THE
3 CASE, THAT IT WAS A LITTLE HARD FOR YOU TO DECIDE AND
4 WRITE IT DOWN IN YOUR QUESTIONNAIRE.

5 HAVE YOU ANY FURTHER THOUGHTS ABOUT THAT?

6 PROSPECTIVE JUROR NO. S-3050: THE THOUGHTS
7 THAT I HAVE, I GUESS, ARE WITHIN ME. IT'S HARD TO PUT
8 THEM ON PAPER, BUT I BELIEVE I CAN BE FAIR.

9 THE COURT: IN OTHER WORDS, WHAT WE'RE SAYING
10 IS IT'S FINE TO HAVE -- EVERYONE HAS THEIR OWN PERSONAL,
11 RELIGIOUS AND PHILOSOPHICAL BELIEFS. NO ONE'S ASKING
12 YOU OR ANYONE ELSE TO CHANGE THAT, BUT WHAT YOU HAVE TO
13 DO IS FOLLOW THE LAW.

14 PROSPECTIVE JUROR NO. S-3050: YES. AND I
15 UNDERSTAND THAT.

16 THE COURT: CAN YOU DO THAT?

17 PROSPECTIVE JUROR NO. S-3050: YES, I CAN.

18 THE COURT: THANK YOU.

19 JUROR NUMBER 3. GOOD MORNING.

20 PROSPECTIVE JUROR NO. B-7993: GOOD MORNING.

21 THE COURT: DID YOU HAVE ANY CHANGES OR
22 ADDITIONS TO YOUR QUESTIONNAIRE?

23 PROSPECTIVE JUROR NO. B-7993: NO.

24 THE COURT: I HAD A COUPLE OF AREAS.

25 YOU SAID THAT YOU HAD PERSONALLY TAKEN SOME
26 CLASSES IN THE LAW ENFORCEMENT AREA, FORENSIC SCIENCE
27 ACADEMY?

28 PROSPECTIVE JUROR NO. B-7993: CORRECT.

1 THE COURT: DO YOU HAVE ANY PLANS TO PURSUE A
2 CAREER IN LAW ENFORCEMENT?

3 PROSPECTIVE JUROR NO. B-7993: NO, NOT AT THIS
4 TIME. I TOOK IT BECAUSE I WAS ALWAYS INTERESTED IN IT.

5 THE COURT: INTERESTED IN IT?

6 PROSPECTIVE JUROR NO. B-7993: CORRECT.

7 THE COURT: SO THERE WASN'T ANYTHING --

8 WAS THERE ANYTHING ABOUT IT THAT LED YOU NOT TO
9 PURSUE A CAREER IN LAW ENFORCEMENT?

10 PROSPECTIVE JUROR NO. B-7993: NO.

11 THE COURT: YOU JUST DECIDED ON ANOTHER AVENUE?

12 PROSPECTIVE JUROR NO. B-7993: YEAH. I'M FINE

13 WHERE I'M AT. IT WAS JUST SOMETHING I WANTED TO DO.

14 THE COURT: ALL RIGHT. YOU DID SAY THAT IN
15 REGARD TO PEOPLE CLOSE TO YOU WHO ARE VICTIM'S OF CRIME,
16 THAT YOUR BEST FRIEND'S SON WAS SHOT?

17 PROSPECTIVE JUROR NO. B-7993: CORRECT.

18 THE COURT: AND WAS KILLED?

19 PROSPECTIVE JUROR NO. B-7993: CORRECT.

20 THE COURT: ABOUT HOW LONG AGO WAS THAT?

21 PROSPECTIVE JUROR NO. B-7993: 2002.

22 THE COURT: IS THIS -- THE YOUNG MAN SOMEONE
23 THAT YOU HAD HAD CONTACT WITH YOURSELF?

24 PROSPECTIVE JUROR NO. B-7993: YES.

25 THE COURT: IS THERE ANYTHING ABOUT THAT
26 EXPERIENCE THAT WOULD AFFECT YOUR VIEWS AS A JUROR IF
27 YOU WERE SELECTED IN THIS CASE?

28 PROSPECTIVE JUROR NO. B-7993: NO.

1 THE COURT: YOU UNDERSTAND IT'S YOUR OBLIGATION
2 TO PUT IT ASIDE AND NOT LET IT AFFECT THE WAY YOU
3 EXAMINE THE EVIDENCE HERE AS TO ONE SIDE OR THE OTHER?

4 PROSPECTIVE JUROR NO. B-7993: CORRECT.

5 THE COURT: JUST EXAMINE THE EVIDENCE THAT'S
6 PRESENTED TO YOU. CAN YOU DO THAT?

7 PROSPECTIVE JUROR NO. B-7993: YES.

8 THE COURT: THANK YOU.

9 JUROR NUMBER 4, GOOD MORNING.

10 PROSPECTIVE JUROR NO. R-5857: GOOD MORNING,
11 YOUR HONOR.

12 THE COURT: DID YOU HAVE ANY CHANGES OR
13 ADDITIONS?

14 PROSPECTIVE JUROR NO. R-5857: NOT AT THIS
15 TIME, YOUR HONOR.

16 THE COURT: WHAT ARE YOUR VIEWS ABOUT THE
17 PENALTY DETERMINATION IN THIS CASE?

18 PROSPECTIVE JUROR NO. R-5857: I'LL BE FAIR,
19 LIKE YOU SAY. I'LL JUST STATE IT BY THE FACTS OF THE
20 LAW AND --

21 THE COURT: DO YOU HAVE ANY OPINIONS ABOUT THE
22 DEATH PENALTY WITHOUT REGARD TO THE TRIAL? IF YOU WERE
23 HAVING A CUP OF COFFEE WITH YOUR FRIENDS AND SOMEBODY
24 RAISED THE ISSUE OF THE DEATH PENALTY, WOULD YOU HAVE
25 ANY OPINIONS ON THAT?

26 PROSPECTIVE JUROR NO. R-5857: WELL, I WOULD
27 HAVE TO SEE THE FACTS FIRST. NOT REALLY, YOUR HONOR.

28 THE COURT: I'M TALKING JUST IN VERY GENERAL

1 TERMS, NOT ABOUT THE TRIAL, BUT IN TERMS OF WHAT'S GOOD
2 FOR THE STATE OR GOOD FOR SOCIETY. WOULD YOU HAVE ANY
3 VIEWS ONE WAY OR THE OTHER ABOUT THE DEATH PENALTY?
4 SOME PEOPLE DON'T. AND I'M NOT SUGGESTING THAT YOU'RE
5 DIFFERENT. A LOT OF PEOPLE DO. AND THAT'S WHAT I'M
6 JUST TRYING TO UNDERSTAND A LITTLE.

7 PROSPECTIVE JUROR NO. R-5857: NO, I DON'T.

8 THE COURT: OKAY. THANK YOU.

9 JUROR NUMBER 5, GOOD MORNING.

10 PROSPECTIVE JUROR NO. T-5208: GOOD MORNING,
11 SIR.

12 THE COURT: DID YOU HAVE ANY CHANGES OR
13 ADDITIONS TO YOUR QUESTIONNAIRE?

14 PROSPECTIVE JUROR NO. T-5208: NO, NOT AT THIS
15 TIME.

16 THE COURT: YOU ALSO SAID THAT SOME PEOPLE
17 CLOSE TO YOU HAVE BEEN THE VICTIM OF HOMICIDE, A COUSIN
18 AND --

19 PROSPECTIVE JUROR NO. T-5208: A CLOSE FRIEND
20 OF THE FAMILY.

21 THE COURT: AND THEN A DAUGHTER'S EX-BOYFRIEND?

22 PROSPECTIVE JUROR NO. T-5208: YES, SIR.

23 THE COURT: ABOUT HOW LONG AGO DID THOSE
24 HAPPEN?

25 PROSPECTIVE JUROR NO. T-5208: THAT WAS LAST
26 YEAR.

27 THE COURT: WHICH ONE?

28 PROSPECTIVE JUROR NO. T-5208: PARDON?

1 THE COURT: WHICH ONE WAS THAT? THE FRIEND OR
2 COUSIN?

3 PROSPECTIVE JUROR NO. T-5208: NO, A FRIEND.

4 THE COURT: A COUSIN?

5 PROSPECTIVE JUROR NO. T-5208: NO FRIEND.

6 THE COURT: AM I WRONG? DID I MISREAD THAT YOU
7 HAD A COUSIN --

8 PROSPECTIVE JUROR NO. T-5208: NO. I THINK I
9 PUT COUSIN FOR ANOTHER PART. I MAY HAVE DONE THAT BY
10 MISTAKE. I HAD A FRIEND OF THE FAMILY.

11 THE COURT: I'M SORRY. YOU HAD A COUSIN WHO
12 WAS ACCUSED?

13 PROSPECTIVE JUROR NO. T-5208: YES.

14 THE COURT: ABOUT HOW LONG AGO WAS THAT?

15 PROSPECTIVE JUROR NO. T-5208: I'D SAY A GOOD
16 TEN YEARS.

17 THE COURT: IS THERE ANYTHING ABOUT EITHER OF
18 THOSE CIRCUMSTANCES THAT WOULD AFFECT YOUR VIEWS AS A
19 JUROR?

20 PROSPECTIVE JUROR NO. T-5208: NO, SIR.

21 THE COURT: THE SITUATION INVOLVING YOUR
22 DAUGHTER'S EX-BOYFRIEND, IS THAT --

23 DID YOU KNOW HIM?

24 PROSPECTIVE JUROR NO. T-5208: YES.

25 THE COURT: SO WERE YOU CLOSE TO HIM?

26 PROSPECTIVE JUROR NO. T-5208: NOT REALLY. I
27 MEAN, I KNEW OF HIM. HE HAD COME TO OUR HOUSE. HE
28 BECAME -- BEFRIENDED THE FAMILY, BUT IT WASN'T SOMETHING

1 THAT WE WERE, YOU KNOW, REAL CLOSE.

2 THE COURT: CAN YOU GIVE ME SOME IDEA OF THE
3 CIRCUMSTANCES OF WHAT HAPPENED TO HIM? IN OTHER WORDS,
4 WAS IT A RANDOM STREET CRIME?

5 PROSPECTIVE JUROR NO. T-5208: YES, SIR.

6 THE COURT: WAS IT SOMEONE THAT HE KNEW?

7 PROSPECTIVE JUROR NO. T-5208: NO. IT WAS A
8 RANDOM STREET CRIME.

9 THE COURT: ANY KIND OF GANG OVERTONES?

10 PROSPECTIVE JUROR NO. T-5208: I BELIEVE SO.
11 IT'S STILL IN THE PROCESS OF BEING INVESTIGATED.

12 THE COURT: YOU THINK YOU CAN PUT THAT ASIDE
13 AND JUDGE THIS CASE FROM THE EVIDENCE PRESENTED?

14 PROSPECTIVE JUROR NO. T-5208: YES, SIR. I
15 CAN.

16 THE COURT: THANK YOU.

17 PROSPECTIVE JUROR NO. T-5208: YOU'RE WELCOME.

18 THE COURT: JUROR NUMBER 6, GOOD MORNING.

19 PROSPECTIVE JUROR NO. P-9765: GOOD MORNING.

20 THE COURT: DID YOU HAVE ANY CHANGES OR
21 ADDITIONS TO YOUR QUESTIONNAIRE?

22 PROSPECTIVE JUROR NO. P-9765: NOT AT THIS
23 TIME, NO.

24 THE COURT: WELL, I DIDN'T HAVE ANY QUESTIONS
25 FOR YOU.

26 YOU DID TELL US ABOUT AN APPOINTMENT THAT YOU
27 HAVE, AND I TOOK A NOTE OF THAT.

28 PROSPECTIVE JUROR NO. P-9765: OKAY.

1 THE COURT: JUST AS I FAILED TO MENTION,
2 JUROR 3, YOU TOLD US YOU HAVE AN OBLIGATION IN THE
3 MIDDLE OF MARCH. I MADE NOTE OF THAT TOO. I DON'T
4 THINK WE'RE GOING TO INTERFERE WITH THAT.

5 I KNOW EVERYTHING FOR JUROR 6.

6 JUROR 7, GOOD MORNING.

7 PROSPECTIVE JUROR NO. H-4884: MORNING.

8 THE COURT: HOW ARE YOU TODAY?

9 PROSPECTIVE JUROR NO. H-4884: FINE.

10 THE COURT: DID YOU HAVE ANY CHANGES OR
11 ADDITIONS TO YOUR QUESTIONNAIRE?

12 PROSPECTIVE JUROR NO. H-4884: NO.

13 THE COURT: YOU HAVE ALSO SAID THAT YOU HAVE
14 SOME RELIGIOUS BELIEFS.

15 PROSPECTIVE JUROR NO. H-4884: YEAH, I DO. I
16 BELIEVE IN THE TEN COMMANDMENTS, THOU SHALL NOT KILL.

17 THE COURT: WOULD YOU BE ABLE TO FOLLOW THE
18 LEGAL PRINCIPLES THAT WE GIVE IN THE INSTRUCTIONS IN
19 THIS CASE, OR WOULD YOUR RELIGIOUS VIEWS HAVE SOME
20 INFLUENCE?

21 PROSPECTIVE JUROR NO. H-4884: YES, IT WOULD,
22 BECAUSE I SAID ALSO IN MY STATEMENT THAT I BELIEVE IN
23 THE DEATH PENALTY. IF THE PERSON THAT WAS THE MURDERER
24 THOUGHT OUT AND KILLED THAT PERSON AND KILLED THEM, THEN
25 HE GETS THE DEATH PENALTY. IF HE ONLY SHOT HIM OR
26 KILLED HIM ACCIDENTALLY, THEN MAYBE HE DOESN'T GET THE
27 DEATH PENALTY. THAT'S MY VIEWPOINT. I DON'T KNOW.

28 THE COURT: OKAY. WELL, I BELIEVE THE

1 INSTRUCTIONS ARE GOING TO INDICATE THAT EVEN IN THE CASE
2 OF SOMEONE WHO INTENTIONALLY KILLED ANOTHER HUMAN BEING,
3 ALL OF THESE FACTORS THAT I TALKED ABOUT, AGGRAVATING
4 AND MITIGATING, STILL COME INTO PLAY. SO IT WOULD BE
5 POSSIBLE FOR A JUROR FOLLOWING THE LAW TO DETERMINE THAT
6 THE DEATH PENALTY IS NOT WARRANTED FOR SOMEONE WHO WAS
7 AN INTENTIONAL KILLER.

8 IF YOU WERE INSTRUCTED IN THAT WAY, WOULD YOU
9 BE ABLE TO FOLLOW THAT INSTRUCTION, OR WOULD YOUR OWN
10 PERSONAL VIEWS BE WHAT YOU WOULD FOLLOW?

11 PROSPECTIVE JUROR NO. H-4884: I HAVE RESPECT
12 FOR THE LAW, AND I WOULD FOLLOW YOUR INSTRUCTIONS.

13 THE COURT: OKAY. THANK YOU.

14 JUROR NUMBER 8, GOOD MORNING.

15 PROSPECTIVE JUROR NO. V-4528: GOOD MORNING.

16 THE COURT: DID YOU HAVE ANY CHANGES OR
17 ADDITIONS TO YOUR QUESTIONNAIRE?

18 PROSPECTIVE JUROR NO. V-4528: JUST ONE TRIVIAL
19 THING. I HAVE AN APPOINTMENT ON MARCH 10TH WITH A
20 NEUROLOGIST IN THE MORNING.

21 THE COURT: ALL RIGHT. I MADE A NOTE OF THAT.

22 YOU EXPRESSED YOUR VIEWS ABOUT THE PENALTY
23 ISSUES IN THE CASE. DO YOU HAVE ANY FURTHER -- ANYTHING
24 FURTHER TO ADD ON THAT? ANY OTHER THOUGHTS OR THINGS
25 THAT HAVE OCCURRED TO YOU?

26 PROSPECTIVE JUROR NO. V-4528: NO, I DON'T
27 THINK SO. I SUPPORT THE DEATH PENALTY.

28 THE COURT: YOU SAID --

1 PARDON ME?

2 PROSPECTIVE JUROR NO. V-4528: I REALLY HAVEN'T
3 GIVEN MITIGATING CIRCUMSTANCES ANY THOUGHT. I GUESS I'M
4 NOT EVEN SURE WHAT IT MEANS. I WOULD HAVE TO WAIT AND
5 LISTEN TO WHAT I HEAR IN COURT.

6 THE COURT: YOU SAID, AMONG OTHER THINGS, THAT
7 "MY VIEWS ARE MORE COMPLEX THAN AN EYE FOR AN EYE."

8 WHAT DID YOU MEAN BY THAT?

9 PROSPECTIVE JUROR NO. V-4528: WELL, I CIRCLED
10 THE NUMBER 1, FIRST OF ALL, BECAUSE THAT'S WHAT I
11 THOUGHT MY FEELINGS WERE. THEN WHEN I BEGAN TO ANSWER
12 THE QUESTION, I THOUGHT THIS REALLY DOESN'T FIT WHAT I
13 THINK. I HAD ALREADY CIRCLED IT, SO I SAID I'M NOT
14 GOING TO BEGIN AGAIN. THAT'S WHY I SAID WHAT I SAID.

15 THE COURT: THANK YOU.

16 JUROR NUMBER 9, GOOD MORNING.

17 PROSPECTIVE JUROR NO. J-0750: GOOD MORNING,
18 SIR.

19 THE COURT: DID YOU HAVE ANYTHING TO ADD TO
20 YOUR QUESTIONNAIRE?

21 PROSPECTIVE JUROR NO. J-0750: YES.

22 THE COURT: WHAT IS THAT?

23 PROSPECTIVE JUROR NO. J-0750: SIR, I DO NOT
24 BELIEVE IN THE DEATH PENALTY.

25 THE COURT: THAT'S FINE.

26 AS I HOPE -- I'VE TRIED TO EXPLAIN TO OTHERS.
27 EVERYONE CAN HAVE THEIR OWN PERSONAL VIEWS, BUT IT 'S
28 THE JOB OF THE JURORS TO NOT REACT AUTOMATICALLY ONE WAY

1 OR THE OTHER BASED UPON THEIR PERSONAL VIEWS, BUT TO
2 FOLLOW THE INSTRUCTIONS AND ENGAGE IN THE WEIGHING AND
3 CONSIDERATION OF ALL THE EVIDENCE.

4 WOULD YOU BE ABLE TO DO THAT?

5 PROSPECTIVE JUROR NO. J-0750: YES.

6 THE COURT: I'M NOT TRYING TO TWIST YOUR ARM.
7 I'M JUST TRYING TO UNDERSTAND. IN OTHER WORDS, DO YOU
8 THINK YOU COULD DO THAT?

9 PROSPECTIVE JUROR NO. J-0750: YES.

10 THE COURT: YOU MENTIONED THAT YOU HAD A FRIEND
11 WHO WAS SHOT, WHO WAS WORKING AS A GUARD AT A LIQUOR
12 STORE?

13 PROSPECTIVE JUROR NO. J-0750: YES, SIR.

14 THE COURT: ABOUT HOW LONG AGO WAS THAT?

15 PROSPECTIVE JUROR NO. J-0750: THREE YEARS AGO.

16 THE COURT: YOU NEED TO PUT THAT ASIDE AND
17 FOCUS ON THE EVIDENCE HERE. CAN YOU DO THAT?

18 PROSPECTIVE JUROR NO. J-0750: YES.

19 THE COURT: YOU INDICATED THAT YOU THINK IT
20 MIGHT BE HARD FOR YOU TO JUDGE SOMEONE ELSE'S LIFE?

21 PROSPECTIVE JUROR NO. J-0750: YES, SIR. YOU
22 HIT IT ON THE NOSE. THAT'S IT.

23 THE COURT: WE'RE NOT ASKING ANYONE TO DO THAT
24 IN A DIRECT SENSE. IN OTHER WORDS, WE'RE -- NO ONE IS
25 GOING TO BE SAYING, YOU KNOW, THIS IS A GOOD PERSON OR A
26 BAD PERSON. IT'S CERTAINLY SOMETHING THAT'S INVOLVED IN
27 WEIGHING THE EVIDENCE. IT'S OBVIOUSLY DETERMINING THE
28 OUTCOME.

1 PROSPECTIVE JUROR NO. J-0750: WELL, SIR, I'M A
2 VERY SENSITIVE PERSON. I DO NOT WANT TO JUDGE NOBODY'S
3 LIFE LIKE THAT. I REALLY DON'T. I CAN'T REALLY HANDLE
4 IT.

5 THE COURT: OKAY. IF YOU WERE PICKED ON THIS
6 JURY, HOW DO YOU THINK YOU WOULD DEAL WITH THAT? WOULD
7 YOU DO YOUR DUTY, OR WOULD YOU SAY, JUDGE, I CAN'T
8 HANDLE THIS?

9 PROSPECTIVE JUROR NO. J-0750: NO. I WILL DO
10 WHAT I'M SUPPOSED TO DO.

11 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.
12 WE'LL GO DOWN TO THE SECOND ROW.

13 JUROR IN SEAT 10, GOOD MORNING.

14 PROSPECTIVE JUROR NO. R-6693: GOOD MORNING.

15 THE COURT: HOW ARE YOU?

16 PROSPECTIVE JUROR NO. R-6693: GOOD, THANK YOU.

17 THE COURT: DID YOU HAVE ANY CHANGES OR
18 ADDITIONS TO YOUR QUESTIONNAIRE?

19 PROSPECTIVE JUROR NO. R-6693: NO, SIR.

20 THE COURT: I DID NOT HAVE ANY FOLLOW-UP
21 QUESTIONS.

22 JUROR 11, GOOD MORNING.

23 PROSPECTIVE JUROR NO. M-3458: GOOD MORNING.

24 THE COURT: DON'T FEEL BAD ABOUT PUTTING THE
25 WRONG NUMBER DOWN. I KNOW IT'S CONFUSING, AND YOU'RE
26 NOT THE ONLY ONE.

27 WE UNDERSTOOD.

28 I WAS JUST A LITTLE CURIOUS ABOUT YOUR ANSWER

1 ABOUT JURIES. HAVE YOU SERVED ON A JURY BEFORE?

2 PROSPECTIVE JUROR NO. M-3458: YES, SIR.

3 THE COURT: ABOUT HOW MANY TIMES?

4 PROSPECTIVE JUROR NO. M-3458: ONE TIME, SIR.

5 IT WAS A CIVIL CASE.

6 THE COURT: ONE CIVIL CASE?

7 PROSPECTIVE JUROR NO. M-3458: YES. IN 2003.

8 THE COURT: HAVE YOU BEEN CALLED OTHER TIMES?

9 PROSPECTIVE JUROR NO. M-3458: YES, SIR. I'VE
10 BEEN CALLED, BUT I WASN'T PICKED -- I WASN'T SELECTED.

11 THE COURT: THANK YOU.

12 JUROR IN SEAT 12, GOOD MORNING.

13 PROSPECTIVE JUROR NO. B-9815: GOOD MORNING.

14 THE COURT: DID YOU HAVE ANY CHANGES OR
15 ADDITIONS TO YOUR QUESTIONNAIRE?

16 PROSPECTIVE JUROR NO. B-9815: AFTER -- I'M NOT
17 SURE I CAN BE IMPARTIAL, HAVING MY SON KILLED.

18 THE COURT: RIGHT.

19 PROSPECTIVE JUROR NO. B-9815: IT'S STILL TOO
20 FRESH.

21 THE COURT: RIGHT. THAT WAS IN DECEMBER OF
22 2007?

23 PROSPECTIVE JUROR NO. B-9815: (NODS HEAD UP
24 AND DOWN).

25 SO JUST OVER A YEAR AGO.

26 THE COURT: YOU DID INDICATE THAT IT MIGHT BE
27 HARD FOR YOU TO DEAL WITH.

28 HAVE YOU GIVEN MORE THOUGHT TO THAT?

1 PROSPECTIVE JUROR NO. B-9815: YEAH. YEAH.
2 IT'S STILL REALLY -- I'M NOT SURE I CAN BE IMPARTIAL.
3 IT'S --

4 THE COURT: SURE.

5 I THINK --

6 WOULD IT BE --

7 WITHOUT REGARD TO WHETHER YOU WERE IMPARTIAL OR
8 NOT, WOULD IT BRING BACK A LOT OF BAD MEMORIES THAT
9 WOULD MAKE YOU EMOTIONAL?

10 PROSPECTIVE JUROR NO. B-9815: OH, YEAH.

11 THE COURT: IT KIND OF LOOKS THAT WAY. YOU'RE
12 TEARING UP A LITTLE BIT.

13 THANK YOU.

14 JUROR IN SEAT 13, GOOD MORNING.

15 PROSPECTIVE JUROR NO. D-5849: GOOD MORNING,
16 YOUR HONOR.

17 THE COURT: HOW ARE YOU?

18 PROSPECTIVE JUROR NO. D-5849? FINE, THANK YOU.

19 THE COURT: DID YOU HAVE ANY CHANGES?

20 PROSPECTIVE JUROR NO. D-5849: YES, I HAVE A
21 CHANGE.

22 ON ONE OF THE QUESTIONS ABOUT ANY CLOSE FRIEND
23 OR FAMILY MEMBERS, I'M NOT SURE IF THE QUESTION WAS HAVE
24 THEY BEEN INVOLVED IN GANGS OR HAVE THEY BEEN A VICTIM
25 OF A GANG INCIDENT. I HAVE A VERY CLOSE FRIEND WHOSE
26 SON WAS SHOT AND KILLED BY A GANG MEMBER.

27 THE COURT: ABOUT HOW LONG AGO WAS THAT?

28 PROSPECTIVE JUROR NO. D-5849: APPROXIMATELY

1 NINE YEARS AGO.

2 THE COURT: YOU'VE HEARD MY DISCUSSION WITH
3 SOME OF THE OTHER JURORS. YOU WOULD NEED TO PUT THAT
4 ASIDE AND JUDGE THIS CASE ONLY FROM THE EVIDENCE
5 PRESENTED.

6 CAN YOU DO THAT?

7 PROSPECTIVE JUROR NO. D-5849: ABSOLUTELY.

8 THE COURT: OKAY. WERE THERE ANY OTHER ISSUES
9 THAT YOU WANTED TO ADD?

10 PROSPECTIVE JUROR NO. D-5849: NO, THANK YOU.

11 THE COURT: YOU WORK AS A PROSECUTOR FOR THE
12 CITY ATTORNEY'S OFFICE?

13 PROSPECTIVE JUROR NO. D-5849: YES, I DO.

14 THE COURT: YOU ALSO HAVE SOME FAMILY AND
15 FRIENDS INVOLVED IN THE COURTS AND LAW ENFORCEMENT, I
16 THINK, FROM WHAT YOU INDICATED.

17 PROSPECTIVE JUROR NO. D-5849: THAT'S CORRECT.

18 THE COURT: IS THERE ANYTHING ABOUT THAT
19 BACKGROUND THAT WOULD AFFECT YOUR VIEWS AS A JUROR?

20 PROSPECTIVE JUROR NO. D-5849: NO.

21 THE COURT: IN OTHER WORDS, YOU UNDERSTAND
22 YOU'RE A PROSECUTOR IN YOUR JOB, BUT YOU'RE NOT A
23 PROSECUTOR AS A JUROR?

24 PROSPECTIVE JUROR NO. D-5849: I UNDERSTAND.

25 THE COURT: YOU NEED TO DECIDE THIS CASE RIGHT
26 DOWN THE MIDDLE.

27 PROSPECTIVE JUROR NO. D-5849: I UNDERSTAND.

28 THE COURT: CAN YOU DO THAT?

1 PROSPECTIVE JUROR NO. D-5849: YES, I CAN.

2 THE COURT: HOW MUCH OF YOUR WORK HAS INVOLVED
3 STREET GANGS?

4 PROSPECTIVE JUROR NO. D-5849: A GREAT DEAL OF
5 MY WORK HAS INVOLVED STREET GANGS AS I AM A NEIGHBORHOOD
6 PROSECUTOR. SO I WORK IN A COMMUNITY. THAT COMMUNITY
7 DOES HAVE GANG MEMBERS.

8 THE COURT: IN WHAT WAY DOES IT COME UP? IN
9 OTHER WORDS, DO YOU GET INVOLVED WITH GANG INJUNCTIONS,
10 OR IS IT JUST SORT OF, AS I WAS KIND OF DESCRIBING
11 EARLIER, A BACKDROP AS TO OTHER KINDS OF CRIMES OR
12 SOCIAL ISSUES THAT COME UP?

13 PROSPECTIVE JUROR NO. D-5849: I'M NOT ONE OF
14 THE GANG INJUNCTION ATTORNEYS, BUT I DEAL WITH EDUCATING
15 THE COMMUNITY ABOUT QUALITY OF LIFE CRIMES. MANY OF THE
16 PEOPLE WHO CROSS MY PATH ARE GANG MEMBERS WHO I HAVE
17 PROSECUTED, BUT MAINLY I'M WORKING WITH THE COMMUNITY ON
18 ABATING CRIME AND DEALING WITH MISDEMEANOR CRIMES.

19 THE COURT: YOU INDICATED, IN RESPONSE TO A
20 LATER QUESTION, THAT IN GENERAL, AS A MATTER OF POLICY,
21 YOU'RE AGAINST THE DEATH PENALTY?

22 PROSPECTIVE JUROR NO. D-5849: IN GENERAL. AS
23 I MENTIONED ALSO, DEPENDING ON THE CIRCUMSTANCES, YOU
24 KNOW, I POSSIBLY COULD GO THE OTHER DIRECTION.

25 THE COURT: WOULD YOU BE ABLE TO LOOK AT AND
26 CONSIDER ALL OF THE EVIDENCE IN REACHING THE APPROPRIATE
27 PENALTY?

28 PROSPECTIVE JUROR NO. D-5849: YES. I BELIEVE

1 I COULD.

2 THE COURT: THANK YOU.

3 JUROR 14, GOOD MORNING.

4 PROSPECTIVE JUROR NO. J-2466: GOOD MORNING.

5 THE COURT: HOW ARE YOU TODAY?

6 PROSPECTIVE JUROR NO. J-2466: VERY WELL.

7 THANK YOU. HOW ARE YOU?

8 THE COURT: I'M VERY WELL, THANK YOU.

9 PROSPECTIVE JUROR NO. J-2466: GOOD.

10 THE COURT: DO YOU HAVE ANY CHANGES OR
11 ADDITIONS?

12 PROSPECTIVE JUROR NO. J-2466: I DO HAVE AN
13 ADDITION. I RECALL A QUESTION WHEREBY IF YOU HAD A
14 FAMILY MEMBER OR A FRIEND, SOMEONE CLOSE TO YOU IN --
15 SERVING TIME. I DO HAVE A FAMILY MEMBER CURRENTLY
16 SERVING TIME.

17 THE COURT: COULD YOU TELL US ABOUT THAT.

18 PROSPECTIVE JUROR NO. J-2466: I KNOW VERY
19 LITTLE ABOUT IT. A BROTHER. HE WAS SENTENCED TWO YEARS
20 AGO FOR INAPPROPRIATE RELATIONSHIP WITH A FEMALE UNDER
21 18.

22 THE COURT: IS THERE ANYTHING ABOUT THAT
23 EXPERIENCE THAT WOULD AFFECT YOUR VIEWS AS A JUROR?

24 PROSPECTIVE JUROR NO. J-2466: NOT AT ALL.

25 THE COURT: OKAY. THANK YOU.

26 YOU INDICATED YOU HAVE A TRIP PLANNED, AND I'VE
27 MADE A NOTE OF THAT.

28 YOU INDICATED, IN REGARD TO THE QUESTIONS ABOUT

1 PENALTY, THAT YOU'VE NEVER REALLY BEEN CONFRONTED WITH
2 THIS BEFORE AND HADN'T GIVEN IT A LOT OF THOUGHT. DO
3 YOU HAVE ANY FURTHER THOUGHTS, HAVING FILLED OUT THE
4 QUESTIONNAIRE, COME BACK HERE TODAY, HEARD ME AND SOME
5 OTHER PEOPLE TALK ABOUT THIS, DO YOU HAVE ANY FURTHER
6 THOUGHTS ABOUT YOUR OWN VIEWS?

7 PROSPECTIVE JUROR NO. J-2466: NO, I DON'T.

8 THE COURT: IF YOU WERE SELECTED AS A JUROR, DO
9 YOU THINK YOU'D BE ABLE TO ENGAGE IN THE WEIGHING OF
10 EVIDENCE IN THE WAY THAT I DESCRIBED EARLIER?

11 PROSPECTIVE JUROR NO. J-2466: ABSOLUTELY.

12 THE COURT: THANK YOU.

13 PROSPECTIVE JUROR NO. J-2466: THANK YOU.

14 THE COURT: JUROR 15, GOOD MORNING.

15 PROSPECTIVE JUROR NO. M-7169: GOOD MORNING.

16 THE COURT: DID YOU HAVE ANY CHANGES OR
17 ADDITIONS TO YOUR QUESTIONNAIRE?

18 PROSPECTIVE JUROR NO. M-7169: THE ONLY THING
19 IS I'VE BEEN TAPPED FOR MARCH 19TH MORNING FUNCTION, AND
20 I'D LIKE TO PARTICIPATE..

21 THE COURT: I DON'T THINK WE'LL INTERFERE WITH
22 THAT, BUT I'VE MADE A NOTE OF IT.

23 THANK YOU..

24 I DIDN'T HAVE ANY FOLLOW-UP QUESTIONS.

25 JUROR 16, GOOD MORNING.

26 PROSPECTIVE JUROR NO. K-6084: GOOD MORNING.

27 THE COURT: DID YOU HAVE ANY CHANGES OR
28 ADDITIONS?

1 PROSPECTIVE JUROR NO. K-6084: YEAH. I --
2 THIS, (INDICATING), THAT CREATES THE MICKEY MOUSE LIKE
3 HANDWRITING YOU'RE LOOKING AT, I HAVE TWO APPOINTMENTS
4 COMING UP LATE IN THE DAY TO HAVE THIS REMOVED AND
5 REPLACED.

6 THE COURT: LATE TODAY?

7 PROSPECTIVE JUROR NO. K-6084: LATE IN THE DAY.

8 THE COURT: LATE IN DAYS IN THE FUTURE?

9 PROSPECTIVE JUROR NO. K-6084: RIGHT.

10 THE COURT: OKAY. DO YOU HAVE THE DATES?

11 PROSPECTIVE JUROR NO. K-6084: ONE WILL BE THIS
12 THURSDAY.

13 THE COURT: OKAY.

14 PROSPECTIVE JUROR NO. K-6084: I HAVE A 3:50
15 APPOINTMENT. I'M GOING TO WORK WITH THE DOCTOR TO SEE
16 IF I CAN GET A SATURDAY APPOINTMENT FOR THE SECOND ONE.

17 THE COURT: YOUR HANDWRITING ACTUALLY WASN'T
18 ALL THAT BAD FOR SOMEWHERE WEARING A CAST.

19 PROSPECTIVE JUROR NO. K-6084: THANK YOU,
20 YOUR HONOR.

21 THE COURT: I COULD UNDERSTAND WHAT YOU WROTE.
22 DON'T FEEL BAD ABOUT IT.

23 PROSPECTIVE JUROR NO. K-6084: THAT'S QUITE
24 SCARY.

25 THE COURT: IS THERE ANYTHING ABOUT HAVING A
26 CAST THAT WOULD INTERFERE WITH YOUR ABILITY TO BE A
27 JUROR? I KNOW YOU HAVE A LITTLE TROUBLE WRITING. ANY
28 KIND OF PAIN OR SENSITIVITY?

1 PROSPECTIVE JUROR NO. K-6084: NOT ON DRUGS FOR
2 THE PAIN, AND THE PAIN IS THERE, BUT IT'S NOT THAT BAD,
3 NO. NOT AT ALL.

4 THE COURT: OKAY. GIVEN THE LIMITATIONS OF
5 WHAT LITTLE YOU COULD WRITE, DO YOU HAVE ANY FURTHER
6 THOUGHTS OR VIEWS ABOUT THE PENALTY OR ANY OF THE ISSUES
7 IN THIS CASE THAT YOU WANT TO ADD?

8 PROSPECTIVE JUROR NO. K-6084: NO. I THINK I'M
9 BY NATURE A VERY FAIR PERSON. I THINK I COULD LOOK AT
10 ANY INFORMATION THAT COMES MY WAY FAIRLY AND
11 IMPARTIALLY.

12 THE COURT: THANK YOU.

13 JUROR 17, GOOD MORNING.

14 PROSPECTIVE JUROR NO. J-9579: GOOD MORNING.

15 THE COURT: DID YOU HAVE ANY CHANGES OR
16 ADDITIONS?

17 PROSPECTIVE JUROR NO. J-9579: NO.

18 THE COURT: I DIDN'T HAVE ANY FOLLOW-UP
19 QUESTIONS.

20 JUROR 18, GOOD MORNING.

21 PROSPECTIVE JUROR NO. J-6556: GOOD MORNING,
22 SIR.

23 THE COURT: DID YOU HAVE ANY CHANGES OR
24 ADDITIONS?

25 PROSPECTIVE JUROR NO. J-6556: YES. I DO HAVE
26 AN ADDITION. I FORGOT. ONE OF THE QUESTIONS STATING,
27 DO WE HAVE A FAMILY MEMBER OR A FRIEND THAT HAS BEEN
28 CONVICTED, I BELIEVE -- IT WAS SOMETHING LIKE THAT. I

1 FORGOT I HAVE A HALF-SISTER WHO'S MARRIED. MY
2 BROTHER-IN-LAW IS IN JAIL. HE WAS CONVICTED. HE'S BEEN
3 IN THERE ABOUT 25 YEARS. SHE MARRIED HIM IN THERE. I
4 DON'T KNOW HIM PERSONALLY, BUT I DID FAIL TO PUT THAT ON
5 THERE. I FORGOT.

6 THE COURT: IS THERE ANYTHING ABOUT THAT THAT
7 WOULD AFFECT YOUR VIEWS?

8 PROSPECTIVE JUROR NO. J-6556: NO.

9 THE COURT: YOU HAVE ANY FEELINGS ABOUT HOW
10 FAIRLY HE WAS TREATED IN HIS COURT PROCEEDINGS?

11 PROSPECTIVE JUROR NO. J-6556: NO. BECAUSE I
12 DON'T KNOW THE DETAILS REALLY.

13 THE COURT: THANK YOU FOR ADDING THAT.
14 GO DOWN TO THE FIRST ROW.

15 JUROR IN SEAT 19, GOOD MORNING.

16 PROSPECTIVE JUROR NO. R-8493: GOOD MORNING.

17 THE COURT: DID YOU HAVE ANYTHING TO ADD?

18 PROSPECTIVE JUROR NO. R-8493: NO.

19 THE COURT: I DIDN'T HAVE ANY FOLLOW-UP.

20 JUROR IN SEAT 20, GOOD MORNING.

21 PROSPECTIVE JUROR NO. A-1180: GOOD MORNING.

22 THE COURT: DID YOU HAVE ANYTHING TO ADD?

23 PROSPECTIVE JUROR NO. A-1180: NO.

24 THE COURT: THEN I DIDN'T HAVE FOLLOW-UP FOR
25 YOU.

26 JUROR IN SEAT 21, GOOD MORNING.

27 PROSPECTIVE JUROR NO. R-3749: GOOD MORNING,
28 YOUR HONOR.

1 THE COURT: DID YOU HAVE ANYTHING?

2 PROSPECTIVE JUROR NO. R-3749: NO.

3 THE COURT: YOU WORK AT THE SHERIFF'S
4 DEPARTMENT?

5 PROSPECTIVE JUROR NO. R-3749: YES, YOUR HONOR.

6 THE COURT: WHAT IS --

7 WHAT KIND OF WORK DO YOU DO THERE DAY TO DAY?

8 PROSPECTIVE JUROR NO. R-3749: COMPUTER.

9 COMPUTER SPECIALIST. TROUBLESHOOTING.

10 THE COURT: ARE YOU ONE OF THE PEOPLE WHO MAKE
11 SURE THAT THE COMPUTERS RUN PROPERLY?

12 PROSPECTIVE JUROR NO. R-3749: YES.

13 THE COURT: AS OPPOSED TO BEING INVOLVED IN A
14 CERTAIN COMPUTER TYPE FUNCTION, LIKE PUTTING TOGETHER A
15 DATABASE?

16 PROSPECTIVE JUROR NO. R-3749: NO.

17 THE COURT: YOU'RE ONE OF THE PEOPLE WHO KEEP
18 IT RUNNING?

19 PROSPECTIVE JUROR NO. R-3749: YES.

20 THE COURT: IS THERE ANYTHING ABOUT YOUR
21 EXPERIENCE WITH THE SHERIFF'S DEPARTMENT THAT WOULD
22 AFFECT YOU ONE WAY OR THE OTHER?

23 PROSPECTIVE JUROR NO. R-3749: NO, YOUR HONOR.

24 THE COURT: WOULD YOU FEEL ANY PRESSURE TO
25 DECIDE THIS CASE ONE WAY OR THE OTHER BASED UPON YOUR
26 AFFILIATION WITH THE SHERIFF'S DEPARTMENT?

27 PROSPECTIVE JUROR NO. R-3749: NO.

28 THE COURT: ONE OF THE QUESTIONS ASKS JURORS TO

1 PUT THEMSELVES INTO ONE OF FOUR GROUPS:

2 THOSE WHO FEEL THEY WOULD AUTOMATICALLY VOTE
3 FOR DEATH, THOSE WHO FEEL THEY WOULD AUTOMATICALLY VOTE
4 FOR LIFE IN PRISON, THOSE WHO AGREE WITH THE DEATH
5 PENALTY LAW BUT WHO THINK THAT THEY WOULD NEVER BE ABLE
6 TO PERSONALLY VOTE FOR A DEATH VERDICT, AND THEN THE
7 LAST GROUP BEING THOSE WHO ARE COMFORTABLE WITH THE
8 PROCESS, WHO FEEL THE DEATH PENALTY MAY BE APPROPRIATE
9 IN SOME CASES BUT NOT OTHERS, AND WHO WOULD FEEL THAT
10 THEY HAVE THE ABILITY TO FAIRLY JUDGE ALL OF THE
11 EVIDENCE AND WEIGH EVERYTHING IN AN OPEN-MINDED WAY.

12 DO YOU HAVE ANY IDEA AS TO WHICH OF THOSE
13 GROUPS YOU WOULD FALL INTO?

14 PROSPECTIVE JUROR NO. R-3749: NOT.

15 THE COURT: YOU DON'T?

16 PROSPECTIVE JUROR NO. R-3749: NO.

17 THE COURT: DO YOU HAVE ANY PERSONAL VIEWS
18 ABOUT THE DEATH PENALTY?

19 PROSPECTIVE JUROR NO. R-3749: NO.

20 THE COURT: AS I WAS SAYING WITH ONE OF THE
21 OTHER JURORS, IF YOU WERE OUT FOR COFFEE WITH SOME
22 FRIENDS AND ONE OF YOUR FRIENDS SAID, YOU KNOW, I WAS
23 JUST READING THIS ARTICLE ABOUT THE DEATH PENALTY, AND
24 HERE'S WHAT I THINK; WOULD YOU HAVE AN OPINION ABOUT THE
25 ISSUE?

26 PROSPECTIVE JUROR NO. R-3749: NOTHING, YOUR
27 HONOR.

28 THE COURT: OKAY. THANK YOU.

1 JUROR IN SEAT 22, GOOD MORNING.

2 PROSPECTIVE JUROR NO. A-0298: GOOD MORNING,
3 YOUR HONOR.

4 THE COURT: DID YOU HAVE ANYTHING TO ADD?

5 PROSPECTIVE JUROR NO. A-0298: I DO NOT,
6 YOUR HONOR.

7 THE COURT: I DON'T HAVE ANY FOLLOW-UP EITHER.
8 THANK YOU.

9 JUROR IN SEAT 23, GOOD MORNING.

10 PROSPECTIVE JUROR NO. G-6179: GOOD MORNING.

11 THE COURT: DID YOU HAVE ANYTHING TO ADD?

12 PROSPECTIVE JUROR NO. G-6179: YES, SIR. I DO
13 BELIEVE IN THE DEATH PENALTY, BUT I WILL FIND IT HARD
14 FOR ME MYSELF TO DETERMINE THAT FOR SOMEBODY ELSE.

15 THE COURT: IF YOU WERE SELECTED, WOULD YOU BE
16 ABLE TO DO IT?

17 PROSPECTIVE JUROR NO. G-6179: I'M NOT SURE.

18 THE COURT: YOU'RE NOT SURE?

19 PROSPECTIVE JUROR NO. G-6179: NO.

20 THE COURT: YOU WORK FOR THE CUSTOMS AND BORDER
21 AGENCY?

22 PROSPECTIVE JUROR NO. G-6179: CORRECT.

23 THE COURT: WHAT KIND OF THINGS DO YOU DO EACH
24 DAY?

25 PROSPECTIVE JUROR NO. G-6179: IT VARIES. SOME
26 DAYS I WORK IN THE CUSTOMS SIDE CHECKING FOR NARCOTICS
27 OR OTHER PROHIBITIVE ITEMS. SOME DAYS I WORK IN
28 IMMIGRATION. SOME DAYS I WORK FOR COUNTERTERRORISM.

1 THE COURT: DO YOU HAVE VARIOUS LOCATIONS WHERE
2 YOU WORK?

3 PROSPECTIVE JUROR NO. G-6179: IT'S IN THE
4 AIRPORT, LAX.

5 THE COURT: BASICALLY AT THE AIRPORT?

6 PROSPECTIVE JUROR NO. G-6179: YES.

7 THE COURT: YOU'VE BEEN DOING THAT ABOUT TWO
8 YEARS?

9 PROSPECTIVE JUROR NO. G-6179: CORRECT.

10 THE COURT: IS THERE ANYTHING ABOUT THAT
11 EXPERIENCE THAT WOULD AFFECT YOUR VIEWS ONE WAY OR THE
12 OTHER AS A JUROR?

13 PROSPECTIVE JUROR NO. G-6179: NO, SIR.

14 THE COURT: THANK YOU.

15 JUROR 24, GOOD MORNING.

16 PROSPECTIVE JUROR NO. C-6782: MORNING, YOUR
17 HONOR.

18 THE COURT: HOW ARE YOU TODAY?

19 PROSPECTIVE JUROR NO. C-6782: VERY GOOD.

20 THE COURT: DID YOU HAVE ANY ADDITIONS OR
21 CORRECTIONS TO YOUR QUESTIONNAIRE?

22 PROSPECTIVE JUROR NO. C-6782: NO, SIR.

23 THE COURT: YOU'VE BEEN WORKING A NUMBER OF
24 YEARS AS A COMMUNICATIONS SUPERVISOR AT A 911 CENTER?

25 PROSPECTIVE JUROR NO. C-6782: THAT'S CORRECT,
26 SIR.

27 THE COURT: IS THERE ANYTHING ABOUT THAT
28 EXPERIENCE THAT WOULD AFFECT YOUR VIEWS AS A JUROR?

1 PROSPECTIVE JUROR NO. C-6782: NO, YOUR HONOR.

2 THE COURT: THANK YOU.

3 JUROR 25, GOOD MORNING.

4 PROSPECTIVE JUROR NO. R-9855: HI.

5 THE COURT: DID YOU HAVE ANY CHANGES OR

6 ADDITIONS TO YOUR QUESTIONNAIRE?

7 PROSPECTIVE JUROR NO. R-9855: YEAH. I KNOW

8 THIS SOUNDS REALLY SELFISH, BUT IT'S NOT THE DEATH

9 PENALTY OR THE OTHER OPTION. I JUST LIKE DON'T KNOW --

10 I KNOW SOMEBODY HAS TO DECIDE WHAT'S RIGHT FOR THIS

11 DEFENDANT, HIM, BUT LIKE I DON'T KNOW THAT I FEEL LIKE I

12 COULD DECIDE FOR SOMEBODY ELSE WHAT'S RIGHT. IT GIVES

13 ME ANXIETY JUST THINKING ABOUT IT IN DETERMINING HOW

14 SOMEONE'S LIFE IS GOING TO END UP.

15 THE COURT: IF YOU WERE SELECTED IN THIS CASE,

16 HOW DO YOU THINK YOU WOULD REACT?

17 PROSPECTIVE JUROR NO. R-9855: UM, I DON'T

18 KNOW.

19 THE COURT: PARDON ME?

20 PROSPECTIVE JUROR NO. R-9855: I DON'T KNOW

21 REALLY. I'VE NEVER DONE ANYTHING LIKE THIS BEFORE.

22 THE COURT: YOU'VE NEVER BEEN ON A JURY?

23 PROSPECTIVE JUROR NO. R-9855: NO.

24 THE COURT: I GUESS WHAT I'M GETTING AT IS

25 SOMETIMES JURORS SAY, WELL, YOU KNOW, I'M UNCOMFORTABLE

26 WITH THE PROCESS, BUT IF I'M SELECTED, I'LL DO IT.

27 OTHERS WILL SAY, YOU KNOW, I JUST -- I DON'T THINK I

28 COULD EVER DO THIS, NO MATTER WHAT YOU TELL ME. I'M

1 TRYING TO GET SOME SENSE WHERE YOU THINK YOU FALL INTO
2 THAT.

3 PROSPECTIVE JUROR NO. R-9855: I MEAN, I THINK
4 I COULD, YOU KNOW, FOLLOW INSTRUCTIONS AND TRY MY BEST.

5 THE COURT: WOULD YOU BE ABLE TO DISCUSS THE
6 CASE WITH YOUR FELLOW JURORS?

7 PROSPECTIVE JUROR NO. R-9855: YEAH.

8 THE COURT: LISTEN TO WHAT THEY HAD TO SAY?

9 PROSPECTIVE JUROR NO. R-9855: UH-HUH.

10 THE COURT: AND ULTIMATELY MAKE A DECISION FOR
11 YOURSELF? OR WOULD THAT BE THE STICKING POINT?

12 PROSPECTIVE JUROR NO. R-9855: I THINK I WOULD
13 CONSIDER.

14 THE COURT: THANK YOU.

15 THE JUROR IN SEAT 26, GOOD MORNING.

16 PROSPECTIVE JUROR NO. V-4099: GOOD MORNING,
17 YOUR HONOR..

18 THE COURT: DID YOU HAVE ANYTHING TO ADD?

19 PROSPECTIVE JUROR NO. V-4099: NOTHING
20 WHATSOEVER, YOUR HONOR..

21 THE COURT: YOU ARE A COURT INTERPRETER?

22 PROSPECTIVE JUROR NO. V-4099: YES, I AM.

23 THE COURT: YOU'VE WORKED IN THE STATE COURTS?

24 PROSPECTIVE JUROR NO. V-4099: YES, I HAVE.

25 THE COURT: NOW, YOU'VE BEEN IN THE FEDERAL
26 COURT FOR THE LAST EIGHT YEARS OR SO?

27 PROSPECTIVE JUROR NO. V-4099: YES.

28 THE COURT: IS THERE ANYTHING ABOUT THAT

1 EXPERIENCE THAT WOULD AFFECT YOUR VIEWS?

2 PROSPECTIVE JUROR NO. V-4099: NO.

3 THE COURT: HAVE YOU EVER --

4 DO YOU INTERPRET FOR WITNESSES AND FOR
5 DEFENDANTS?

6 PROSPECTIVE JUROR NO. V-4099: I DO BOTH
7 WITNESSES AND DEFENDANTS.

8 THE COURT: HAVE YOU EVER WORKED IN A CASE
9 INVOLVING THE DEATH PENALTY?

10 PROSPECTIVE JUROR NO. V-4099: I BELIEVE I
11 WORKED ON ONE CASE, BUT THAT WAS MANY YEARS AGO, AND I
12 CANNOT REMEMBER THE DETAILS.

13 THE COURT: WAS IT A TRIAL WHEN WITNESSES CAME
14 IN TO TESTIFY AS OPPOSED TO A PRETRIAL PROCEEDING?

15 PROSPECTIVE JUROR NO. V-4099: IT WAS -- I
16 BELIEVE IT WAS AT THE PRETRIAL, PRELIM, PRELIMINARY
17 HEARING.

18 THE COURT: SO I GUESS WHAT I'M REALLY GETTING
19 AT IS DO YOU RECALL EVER PARTICIPATING THROUGH MOST OF A
20 CAPITAL CASE?

21 PROSPECTIVE JUROR NO. V-4099: NO.

22 THE COURT: A TRIAL?

23 PROSPECTIVE JUROR NO. V-4099: I HAVE NEVER
24 PARTICIPATED IN A WHOLE TRIAL.

25 THE COURT: LIKE SOME OF THE OTHER JURORS, YOU
26 INDICATED PERSONALLY YOU HAVE RESERVATIONS ABOUT THE
27 DEATH PENALTY AS AN APPROPRIATE POLICY FOR THE STATE; IS
28 THAT ACCURATE?

1 PROSPECTIVE JUROR NO. V-4099: THAT IS CORRECT,
2 YES.

3 THE COURT: AS I READ IT, YOU SAY THAT YOU
4 THINK YOU CAN PUT THAT ASIDE AND FOLLOW THE ROLE AS
5 INDICATED IN THE INSTRUCTIONS; IS THAT RIGHT?

6 PROSPECTIVE JUROR NO. V-4099: YES. THAT'S
7 CORRECT.

8 THE COURT: DO YOU HAVE ANY THOUGHTS ON THAT?

9 PROSPECTIVE JUROR NO. V-4099: NO.

10 THE COURT: ANY RESERVATIONS?

11 PROSPECTIVE JUROR NO. V-4099: NONE WHATSOEVER.

12 THE COURT: THANK YOU.

13 JUROR 27, GOOD MORNING.

14 PROSPECTIVE JUROR NO. G-6745: GOOD MORNING,
15 YOUR HONOR.

16 THE COURT: DID YOU HAVE ANY ADDITIONS OR
17 CORRECTIONS?

18 PROSPECTIVE JUROR NO. G-6745: NO.

19 THE COURT: I DIDN'T HAVE ANY FOLLOW-UP
20 QUESTIONS.

21 THAT COMPLETES ALL OF MY QUESTIONS.

22 WE PROBABLY SHOULD TAKE A SHORT BREAK SO PEOPLE
23 CAN STRETCH THEIR LEGS AND USE THE RESTROOM AND SO
24 FORTH.

25 LET'S RETURN AT 11:35. 11:35.

26 YOU'LL RETURN TO THE SAME SEATS WHERE YOU ARE
27 NOW.

28 THOSE OF YOU IN THE AUDIENCE NEED TO RETURN AS

1 WELL. 11:35.

2 PLEASE DON'T DISCUSS THE CASE.

3

4 (A RECESS WAS TAKEN.)

5

6 (THE FOLLOWING PROCEEDINGS WERE
7 HELD IN OPEN COURT OUTSIDE THE
8 PRESENCE OF THE PROSPECTIVE
9 JURORS:)

10

11 THE COURT: ARE WE READY?

12 MR. DHANIDINA: YES.

13 MR. SCHMOCKER: WE'RE READY.

14 THE COURT: LET'S BRING THEM IN.

15 THE CLERK: THAT JUROR DID LEAVE.

16 THE COURT: WHICH JUROR?

17 THE CLERK: B-7993.

18 THE COURT: ALL RIGHT. LEFT THE BUILDING?

19 THE CLERK: YES. HE ANSWERED YES, AND THEN
20 HE -- I GUESS HE EXCUSED HIMSELF. HE WANTED TO GO FROM
21 THE BEGINNING, THOUGH. I REMEMBER.

22 THE COURT: I'M PREPARED TO HAVE HIM CALLED AND
23 DIRECTED TO COME BACK ON WEDNESDAY, UNLESS YOU ALL FEEL
24 OTHERWISE.

25 MR. DHANIDINA: IT DOESN'T MAKE ANY DIFFERENCE
26 TO ME.

27 MR. SCHMOCKER: I'M THINKING.

28 THE COURT: WE CAN DECIDE BY THE END OF THE

1 DAY.

2 MR. SCHMOCKER: OKAY. THANKS.

3

4 (THE FOLLOWING PROCEEDINGS WERE
5 HELD IN OPEN COURT IN THE PRESENCE
6 OF THE PROSPECTIVE JURORS:)

7

8 THE COURT: EVERYONE IS PRESENT.

9 NOW THE ATTORNEYS GET TO ASK FOLLOW-UP
10 QUESTIONS, AND WE'LL START FIRST WITH THE DEFENSE..

11 MR. SCHMOCKER: THANK YOU, YOUR HONOR.

12 THE COURT: MR. SCHMOCKER.

13 MR. SCHMOCKER: GOOD MORNING, LADIES AND
14 GENTLEMEN..

15 I HAVE A FEW QUESTIONS. I WON'T BE SPEAKING
16 WITH EVERYONE, BUT I'M NOT TRYING TO -- I JUST TRY TO
17 COVER THE THINGS THAT WE NEED TO COVER. I WILL TELL YOU
18 THIS AS A PREFACE, IS ANYBODY NERVOUS?

19 GOOD.

20 I'M NERVOUS TOO. IT'S KIND OF THE WAY IT IS.
21 WE'LL WORK IT THROUGH TOGETHER, I HOPE.

22 JUROR NUMBER 3.

23 PROSPECTIVE JUROR NO. B-7993: UH-HUH.

24 MR. SCHMOCKER: ARE YOU NERVOUS?

25 PROSPECTIVE JUROR NO. B-7993: YES.

26 MR. SCHMOCKER: I NOTICED WHEN YOU WERE TALKING
27 TO THE JUDGE -- IT'S A REALLY NICE ATMOSPHERE IN THIS
28 COURT FOR A COURTROOM; WOULDN'T YOU AGREE?

1 PROSPECTIVE JUROR NO. B-7993: YES.

2 MR. SCHMOCKER: I NOTICED WHEN YOU WERE
3 SPEAKING TO THE JUDGE, YOUR ANSWERS WERE PRETTY SHORT.
4 WAS THAT BECAUSE WERE YOU NERVOUS?

5 PROSPECTIVE JUROR NO. B-7993: PROBABLY.

6 MR. SCHMOCKER: DO YOU THINK THAT --

7 CAN YOU SEE YOURSELF --

8 YOU KNOW A LITTLE BIT ABOUT THE CASE. YOU KNOW
9 MY CLIENT'S BEEN CONVICTED OF MURDER.

10 PROSPECTIVE JUROR NO. B-7993: CORRECT.

11 MR. SCHMOCKER: THERE ARE TWO PEOPLE MURDERED
12 ACTUALLY, THE SAME EVENT. THAT INFORMATION WAS GIVEN TO
13 YOU IN THE JURY QUESTIONNAIRE; YOU RECALL THAT?

14 PROSPECTIVE JUROR NO. B-7993: YES.

15 MR. SCHMOCKER: THAT JUST GIVES US A SPECIAL
16 CIRCUMSTANCE. THAT SPECIAL CIRCUMSTANCE IS DOUBLE
17 HOMICIDE. THAT MEANS HE'S ELIGIBLE FOR THE DEATH
18 PENALTY.

19 DO YOU UNDERSTAND THAT?

20 PROSPECTIVE JUROR NO. B-7993: YES.

21 MR. SCHMOCKER: THAT MEANS -- THAT DOESN'T
22 MEAN --

23 THAT MEANS THAT NO CASE IS GOING TO COME
24 BEFORE -- COMES BEFORE A JURY ON THE ISSUE OF DEATH
25 UNLESS THERE IS A SPECIAL CIRCUMSTANCE LIKE DOUBLE
26 HOMICIDE.

27 YOU WITH ME?

28 PROSPECTIVE JUROR NO. B-7993: YES.

1 MR. SCHMOCKER: OKAY. CAN YOU IMAGINE A
2 CIRCUMSTANCE WHERE YOU WOULD VOTE FOR LIFE -- FOR LIFE
3 WITHOUT THE POSSIBILITY OF PAROLE IN A CASE WHERE THERE
4 WAS A DOUBLE HOMICIDE?

5 PROSPECTIVE JUROR NO. B-7993: I'VE NEVER BEEN
6 ON A JURY, SO I WOULDN'T BE ABLE TO -- I DON'T KNOW.
7 I'D HAVE TO LOOK AT ALL THE EVIDENCE OR KNOW WHAT'S
8 GOING ON. I WOULDN'T KNOW ANYTHING OFF THE TOP OF MY
9 HEAD.

10 MR. SCHMOCKER: WELL, THE JUDGE IS GOING TO
11 INSTRUCT YOU ON THE CASE, RIGHT? YOU'LL FOLLOW HIS
12 INSTRUCTIONS; IS THAT CORRECT?

13 PROSPECTIVE JUROR NO. B-7993: YES.

14 MR. SCHMOCKER: ONE OF THE THINGS HE
15 PREINSTRUCTED YOU ON WAS ON A POINT OF AGGRAVATION WHERE
16 HE SAID THAT AGGRAVATING FACTORS MUST SUBSTANTIALLY
17 OUTWEIGH THE MITIGATING FACTORS.

18 UNDER THOSE CIRCUMSTANCES YOU COULD VOTE FOR
19 DEATH; IS THAT FAIR?

20 PROSPECTIVE JUROR NO. B-7993: YES.

21 MR. SCHMOCKER: YOU THINK YOU COULD DO THAT?

22 PROSPECTIVE JUROR NO. B-7993: YES.

23 MR. SCHMOCKER: YOU THINK THAT IF THE
24 CIRCUMSTANCES -- THE AGGRAVATING CIRCUMSTANCES AND
25 MITIGATING CIRCUMSTANCES JUST WEIGH THE SAME, DO YOU
26 THINK YOU COULD VOTE FOR LIFE UNDER THOSE CIRCUMSTANCES?

27 PROSPECTIVE JUROR NO. B-7993: YES.

28 MR. SCHMOCKER: GOOD.

1 THANK YOU VERY MUCH.

2 JUROR NUMBER 1, YOU DESCRIBED YOURSELF AS A
3 FOLLOWER, IS THAT FAIR TO SAY, ON THE JURY
4 QUESTIONNAIRE?

5 PROSPECTIVE JUROR NO. D-3563: YES.

6 MR. SCHMOCKER: YOU UNDERSTAND THAT MR. HARRIS
7 ON THIS ISSUE OF PENALTY IS ENTITLED TO YOUR INDIVIDUAL
8 OPINION, NOT JUST THE OPINION OF EVERYBODY ELSE? DOES
9 THAT MAKE SENSE?

10 PROSPECTIVE JUROR NO. D-3563: YES. YES, IT
11 WOULD BE MY OPINION.

12 MR. SCHMOCKER: SO YOU WILL OFFER YOUR OPINION
13 TO THE JURY AND TO THE COURT IN REGARDS TO THIS MATTER,
14 CORRECT?

15 PROSPECTIVE JUROR NO. D-3563: YES.

16 MR. SCHMOCKER: DO YOU THINK THAT UNDER THE
17 RIGHT CIRCUMSTANCES -- UNDER THE RIGHT CIRCUMSTANCES
18 THAT YOU WOULD BE ABLE TO VOTE FOR DEATH?

19 PROSPECTIVE JUROR NO. D-3563: IT DEPENDS ON
20 THE MITIGATING FACTORS AND -- I'M SORRY. I'M JUST
21 NERVOUS.

22 MR. SCHMOCKER: YOU WOULD CONSIDER DEATH IN
23 REGARDS TO THIS CASE, WOULDN'T YOU?

24 PROSPECTIVE JUROR NO. D-3563: YEAH. I MEAN,
25 IT CAN GO BOTH WAYS. I DON'T KNOW ANYTHING ABOUT THE
26 CASE.

27 MR. SCHMOCKER: I GUESS THAT WOULD BE MY NEXT
28 QUESTION. WOULD YOU INDEED CONSIDER LIFE AS A

1 POSSIBILITY IN REGARDS TO THIS CASE ALSO?

2 PROSPECTIVE JUROR NO. D-3563: YES.

3 MR. SCHMOCKER: YOU'RE EQUALLY ATTUNED TO
4 EITHER ONE OF THOSE PENALTIES; IS THAT FAIR TO SAY?

5 PROSPECTIVE JUROR NO. D-3563: THAT'S CORRECT.

6 MR. SCHMOCKER: IS THERE ANYBODY IN THE JURY
7 BOX, OR AMONG THE 27 CALLED SO FAR, WHO DISAGREE WITH
8 JUROR NUMBER 1?

9 WOULD YOU RAISE YOUR HAND IF YOU DISAGREE WITH
10 NUMBER 1.

11 OKAY. THERE'S NO HANDS.

12 EVERYBODY AGREES, THEN?

13 THANK YOU.

14 JUROR NUMBER 4, THERE IS ALSO SOME DOUBT IN MY
15 MIND -- I DIDN'T QUITE UNDERSTAND. YOU THINK YOU COULD
16 MAKE A DECISION ON THIS CASE; ISN'T THAT RIGHT?

17 PROSPECTIVE JUROR NO. R-5857: YES, I DO.

18 MR. SCHMOCKER: YOU'LL DO YOUR BEST TO MAKE A
19 DECISION, RIGHT?

20 PROSPECTIVE JUROR NO. R-5857: YES.

21 MR. SCHMOCKER: CAN YOU IMAGINE A SITUATION --
22 HAVE YOU BEEN ON A JURY BEFORE?

23 PROSPECTIVE JUROR NO. R-5857: YES, I HAVE.

24 MR. SCHMOCKER: THAT JURY THAT YOU WERE ON, WAS
25 THERE EVER ANY DISAGREEMENTS IN THE JURY ROOM ABOUT WHAT
26 SHOULD BE DONE?

27 PROSPECTIVE JUROR NO. R-5857: YES, THERE WERE.

28 MR. SCHMOCKER: IT WAS A GROUP OF 12 OF YOU

1 THAT WERE MEETING, RIGHT.

2 PROSPECTIVE JUROR NO. R-5857: THAT'S CORRECT.

3 MR. SCHMOCKER: WAS THERE MORE THAN ONE
4 OPINION? HOW MANY OPINIONS WERE THERE, LET'S SAY, AT
5 THE BEGINNING?

6 PROSPECTIVE JUROR NO. R-5857: AT THE
7 BEGINNING, SOMETIMES, IT WAS LIKE 6-4, 6-3, THAT
8 DISAGREE AFTER THE CASE.

9 MR. SCHMOCKER: DURING THAT -- DURING THOSE
10 DISAGREEMENTS, WERE YOU ABLE TO VOICE YOUR OPINION AS TO
11 WHAT SHOULD HAPPEN?

12 PROSPECTIVE JUROR NO. R-5857: SOMETIMES I DID.

13 MR. SCHMOCKER: DID YOU CONSIDER THE OPINIONS
14 OF THE OTHER JURORS?

15 PROSPECTIVE JUROR NO. R-5857: YES.

16 MR. SCHMOCKER: ULTIMATELY DID YOU REACH A
17 DIFFERENT CONCLUSION THAN YOU STARTED WITH, OR NOT?

18 PROSPECTIVE JUROR NO. R-5857: NO, NOT REALLY.
19 WE WERE TRYING TO NORMALLY -- SOMETIMES THE DISCUSSION
20 WAS KIND OF A LITTLE BIT OFF OF OUR CASE. THE PEOPLE
21 WERE NOT REALLY LISTENING TO THE CASE OF WHAT WAS GOING
22 ON. THEY WERE TRYING TO PUT THEIR OWN OPINIONS TO IT.
23 THAT WAS ONE OF THE DISCUSSIONS THAT WE WERE TRYING TO
24 RESOLVE.

25 MR. SCHMOCKER: IN THIS CASE YOU'RE GOING TO
26 OFFER YOUR INDIVIDUAL OPINION; IS THAT FAIR TO SAY?

27 PROSPECTIVE JUROR NO. R-5857: ON THE FACTS,
28 YES.

1 MR. SCHMOCKER: YES. YOU UNDERSTAND THAT
2 NOBODY'S EVER GOING TO TELL YOU TO VOTE FOR DEATH?
3 NOBODY'S GOING TO ORDER YOU TO DO THAT; DO YOU
4 UNDERSTAND THAT?

5 PROSPECTIVE JUROR NO. R-5857: THAT'S CORRECT.

6 MR. SCHMOCKER: JUROR NUMBER 5?

7 PROSPECTIVE JUROR NO. T-5208: YES, SIR.

8 MR. SCHMOCKER: HELLO.

9 PROSPECTIVE JUROR NO. T-5208: HI.

10 MR. SCHMOCKER: YOU WERE A VICTIM OF A CRIME;
11 IS THAT RIGHT, OR WAS THAT SOMEBODY CLOSE TO YOU?

12 PROSPECTIVE JUROR NO. T-5208: SOMEONE CLOSE TO
13 THE FAMILY, YES, SIR.

14 MR. SCHMOCKER: IS THAT GOING TO MAKE IT
15 DIFFICULT FOR YOU TO BE A JUROR IN THIS CASE?

16 PROSPECTIVE JUROR NO. T-5208: NO.

17 MR. SCHMOCKER: YOU'VE BEEN A JUROR BEFORE?

18 PROSPECTIVE JUROR NO. T-5208: YES, I HAVE.

19 MR. SCHMOCKER: WERE YOU ABLE TO REACH A
20 DECISION? WITHOUT TELLING ME WHAT, WERE YOU ABLE TO
21 REACH A DECISION IN THAT CASE?

22 PROSPECTIVE JUROR NO. T-5208: YES.

23 MR. SCHMOCKER: YOU'RE GOING TO OFFER YOUR
24 INDIVIDUAL OPINION IN REGARDS TO WHAT SHOULD HAPPEN,
25 RIGHT?

26 PROSPECTIVE JUROR NO. T-5208: YES.

27 MR. SCHMOCKER: DO YOU THINK YOU CAN FAIRLY
28 CONSIDER A VERDICT OF LIFE -- LIFE WITHOUT THE

1 POSSIBILITY OF PAROLE?

2 PROSPECTIVE JUROR NO. T-5208: I CAN CONSIDER
3 BOTH, DEPENDING ON THE CIRCUMSTANCES AND THE EVIDENCE
4 PRESENTED, YES, OF COURSE.

5 MR. SCHMOCKER: TELL ME THIS. THE JUDGE HAS
6 TALKED -- THERE'S BEEN DISCUSSION ABOUT LIFE WITHOUT
7 POSSIBILITY OF PAROLE. IS IT YOUR UNDERSTANDING THAT IF
8 A PERSON RECEIVES THAT SENTENCE, THAT THEY WILL REMAIN
9 IN PRISON FOR THE REST OF THEIR LIFE?

10 PROSPECTIVE JUROR NO. T-5208: I THINK THAT'S
11 MY BASIC UNDERSTANDING. I DON'T UNDERSTAND ANYTHING
12 DIFFERENT FROM THAT.

13 MR. SCHMOCKER: YOU DON'T UNDERSTAND ANYTHING
14 DIFFERENT?

15 DOES ANYBODY ON THE JURY -- IS THERE ANYBODY
16 WHO DISAGREES OR DOES NOT UNDERSTAND LIFE WITHOUT
17 POSSIBILITY OF PAROLE TO MEAN LIFE IN PRISON?

18 WOULD YOU RAISE YOUR HANDS.

19 IT WOULD BE FAIR TO SAY THAT EVERYBODY AGREES
20 THAT LIFE WITHOUT POSSIBILITY OF PAROLE MEANS LIFE?

21 JUROR NUMBER 8, DO YOU THINK YOU CAN FAIRLY
22 CONSIDER LIFE AS AN OPTION IN THIS CASE?

23 PROSPECTIVE JUROR NO. V-4528: YES.

24 MR. SCHMOCKER: JUROR NUMBER 9, YOU HAVE SOME
25 DIFFICULTIES WITH THE CONCEPT OF THE DEATH SENTENCE; IS
26 THAT FAIR TO SAY?

27 PROSPECTIVE JUROR NO. J-0750: YES, SIR.

28 MR. SCHMOCKER: YOU'RE WILLING TO FOLLOW THE

1 LAW IN REGARDS TO THIS CASE?

2 PROSPECTIVE JUROR NO. J-0750: YES, SIR.

3 MR. SCHMOCKER: SO IF THE JUDGE WERE TO
4 INSTRUCT YOU -- HE'S GOING TO INSTRUCT YOU, YOU'LL
5 FOLLOW THE INSTRUCTIONS THAT HE GIVES YOU?

6 PROSPECTIVE JUROR NO. J-0750: YES, SIR.

7 MR. SCHMOCKER: EVEN IF YOU DON'T PERSONALLY
8 LIKE IT?

9 PROSPECTIVE JUROR NO. J-0750: YES.

10 MR. SCHMOCKER: THANK YOU, MA'AM.

11 JUROR NUMBER 10, HELLO.

12 HAVE YOU BEEN ON A JURY BEFORE?

13 PROSPECTIVE JUROR NO. R-6693: NO, I HAVE NOT.

14 MR. SCHMOCKER: DO YOU EXPRESS YOUR OPINIONS
15 WHEN ASKED?

16 PROSPECTIVE JUROR NO. R-6693: YES.

17 MR. SCHMOCKER: CAN YOU GIVE YOUR INDIVIDUAL
18 OPINION IN REGARD TO THIS CASE AFTER YOU HEAR THE
19 EVIDENCE?

20 PROSPECTIVE JUROR NO. R-6693: YES.

21 MR. SCHMOCKER: DO YOU THINK THAT THE -- THERE
22 WERE FOUR DIFFERENT CATEGORIES THAT WERE GIVEN
23 AS POSSIBILITIES FOR HOW PEOPLE FEEL ABOUT THE DEATH
24 PENALTY.

25 CAN YOU TELL US A LITTLE BIT ABOUT HOW YOU FEEL
26 ABOUT IT?

27 PROSPECTIVE JUROR NO. R-6693: I PICKED NUMBER
28 4, THAT BASED ON WHAT THE INSTRUCTIONS OF THE COURT ARE

1 AND WHAT THE EVIDENCE ARE, I COULD FAIRLY ASSESS THE
2 SITUATION.

3 MR. SCHMOCKER: YOU CAN ENVISION A SITUATION
4 WHERE YOU WOULD -- FOR EXAMPLE, IF WE WERE TO PROVE THAT
5 THE MITIGATING CIRCUMSTANCES OUTWEIGHED THE AGGRAVATING
6 CIRCUMSTANCES, COULD YOU -- CAN YOU SEE THAT AS A
7 POSSIBILITY, THAT YOU WOULD VOTE -- PARDON ME -- WOULD
8 YOU SEE THAT YOU WOULD VOTE FOR LIFE?

9 PROSPECTIVE JUROR NO. R-6693: YES.

10 MR. SCHMOCKER: THAT'S ONE OF THE OPTIONS THAT
11 YOU COULD CERTAINLY ENTERTAIN?

12 PROSPECTIVE JUROR NO. R-6693: YES.

13 MR. SCHMOCKER: YOU REALIZE THAT YOU CAN ONLY
14 VOTE FOR DEATH IF YOU FIND AGGRAVATING CIRCUMSTANCES TO
15 SUBSTANTIALLY OUTWEIGH THE MITIGATING CIRCUMSTANCES?

16 PROSPECTIVE JUROR NO. R-6693: CORRECT.

17 MR. SCHMOCKER: YOU CAN SEE IN SOME
18 CIRCUMSTANCES WHERE THE AGGRAVATING CIRCUMSTANCES
19 OUTWEIGH THE MITIGATING CIRCUMSTANCES, YOU'D STILL VOTE
20 FOR LIFE?

21 PROSPECTIVE JUROR NO. R-6693: YES.

22 MR. SCHMOCKER: NOBODY'S EVER GOING TO MAKE
23 YOU, RIGHT?

24 PROSPECTIVE JUROR NO. R-6693: NO. THAT'S
25 RIGHT.

26 MR. SCHMOCKER: YOU THINK YOU'D BE A GOOD JUROR
27 ON THIS CASE?

28 PROSPECTIVE JUROR NO. R-6693: YES, SIR.

1 MR. SCHMOCKER: THANK YOU, MA'AM.

2 JUROR NUMBER 11, YOU'VE BEEN ON A JURY BEFORE?

3 PROSPECTIVE JUROR NO. M-3458: YES, SIR.

4 MR. SCHMOCKER: IS THAT A CRIMINAL OR CIVIL
5 JURY?

6 PROSPECTIVE JUROR NO. M-3458: CIVIL.

7 MR. SCHMOCKER: WITHOUT TELLING US WHAT THE
8 RESULT WAS, DID YOU REACH A VERDICT?

9 PROSPECTIVE JUROR NO. M-3458: WAS IT A
10 VERDICT?

11 MR. SCHMOCKER: DID YOU REACH A VERDICT?

12 PROSPECTIVE JUROR NO. M-3458: YES. IT WAS NOT
13 GUILTY.

14 MR. SCHMOCKER: WELL, WE WEREN'T REALLY ASKING
15 FOR THAT, BUT THANKS FOR THE INFORMATION.

16 YOU SAID THAT IT WAS A CIVIL CASE, THOUGH?

17 PROSPECTIVE JUROR NO. M-3458: YES.

18 MR. SCHMOCKER: DURING THE COURSE OF THAT JURY
19 DELIBERATION, WERE THERE STRONG VIEWS EXPRESSED BY
20 PEOPLE?

21 PROSPECTIVE JUROR NO. M-3458: THERE WAS
22 EXPRESS OPINION, YEAH. WE BASICALLY ALL HAD THE SAME
23 OPINION.

24 MR. SCHMOCKER: YOU -- WERE YOU POLITE WITH
25 EACH OTHER?

26 PROSPECTIVE JUROR NO. M-3458: YES, WE WERE
27 VERY CORDIAL.

28 MR. SCHMOCKER: ONE OF THE THINGS I THINK

1 THAT'S IMPORTANT FOR JURORS TO REALIZE IS THAT THEY HAVE
2 CERTAIN RIGHTS. YOU HAVE THE RIGHT TO BE WELL TREATED,
3 TREATED FAIRLY. IF SOMEBODY WERE TO TREAT YOU UNFAIRLY
4 DURING THE COURSE OF A JURY DELIBERATION, WOULD YOU TELL
5 THE FOREMAN OR TELL THE JUDGE?

6 PROSPECTIVE JUROR NO. M-3458: I WOULD
7 DEFINITELY TRY TO LET THE PERSON KNOW, AND SAY WE GET
8 ALONG THAT WAY, AS OPPOSED TO LETTING IT LINGER ON. I
9 WOULD DEFINITELY TELL SOMEBODY IF I FELT WE COULDN'T
10 RESOLVE THE SITUATION AT THAT TIME, IF I WERE BEING
11 MISTREATED.

12 MR. SCHMOCKER: YOU WOULD TRY TO RESOLVE IT
13 YOURSELF FIRST?

14 PROSPECTIVE JUROR NO. M-3458: ABSOLUTELY, YES.

15 MR. SCHMOCKER: WOULD YOU AGREE WITH ME THAT
16 DURING A JURY DELIBERATION THAT SOMETIMES PEOPLE HAVE
17 STRONG VIEWS?

18 PROSPECTIVE JUROR NO. M-3458: I WOULD THINK
19 SO, YES.

20 MR. SCHMOCKER: SOMEBODY ELSE HAS A STRONG
21 VIEW, ARE YOU WILLING TO -- ARE YOU GOING TO CHANGE YOUR
22 VIEW JUST BECAUSE SOMEBODY ELSE DISAGREES WITH YOU?

23 PROSPECTIVE JUROR NO. M-3458: ABSOLUTELY NOT,
24 NO.

25 MR. SCHMOCKER: THANK YOU, MA'AM.

26 MA'AM, WE'RE CERTAINLY ALL SORRY FOR YOUR LOSS.

27 PROSPECTIVE JUROR NO. B-9815: THANK YOU.

28 MR. SCHMOCKER: JUROR NUMBER 13, THE LAWYER?

1 YOU ARE?

2 PROSPECTIVE JUROR NO. D-5849: YES, I AM.

3 MR. SCHMOCKER: I THOUGHT THAT I HEARD THAT.

4 DO YOU TRY CASES, OR PRESENTLY DO YOU HAVE

5 ANOTHER ASSIGNMENT?

6 PROSPECTIVE JUROR NO. D-5849: I DO TRY CASES.

7 MR. SCHMOCKER: IS THAT --

8 MAY I ASK WHAT JURISDICTION IS THAT?

9 PROSPECTIVE JUROR NO. D-5849: CITY OF

10 LOS ANGELES.

11 MR. SCHMOCKER: IS THAT THE WHOLE CITY, OR DO

12 YOU WORK AT A PARTICULAR COURTHOUSE?

13 PROSPECTIVE JUROR NO. D-5849: I WORK OUT OF

14 DIFFERENT COURTHOUSES, DEPENDING ON HOW FULL. CCB.

15 MR. SCHMOCKER: THIS IS YOUR HOME COURT?

16 PROSPECTIVE JUROR NO. D-5849: THIS IS SORT OF

17 MY HOME COURT.

18 MR. SCHMOCKER: THANK YOU.

19 JUROR 14?

20 PROSPECTIVE JUROR NO. J-2466: 14.

21 MR. SCHMOCKER: ARE YOU --

22 YOU DESCRIBED YOURSELF AS A LEADER; IS THAT

23 RIGHT?

24 PROSPECTIVE JUROR NO. J-2466: YES, I AM.

25 MR. SCHMOCKER: CAN YOU TELL ME A LITTLE BIT

26 ABOUT THAT. HAVE YOU ADOPTED LEADERSHIP ROLES?

27 PROSPECTIVE JUROR NO. J-2466: I'M CURRENTLY A

28 BANK MANAGER FOR CITY BANK. BEING A BANK MANAGER, I

1 HAVE TO LEAD THE TEAM.

2 MR. SCHMOCKER: HOW LONG HAVE YOU BEEN A BANK
3 MANAGER?

4 PROSPECTIVE JUROR NO. J-2466: I'VE BEEN IN THE
5 INDUSTRY 30 YEARS, BEEN A BANK MANAGER FOR ABOUT 15.

6 MR. SCHMOCKER: YOU ARE WELL -- PARDON ME. YOU
7 HAVE A LOT OF EXPERIENCE MAKING DECISIONS?

8 PROSPECTIVE JUROR NO. J-2466: YES.

9 MR. SCHMOCKER: YOU CAN MAKE A DECISION, YOU
10 THINK, ONE WAY OR THE OTHER ON THIS CASE?

11 PROSPECTIVE JUROR NO. J-2466: YES.

12 MR. SCHMOCKER: YOU UNDERSTAND THIS IS KIND OF
13 A HIRING PROCESS? WE'RE HIRING SOMEBODY TO FILL A JOB,
14 12 DIFFERENT PEOPLE TO FILL A JOB. MR. HARRIS IS THE
15 PERSON WHO'S GOT SOME SKIN IN THE GAME. IF HE WAS --

16 YOU THINK YOU WOULD MAKE A GOOD JUROR IN A CASE
17 WHERE HE WAS A DEFENDANT?

18 PROSPECTIVE JUROR NO. J-2466: YES, I WOULD.

19 MR. SCHMOCKER: YOU THINK YOU CAN BE FAIR TO
20 BOTH SIDES?

21 PROSPECTIVE JUROR NO. J-2466: YES.

22 MR. SCHMOCKER: THANK YOU, MA'AM.

23 SIR, YOU'RE JUROR NUMBER 15?

24 PROSPECTIVE JUROR NO. M-7169: YES.

25 MR. SCHMOCKER: I SEE THAT YOU HAVE A VIEW ON
26 THE DEATH PENALTY?

27 PROSPECTIVE JUROR NO. M-7169: (NODS HEAD UP
28 AND DOWN).

1 MR. SCHMOCKER: ONE OF THE POSITIONS WAS THAT
2 YOU SAW THE DEATH PENALTY AS A DETERRENT?

3 PROSPECTIVE JUROR NO. M-7169: (NODS HEAD UP
4 AND DOWN).

5 MR. SCHMOCKER: WOULD YOU FAIRLY CONSIDER BOTH
6 OPTIONS, LIFE WITHOUT POSSIBILITY OF PAROLE AND DEATH,
7 IN THIS CASE?

8 PROSPECTIVE JUROR NO. M-7169: DEPENDING ON
9 WHAT WE HEAR, YES.

10 MR. SCHMOCKER: IF THE AGGRAVATING FACTORS ARE
11 A LITTLE BIT MORE THAN THE MITIGATING FACTORS, YOU'LL
12 STILL VOTE FOR LIFE, WON'T YOU?

13 PROSPECTIVE JUROR NO. M-7169: I COULD, YES.

14 MR. SCHMOCKER: YOU COULD DO THAT?

15 PROSPECTIVE JUROR NO. M-7169: (NODS HEAD UP
16 AND DOWN).

17 MR. SCHMOCKER: YOU'RE GOING TO --
18 THIS ISN'T JUST A PROCESS OF COUNTING UP THE
19 FACTORS, YOU UNDERSTAND?

20 PROSPECTIVE JUROR NO. M-7169: (NODS HEAD UP
21 AND DOWN).

22 AS THE JUDGE SAID, YOU HAVE TO WEIGH THEM.

23 MR. SCHMOCKER: RIGHT. IT -- SOME SORT OF
24 MORAL DECISION HAS TO BE MADE. WOULD YOU AGREE WITH ME?

25 PROSPECTIVE JUROR NO. M-7169: YES.

26 MR. SCHMOCKER: ARE YOU WILLING TO DO THAT?

27 PROSPECTIVE JUROR NO. M-7169: YES, SIR.

28 MR. SCHMOCKER: THANK YOU.

1 MA'AM, WE ALL STRUGGLED THROUGH YOUR CAST. IT
2 WAS JUST FUN. THE JUDGE WAS RIGHT. WE COULD READ IT.
3 THANKS FOR GIVING US A TIP AS TO WHAT THE PROBLEM WAS.

4 THIS IS DIFFICULT MATERIAL WE'RE GOING TO BE
5 DEALING WITH. WE'RE GOING TO BE DEALING WITH THE DEATH
6 OF TWO PEOPLE, QUITE POSSIBLY A DEATH SENTENCE ON A
7 THIRD. YOU THINK YOU WOULD BE AN APPROPRIATE JUROR FOR
8 THIS CASE?

9 PROSPECTIVE JUROR NO. K-6084: ABSOLUTELY.

10 MR. SCHMOCKER: MY CLIENT, OF COURSE -- WELL --
11 HE'S LOOKING FOR A FAIR AND IMPARTIAL JUROR WHO ISN'T
12 GOING TO VOTE AUTOMATICALLY ONE WAY OR THE OTHER. WILL
13 YOU DO THAT?

14 PROSPECTIVE JUROR NO. K-6084: YES.

15 MR. SCHMOCKER: THANK YOU, MA'AM.

16 JUROR 17?

17 PROSPECTIVE JUROR NO. J-9579: YES.

18 MR. SCHMOCKER: JUROR 17, I DON'T HAVE ANY
19 QUESTIONS. THANK YOU VERY MUCH.

20 JUROR NUMBER 18, YOU THINK THAT YOU CAN BE FAIR
21 TO MR. HARRIS?

22 PROSPECTIVE JUROR NO. J-6556: YES.

23 MR. SCHMOCKER: AND FAIR MIGHT BE A DEATH
24 SENTENCE; IS THAT RIGHT?

25 PROSPECTIVE JUROR NO. J-6556: YES, THAT'S
26 RIGHT.

27 MR. SCHMOCKER: YOU'LL CONSIDER ALL THE
28 EVIDENCE IN THE CASE?

1 PROSPECTIVE JUROR NO. J-6556: YES, OF COURSE.

2 MR. SCHMOCKER: YOU UNDERSTAND HOW IMPORTANT
3 THIS IS, OF COURSE?

4 PROSPECTIVE JUROR NO. J-6556: YES, I DO.

5 MR. SCHMOCKER: THANK YOU, MA'AM.

6 THE COURT: MR. SCHMOCKER, IT'S JUST ABOUT
7 NOON. IF YOU'VE FINISHED WITH THAT SECOND ROW, PERHAPS
8 THIS WOULD BE A GOOD TIME TO BREAK FOR LUNCH.

9 MR. SCHMOCKER: IT IS.

10 THE COURT: THE TIMING'S BEEN A LITTLE BIT OFF
11 KILTER THIS MORNING, BUT WE'LL GET IT SQUARED AWAY IN
12 THE AFTERNOON.

13 WE'LL TAKE A BREAK FOR LUNCH, ASK EVERYONE TO
14 RETURN AT 1:30.

15 PLEASE DON'T DISCUSS THE CASE.

16 HAVE A NICE LUNCH.

17 LEAVE THE CARDS ON THE CHAIR WHERE YOU ARE.

18 WE'LL SEE EVERYONE BACK AT 1:30.

19

20 (AT 12:01 P.M. THE NOON RECESS WAS
21 TAKEN UNTIL 1:30 P.M. OF THE SAME
22 DAY.)

23

24

25

26

27

28

1 CASE NUMBER: TA074314
2 CASE NAME: PEOPLE VS. KAI HARRIS
3 LOS ANGELES, CALIFORNIA MONDAY, FEBRUARY 23, 2009
4 DEPARTMENT NO. 108 HON. MICHAEL JOHNSON, JUDGE
5 REPORTER: LORA JOHNSON, CSR NO. 10119
6 TIME: 1:45 P.M.

7

8 APPEARANCES:

9 DEFENDANT, KAI HARRIS, PRESENT
10 WITH COUNSEL, JOHN SCHMOCKER AND
11 LYNDA VITALE, BAR PANEL; HALIM
12 DHANIDINA, DEPUTY DISTRICT ATTORNEY,
13 REPRESENTING THE PEOPLE OF THE STATE
14 OF CALIFORNIA.

15

16 (THE JURORS ENTERED THE
17 COURTROOM.)

18

19 THE COURT: ALL RIGHT. EVERYONE IS PRESENT.
20 WE WERE IN THE MIDST OF THE DEFENSE QUESTIONS, AND
21 THAT IS WHERE WE WILL CONTINUE WITH MR. SCHMOCKER.

22 MR. SCHMOCKER: YES. THANK YOU, YOUR HONOR.

23 GOOD AFTERNOON, LADIES AND GENTLEMEN.

24 IT WON'T TAKE TOO LONG. I KNOW IT

25 FEELS ANXIOUS SOMETIMES, WE ALL FEEL.

26 JUROR NO. 19.

27 PROSPECTIVE JUROR R-8493: YES.

28 MR. SCHMOCKER: YOU ARE A LETTER CARRIER?

1 PROSPECTIVE JUROR R-8493: YES.

2 MR. SCHMOCKER: AND YOU HAVE BEEN DOING THAT
3 FOR SOME TIME?

4 PROSPECTIVE JUROR R-8493: YES.

5 MR. SCHMOCKER: DO YOU HAVE A SUPERVISOR ROLE
6 OR --

7 PROSPECTIVE JUROR R-8493: NO, NO SUPERVISOR
8 ROLE.

9 MR. SCHMOCKER: OKAY. YOU HAVE -- YOU
10 BELIEVE THE DEATH PENALTY SHOULD BE USED IN
11 CERTAIN CIRCUMSTANCES --

12 PROSPECTIVE JUROR R-8493: YES.

13 MR. SCHMOCKER: WOULD IT BE YOUR FIRST CHOICE
14 ON THAT?

15 PROSPECTIVE JUROR R-8493: NO, IT DEPENDS ON
16 THE CIRCUMSTANCES AND WHAT IT INVOLVES.

17 MR. SCHMOCKER: DO YOU THINK YOU CAN BE
18 BALANCED IN REGARDS TO THIS MATTER?

19 PROSPECTIVE JUROR R-8493: YES.

20 MR. SCHMOCKER: YOU UNDERSTAND MR. HARRIS HAS
21 ALREADY BEEN CONVICTED?

22 PROSPECTIVE JUROR R-8493: YES.

23 MR. SCHMOCKER: IT'S A SIMPLE HOMICIDE. WHEN
24 YOU SAY IT, IT SOUNDS AWFUL, RIGHT?

25 PROSPECTIVE JUROR R-8493: YES, IT DOES.

26 MR. SCHMOCKER: BUT YOU WILL CONSIDER -- YOU
27 WILL CONSIDER LIFE AS AN OPTION?

28 PROSPECTIVE JUROR R-8493: YES, I WOULD.

1 MR. SCHMOCKER: OKAY. THANK YOU, SIR.

2 PROSPECTIVE JUROR R-8493: YOU ARE WELCOMED.

3 MR. SCHMOCKER: JUROR NO. 20, WHAT IS YOUR
4 OCCUPATION?

5 PROSPECTIVE JUROR A-1180: GRAPHIC DESIGNER.

6 MR. SCHMOCKER: HAVE YOU BEEN DOING THAT FOR
7 SOME TIME?

8 PROSPECTIVE JUROR A-1180: YES.

9 MR. SCHMOCKER: HOW LONG?

10 PROSPECTIVE JUROR A-1180: 25 YEARS.

11 MR. SCHMOCKER: OKAY. NOT ALWAYS WITH THE
12 SAME GROUP, THOUGH, I TAKE IT?

13 PROSPECTIVE JUROR A-1180: NO.

14 MR. SCHMOCKER: OKAY. WE ARE LOOKING FOR
15 ANOTHER JUROR. WHAT DO YOU THINK? YOU ARE THE
16 RIGHT JUROR FOR THIS CASE?

17 PROSPECTIVE JUROR A-1180: IF YOU ALL THINK I
18 AM, THEN I WILL DO MY BEST.

19 MR. SCHMOCKER: DO YOU THINK -- YOU DON'T
20 LEAN TO ONE SIDE OR THE OTHER, DO YOU?

21 PROSPECTIVE JUROR A-1180: REGARDING --

22 MR. SCHMOCKER: WELL, I MEAN YOU DON'T THINK
23 THAT JUST BECAUSE MR. DHANIDINA IS A NICE GUY, YOU
24 ARE NOT GOING TO VOTE FOR HIM?

25 PROSPECTIVE JUROR A-1180: NO, THAT REALLY
26 HAS NOTHING TO DO IT.

27 MR. SCHMOCKER: RIGHT. YOU WILL LISTEN TO
28 THE EVIDENCE?

1 PROSPECTIVE JUROR A-1180: SURE, YES.
2 MR. SCHMOCKER: ALL RIGHT. THANK YOU.
3 PROSPECTIVE JUROR A-1180: UH-HUH.
4 MR. SCHMOCKER: JUROR NO. 21?
5 PROSPECTIVE JUROR R-3749: YES.
6 MR. SCHMOCKER: I NOTED THAT YOU HAD A HEALTH
7 PROBLEM. IS THAT GIVING YOU DIFFICULTY?
8 PROSPECTIVE JUROR R-3749: YEAH. IF I SIT
9 DOWN AND JUST -- BUT IF I -- IF IT'S A PROBLEM.
10 MR. SCHMOCKER: OKAY. IF YOU WERE SELECTED
11 ON THIS JURY, YOU WOULD COMMUNICATE WITH THE JUDGE
12 IF YOU NEEDED SOME SPECIAL ACCOMMODATION?
13 PROSPECTIVE JUROR R-3749: DEPENDS.
14 SOMETIMES I HAVE REALLY, REALLY PROBLEM.
15 MR. SCHMOCKER: I UNDERSTAND. OKAY.
16 THANK YOU, SIR.
17 JUROR NO. 21, HI.
18 PROSPECTIVE JUROR A-0298: 22.
19 MR. SCHMOCKER: I'M SORRY. YOU CERTAINLY
20 ARE. I CAN SEE THAT THING YOU ARE HOLDING. THANK
21 YOU.
22 YOU HAVE BEEN A -- HAVE YOU BEEN ON A
23 JURY BEFORE?
24 PROSPECTIVE JUROR A-0298: NEVER BEFORE, SIR.
25 MR. SCHMOCKER: DO YOU THINK THAT WHAT THE
26 JUDGE INSTRUCTS YOU TO DO YOU WILL DO?
27 PROSPECTIVE JUROR A-0298: I WILL.
28 MR. SCHMOCKER: YOU WILL FOLLOW HIS

1 INSTRUCTIONS?

2 PROSPECTIVE JUROR A-0298: YES, SIR.

3 MR. SCHMOCKER: YOU ARE RELATIVELY
4 SOFT-SPOKEN, IT SEEMS. WOULD YOU MAKE SURE YOUR
5 OPINION WOULD BE HEARD IN THE JURY?

6 PROSPECTIVE JUROR A-0298: CERTAINLY.

7 MR. SCHMOCKER: ALL RIGHT. IT'S IMPORTANT
8 THAT EVERYBODY GETS -- AS TWELVE PEOPLE ON THE
9 JURY, NOT ONE AND ELEVEN PEOPLE, RIGHT?

10 PROSPECTIVE JUROR A-0298: CORRECT.

11 MR. SCHMOCKER: ALL RIGHT. THANK YOU, SIR.

12 JUROR NO. 23, YOU ARE WITH ICE?

13 PROSPECTIVE JUROR G-6179: NO, CUSTOMS.

14 MR. SCHMOCKER: WHAT IS THE NATURE OF YOUR
15 DUTIES?

16 PROSPECTIVE JUROR G-6179: IT DEPENDS. I
17 WORK FOR THE CUSTOMS SIDE LOOKING FOR NARCOTICS,
18 OTHER SUBSTANCES. ON THE IMMIGRATION SIDE, ON THE
19 TERRORISM TEAM. IT DEPENDS -- INCOMING FLIGHTS.

20 MR. SCHMOCKER: OKAY. SO YOU DEAL WITH
21 BRADLEY PRIMARILY?

22 PROSPECTIVE JUROR G-6179: YEAH.

23 MR. SCHMOCKER: OKAY. HAVE YOU BEEN A JUROR
24 BEFORE?

25 PROSPECTIVE JUROR G-6179: NO, FIRST TIME.

26 MR. SCHMOCKER: ALL RIGHT. THANK YOU, SIR.

27 JUROR NO. 24.

28 PROSPECTIVE JUROR C-6782: YES, SIR.

1 MR. SCHMOCKER: IS THERE ANYTHING ABOUT THIS
2 CASE THAT WOULD MAKE IT DIFFICULT FOR YOU TO BE A
3 FAIR AND IMPARTIAL JUROR?

4 PROSPECTIVE JUROR C-6782: NO, SIR.

5 MR. SCHMOCKER: AND THE FACT THAT GANGS ARE
6 INVOLVED IN THIS CASE DOESN'T MEAN ANYTHING IN
7 PARTICULAR TO YOU, DOES IT.

8 PROSPECTIVE JUROR C-6782: NO.

9 MR. SCHMOCKER: ALL RIGHT. THANK YOU.

10 YOU EXPRESSED SOME DIFFICULTY, JUROR
11 NO. 25, ON BEING A JUROR IN THIS CASE?

12 PROSPECTIVE JUROR R-9855: (NODS HEAD UP AND
13 DOWN.)

14 MR. SCHMOCKER: BUT YOU WILL DO YOUR BEST; IS
15 THAT RIGHT?

16 PROSPECTIVE JUROR R-9855: YES.

17 MR. SCHMOCKER: OKAY. IF THE JUDGE INSTRUCTS
18 YOU AND GIVES YOU CERTAINLY INSTRUCTIONS, YOU WILL
19 FOLLOW IT?

20 PROSPECTIVE JUROR R-9855: YES.

21 MR. SCHMOCKER: JUROR NO. 26.

22 PROSPECTIVE JUROR V-4099: YES.

23 MR. SCHMOCKER: GOOD AFTERNOON.

24 PROSPECTIVE JUROR V-4099: GOOD AFTERNOON.

25 MR. SCHMOCKER: CAN YOU IMAGINE THE
26 CIRCUMSTANCES WHERE YOU WOULD VOTE FOR LIFE
27 WITHOUT THE POSSIBILITY OF PAROLE?

28 PROSPECTIVE JUROR V-4099: YES, I CAN.

1 MR. SCHMOCKER: WOULD THE CONVERSE BE TRUE?
2 CAN YOU IMAGINE ANY CIRCUMSTANCE WHEREBY YOU WOULD
3 VOTE FOR DEATH?

4 PROSPECTIVE JUROR V-4099: THE CONVERSE COULD
5 BE TRUE, BUT IT WOULD HAVE TO BE SOMETHING VERY
6 SERIOUS.

7 MR. SCHMOCKER: ALL RIGHT. WELL, THIS IS A
8 SERIOUS MATTER. YOU WOULD AGREE, WOULDN'T YOU?

9 PROSPECTIVE JUROR V-4099: I DO AGREE.

10 MR. SCHMOCKER: OKAY. THANK YOU, SIR.

11 PROSPECTIVE JUROR V-4099: YOU'RE WELCOMED.

12 MR. SCHMOCKER: GOOD AFTERNOON.

13 PROSPECTIVE JUROR G-6745: GOOD AFTERNOON.

14 MR. SCHMOCKER: DO YOU FEEL THAT YOU COULD BE
15 FAIR AND BALANCED IN REGARDS TO THIS CASE?

16 PROSPECTIVE JUROR G-6745: YES, I DO.

17 MR. SCHMOCKER: AND IF THE MITIGATING
18 EVIDENCE OUTWEIGHS THE AGGRAVATING EVIDENCE, YOU
19 WOULDN'T HAVE ANY TROUBLE VOTING FOR LIFE, WOULD
20 YOU?

21 PROSPECTIVE JUROR G-6745: NO, I WOULDN'T.

22 MR. SCHMOCKER: NO TROUBLE?

23 PROSPECTIVE JUROR G-6745: NO, NO TROUBLE AT
24 ALL.

25 MR. SCHMOCKER: ALL RIGHT. THANK YOU, MA'AM.

26 YOUR HONOR, I HAVE NO FURTHER
27 QUESTIONS. THANK YOU.

28 THE COURT: THANK YOU.

1 MR. DHANIDINA.

2 MR. DHANIDINA: THANK YOU.

3 GOOD AFTERNOON, EVERYONE.

4 THE PANEL: GOOD AFTERNOON.

5 MR. DHANIDINA: I ALSO HAVE A FEW QUESTIONS,
6 SOME FOR THE WHOLE GROUP AND SOME FOR PARTICULAR
7 PROSPECTIVE JURORS.

8 BEFORE I START, THOUGH, LET ME JUST
9 PREFACE MY QUESTIONS WITH A FEW COMMENTS.

10 I THINK, AND THE JUDGE HAS ALREADY
11 SORT OF STATED THIS, WHAT WE ARE LOOKING FOR HERE
12 IN YOU, THE JURORS, IS HONESTY AND SOME REFLECTION
13 ON YOUR OWN FEELINGS AND YOUR OWN OPINIONS WHICH
14 YOU HAVE ALREADY SORT OF LAID OUT A LITTLE BIT IN
15 THE QUESTIONNAIRES.

16 I DON'T WANT THIS PROCESS TO LEAVE YOU
17 WITH THE IDEA THAT HOLDING ONE OPINION IS BETTER
18 THAN HOLDING ANOTHER OPINION WHEN IT COMES TO THE
19 DEATH PENALTY. EVERY OPINION EXPRESSED REGARDING
20 THIS PENALTY IS VALID, BUT NOT EVERY OPINION
21 NECESSARILY WOULD MAKE YOU APPROPRIATE TO SIT ON A
22 CASE LIKE THIS.

23 SO I THINK WHILE IT'S IMPORTANT FOR
24 YOU TO UNDERSTAND THAT WE NEED TO HAVE JURORS WHO
25 CAN APPROACH THE CASE FAIRLY TO BOTH SIDES, IT
26 DOESN'T MEAN THAT IF YOU ARE NOT RIGHT FOR THIS
27 CASE THERE IS SOMETHING WRONG WITH YOU.

28 WHAT I AM HEARING A LOT IS EVERYONE

1 WANTS TO SAY THAT THEY CAN BE FAIR, EVERYONE WANTS
2 TO SAY THAT THEY CAN FOLLOW THE COURT'S
3 INSTRUCTIONS, RIGHT, BECAUSE HE IS THE JUDGE AND
4 WHEN HE GIVES INSTRUCTIONS IT IS THE LAW TO FOLLOW
5 THEM. BUT YOU DON'T HAVE TO BE ON A DEATH PENALTY
6 CASE IF YOU DON'T BELIEVE THAT YOUR MIND CAN BE
7 OPEN TO BOTH PENALTIES, EQUALLY OPEN, FAIRLY OPEN.

8 SO THAT MEANS IF YOU ARE CATEGORY ONE
9 AND YOU BELIEVE IN AN EYE FOR AN EYE, THAT IF
10 SOMEONE COMMITS MURDER, THEY GET THE DEATH PENALTY
11 NO MATTER WHAT THE MITIGATION IS, THAT IS A VALID
12 OPINION, BUT IT'S NOT THE RIGHT POSITION TO HAVE
13 IF YOU ARE GOING TO BE ON A CASE LIKE THIS.

14 IF YOU ARE CATEGORY TWO AND YOU THINK
15 THE DEATH PENALTY IS NEVER APPROPRIATE, AGAIN,
16 IT'S A VALID OPINION BUT NOT RIGHT FOR THIS CASE.

17 AND IN CATEGORY 3, WHICH I THINK IS
18 THE REAL KIND OF WHERE THE RUBBER MEETS THE ROAD
19 FOR A LOT OF YOU HERE WHERE YOU THINK THE DEATH
20 PENALTY IS OKAY, BUT PERSONALLY KNOWING
21 YOURSELVES, KNOWING YOUR OWN OPINIONS, IF IT CAME
22 DOWN TO IT, YOU COULDN'T BE THE ONE TO HAVE THAT
23 WEIGH ON YOUR CONSCIOUS I THINK IS THE WAY IT'S
24 BEEN EXPRESSED, THAT IS A VALID OPINION BUT NOT
25 RIGHT FOR THIS CASE. SO WHAT WE ARE LOOKING FOR,
26 THEN, ARE PEOPLE WHO NOT ONLY AGREE THAT IT'S OKAY
27 TO HAVE A DEATH PENALTY, BUT CAN KEEP THEIR MINDS
28 OPEN AND WILL LISTEN TO AGGRAVATING EVIDENCE AND

1 MITIGATING EVIDENCE AND CAN ACTUALLY DECIDE ONE
2 WAY OR ANOTHER AND BE OPEN TO BOTH.

3 SO WHEN I ASK THESE QUESTIONS, I'M
4 GOING TO ASK SOME OF YOU PERSONALLY IN PARTICULAR
5 JUST TO BE HONEST ABOUT THAT SO BOTH SIDES HERE
6 CAN GET A FAIR SHAKE.

7 SPECIFICALLY, YOU KNOW, ONE OF THE
8 QUESTIONS ON THE QUESTIONNAIRE WAS "DO YOU BELIEVE
9 THAT CALIFORNIA SHOULD HAVE A DEATH PENALTY?"
10 RIGHT? YOU GUYS REMEMBER GETTING THAT QUESTION.
11 SOME OF YOU SAID YES, SOME OF YOU SAID NO.

12 BY A SHOW HANDS, IF YOU COULD JUST
13 REMIND ME HOW MANY PEOPLE HERE BELIEVE THAT
14 CALIFORNIA SHOULD NOT HAVE A DEATH PENALTY. IF
15 YOU HAD TO VOTE TODAY, WOULD YOU VOTE AGAINST
16 HAVING IT?

17 ANYBODY?

18 I'M SURE I READ IT IN SOME
19 QUESTIONNAIRES. OKAY. WELL, I WILL APPROACH THAT
20 SPECIFICALLY, THEN, AS I GET TO SOME JURORS.

21 HOW MANY PEOPLE HERE BELIEVE THAT
22 CALIFORNIA, AS A STATE, SHOULD HAVE THE DEATH
23 PENALTY IN PLACE FOR CERTAIN CRIMES?

24

25 (THERE WAS A SHOW OF HANDS.)

26

27 PROSPECTIVE JUROR R-9855: I GUESS I --

28 MR. DHANIDINA: THIS IS JUROR NO. 27.

1 PROSPECTIVE JUROR R-9855: 25.

2 MR. DHANIDINA: 25, PARDON ME. MAYBE, YOU'RE
3 NOT SURE.

4 PROSPECTIVE JUROR R-9855: UH-HUH.

5 MR. DHANIDINA: JUROR NO. 26.

6 PROSPECTIVE JUROR V-4099: I BELIEVE IN
7 CERTAIN CASES IT IS APPROPRIATE.

8 MR. DHANIDINA: OKAY. LET ME ASK
9 SPECIFICALLY, THEN.

10 JUROR NO. 2, MA'AM, YOU INDICATED ON
11 YOUR QUESTIONNAIRE WHEN YOU WERE ASKED TO TRY TO
12 CATEGORIZE YOURSELF, THAT YOU WERE EITHER A 2 OR A
13 4. I THINK YOU CIRCLED BOTH NUMBERS.

14 DO YOU REMEMBER THAT?

15 PROSPECTIVE JUROR S-3050: VAGUELY, YES.

16 MR. DHANIDINA: OKAY. AND YOU INDICATED
17 SOMETHING ABOUT HOW YOUR RELIGIOUS BELIEFS, BASED
18 ON YOUR RELIGIOUS BELIEFS, YOU CAN'T REALLY DECIDE
19 WHETHER YOU COULD VOTE FOR DEATH OR NOT.

20 IS THAT A FAIR SUMMARY OF WHAT YOU
21 WERE SAYING?

22 PROSPECTIVE JUROR S-3050: WELL, ACTUALLY, IT
23 HAS CHANGED, MY OPINION, OVER THE WEEKEND. I
24 SPOKE WITH A LEADER OF MY CHURCH AND GOT GUIDANCE.

25 MR. DHANIDINA: OKAY. THAT'S AN INTERESTING
26 TOPIC WHICH IS ACTUALLY RELEVANT TO SOMETHING ELSE
27 I WAS GOING TO BRING UP.

28 WOULD YOU CONSIDER YOURSELF TO BE A

1 FAITHFUL PERSON WITH RESPECT TO YOUR RELIGION?

2 PROSPECTIVE JUROR S-3050: I TRY TO BE, YES.

3 MR. DHANIDINA: I MEAN YOU WOULD -- YOU
4 ATTEND CHURCH REGULARLY?

5 PROSPECTIVE JUROR S-3050: YES, I DO.

6 MR. DHANIDINA: AND FROM TIME TO TIME, YOU
7 CONSULT WITH SOME OF THE LEADERS IN THE CHURCH
8 ABOUT IMPORTANT MATTERS? OR WAS THIS THE FIRST
9 TIME THAT YOU DID THAT?

10 PROSPECTIVE JUROR S-3050: THIS IS ACTUALLY
11 THE FIRST TIME MAYBE ON SOMETHING THAT REALLY
12 DIDN'T PERTAIN TO WHAT GOES ON IN THE CHURCH, YOU
13 KNOW. AND WITHOUT GIVING ANY DETAILS OF THE CASE,
14 I WANTED TO KNOW -- BECAUSE I AM A CONVERT TO THIS
15 RELIGION -- WHERE THE CHURCH, IF THEY HAD A STANCE
16 ON IT.

17 MR. DHANIDINA: OKAY. AND I THINK THAT IS
18 NORMAL. I MEAN, AGAIN, WE ARE NOT HERE TO JUDGE
19 ANYONE'S PERSONAL BELIEFS. SOME PEOPLE GO TO
20 CHURCH REGULARLY OR DIFFERENT KINDS OF CHURCHES
21 HAVE DIFFERENT SORTS OF TEACHINGS. BUT IF YOU ARE
22 SELECTED AS A JUROR IN THIS CASE, I THINK THE
23 JUDGE IS GOING TO GIVE THIS INSTRUCTION. YOU
24 CAN'T REALLY CONSULT OUTSIDE SOURCES FOR GUIDANCE
25 ABOUT YOUR JOB AS A JUROR.

26 ARE YOU COMFORTABLE WITH THAT IDEA?

27 PROSPECTIVE JUROR S-3050: YES.

28 MR. DHANIDINA: IF --

1 PROSPECTIVE JUROR S-3050: I FEEL I'M A VERY
2 OPEN-MINDED PERSON.

3 MR. DHANIDINA: OKAY. IF YOU WERE STRUGGLING
4 WITH YOUR JOB IN THIS CASE -- SOME OF THE EVIDENCE
5 YOU ARE GOING TO HEAR IS GOING TO BE VERY
6 TROUBLING. I GUARANTEE IT -- AND YOU FELT LIKE
7 YOU NEEDED SOME ASSISTANCE, WOULD YOU SEEK THE
8 ASSISTANCE OF, SAY, A LEADER IN YOUR CHURCH OR
9 EVEN PRAYER TO HELP YOU DECIDE WHAT YOUR DECISION
10 SHOULD BE IN THIS CASE?

11 PROSPECTIVE JUROR S-3050: THAT'S KIND OF
12 PERSONAL. PROBABLY PERSONALLY I WOULD PRAY FOR
13 STRENGTH MAYBE, NOT TO GET A DIVINE ANSWER ON WHAT
14 I SHOULD DO.

15 MR. DHANIDINA: OKAY.

16 PROSPECTIVE JUROR S-3050: IF THAT MAKES
17 SENSE TO YOU.

18 MR. DHANIDINA: IT DOES. IT DOES.

19 I THINK THE REASON WHY THIS COMES UP,
20 AND IT'S NOT MEANT TO BE AN INTRUSION IN YOUR
21 PERSONAL BELIEFS BUT, YOU KNOW, BOTH SIDES, WHEN
22 WE HAVE A JURY THAT WE HAVE AGREED ON, ARE HOPING
23 AND RELYING ON THE FACT THAT THE JURY WILL BASE
24 THEIR DECISION ON THE INFORMATION THAT COMES OUT
25 IN COURT AND NOT SOME OUTSIDE SOURCE.

26 SO I GUESS MY QUESTION IS TO YOU,
27 WOULD YOU FEEL, IF YOU WERE KIND OF STUCK IN A
28 DIFFICULT POSITION IN YOUR OWN MIND REGARDING THIS

1 CASE, WOULD YOU FEEL LIKE CONSULTING ANY OUTSIDE
2 SOURCE OR SOMETHING FROM YOUR CHURCH TO HELP YOU
3 MAKE A DECISION?

4 PROSPECTIVE JUROR S-3050: NO.

5 MR. DHANIDINA: NOW, THE CLARIFICATION YOU
6 RECEIVED OVER THE WEEKEND, WAS THAT -- I MEAN
7 LET'S JUST BE, YOU KNOW, CLEAR ABOUT THIS. WAS IT
8 THAT YOU AT FIRST DIDN'T THINK THE CHURCH WAS OKAY
9 WITH THE DEATH PENALTY AND THEN AFTERWARDS YOU
10 REALIZED THAT THE CHURCH IS OKAY WITH IT?

11 HOW DID THAT GO?

12 PROSPECTIVE JUROR S-3050: I'M TRYING TO
13 PHRASE THIS CORRECTLY. LET'S JUST SAY THAT THE
14 WAY I BELIEVE, THE CHURCH ALSO AGREES WITH IT.

15 MR. DHANIDINA: AND IS IT BASED ON ANYTHING
16 IN PARTICULAR WITH RESPECT TO THE RELIGION OR, YOU
17 KNOW --

18 PROSPECTIVE JUROR S-3050: NO. BECAUSE WE
19 HAVE ARTICLES OF FAITH IN OUR CHURCH, AND IT
20 STATES THAT WE UPHOLD THE LAWS OF THE LAND WHETHER
21 IT BE THE PRESIDENT, A JUDGE, A MAGISTRATE AND SO
22 FORTH.

23 MR. DHANIDINA: OKAY. SO FOR EXAMPLE, THEN,
24 IN THIS COURT YOU ARE GOING TO BE INSTRUCTED ON
25 THE LAW, AND THE LAW IS THAT IF THE CIRCUMSTANCES
26 SURROUNDING THIS CRIME AND SURROUNDING THE
27 DEFENDANT IN AGGRAVATION SUBSTANTIALLY OUTWEIGH
28 THE MITIGATING EVIDENCE OR THE GOOD EVIDENCE ON

1 THE DEFENDANT'S BEHALF, THAT THE DEATH PENALTY
2 COULD BE APPROPRIATE.

3 COULD YOU -- BECAUSE YOU SEEM LIKE A
4 VERY REFLECTIVE PERSON TO ME -- AS YOU SIT HERE
5 RIGHT NOW -- YOU KNOW, WE ARE GOING TO REMOVE
6 OURSELVES FROM THE QUESTIONNAIRE FOR A MINUTE AND
7 TALK ABOUT SPECIFICS.

8 IN THAT CIRCUMSTANCE, AT THE END OF
9 THE CASE, IF YOU BELIEVE THE AGGRAVATION
10 SUBSTANTIALLY OUT WEIGHS THE MITIGATION, CAN YOU
11 COME BACK OUT HERE IN THIS COURTROOM IN FRONT OF
12 WHOEVER ELSE IS GOING TO BE IN HERE -- IT COULD BE
13 FAMILY MEMBERS FROM THE VICTIMS, FROM THE
14 DEFENDANT, AND THE DEFENDANT IS GOING TO BE
15 SITTING RIGHT THERE. CAN YOU COME BACK IN HERE
16 AND RENDER A VERDICT THAT SAYS KAI HARRIS, AS YOU
17 SIT HERE TODAY, I AM VOTING THAT YOU DESERVE TO BE
18 EXECUTED FOR YOUR CRIMES.

19 CAN YOU DO THAT?

20 PROSPECTIVE JUROR S-3050: YES, I CAN.

21 MR. DHANIDINA: OKAY. WHILE WE ARE ON THE
22 TOPIC, IS THERE ANYBODY ELSE HERE WHO FEELS THAT,
23 YOU KNOW, IF THEY ARE SELECTED AS A JUROR, THEY
24 WOULD WANT TO CONSULT OUTSIDE GUIDANCE ON HOW TO
25 DO THE JOB, EITHER THROUGH PRAYER OR THROUGH
26 ACTUALLY TALKING TO SPECIFIC INDIVIDUALS? IS
27 THERE ANYONE ELSE HERE WHO FEELS LIKE THEY MIGHT
28 DO THAT?

1 PROSPECTIVE JUROR NO. 12.

2 PROSPECTIVE JUROR B-9815: I WOULD DEFINITELY
3 PRAY OR MEDITATE OVER CHOOSING THE APPROPRIATE
4 PATH.

5 MR. DHANIDINA: ANYBODY ELSE?

6 PROSPECTIVE JUROR G-6179: SAME HERE, SOME
7 PRAYER, JUST PERSONAL.

8 MR. DHANIDINA: NO. 23. OKAY.

9 ANYONE ELSE?

10 NO. 18.

11 PROSPECTIVE JUROR J-6556: IT DEPENDS ON HOW
12 YOU SAID THERE ARE SOME DISTURBING THINGS. YOU
13 KNOW, I MIGHT PERHAPS YOU KNOW NEED SOME PRAYER
14 TO, YOU KNOW, BE ABLE TO DEAL WITH IT MYSELF.

15 MR. DHANIDINA: OKAY. AND JUST TO CLARIFY,
16 YOU ARE NOT SAYING THAT YOU WOULD I GUESS THROUGH
17 THE COURSE OF YOUR PRAYER ASK FOR SOME SORT OF A
18 SIGN OR A MESSAGE?

19 PROSPECTIVE JUROR J-6556: NO. NO.

20 MR. DHANIDINA: OKAY. THERE WAS SOME OTHER
21 HAND BACK HERE, NO. 5.

22 PROSPECTIVE JUROR T-5208: NO, I WOULD JUST
23 PRAY FOR WISDOM. BASICALLY THAT IS WHAT I DO ON A
24 DAY-TO-DAY BASIS. SO I MEAN IT IS A BIG DECISION,
25 AND I WOULD JUST PRAY FOR DISCERNMENT.

26 MR. DHANIDINA: NO. 26.

27 PROSPECTIVE JUROR V-4099: I WOULD PRAY ALSO
28 FOR WISDOM AND FOR STRENGTH TO COME TO SOME

1 DECISION.

2 MR. DHANIDINA: OKAY. ANYONE ELSE?

3 NO. 13.

4 PROSPECTIVE JUROR D-5649: I ALSO WOULD PRAY
5 JUST FOR WISDOM AND THE STRENGTH TO MAKE THE RIGHT
6 DECISION.

7 MR. DHANIDINA: OKAY. AGAIN, THIS IS A VERY
8 WEIGHTY DECISION. ONCE YOU MAKE THIS DECISION, IT
9 IS ONE THAT YOU HAVE TO LIVE WITH FOR A LONG TIME,
10 AND IF YOUR DECISION IS TO EXECUTE SOMEBODY,
11 THAT'S -- THAT'S GOING TO BE ON YOU, RIGHT? YOU
12 ARE NOT GOING TO BE ABLE TO SAY SOMEONE ELSE
13 DECIDED, IT WILL BE YOU IF THAT IS YOUR DECISION.
14 SO THAT IS SOMETHING I WANT TO MAKE SURE WE ARE
15 ALL THINKING ABOUT.

16 PROSPECTIVE JUROR NO. 3, YOU INDICATED
17 THAT -- I DON'T WANT TO MIX UP THE FACTS, BUT ON
18 YOUR QUESTIONNAIRE YOU INDICATED SOMETHING ABOUT
19 YOUR CHILD'S FATHER BEING A FORMER GANG MEMBER; IS
20 THAT RIGHT?

21 PROSPECTIVE JUROR B-7993: CORRECT.

22 MR. DHANIDINA: DO YOU HAVE A RELATIONSHIP
23 WITH HIM STILL?

24 PROSPECTIVE JUROR B-7993: HE PAYS CHILD
25 SUPPORT. THAT'S IT.

26 MR. DHANIDINA: OKAY. WAS HE A GANG MEMBER
27 WHILE YOU WERE WITH HIM?

28 PROSPECTIVE JUROR B-7993: NO, BEFORE.

1 MR. DHANIDINA: OKAY. YOUR BEST FRIEND'S SON
2 WAS ALSO SHOT IN SORT OF A RANDOM STREET VIOLENCE
3 TYPE OF CRIME?

4 PROSPECTIVE JUROR B-7993: HE WAS SHOT BY A
5 FRIEND, ACQUAINTANCE, YEAH.

6 MR. DHANIDINA: WAS IT -- WHAT WAS THE
7 DISPUTE OVER? CAN YOU TELL US? DID YOU KNOW?

8 PROSPECTIVE JUROR B-7993: IT WAS OVER THE
9 CAR. SUPPOSEDLY HE BORROWED THE CAR, AND THE CAR
10 WAS RETURNED WITH BULLET HOLES, BUT HE DIDN'T
11 DRIVE, SO --

12 MR. DHANIDINA: OKAY. AND THERE WAS ANOTHER
13 INSTANCE THAT WE DON'T NEED TO TALK ABOUT
14 SPECIFICALLY IN OPEN COURT RIGHT NOW WHERE YOU
15 INDICATED YOU YOURSELF WERE ACCUSED OF A CRIME AND
16 YOU WERE LATER EXONERATED, CORRECT?

17 PROSPECTIVE JUROR B-7993: CORRECT.

18 MR. DHANIDINA: DO YOU HARBOR ANY ILL
19 FEELINGS ABOUT THAT WHOLE PROCESS THAT YOU FEEL
20 LIKE YOU WERE WRONGLY ACCUSED AND CHARGES WERE
21 ACTUALLY BROUGHT?

22 PROSPECTIVE JUROR B-7993: NO. IT WAS SO
23 LONG AGO. NO.

24 MR. DHANIDINA: OKAY.

25 JUROR NO. 4, YOU SAID IN YOUR
26 QUESTIONNAIRE THAT THE DEATH PENALTY IS A DECISION
27 THAT YOU ARE GOING TO LEAVE TO THE LAWYERS.

28 DO YOU REMEMBER SAYING THAT?

1 PROSPECTIVE JUROR R-5857: I BELIEVE, YES.

2 MR. DHANIDINA: WHAT DID YOU MEAN BY THAT?

3 PROSPECTIVE JUROR R-5857: BUT -- WELL, I WAS
4 TRYING TO WRITE DOWN THAT WHAT THE OUTCOME OF THE
5 QUESTIONNAIRES COME OUT BETWEEN THE LAWYERS, THEN
6 I WILL MAKE MY DECISION.

7 MR. DHANIDINA: OKAY. SO YOU FEEL LIKE YOU
8 COULD ACTUALLY MAKE THE DECISION, YOU ARE NOT
9 GOING TO LEAVE IT TO THE JUDGE OR THE ATTORNEYS TO
10 TELL YOU WHAT DECISION TO MAKE?

11 PROSPECTIVE JUROR R-5857: NO, I'M GOING TO
12 GO BY THE FACTS OF WHAT THE ATTORNEYS ARE
13 SAYING --

14 MR. DHANIDINA: OKAY.

15 PROSPECTIVE JUROR R-5857: -- OF THE CASE.

16 MR. DHANIDINA: DO YOU FEEL, THEN, THAT IF AT
17 THE END OF THIS CASE THE AGGRAVATING EVIDENCE
18 SUBSTANTIALLY OUTWEIGHS THE MITIGATING EVIDENCE,
19 DO YOU FEEL THAT YOU COULD CONSIDER TO ACTUALLY
20 COME BACK OUT HERE IN COURT AND TELL KAI HARRIS
21 THAT YOU ARE VOTING TO HAVE HIM EXECUTED?

22 PROSPECTIVE JUROR R-5857: YES.

23 MR. DHANIDINA: ARE YOU SURE ABOUT THAT?

24 PROSPECTIVE JUROR R-5857: YES.

25 MR. DHANIDINA: OKAY. PROSPECTIVE JUROR
26 NO. 6, YOU INDICATED SOMETHING WITH RESPECT TO
27 YOUR SON HAVING A SITUATION WHERE HE WAS ACCUSED
28 OF SOMETHING AND THEN RELEASED; IS THAT RIGHT?

1 PROSPECTIVE JUROR P-9765: YES.

2 MR. DHANIDINA: DO YOU HAVE ANY NEGATIVE
3 FEELINGS ABOUT THAT WHOLE EXPERIENCE, WHAT THAT
4 WAS LIKE?

5 PROSPECTIVE JUROR P-9765: OH, NO NEGATIVE.
6 IT WAS FUN TO ME BECAUSE I HAD NEVER EXPERIENCED
7 ANYTHING LIKE THAT, SO -- AND I WAS TREATED VERY
8 NICE. FOR THE FIRST TIME, YOU KNOW, I HAVE --
9 LIKE I SAID, I HAVE NEVER EXPERIENCED THAT. SO IT
10 WAS OKAY.

11 MR. DHANIDINA: OKAY. DO YOU FEEL THAT IF
12 YOU WERE SELECTED AS A JUROR ON THIS CASE, THAT IF
13 THE CIRCUMSTANCES WERE APPROPRIATE, YOU COULD COME
14 BACK OUT INTO COURT AND PUBLICLY RENDER A VOTE TO
15 EXECUTE KAI HARRIS?

16 PROSPECTIVE JUROR P-9765: YES.

17 MR. DHANIDINA: OKAY. PROSPECTIVE JUROR
18 NO. 9, YOU GOT A LITTLE BIT EMOTIONAL WHEN YOU
19 WERE TALKING ABOUT THIS BEFORE.

20 PROSPECTIVE JUROR J-0705: YES.

21 MR. DHANIDINA: AND AGAIN, LET ME JUST
22 REITERATE, THE GOAL OF US HERE IS NOT TO PUT YOU
23 ON THE SPOT OR TO JUDGE YOUR OPINIONS ONE WAY OR
24 ANOTHER, BUT YOU SEEM LIKE SOMEONE WHO HAS THOUGHT
25 ABOUT THIS, YOU KNOW, THAT YOU HAVE REFLECTED A
26 LITTLE BIT ON BEING ON A CASE LIKE THIS.

27 PROSPECTIVE JUROR J-0705: RIGHT.

28 MR. DHANIDINA: ONE OF THE FIRST THINGS YOU

1 SAID WHEN THE JUDGE WAS ASKING YOU WAS THAT YOU
2 ARE OPPOSED TO THE DEATH PENALTY; IS THAT RIGHT?

3 PROSPECTIVE JUROR J-0705: YES, SIR.

4 MR. DHANIDINA: DO YOU FEEL THAT IT'S WRONG?

5 PROSPECTIVE JUROR J-0705: YES.

6 MR. DHANIDINA: DO YOU FEEL LIKE IT'S WRONG
7 MORALLY?

8 PROSPECTIVE JUROR J-0705: WELL, THE THING
9 ABOUT IT IS, YEAH. I'M JUST -- I'M JUST AGAINST
10 IT, PERIOD.

11 MR. DHANIDINA: OKAY. SO IF THERE WERE A
12 VOTE IN CALIFORNIA TO GET RID OF THE DEATH
13 PENALTY, WOULD YOU VOTE TO GET RID OF IT?

14 PROSPECTIVE JUROR J-0705: I DON'T KNOW
15 ABOUT -- THAT I CAN'T REALLY SAY.

16 MR. DHANIDINA: YOU WOULD VOTE FOR IT?

17 PROSPECTIVE JUROR J-0705: I DON'T KNOW RIGHT
18 NOW AS FAR AS LIKE I WOULD VOTE -- I PROBABLY
19 WOULDN'T EVEN VOTE.

20 MR. DHANIDINA: OKAY. BUT YOU FEEL THAT IT'S
21 MORALLY WRONG TO HAVE THE STATE SANCTION TAKING
22 SOMEBODY'S LIFE?

23 PROSPECTIVE JUROR J-0705: WELL, TO TELL YOU
24 THE TRUTH, IT DEPENDS ON THE CIRCUMSTANCES, YOU
25 KNOW, IF THEY REALLY -- IF THEY DESERVE TO HAVE
26 THE DEATH PENALTY, BUT AS FAR AS ME CONCERNED, I'M
27 AGAINST IT.

28 MR. DHANIDINA: OKAY. YOU SAID YOU DON'T

1 WANT TO BE IN A POSITION WHERE YOU HAVE TO JUDGE
2 SOMEONE ELSE'S LIFE.

3 PROSPECTIVE JUROR J-0705: THAT'S CORRECT.

4 MR. DHANIDINA: YOU DON'T WANT TO BE THE
5 PERSON WHO HAS TO COME INTO COURT AND TO PUBLICLY
6 SAY, OKAY, YOU DESERVE TO DIE, OR YOU DESERVE LIFE
7 EVEN THOUGH YOU KILLED SOME PEOPLE. YOU DON'T
8 WANT TO BE PUT IN THAT POSITION?

9 PROSPECTIVE JUROR J-0705: THAT'S CORRECT.

10 MR. DHANIDINA: DO YOU FEEL, THEN, IF YOU
11 WERE A JUROR ON THIS CASE, THAT SOME OF THESE
12 PERSONAL FEELINGS THAT YOU HAVE WOULD AFFECT YOUR
13 ABILITY TO REALLY GIVE A FAIR SHAKE TO BOTH SIDES?

14 PROSPECTIVE JUROR J-0705: TO BE HONEST, YES.

15 MR. DHANIDINA: OKAY. THANK YOU FOR YOUR
16 HONESTY BECAUSE, AGAIN, WE ARE JUST TRYING TO
17 FIGURE OUT WHAT IS GOING ON INSIDE YOUR MIND.
18 NOBODY HAS TO DO ANYTHING THAT THEY DON'T WANT TO
19 DO, RIGHT, IN A SITUATION.

20 PROSPECTIVE JUROR J-0705: THANK YOU.

21 MR. DHANIDINA: PROSPECTIVE JUROR NO. 13, YOU
22 WORK FOR THE CITY ATTORNEY'S OFFICE?

23 PROSPECTIVE JUROR D-5649: CORRECT.

24 MR. DHANIDINA: AS A PROSECUTOR, YOU -- I
25 DON'T WANT TO PUT WORDS IN YOUR MOUTH, BUT YOU
26 KNOW, I MAY HAVE SOME INSIGHT ON THIS. PART OF
27 THE REASON WHY YOU HAVE THIS JOB IS BECAUSE WHEN
28 YOU GO INTO COURT, YOU TAKE POSITIONS THAT YOU

1 BELIEVE ARE THE RIGHT -- THE CORRECT DECISIONS TO
2 TAKE; IS THAT RIGHT?

3 PROSPECTIVE JUROR D-5649: CORRECT. I LIKE
4 TO SEE THAT JUSTICE IS SERVED.

5 MR. DHANIDINA: RIGHT. AND AS A JUROR, NOW,
6 THE JUDGE SAYS, OKAY, YOU ARE NOT GOING TO BE A
7 PROSECUTOR ANYMORE, YOU ARE GOING TO BE, YOU KNOW,
8 UNBIASED IN THAT SENSE.

9 YOU INDICATED THAT YOU ARE OPPOSED TO
10 THE DEATH PENALTY ALSO; IS THAT RIGHT?

11 PROSPECTIVE JUROR D-5649: NO. I SAID IN
12 GENERAL. I'M ONE OF THESE TYPE OF PEOPLE THAT
13 FEEL, AS I MENTIONED, THAT THERE ARE CASES WHERE
14 IT IS APPROPRIATE. BUT JUST, I GUESS IF YOU JUST
15 ASK ME, YOU KNOW, WOULD YOU BELIEVE OR DO YOU
16 BELIEVE IN THE DEATH PENALTY, I'M KIND OF ON THE
17 FENCE, AND IN GENERAL I DON'T BELIEVE IN THE DEATH
18 PENALTY.

19 MR. DHANIDINA: OKAY. I GUESS WHAT I'M
20 TRYING TO GET AT IS, WHEN YOU SAY YOU DON'T
21 BELIEVE IN IT IN GENERAL, WHAT IS THAT BASED ON?
22 IS THAT BECAUSE YOU DON'T THINK IT'S A GOOD PUBLIC
23 POLICY, OR YOU DON'T THINK IT'S A MORAL PENALTY TO
24 HAVE IN OUR SYSTEM? WHAT IS THAT BASED ON?

25 PROSPECTIVE JUROR D-5649: I GUESS IT'S BASED
26 ON KNOWING THE CRIMINAL JUSTICE SYSTEM, KNOWING
27 PENALTIES AND WHAT HAPPENS TO PEOPLE. I GUESS I
28 KIND OF FEEL AS THOUGH IF SOMEONE IS PUT TO DEATH,

1 THEY ARE NOT REALLY GOING THROUGH THE PUNISHMENT
2 PHASE AND GOING THROUGH -- THEY ARE BASICALLY
3 BEING PUT TO DEATH AND THEY ARE NOT HAVING TO LIVE
4 OUT AND DEAL WITH WHAT THEY HAVE DONE.

5 MR. DHANIDINA: OH, INTERESTING. OKAY.

6 AND THIS IS SOMETHING THAT COMES UP A
7 LOT IN THESE CASES. AND CORRECT ME IF I'M PUTTING
8 WORDS IN YOUR MOUTH. DO YOU THINK THAT IN SOME
9 WAYS IF YOU ARE EXECUTED, YOU ARE ALMOST GETTING
10 OFF EASY BECAUSE YOU ARE NOT SERVING OUT THE
11 ENTIRETY OF A LIFE SENTENCE.

12 IS THAT WHAT YOU ARE SAYING?

13 PROSPECTIVE JUROR D-5649: IN SOME WAYS. BUT
14 THEN AS I MENTIONED, ON THE OTHER HAND, THERE ARE
15 CIRCUMSTANCES THAT YOU CAN TELL ME AND I WOULD
16 SAY -- I WOULD FEEL DIFFERENTLY. I WOULD FEEL AS
17 THOUGH, NO, THAT WOULD BE APPROPRIATE FOR THIS
18 PERSON.

19 MR. DHANIDINA: DO YOU BELIEVE THAT A LIFE
20 SENTENCE OR LIFE WITHOUT PAROLE IS IN SOME WAYS A
21 MORE SEVERE SENTENCE THAN A DEATH SENTENCE?

22 PROSPECTIVE JUROR D-5649: IT DEPENDS ON THE
23 CIRCUMSTANCES.

24 MR. DHANIDINA: THE CIRCUMSTANCES WITH
25 RESPECT TO THE CRIME OR THE DEFENDANT?

26 PROSPECTIVE JUROR D-5649: CIRCUMSTANCES WITH
27 REGARDS TO THE CRIME AND POSSIBLY THE DEFENDANT.

28 MR. DHANIDINA: OKAY.

1 PROSPECTIVE JUROR D-5649: IT'S HARD FOR ME
2 TO SEPARATE, BUT I WOULD SAY DEPENDING ON THE
3 CRIME AND WHAT HAS BEEN DONE.

4 MR.. DHANIDINA: IS THERE ANYBODY HERE WHO
5 BELIEVES THAT A LIFE SENTENCE -- SERVING LIFE IN
6 PRISON WHERE YOU ARE LOCKED UP AND, YOU KNOW, YOU
7 ARE BASICALLY IN A CELL FOR THE REST OF YOUR LIFE,
8 THAT THAT IS ACTUALLY WORSE THAN BEING EXECUTED?

9 THERE IS A VARIETY OF HANDS. I WILL
10 TRY TO GO IN ORDER.

11 OKAY. NO. 15.

12 PROSPECTIVE M-7163: YES.

13 MR. DHANIDINA: YOU BELIEVE THAT?

14 PROSPECTIVE M-7163: YES, I DO.

15 MR. DHANIDINA: WHY DO YOU THINK THAT'S TRUE?

16 PROSPECTIVE JUROR M-7163: BECAUSE THE PERSON
17 HAS RUINED THEIR LIFE AND NOW THEY HAVE TO REFLECT
18 ON IT FOR THE REST OF THEIR LIFE, WHAT THEY DID.

19 MR. DHANIDINA: OKAY. LET'S JUST SAY --
20 WELL, LET ME ASK SOME OF THE OTHER JURORS.

21 JUROR NO. 6, YOU ALSO RAISED YOUR
22 HAND.

23 PROSPECTIVE JUROR P-9765: NO, NEVER MIND.

24 MR. DHANIDINA: OKAY. ONE OF THE JURORS IN
25 FRONT HERE.

26 NO. 23.

27 PROSPECTIVE JUROR G-6179: I FEEL THE SAME
28 THAT HE JUST MENTIONED, IT JUST FEELS LIKE A

1 COP-OUT.

2 MR. DHANIDINA: SO ACTUALLY YOU THINK IT
3 WOULD BE MORE PUNISHMENT TO GIVE SOMEONE A LIFE
4 SENTENCE VERSUS A DEATH SENTENCE?

5 PROSPECTIVE JUROR G-6179: YES.

6 MR. DHANIDINA: NO. 25, YOU THINK THAT IS
7 TRUE ALSO?

8 PROSPECTIVE JUROR R-9855: YES.

9 MR. DHANIDINA: NOW, WHAT IF
10 HYPOTHETICALLY -- WE WILL GET BACK TO YOU, JUROR
11 15.

12 LET'S SAY THE PERSON WHO COMMITTED THE
13 CRIME ACTUALLY HAD POSITIVE FEELINGS ABOUT IT,
14 ACTUALLY THOUGHT THAT IT WAS A GOOD THING. WOULD
15 THAT PERSON SITTING IN A CELL FOR THE REST OF
16 THEIR LIVES REFLECT IN A WAY THAT WOULD TORTURE
17 THEM, OR DO YOU THINK IT'S POSSIBLE THAT SOME
18 PEOPLE MIGHT BE ABLE TO LIVE OUT THE REST OF THEIR
19 LIVES NOT BOTHERED AT ALL BY WHAT THEY HAVE DONE?

20 PROSPECTIVE JUROR M-7163: THAT'S POSSIBLE.

21 MR. DHANIDINA: SO YOU ARE SAYING BASICALLY
22 IF THE PERSON HAS A CONSCIENCE ABOUT IT, THAT IT
23 COULD BE TORTURE TO HAVE TO THINK ABOUT IT ALL THE
24 TIME; IS THAT RIGHT?

25 PROSPECTIVE JUROR M-7163: YES, SIR.

26 MR. DHANIDINA: BUT IF THE PERSON DOESN'T
27 HAVE A CONSCIENCE ABOUT IT, ACTUALLY THINKS IT'S A
28 GOOD THING, THEN IT WOULDN'T NECESSARILY -- THEY

1 WOULDNT'T FALL IN THAT SAME CATEGORY; IS THAT
2 RIGHT?

3 PROSPECTIVE JUROR M-7163: NO, SIR.

4 MR. DHANIDINA: OKAY. BACK TO YOU JUROR
5 NO. 13. SORRY FOR THE SEGUE.

6 PROSPECTIVE JUROR D-5649: THAT'S ALL RIGHT.

7 MR. DHANIDINA: IF YOU WERE SELECTED AS A
8 JUROR ON THIS CASE, HAVE YOU ALREADY IN YOUR MIND
9 THOUGHT OF TYPES OF CIRCUMSTANCES THAT YOU WOULD
10 HAVE TO SEE IN ORDER TO RENDER ONE DECISION OR
11 ANOTHER? FOR EXAMPLE, YOU KNOW, I KNOW IN ADVANCE
12 I BETTER HEAR THAT, YOU KNOW, THIS MAY HAVE
13 HAPPENED TO THE DEFENDANT IN HIS LIFE FOR ME TO
14 GIVE HIM LIFE, OR I BETTER HEAR THAT HE KILLED A
15 BUNCH OF LITTLE KIDS IN ORDER FOR ME TO GIVE HIM
16 DEATH? HAVE YOU ALREADY THOUGHT OF THE TYPES OF
17 CIRCUMSTANCES YOU ARE LOOKING FOR?

18 PROSPECTIVE JUROR D-5649: NO. AND I'M
19 LISTENING TO YOU.

20 YOU KNOW, I UNDERSTAND FROM BEING
21 INSTRUCTED OR JUST BEING INFORMED BY THE JUDGE
22 THAT YOU HAVE TO HAVE SUBSTANTIAL AGGRAVATING
23 FACTORS TO EVEN CONSIDER THE DEATH PENALTY. THAT
24 DOESN'T MEAN THAT YOU HAVE TO VOTE THAT WAY. AND
25 IF YOU HAVE SUBSTANTIAL MITIGATING FACTORS, THEN
26 YOU HAVE TO FIND FOR LIFE IMPRISONMENT.

27 MR. DHANIDINA: THAT'S RIGHT.

28 PROSPECTIVE JUROR D-5649: SO THAT'S MY

1 POSITION RIGHT NOW.

2 MR. DHANIDINA: OKAY.

3 PROSPECTIVE JUROR D-5649: SO I'M NOT REALLY
4 THINKING ABOUT CIRCUMSTANCES. I THINK THAT IS ONE
5 OF THOSE THINGS THAT WHEN IT HITS YOU, AS FAR AS
6 ALL THE AGGRAVATING CIRCUMSTANCES, THEN I WOULD
7 HAVE TO MAKE THAT CHOICE. AND I HAVEN'T THOUGHT
8 OF NECESSARILY WHAT WOULD CAUSE ME TO FEEL THAT
9 SOMEONE SHOULD BE PUT TO DEATH.

10 MR. DHANIDINA: OKAY. THE ONLY REASON WHY I
11 ASK IS THERE WERE SOME OTHER QUESTIONNAIRES WHERE
12 PEOPLE WERE SAYING, YOU KNOW, THE DEATH PENALTY
13 SHOULD BE RESERVED FOR SERIAL KILLERS OR CHILD
14 PREDATORS OR THAT SORT OF THING. THAT IS THE ONLY
15 REASON WHY I ASKED YOU THAT.

16 DO YOU FEEL THAT IF YOU ARE PUT IN A
17 SITUATION WHERE THE AGGRAVATING EVIDENCE DOES
18 SUBSTANTIALLY OUTWEIGH THE MITIGATING EVIDENCE
19 THAT YOU CAN FAIRLY CONSIDER COMING INTO COURT AND
20 TELLING KAI HARRIS AS HE SITS HERE ON THAT DAY
21 THAT HE DESERVES TO DIE FOR HIS CRIMES?

22 PROSPECTIVE JUROR D-5649: I'M SORRY, ASK
23 YOUR QUESTION AGAIN.

24 MR. DHANIDINA: YES.

25 IF YOU FEEL THAT THE AGGRAVATING
26 EVIDENCE SUBSTANTIALLY OUTWEIGHS THE MITIGATING
27 EVIDENCE, CAN YOU CONSIDER COMING BACK OUT,
28 RENDERING YOUR VERDICT IN OPEN COURT AND TELLING

1 KAI HARRIS THAT HE DESERVES TO DIE FOR HIS CRIMES?

2 PROSPECTIVE JUROR D-5649: IF THAT WERE MY
3 VERDICT. BUT ONCE AGAIN, IT WOULD BE SOMETHING --
4 I'M NOT REQUIRED TO COME BACK -- AND EVEN IF THE
5 CIRCUMSTANCES ARE AGGRAVATING, I'M NOT REQUIRED TO
6 FIND FOR THE DEATH PENALTY. BUT I WOULD
7 DEFINITELY CONSIDER IT AMONGST AND SPEAK OVER THAT
8 WITH MY FELLOW JURORS.

9 MR. DHANIDINA: THAT WAS THE QUESTION, IF YOU
10 WOULD CONSIDER IT?

11 PROSPECTIVE JUROR D-5649: YES.

12 MR. DHANIDINA: THANK YOU.

13 JUROR NO. 14, YOU INDICATED A COUPLE
14 OF THINGS THAT I WANTED TO ASK YOU ABOUT.

15 YOU HAVE BEEN ON JURY SERVICE BEFORE A
16 COUPLE OF TIMES; IS THAT RIGHT?

17 PROSPECTIVE JUROR J-2466: YES. YES.

18 MR. DHANIDINA: AND IF I'M NOT MISTAKEN, TWO
19 OF THE JURIES YOU WERE ON WERE CRIMINAL CASES?

20 PROSPECTIVE JUROR J-2466: YES.

21 MR. DHANIDINA: WERE THEY IN THIS BUILDING?

22 PROSPECTIVE JUROR J-2466: YES.

23 MR. DHANIDINA: BUT NOT IN THIS COURTROOM?

24 PROSPECTIVE JUROR J-2466: NO.

25 MR. DHANIDINA: OKAY. AND THOSE TWO CRIMINAL
26 CASES THAT YOU WERE ON, BOTH OF THOSE JURIES
27 REACHED VERDICTS; IS THAT RIGHT?

28 PROSPECTIVE JUROR J-2466: UH-HUH.

1 MR. DHANIDINA: IN THIS CASE, AS THE JUDGE
2 HAS INSTRUCTED YOU, THE DETERMINATION OF GUILT OR
3 INNOCENCE THAT YOU HAD TO MAKE IN THOSE OTHER
4 CASES, THAT HAS ALREADY BEEN MADE, AND THE FACT
5 THAT KAI HARRIS HAS BEEN CONVICTED OF TWO COUNTS
6 OF MURDER, TWO COUNTS OF ATTEMPTED MURDER, THAT IS
7 ALREADY SETTLED.

8 CAN YOU SORT OF PUT THAT ISSUE ASIDE
9 AND FOCUS SIMPLY ON WHAT PENALTY YOU THINK KAI
10 HARRIS DESERVES TO HAVE IN THIS CASE?

11 PROSPECTIVE JUROR J-2466: YES.

12 MR. DHANIDINA: AND IS PART OF YOU GOING TO
13 BE A LITTLE BIT CURIOUS ABOUT, YOU KNOW, WHAT I'M
14 HEARING ABOUT THIS OTHER GUY WHO MAY HAVE DONE THE
15 CRIME WITH HIM, WHAT DID HIS JURY DO WITH HIS
16 CASE? ARE YOU GOING TO LET THAT ENTER INTO YOUR
17 MIND?

18 PROSPECTIVE JUROR J-2466: NO.

19 MR. DHANIDINA: YOU WON'T BE CURIOUS ABOUT
20 THAT AT ALL?

21 PROSPECTIVE JUROR J-2466: NO.

22 MR. DHANIDINA: OKAY. AND AGAIN, I DON'T
23 WANT TO PUT YOU ON THE SPOT, BUT YOU INDICATED YOU
24 HAD A BROTHER THAT WAS IN SOME FORM OF CUSTODY FOR
25 I GUESS IT'S A STATUTORY RAPE SITUATION?

26 PROSPECTIVE JUROR J-2466: NO. HE -- TWO
27 YEARS AGO, MINOR WAS FEMALE UNDER 18,
28 INAPPROPRIATE TOUCHING.

1 MR. DHANIDINA: INAPPROPRIATE TOUCHING?

2 PROSPECTIVE JUROR J-2466: UH-HUH.

3 MR. DHANIDINA: HOW OLD WAS HE AT THE TIME?

4 PROSPECTIVE JUROR J-2466: 40 SOMETHING.

5 MR. DHANIDINA: OKAY. DID HE -- WHERE DID HE
6 DO HIS CUSTODY? IS IT HERE IN THE COUNTY, OR IS
7 IT SOME OTHER PART OF THE STATE?

8 PROSPECTIVE JUROR J-2466: HE IS IN -- I
9 DON'T KNOW WHERE THAT -- BLITHE CALIFORNIA.

10 MR. DHANIDINA: DID YOU KNOW WHO THE GIRL
11 WAS?

12 PROSPECTIVE JUROR J-2466: I KNEW HER WHEN
13 SHE WAS A CHILD, LIKE FIVE, SIX.

14 MR. DHANIDINA: SO SHE WAS AN ACQUAINTANCE OF
15 THE FAMILY, I GUESS?

16 PROSPECTIVE JUROR J-2466: HE DATED THE
17 MOTHER.

18 MR. DHANIDINA: HE DATED HER MOTHER?

19 PROSPECTIVE JUROR J-2466: HE DATED HER
20 MOTHER.

21 MR. DHANIDINA: DID YOU EVER TALK TO YOUR
22 BROTHER ABOUT THAT SITUATION?

23 PROSPECTIVE JUROR J-2466: NO. I NEVER KNEW
24 ABOUT IT UNTIL IT CAME OUT.

25 MR. DHANIDINA: DID HE HAVE A TRIAL?

26 PROSPECTIVE JUROR J-2466: NO. HE ADMITTED
27 TO IT AND AVOIDED THE TRIAL.

28 MR. DHANIDINA: SO YOU HAVEN'T TALKED TO HIM

1 ABOUT IT AT ALL?

2 PROSPECTIVE JUROR J-2466: I TALKED TO HIM
3 ONCE WE FOUND OUT TWO YEARS AGO, BUT NOT WHEN SHE
4 WAS A CHILD. SHE WAS A TEENAGER AT THAT TIME.

5 MR. DHANIDINA: AND DID HE GIVE YOU AN
6 EXPLANATION ABOUT WHAT HAPPENED?

7 PROSPECTIVE JUROR J-2466: WELL, HE SORT OF
8 WITHHELD THE TRUTH. I STILL DON'T KNOW THE
9 DETAILS OF WHAT HAPPENED, JUST BITS AND PIECES
10 FROM HIM AND HIM ONLY. THE MOTHER NEVER SAID
11 ANYTHING. THERE WAS NO TRIAL, SO I DON'T KNOW
12 WHAT THE TRUTH REALLY IS.

13 MR. DHANIDINA: YOU FEEL LIKE YOU WEREN'T
14 GETTING THE FULL STORY?

15 PROSPECTIVE JUROR J-2466: YEAH. I KNOW I
16 WASN'T.

17 MR. DHANIDINA: OKAY. IF YOU ARE ON A CASE
18 LIKE THIS -- AND I KNOW YOU SERVED ON SOME PRETTY
19 SERIOUS TRIALS IN THE PAST -- AND IF YOU WERE
20 PERSUADED THAT THE AGGRAVATING EVIDENCE
21 SUBSTANTIALLY OUTWEIGHS THE MITIGATING EVIDENCE TO
22 THE POINT WHERE YOU BELIEVE THAT THE DEATH PENALTY
23 IS THE APPROPRIATE AND FAIR PUNISHMENT IN THIS
24 CASE, DO YOU FEEL THAT YOU HAVE IT IN YOU TO COME
25 OUT INTO OPEN COURT AND TO RENDER THAT VERDICT IN
26 FRONT OF EVERYBODY?

27 PROSPECTIVE JUROR J-2466: YES, I DO. YES.

28 MR. DHANIDINA: OKAY. THANK YOU.

1 I ONLY HAVE A FEW MORE TO GO.

2 JUROR NO. 23, YOU INDICATED I THINK
3 WHEN THE JUDGE WAS QUESTIONING YOU, ALSO WHEN THE
4 DEFENSE ATTORNEY WAS QUESTIONING YOU, THAT NOW YOU
5 HAVE HAD SOME TIME TO THINK ABOUT IT SINCE YOU
6 WROTE OUT THE QUESTIONNAIRE, THAT YOU ARE NOT SURE
7 THAT YOU COULD RENDER A DEATH VERDICT IN THIS
8 CASE?

9 PROSPECTIVE JUROR G-6179: IT WOULD BE VERY
10 HARD FOR ME. I WOULD LIKE TO KEEP THE OPTION
11 OPEN, BUT IT WOULD BE EXTREMELY DIFFICULT.

12 MR. DHANIDINA: OKAY. WELL, I THINK IT'S NOT
13 A DECISION THAT ANYONE ON A CASE LIKE THIS WOULD
14 EVER FIND EASY. WHAT I'M TRYING TO UNDERSTAND
15 IS -- YOU KNOW YOURSELF BETTER THAN I DO OR
16 ANYBODY ELSE. IF YOU FELT THAT IT WAS THE
17 APPROPRIATE PENALTY BASED ON THE EVIDENCE THAT YOU
18 HEARD, COULD YOU PERSONALLY MAKE YOURSELF
19 RESPONSIBLE FOR VOTING TO EXECUTE KAI HARRIS IN
20 THIS CASE?

21 PROSPECTIVE JUROR G-6179: THAT IS THE PART
22 THAT I'M NOT SURE OF. I REALLY CAN'T TELL YOU
23 YEAH OR NO BECAUSE IT COULD CHANGE.

24 MR. DHANIDINA: REALLY?

25 PROSPECTIVE JUROR G-6179: YEAH.

26 MR. DHANIDINA: SO YOU ARE SAYING THAT AS WE
27 PROCEED ON THIS CASE, YOU ARE NOT IN A POSITION TO
28 LET US KNOW ONE WAY OR THE OTHER THAT YOU CAN KEEP

1 AN OPEN MIND AS TO THE PENALTY?

2 PROSPECTIVE JUROR G-6179: I WOULD WANT TO
3 KEEP AN OPEN MIND BUT I CAN'T TELL YOU HUNDRED
4 PERCENT THAT I'M ABLE TO TELL SOMEBODY, YEAH, I
5 WANT THEIR LIFE TAKEN WAY FOR WHATEVER REASON.

6 MR. DHANIDINA: OKAY. SO YOU FEEL AS YOU SIT
7 HERE TODAY THAT YOU DON'T HAVE THE ABILITY INSIDE,
8 KNOWING YOURSELF, AS WE SIT HERE TODAY, TO ASSURE
9 US ALL THAT IN THE END YOU CAN BE OPEN EQUALLY TO
10 BOTH POTENTIAL PENALTIES IN THIS CASE?

11 PROSPECTIVE JUROR G-6179: CORRECT.

12 JUROR NO. 25, SAME QUESTION FOR YOU.
13 BECAUSE YOU HAVE EXPRESSED SOME RESERVATION ABOUT
14 IT. KNOWING YOURSELF, YOU SAID THAT JUST THINKING
15 ABOUT IT HAS CAUSED SOME ANXIETY FOR YOU. AND YOU
16 KNOW, I THINK EVERYBODY HERE RESPECTS THAT. SO
17 KNOWING WHAT IS GOING ON INSIDE OF YOUR OWN HEAD
18 AND INSIDE OF YOUR OWN HEART ABOUT BEING A JUROR
19 POSSIBLY ON A DEATH PENALTY CASE, DO YOU FEEL THAT
20 YOU PERSONALLY, IF YOU ARE PERSUADED THAT DEATH IS
21 THE APPROPRIATE SENTENCE, THAT YOU COULD MAKE
22 YOURSELF RESPONSIBLE FOR THE EXECUTION OF THE
23 DEFENDANT IN THIS CASE?

24 PROSPECTIVE JUROR R-9855: I DON'T KNOW. I
25 FEEL LIKE COMPLETELY I UNDERSTAND HIS FEELINGS.
26 I'M COMPLETELY OPEN RIGHT NOW, AND I FEEL LIKE
27 THERE ARE TIMES WHEN THE DEATH PENALTY SEEMS
28 APPROPRIATE IN THE ABSTRACT, AND THERE ARE TIMES

1 THAT IT FEELS APPROPRIATE, BUT I DON'T KNOW THAT I
2 COULD COME OUT HERE AND SAY TO SOMEONE I DECIDE
3 THAT YOU ARE DYING.

4 MR. DHANIDINA: RIGHT. AND THE ABSTRACT IS A
5 COMPLETELY DIFFERENT SITUATION --

6 PROSPECTIVE JUROR R-9855: YEAH.

7 MR. DHANIDINA: -- FROM REAL LIFE.

8 I MEAN HERE YOU ARE POSSIBLY A JUROR
9 ON A CASE WITH A JUDGE AND THE PROSECUTOR AND
10 DEFENSE ATTORNEY AND THE ACTUAL DEFENDANT WHO HAS
11 ALREADY BEEN DETERMINED IS GUILTY OF MURDER. SO
12 NOW YOU ARE IN A SITUATION NOT OF DECIDING IF HE
13 DID IT OR NOT BUT WHAT HAPPENS TO HIM. AND IF YOU
14 VOTE FOR LIFE OR IF YOU VOTE FOR DEATH, THAT IS A
15 VOTE THAT YOU WILL HAVE TO LIVE WITH AND YOU KNOW
16 SLEEP AT NIGHT WITH INDEFINITELY. THAT'S THE
17 REALITY OF IT.

18 YOU KNOW, THIS PODIUM WILL PROBABLY BE
19 SITTING IN THE EXACT SAME SPOT AT THE END OF THE
20 TRIAL WHEN I GET UP HERE AND THE DEFENSE ATTORNEY
21 GETS UP HERE AND WE ASK YOU TO IMPOSE THE DEATH
22 SENTENCE OR A LIFE SENTENCE, AND YOU WILL BE
23 SITTING IN ONE OF THESE CHAIRS. DO YOU THINK THAT
24 YOU HAVE IT INSIDE OF YOU AS YOU SIT HERE TODAY TO
25 REALLY HONESTLY BE OPEN EQUALLY TO BOTH PENALTIES
26 IN THIS CASE?

27 PROSPECTIVE JUROR R-9855: I FEEL LIKE THE
28 MORE I THINK ABOUT IT, THE MORE I LEAN TOWARDS

1 JUST LIFE IN PRISON IN GENERAL, BUT -- AND I DON'T
2 KNOW WHAT WOULD MEET -- I DON'T KNOW WHAT WOULD
3 CONCRETELY BE LIKE REALLY, REALLY HORRIBLE,
4 HORRIBLE LIKE AGGRAVATING FACTORS, BUT I GUESS IF
5 I KNEW REALLY, LIKE, YOU KNOW, I GUESS IT JUST
6 OCCURS TO YOU OR DOESN'T THAT SOMETHING IS REALLY,
7 REALLY HORRIBLE AND THEN THE DEATH PENALTY IS
8 BEING SERVED, AND IN THAT CASE I FEEL LIKE I WOULD
9 BE ABLE TO.

10 MR. DHANIDINA: OKAY. WELL, THAT'S REALLY
11 WHAT I'M GETTING AT HERE. NOT TO PREJUDGE THE
12 EVIDENCE WHICH IS WHY WE ARE NOT TALKING ABOUT
13 WHAT THE EVIDENCE IS GOING TO BE IN THIS CASE, BUT
14 YOU FEEL AS YOU SIT HERE TODAY THAT THERE ARE
15 CERTAIN CIRCUMSTANCES CONCEIVABLY THAT YOU COULD
16 HEAR THAT UNDER WHICH YOU PERSONALLY COULD TELL
17 THE DEFENDANT IN THIS CASE THAT THE APPROPRIATE
18 SENTENCE IS FOR HIM TO DIE FOR THE CRIMES THAT HE
19 HAS COMMITTED.

20 DO YOU THINK YOU CAN DO THAT?

21 PROSPECTIVE JUROR R-9855: I DON'T KNOW IF I
22 COULD SAY THAT TO SOMEONE. I THINK I COULD
23 POSSIBLY FEEL THAT WAY, BUT I DON'T KNOW IF I
24 COULD LIKE MAKE A FINAL DECISION THAT'S THAT
25 HEAVY.

26 MR. DHANIDINA: OKAY.

27 JUROR NO. 26, YOU INDICATED ON YOUR
28 QUESTIONNAIRE A FEW THINGS KIND OF SIMILAR TO WHAT

1 SOME OTHER JURORS HAVE SAID, SPECIFICALLY I THINK
2 I QUOTED HERE THAT YOU DON'T BELIEVE IN THE DEATH
3 PENALTY.

4 IS THAT RIGHT?

5 PROSPECTIVE JUROR V-4099: THAT IS CORRECT.

6 MR. DHANIDINA: PART OF THAT IS BASED ON YOUR
7 UPBRINGING AND SOME OF YOUR PERSONAL RELIGIOUS
8 BELIEFS?

9 PROSPECTIVE JUROR V-4099: CORRECT.

10 MR. DHANIDINA: OKAY. DO YOU BELIEVE THAT
11 IT'S IMMORAL TO HAVE A DEATH PENALTY?

12 PROSPECTIVE JUROR V-4099: I DON'T BELIEVE
13 IT'S IMMORAL TO HAVE A DEATH PENALTY. I JUST
14 DON'T BELIEVE THAT I COULD VOTE FOR DEATH PENALTY.

15 MR. DHANIDINA: UNDER ANY CIRCUMSTANCE?

16 PROSPECTIVE JUROR V-4099: ONCE AGAIN, I
17 WOULD HAVE TO HEAR THE CIRCUMSTANCES TO BE ABLE TO
18 GIVE YOU THAT ANSWER.

19 MR. DHANIDINA: YOU ALSO SAID IN YOUR
20 QUESTIONNAIRE THAT YOU DIDN'T THINK CALIFORNIA
21 SHOULD HAVE A DEATH PENALTY.

22 PROSPECTIVE JUROR V-4099: I DON'T BELIEVE
23 PENALTIES SHOULD BE AROUND, PERIOD. I JUST DON'T
24 AGREE WITH THE TAKING SOMEONE ELSE'S LIFE. AN EYE
25 FOR AN EYE JUST LEAVES SOMEBODY BLIND.

26 MR. DHANIDINA: OKAY. YOU KNOW, AGAIN I
27 THINK THAT IS A LEGITIMATE OPINION AS ANY OTHER
28 THAT WE'VE HEARD IN COURT. SO I THINK WHAT I'M

1 TRYING TO GET AT IS, IF YOU DON'T THINK THE STATE
2 HAS A RIGHT TO TAKE SOMEONE ELSE'S LIFE AND YOU
3 PERSONALLY THINK THE DEATH PENALTY IS WRONG, DO
4 YOU STILL FEEL THAT YOU CAN SERVE ON A JURY THAT
5 ULTIMATELY COMES TO THE DECISION TO EXECUTE
6 SOMEBODY?

7 PROSPECTIVE JUROR V-4099: NO, I DON'T.

8 MR. DHANIDINA: OKAY. THANKS AGAIN FOR YOUR
9 HONESTY.

10 AND FINALLY JUROR NO. 27, YOU KNOW, NO
11 SURPRISE HERE BECAUSE I HAVE BEEN ASKING THE SAME
12 QUESTIONS.

13 DO YOU FEEL THAT YOU CAN SERVE ON A
14 JURY THAT IF THE EVIDENCE INDICATES THAT DEATH IS
15 THE APPROPRIATE PUNISHMENT, CAN YOU BE ON A JURY
16 THAT RENDERS A VERDICT OF DEATH FOR THE DEFENDANT
17 IN THIS CASE, KAI HARRIS?

18 PROSPECTIVE JUROR G-6745: YES.

19 MR. DHANIDINA: DO YOU FEEL YOU COULD DO
20 THAT?

21 PROSPECTIVE JUROR G-6745: YES, I CAN DO
22 THAT.

23 MR. DHANIDINA: YOU COULD SLEEP AT NIGHT?

24 PROSPECTIVE JUROR G-6745: I THINK EVERY
25 CRIME DESERVES PUNISHMENT, AND WHEN YOU --
26 EVERYTHING THAT YOU DO IN YOUR LIFE YOU HAVE TO BE
27 RESPONSIBLE AND ACCEPT THE CONSEQUENCES.

28 MR. DHANIDINA: OKAY.

1 PROSPECTIVE JUROR G-6745: AND IF WHAT YOU
2 PRESENTED IS NOT ENOUGH, I DON'T SEE WHY NOT.

3 MR. DHANIDINA: OKAY. AND FINALLY JUST A FEW
4 MORE QUESTIONS JUST FOR THE GROUP.

5 IS THERE ANYONE HERE WHO BELIEVES THAT
6 THE DEATH PENALTY SHOULD BE RESERVED ONLY FOR
7 CASES WHERE THERE ARE CERTAIN TYPES OF VICTIMS?
8 AND BY THAT I MEAN ONLY IF THE VICTIM IS A CHILD
9 OR ONLY IF THE VICTIM IS FROM A NICE NEIGHBORHOOD
10 OR A WELL TO DO BACKGROUND? IS THERE ANYONE WHO
11 FEELS THAT WAY AT ALL?

12 NO.

13 PROSPECTIVE JUROR NO. 6, YOU KIND OF
14 SMIRKED AT THE PREPOSTEROUS IDEA THAT I STATED.

15 PROSPECTIVE JUROR P-9765: I'M SORRY.

16 MR. DHANIDINA: IT IS PREPOSTEROUS. BUT YOU
17 KNOW, PEOPLE KIND OF FEEL SOMETIMES WHEN THEY ARE
18 WEIGHING THE CASE THE CRIME IS NOT AS BAD IF A
19 CERTAIN TYPE OF PERSON, SO TO SPEAK, IS KILLED,
20 VERSUS ANOTHER TYPE OF PERSON.

21 DO YOU THINK THAT WOULD BE
22 APPROPRIATE?

23 PROSPECTIVE JUROR P-9765: WHY SHOULD IT
24 MATTER WHAT TYPE AND WHERE HE LIVED? I MEAN I
25 DON'T UNDERSTAND THAT.

26 MR. DHANIDINA: OKAY. I UNDERSTAND THAT.

27 WHAT ABOUT IF ONE OF THE VICTIMS --
28 NOT AT THE TIME HE WAS KILLED, BUT LET'S SAY ONE

1 OF THE VICTIMS HAD A PAST WHERE HE WAS INVOLVED IN
2 GANG-BANGING AND VIOLENCE HIMSELF. DO YOU THINK
3 THAT KILLING THAT PERSON IS NOT AS BAD AS KILLING
4 SOMEBODY ELSE?

5 PROSPECTIVE JUROR P-9765: SAY THAT AGAIN.
6 I'M SORRY.

7 MR. DHANIDINA: WELL, YOU HAVE TWO VICTIMS IN
8 THIS CASE.

9 PROSPECTIVE JUROR P-9765: YES.

10 MR. DHANIDINA: LET'S JUST SAY ONE OF THE
11 VICTIMS HAD SORT OF A CHECKERED PAST, WAS INVOLVED
12 IN CRIME AND GANGS HIMSELF.

13 THE COURT: I THINK THIS IS A LITTLE CLOSE TO
14 PREJUDGING THE CASE.

15 MR. DHANIDINA: OKAY.

16 WELL, LET'S NOT TALK SPECIFICALLY
17 ABOUT THIS CASE. BUT DO YOU THINK THAT WHEN YOU
18 ASSESS THE PENALTY YOU FEEL THAT A CRIME WOULD BE
19 NOT AS BAD IF A VICTIM HAD A CRIMINAL HISTORY
20 VERSUS NO CRIMINAL HISTORY?

21 PROSPECTIVE JUROR P-9765: YOU LOST ME
22 SOMEWHERE.

23 MR. DHANIDINA: YEAH, I KNOW. I'M LOSING
24 MYSELF.

25 PROSPECTIVE JUROR P-9765: YOU LOST ME.

26 MR. DHANIDINA: WHAT I'M TRYING TO UNDERSTAND
27 IS, AS A JUROR, YOU ARE GOING TO HAVE TO DETERMINE
28 IN SOME RESPECT HOW BAD THE CRIME IS.

1 PROSPECTIVE JUROR P-9765: UH-HUH.

2 MR. DHANIDINA: ONE OF THE AGGRAVATING
3 CIRCUMSTANCES YOU CAN CONSIDER IS REFERRED TO AS
4 THE CIRCUMSTANCES OF THE CRIME. AND DO YOU THINK
5 THAT AS A JUROR YOU WOULD LOOK AT THE PERSON WHO
6 WAS KILLED AND SAY, YOU KNOW WHAT, NO BIG LOSS,
7 THAT PERSON -- THIS CRIME IS NOT AS SERIOUS
8 BECAUSE I DON'T LIKE SOMETHING ABOUT THAT PERSON
9 THAT WAS KILLED.

10 PROSPECTIVE JUROR P-9765: NO, I COULDN'T DO
11 THAT.

12 MR. DHANIDINA: YOU WOULD TREAT ALL VICTIMS
13 EQUALLY?

14 PROSPECTIVE JUROR P-9765: EQUALLY. I
15 COULDN'T SAY THAT.

16 MR. DHANIDINA: OKAY. IS THERE ANYBODY ELSE
17 WHO FEELS DIFFERENTLY, THAT THEY THINK AS A JUROR
18 THEY WOULD MAKE A PERSONAL DECISION OF WHETHER,
19 YOU KNOW, THE VICTIM BEING KILLED WAS NOT SO BAD
20 OR WORSE THAN ANOTHER VICTIM?

21 ANYONE THINK THAT IS APPROPRIATE?

22 EVERYONE WOULD TREAT ALL THE VICTIMS
23 IN THE CASE EQUALLY REGARDLESS OF THEIR OWN
24 BACKGROUND, WHERE THEY ARE FROM, AND THAT SORT OF
25 THING? DOES EVERYONE AGREE WITH THAT?

26 I SEE A LOT OF NODDING HEADS. OKAY.

27 FINALLY, ONE LAST QUESTION JUST FOR
28 EVERYBODY. IS THERE ANYONE, HERE BY A SHOW OF

1 HANDS, THAT REALLY WANTS TO SERVE ON THIS JURY?

2 OKAY. I SEE JUST A FEW HANDS HERE.

3 JUROR NO. 2, JUROR NO. 4 AND JUROR
4 NO. 16.

5 NUMBER 2, DO YOU REALLY WANT TO BE ON
6 THIS JURY?

7 PROSPECTIVE JUROR S-3050: I FEEL IF I WERE
8 SITTING WHERE MR. HARRIS IS SITTING, I WOULD WANT
9 SOMEONE LIKE ME ON THIS JURY.

10 MR. DHANIDINA: WHAT ABOUT IF YOU WERE
11 SITTING WHERE THE VICTIM'S FAMILY WAS SITTING,
12 WOULD YOU WANT SOMEONE LIKE YOU ON THE JURY ALSO?

13 PROSPECTIVE JUROR S-3050: YES.

14 MR. DHANIDINA: JUROR NO. 4, WHAT ABOUT YOU?
15 WHY DO YOU WANT TO BE ON THIS JURY?

16 PROSPECTIVE JUROR R-5857: WELL, TO SERVE
17 JUSTICE.

18 MR. DHANIDINA: JUROR NO. 16.

19 PROSPECTIVE JUROR K-6084: I NEVER SERVED ON
20 A JURY BEFORE. I GET OFF OF WORK. AND -- WELL,
21 YOU WANT HONESTY.

22 MR. DHANIDINA: ABSOLUTELY.

23 PROSPECTIVE JUROR K-6084: AND I JUST REALLY
24 WANT TO DO IT.

25 MR. DHANIDINA: OKAY. ALL RIGHT. THANK YOU.

26 I HAVE NOTHING FURTHER.

27 THE COURT: ANY OTHER QUESTIONS?

28 MR. SCHMOCKER: NO OTHER QUESTIONS, YOUR

1 HONOR.

2 THE COURT: ALL RIGHT. THEN LET'S TAKE A
3 BREAK. WE WILL TAKE ABOUT A 20-MINUTE BREAK.
4 PLEASE DON'T DISCUSS THE CASE. WE WILL CALL YOU
5 BACK IN ABOUT 20 MINUTES.

6

7 (THE JURORS LEFT THE
8 COURTROOM.)

9

10 THE COURT: ALL RIGHT. THE JURORS HAVE LEFT.
11 ARE THERE ANY MOTIONS FOR CAUSE BY THE
12 DEFENSE?

13 MR. SCHMOCKER: YES, YOUR HONOR. WE WOULD
14 ASK THE COURT TO CONSIDER A CAUSE REMOVAL OF JUROR
15 NO. 2, S-3050. I GUESS MY GREATER CONCERN IS
16 CONTACTING A SPIRITUAL VISOR.

17 MR. DHANIDINA: I'LL STIPULATE TO THAT.

18 THE COURT: WELL, LET ME HEAR IF THERE ARE
19 ANY OTHERS.

20 MR. SCHMOCKER: MAY I JUST HAVE A MOMENT,
21 YOUR HONOR.

22 NO OTHERS.

23 THE COURT: ALL RIGHT. WHAT IS THE PEOPLE'S
24 POSITION AS TO NO. 2.

25 MR. DHANIDINA: I WILL AGREE FOR THE SAME
26 REASON. I JUST THINK SHE IS A -- WOULD BE A WILD
27 CARD TO BOTH SIDES IF SHE IS INCLINED TO ASK FOR
28 OUTSIDE SUPERIOR AUTHORITY TO WHAT MIGHT HAPPEN IN

1 COURT.

2 THE COURT: ALL RIGHT. JUROR 2 IS EXCUSED.

3 ARE THERE ANY BY THE PEOPLE?

4 MR. DHANIDINA: YES.

5 THE FIRST -- I WILL JUST GO IN
6 ORDER -- IS PROSPECTIVE JUROR NO. 9. DO YOU WANT
7 JUST THE NUMBERS NOW OR THE ARGUMENT AT THE SAME
8 TIME?

9 THE COURT: ARGUMENT.

10 MR. DHANIDINA: OKAY. WITH RESPECT TO THIS
11 JUROR, SHE I THINK WAS QUITE DIRECT ON SEVERAL
12 OCCASIONS DURING THE QUESTIONING THAT SHE DOESN'T
13 BELIEVE IN THE DEATH PENALTY. SHE IS OPPOSED TO
14 IT. SHE DOESN'T WANT TO JUDGE SOMEONE ELSE'S
15 LIFE. I BELIEVE THESE VIEWS ARE SINCERE. SHE
16 EVEN BROKE INTO TEARS AT ONE POINT WHILE ANSWERING
17 THE QUESTIONS.

18 SHE INDICATED THAT ON HER
19 QUESTIONNAIRE SOME OF THESE SAME IDEAS, AND SHE
20 SAID MY OPINION -- QUOTE, MY OPINION IS THAT YOU
21 GET TO LIVE. AND I THINK UPON ALL OF THE ANSWERS
22 FROM THE COURT AND FROM THE DEFENSE AND MYSELF,
23 SHE INDICATED A CLEAR OPPOSITION TO THE DEATH
24 PENALTY TO THE POINT WHERE SHE SAID THAT SHE
25 COULDN'T BE FAIR TO BOTH SIDES IN THIS CASE, AND
26 SHE SAID THAT WHEN I WAS QUESTIONING HER. SO THAT
27 IS WITH RESPECT TO JUROR NO. 9.

28 NEXT ONE IS PROSPECTIVE JUROR NO. 23.

1 HE INDICATED UPON QUESTIONING BOTH BY THE DEFENSE
2 AND THE COURT AND MYSELF THAT WHEN IT CAME RIGHT
3 DOWN TO IT, HE DIDN'T THINK THAT HE COULD BE THE
4 PERSON RESPONSIBLE FOR IMPOSING A DEATH VERDICT.
5 HE DIDN'T THINK THAT HE PERSONALLY COULD DO IT
6 EVEN IF HE THOUGHT THAT IT WERE THE APPROPRIATE
7 VERDICT TO RENDER AS HE SAT HERE TODAY. HE WAS
8 UNABLE TO SAY THAT HE COULD BE FAIR TO BOTH SIDES
9 AND KEEP AN OPEN MIND AS TO THE PENALTY.

10 NEXT JUROR IS PROSPECTIVE JUROR
11 NO. 25. SHE INDICATED FROM THE VERY BEGINNING
12 THAT SHE HAD ANXIETY ABOUT THE DECISION SHE WOULD
13 HAVE TO MAKE. EVEN IN HER QUESTIONNAIRE SHE
14 INDICATED THAT SHE WAS BOTH A 3 AND A 4, A 3 BEING
15 SOMEONE WHO AGREED WITH THE DEATH PENALTY IN
16 THEORY BUT COULDN'T PERSONALLY IMPOSE IT. SHE
17 ALSO SEEMED TO GET QUITE EMOTIONAL DURING THE
18 QUESTIONING AND INDICATED THAT AS SHE SAT HERE
19 TODAY, SHE COULDN'T SAY THAT SHE COULD KEEP AN
20 OPEN MIND AS TO RENDERING DEATH AS WELL AS A LIFE
21 VERDICT IN THIS CASE.

22 AND FINALLY, JUROR NO. 26 SIMILARLY
23 SAID THAT BECAUSE OF HIS BELIEFS, HE WOULD NOT BE
24 ABLE TO BE FAIR. HE OPPOSES THE DEATH PENALTY.
25 HE SAID THAT SPECIFICALLY IN HIS QUESTIONNAIRE AND
26 DURING QUESTIONING. HE SAID THAT HE DOESN'T
27 BELIEVE THE STATE HAS A RIGHT TO TAKE SOMEONE
28 ELSE'S LIFE, TO HAVE STATE-SANCTIONED EXECUTION,

1 THAT IN THE END IF HE WERE SELECTED AS A JUROR IN
2 THE CASE, THAT HE COULD NOT BE THE PERSON
3 RESPONSIBLE FOR RENDERING A DEATH VERDICT.

4 SO BASED ON THOSE ANSWERS GIVEN AND
5 THE QUESTIONNAIRES AND IN COURT THAT THOSE JURORS
6 BE EXCUSED FOR CAUSE. THEIR ANSWERS SHOW THEY ARE
7 SUBSTANTIALLY IMPAIRED IN THEIR ABILITY TO FOLLOW
8 THE LAW IN THIS CASE.

9 THE COURT: WHAT IS THE DEFENSE POSITION ON
10 EACH OF THESE, STARTING WITH NO. 9?

11 MR. SCHMOCKER: YOUR HONOR, IN REGARDS TO
12 NO. 9, 14 AND 23 -- PARDON ME, NO. 9, NO. 23 AND
13 NO. 25, I WOULD AGREE THAT THEY ARE SUBSTANTIALLY
14 IMPAIRED. I DON'T BELIEVE 26 IS, AND WE WOULD
15 OPPOSE HIS REMOVAL.

16 MR. DHANIDINA: THE MOTION IS GRANTED AS TO
17 9, GRANTED AS TO 23, GRANTED AS TO 25. DENIED AS
18 TO 26.

19 JUROR 26 DID SAY HE WAS OPPOSED TO THE
20 DEATH PENALTY. HE SAID THAT IN SOME OF HIS
21 ANSWERS THAT HE LEANS TOWARDS LIFE IN PRISON, BUT
22 HE DID SAY ON THE OTHER SIDE OF IT THAT HE CAN
23 CONSIDER THE FACTORS, THAT HE CAN CONCEIVE OF A
24 CIRCUMSTANCE IN WHICH HE WOULD VOTE FOR THE DEATH
25 PENALTY. HIS RESPONSES WERE CERTAINLY
26 WIDE-RANGING, BUT ON BALANCE I THINK THAT HE CAN
27 FAIRLY PERFORM HIS DUTIES AND CONSIDER BOTH FORMS
28 OF PUNISHMENT.

1 I WANT TO ADDRESS JUROR 12.

2 MR. SCHMOCKER: NUMBER 12?

3 THE COURT: SHE DOESN'T HAVE ANY REMARKABLE
4 VIEWS ON THE DEATH PENALTY, BUT THIS IS THE WOMAN
5 WHOSE SON WAS KILLED AND WAS QUITE EMOTIONAL ABOUT
6 IT.

7 MR. SCHMOCKER: YOUR HONOR, I THINK SHE
8 SHOULD BE REMOVED FOR CAUSE.

9 MR. DHANIDINA: I AGREE.

10 THE COURT: ALL RIGHT. YEAH, I JUST THINK
11 THAT SHE APPEARED TO BE QUITE EMOTIONAL ALTHOUGH
12 SHE KEPT HER EMOTIONS IN CHECK. THAT'S A LITTLE
13 TOO CLOSE TO HOME.

14 ALL RIGHT. SO WE WILL EXCUSE 2, 9,
15 12, 23 AND 25 FOR CAUSE. AND THEN WE WILL REPLACE
16 THOSE SEATS AND START WITH PEREMPTORY CHALLENGES.

17 MR. SCHMOCKER: YOUR HONOR, WHICH JUROR IS
18 NEXT ON YOUR LIST?

19 THE COURT: I'M SORRY, IN WHAT SENSE?

20 MR. SCHMOCKER: ARE WE GOING -- PARDON ME.
21 ARE WE GOING TO FILL BY MOVING UP THE CHAIRS OR --

22 THE COURT: CORRECT.

23 MR. SCHMOCKER: OR ARE WE GOING TO FILL FROM
24 THE AUDIENCE?

25 THE COURT: NO, WE WILL MOVE THE CHAIRS UP
26 AND DO PEREMPTORY CHALLENGES.

27 MR. SCHMOCKER: OKAY. VERY GOOD.

28 THE COURT: SO JUROR 13 WILL GO TO SEAT 2 AND

1 SO FORTH.

2 MR. SCHMOCKER: VERY GOOD. THANK YOU, YOUR
3 HONOR.

4 THE COURT: ALL RIGHT. SO WE CAN TAKE A
5 BREAK.

6 MR. SCHMOCKER: OH, YOUR HONOR, I'M GOING TO
7 NEED A COUPLE OF MINUTES. I JUST GOT A CALL FROM
8 FEDERAL COURT. THEY PICKED UP ONE OF MY CLIENTS.
9 THEY DIDN'T TELL ME ABOUT THIS. BUT THEY ARE
10 ASKING WHY I'M NOT THERE.

11 THE COURT: OH, WELL YOU CAN TAKE TIME.

12 MR. SCHMOCKER: THANK YOU. I WANT TO EXPLAIN
13 IT TO THEM.

14 THE COURT: ALL RIGHT. THAT'S FINE.

15

16 (AT 2:46 P.M., A RECESS WAS
17 TAKEN UNTIL 3:01 P.M.)

18

19 (THE FOLLOWING PROCEEDINGS WERE
20 HELD OUTSIDE OF THE JURY'S
21 PRESENCE:)

22

23 THE COURT: ALL RIGHT. THE DEFENDANT AND
24 COUNSEL ARE HERE. BEFORE WE BRING THE JURORS
25 HERE, MY COURT REPORTER HAS TOLD ME THAT SHE IS
26 FAMILIAR WITH JUROR 13. THEY BELONG TO THE SAME
27 CHURCH AND HAVE HAD SOME SOCIAL CONTACT IN
28 CONNECTION WITH CHURCH.

1 DO YOU WANT ME TO QUIZ THE JUROR AS TO
2 WHETHER THAT WOULD HAVE ANY AFFECT ON HER?

3 MR. SCHMOCKER: COULD WE SAY SOMETHING TO
4 HER? I MEAN I DON'T KNOW ABOUT QUIZZING HER,
5 BUT --

6 THE COURT: WELL, IT'S A TERM -- IT'S A TERM
7 OF ART.

8 MR. SCHMOCKER: I WOULD ASK SOME INQUIRY.

9 THE COURT: I WOULD REITERATE THAT SHE CAN'T
10 HAVE CONTACT WITH THE REPORTER DURING THE TRIAL
11 AND ASK HER IF THAT WOULD MAKE HER UNCOMFORTABLE
12 IN ANY WAY, THAT SORT OF THING.

13 MR. SCHMOCKER: THAT WORKS FOR ME, YOUR
14 HONOR.

15 THE COURT: ALL RIGHT. FINE.

16 AND THEN I UNDERSTAND THAT THE JUROR
17 WHO DISAPPEARED, G-4450, YOU HAVE ALL REACHED AN
18 AGREEMENT ON.

19 MR. SCHMOCKER: YES, I BELIEVE WE HAVE.

20 THE COURT: WHAT IS THAT?

21 MR. SCHMOCKER: THAT WOULD BE TO EXCUSE HIM.

22 MR. DHANIDINA: THAT'S FINE.

23 THE COURT: ALL RIGHT. SO HE WILL BE
24 RELEASED.

25 IF WE CAN BRING THE JURORS IN.

26

27 (THE JURORS ENTERED THE
28 COURTROOM.)

1
2 THE COURT: ALL RIGHT. ALL JURORS ARE HERE.

3 WE APPRECIATE YOUR PATIENCE. I KNOW
4 THAT WE TOOK A LONGER BREAK THAN I THOUGHT. WE
5 HAVE A LOT GOING ON IN A CASE LIKE THIS, AND I
6 APPRECIATE YOUR PATIENCE.

7 FIRST OF ALL, JUROR 13, I UNDERSTAND
8 YOU ARE FAMILIAR WITH MY COURT REPORTER.

9 PROSPECTIVE JUROR D-5649: YES.

10 THE COURT: AS YOU KNOW, YOU CAN'T HAVE ANY
11 CONTACT WITH HER ABOUT THE CASE IF YOU SERVE AS A
12 JUROR.

13 PROSPECTIVE JUROR D-5649: I UNDERSTAND.

14 THE COURT: ARE YOU OKAY WITH THAT?

15 PROSPECTIVE JUROR D-5649: I'M FINE WITH
16 THAT, YOUR HONOR.

17 THE COURT: AND YOU WOULDN'T FEEL
18 UNCOMFORTABLE NOT -- YOU WAVE WAIVE, BUT YOU CAN'T
19 TALK OR EXCHANGE VIEWS ABOUT THE CASE OR EVEN
20 ABOUT ANYTHING ELSE WHILE YOU ARE SERVING AS A
21 JUROR.

22 PROSPECTIVE JUROR D-5649: I UNDERSTAND.

23 THE COURT: ALL RIGHT. AND I KNOW YOU ARE
24 NOT CLOSE FRIENDS BUT YOU DO SEE EACH OTHER IN A
25 CONTEXT, BUT YOU CAN'T -- YOU HAVE TO SORT OF
26 AVOID EACH OTHER IN THAT CONTEXT.

27 IS THAT OKAY?

28 PROSPECTIVE JUROR D-5649: YES, THAT'S FINE.

1 THE COURT: IS THERE ANYTHING ABOUT THAT THAT
2 WOULD MAKE YOU UNCOMFORTABLE OR RELUCTANT TO SERVE
3 AS A JUROR?

4 PROSPECTIVE JUROR D-5649: NO, THERE IS NOT
5 ANYTHING ABOUT THAT.

6 THE COURT: OKAY. THANK YOU.

7 ALL RIGHT. I'M GOING TO ANNOUNCE
8 JURORS WHO ARE EXCUSED. PLEASE WAIT UNTIL I
9 FINISHED, AND THEN IF YOU ARE EXCUSED, YOU OF
10 COURSE HAVE MY THANKS. YOU SHOULD RETURN TO THE
11 JURY ROOM AND TELL THEM THAT YOU HAVE BEEN
12 RELEASED.

13 JUROR IN SEAT 2, 9, 12, 23 AND 25.

14 THOSE JURORS ARE EXCUSED. THANK YOU
15 FOR YOUR PARTICIPATION. YOU SHOULD GO BACK TO THE
16 JURY ROOM. PLEASE LEAVE THE CARD ON THE CHAIR
17 WHERE YOU ARE NOW.

18 AND WE WILL FILL IN THE EMPTY SEATS
19 STARTING WITH THE JUROR IN SEAT 13. IF YOU COULD
20 GO TO SEAT 2, PLEASE.

21 AND THE JUROR IN SEAT 14, IF YOU COULD
22 GO TO SEAT NO. 9 UP ON THE SECOND ROW.

23 AND THE JUROR IN SEAT 15, IF YOU COULD
24 MOVE OVER TO SEAT 12.

25 ALL RIGHT. NOW THE ATTORNEYS ARE
26 GOING TO EXERCISE PEREMPTORY CHALLENGES. THEY ARE
27 GOING TO ADDRESS THAT TO SEATS 1 THROUGH 12, AND
28 THEN WE WILL FILL IN THE EMPTY SEATS AS WE JUST

1 DID WITH SEATS 16 ON.

2 IF YOU ARE EXCUSED, YOU HAVE MY
3 THANKS. AND AGAIN, YOU SHOULD GO TO THE JURY ROOM
4 AND TELL THEM THAT YOU HAVE BEEN RELEASED.

5 THE FIRST PEREMPTORY CHALLENGE IS WITH
6 THE PEOPLE.

7 MR. DHANIDINA: THANK YOU, YOUR HONOR.

8 THE PEOPLE ASK THE COURT TO PLEASE
9 THANK AND EXCUSE PROSPECTIVE JUROR NO. 3.

10 THE COURT: JUROR 3, MA'AM, YOU ARE EXCUSED.

11 AND JUROR 16, PLEASE GO TO SEAT NO. 3.

12 DEFENSE --

13 COPS, YOU FORGOT SOMETHING? COULD WE
14 HELP YOU? IS IT --

15 A JUROR: AN UMBRELLA.

16 SORRY.

17 THE COURT: THAT'S ALL RIGHT.

18 ALL RIGHT. THE DEFENSE IS NEXT.

19 MR. SCHMOCKER: YES, YOUR HONOR. WE WOULD
20 ASK THE COURT TO THANK AND EXCUSE JUROR NO. 8.

21 THE COURT: JUROR 8 IS EXCUSED.

22 JUROR IN SEAT 17, PLEASE GO TO SEAT 8.

23 PEOPLE.

24 MR. DHANIDINA: THANK YOU.

25 THE PEOPLE ASK THE COURT TO PLEASE
26 THANK AND EXCUSE PROSPECTIVE JUROR NO. 9.

27 THE COURT: JUROR 9 IS EXCUSED.

28 JUROR 18, PLEASE GO TO SEAT 9.

1 DEFENSE.

2 MR. SCHMOCKER: I APOLOGIZE, YOUR HONOR. IT
3 WILL JUST BE A MOMENT.

4
5 (DEFENSE COUNSEL CONFER.)

6
7 MR. SCHMOCKER: YOUR HONOR, WE WOULD ASK THE
8 COURT TO THANK AND EXCUSE JUROR NO. 3.

9 THE COURT: JUROR 3 IS EXCUSED.

10 JUROR 3.

11 PROSPECTIVE JUROR B-7993: OH, THAT'S ME.

12 THE COURT: YES, JUROR SEAT NO. 3. J-6084.

13 AND JUROR 19 GOES TO SEAT 3.

14 PEOPLE ARE NEXT.

15 MR. DHANIDINA: THANK YOU.

16 THE PEOPLE ASK THE COURT TO PLEASE
17 THANK AND EXCUSE PROSPECTIVE JUROR NO. 2.

18 THE COURT: JUROR 2 IS EXCUSED.

19 JUROR 20 GOES TO SEAT NO. 2.

20 DEFENSE.

21 MR. SCHMOCKER: YOUR HONOR, WE WOULD ASK THE
22 COURT TO THANK AND EXCUSE JUROR NO. 3.

23 THE COURT: 3.

24 MR. SCHMOCKER: YES, PLEASE.

25 THE COURT: JUROR 3 IS EXCUSED.

26 AND JUROR 21 GOES TO SEAT NO. 3.

27 PEOPLE.

28 MR. DHANIDINA: PEOPLE ACCEPT THE PANEL AS

1 CONSTITUTED.

2 THE COURT: DEFENSE.

3 MR. SCHMOCKER: WE WOULD ASK THE COURT TO
4 THANK AND EXCUSE JUROR NO. 3.

5 THE COURT: JUROR NO. 3, SIR, YOU ARE
6 EXCUSED.

7 JUROR 22, PLEASE TAKE SEAT NO. 3.
8 PEOPLE.

9 MR. DHANIDINA: THE PEOPLE ACCEPT THE PANEL
10 AS CONSTITUTED.

11 THE COURT: DEFENSE.

12 MR. SCHMOCKER: YOUR HONOR, I WOULD ASK THE
13 COURT TO THANK AND EXCUSE JUROR NO. 7.

14 THE COURT: JUROR IN SEAT 7, MA'AM, YOU ARE
15 EXCUSED.

16 JUROR IN SEAT 24 GOES TO SEAT NO. 7.

17 MR. SCHMOCKER: I'M SORRY, YOUR HONOR, THAT
18 WAS OLD NO. 22? 24?

19 THE COURT: THE JUROR IN SEAT 7 IS C-6782 WHO
20 WAS FORMERLY IN SEAT 24.

21 MR. SCHMOCKER: VERY GOOD. THANK YOU.

22 PEOPLE.

23 MR. DHANIDINA: THANK YOU.

24 THE PEOPLE ACCEPT THE PANEL AS
25 CONSTITUTED.

26 MR. SCHMOCKER: YOUR HONOR, I WOULD ASK. --

27 THE COURT: DEFENSE.

28 MR. SCHMOCKER: I WOULD ASK THE COURT TO

1 THANK AND EXCUSE JUROR NO. 7.

2 THE COURT: JUROR 7 IS EXCUSED.

3 JUROR 26, PLEASE TAKE SEAT NO. 7.

4 PEOPLE.

5 MR. DHANIDINA: THANK YOU.

6 THE PEOPLE ASK THE COURT TO PLEASE

7 THANK AND EXCUSE PROSPECTIVE JUROR NO. 7.

8 THE COURT: SIR, YOU ARE EXCUSED.

9 AND JUROR IN SEAT 27, SEAT 7, PLEASE.

10 THE DEFENSE IS NEXT.

11 MS. VITALE: MAY WE HAVE A MOMENT, YOUR
12 HONOR?

13

14 (DEFENSE COUNSEL AND THE
15 DEFENDANT CONFER.)

16

17 MR. SCHMOCKER: YOUR HONOR, WE ACCEPT THE
18 JURY AS PRESENTLY CONSTITUTED.

19 THE COURT: PEOPLE.

20 MR. DHANIDINA: THE PEOPLE ASK THE COURT TO
21 PLEASE THANK AND EXCUSE PROSPECTIVE JUROR NO. 4.

22 THE COURT: JUROR 4 IS EXCUSED.

23 ALL RIGHT. WE WILL CALL JURORS UP TO
24 THE EMPTY SEATS BEGINNING FIRST WITH SEAT NO. 4
25 AND THEN 13 ON.

26 THE CLERK: B-4751, SEAT NO. 4.

27 N --

28 THE COURT: EXCUSE ME ONE SECOND.

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GO AHEAD.

THE CLERK: N-1570 WOULD BE SEAT 13.

M-9028, SEAT 14.

L-0671, SEAT 15.

O-9824, SEAT 16.

B-8940, SEAT 17.

F-1438, SEAT 18.

Q-4527, SEAT 19.

S-4922, SEAT 20.

M-7882, SEAT 21.

M-8404, SEAT 22.

H-5638, SEAT 23.

C-5140, SEAT 24.

R-2988. R-2988.

DID WE EXCUSE THEM?

THE COURT: NO. CALL THE JURY ROOM, BUT WE
WILL PROCEED WITH WHAT WE HAVE.

THE CLERK: OKAY.

ALL RIGHT. THE NEW JURORS ARE ALL
SEATED.

AS BEFORE, I WILL GO THROUGH THE NEW
JURORS AND DID YOU AND YOU HAVE ANYTHING TO ADD TO
YOUR QUESTIONNAIRES, AND THEN I WILL ASK ANY
QUESTION THAT I HAVE FROM YOUR ANSWERS.

JUROR NO. 4, GOOD AFTERNOON.

PROSPECTIVE JUROR B-4751: I WANT TO ADD I
DIDN'T WRITE DOWN THAT I HAVE A FRIEND THAT IS A
POLICE SERGEANT FOR L.A.P.D.

1 THE COURT: YOU DO?

2 PROSPECTIVE JUROR B-4751: YEAH.

3 THE COURT: AND DO YOU KNOW WHAT AREA OF THE
4 CITY YOUR FRIEND WORKS IN?

5 PROSPECTIVE JUROR B-4751: VAN NUYS.

6 THE COURT: DO YOU EVER TALK TO YOUR FRIEND
7 ABOUT WORK?

8 PROSPECTIVE JUROR B-4751: NO, BECAUSE I --
9 WE DON'T REALLY TALK ABOUT WORK. THAT'S WHY I
10 FORGOT TO PUT IT DOWN.

11 THE COURT: OKAY.

12 ANY OTHER THINGS THAT YOU HAD TO --
13 WANTED TO ADD OR CLARIFY?

14 PROSPECTIVE JUROR B-4751: NO.

15 THE COURT: OKAY. IN THE QUESTIONS ABOUT
16 GANGS, YOU -- IT WASN'T QUITE CLEAR. YOU MADE
17 REFERENCE TO SOMEONE GROWING UP IN RAMONA GARDENS.
18 WHO WAS THAT?

19 PROSPECTIVE JUROR B-4751: ME.

20 THE COURT: YOURSELF?

21 PROSPECTIVE JUROR B-4751: YEAH.

22 THE COURT: SO YOU GREW UP IN A HOUSING
23 DEVELOPMENT?

24 PROSPECTIVE JUROR B-4751: YEAH.

25 THE COURT: AND I'M SURE HAD CONTACT WITH
26 PEOPLE WHO BELONGED TO GANGS AND GROUPS LIKE THAT?

27 PROSPECTIVE JUROR B-4751: UH-HUH.

28 THE COURT: AND -- I'M SORRY, YOU HAVE TO

1 ANSWER WITH WORDS.

2 PROSPECTIVE JUROR B-4751: YES. YES.

3 THE COURT: IS THERE ANYTHING ABOUT THAT
4 EXPERIENCE THAT WOULD AFFECT YOUR VIEWS AS A JUROR
5 IN THIS CASE?

6 PROSPECTIVE JUROR B-4751: NO.

7 THE COURT: IN OTHER WORDS, YOU -- IT'S
8 OBVIOUSLY PART OF YOUR --

9 PROSPECTIVE JUROR B-4751: I WAS A FORMER
10 GANG MEMBER.

11 THE COURT: YOUR BEING, YES. BUT YOU CAN'T
12 LET THAT AFFECT YOUR JUDGEMENT.

13 PROSPECTIVE JUROR B-4751: RIGHT. RIGHT. I
14 UNDERSTAND THAT.

15 THE COURT: CAN YOU DO THAT?

16 PROSPECTIVE JUROR B-4751: YES.

17 THE COURT: SO HAVE YOU EVER HEARD OF THE
18 PARTICULAR GROUP THAT WE REFERRED TO IN THIS CASE,
19 BOUNTY HUNTER?

20 PROSPECTIVE JUROR B-4751: I HAVE HEARD OF IT
21 WHEN THEY HAD THAT HBO SPECIAL ABOUT THE CRIPS AND
22 ALL THAT STUFF, BUT NO.

23 THE COURT: OKAY. ANYTHING ABOUT THAT HBO
24 PROGRAM THAT WOULD AFFECT YOUR VIEWS?

25 PROSPECTIVE JUROR B-4751: NO.

26 THE COURT: YOU UNDERSTAND THAT THOSE ARE
27 THINGS YOU CAN'T TAKE INTO ACCOUNT?

28 PROSPECTIVE JUROR B-4751: RIGHT.

1 THE COURT: IF YOU ARE A JUROR IN THIS CASE,
2 YOU HAVE TO DEPEND UPON THE EVIDENCE PRESENTED IN
3 COURT?

4 PROSPECTIVE JUROR B-4751: RIGHT.

5 THE COURT: CAN YOU DO THAT?

6 PROSPECTIVE JUROR B-4751: UH-HUH.

7 THE COURT: OKAY.

8 I'M SORRY. YOU HAVE TO ANSWER WITH
9 CLEAR WORDS, YES OR NO.

10 PROSPECTIVE JUROR B-4751: YES. OR NO OR
11 WHATEVER --

12 THE COURT: BUT YOU WOULD BE ABLE TO FOCUS
13 ONLY ON THE EVIDENCE?

14 PROSPECTIVE JUROR B-4751: RIGHT, YES.

15 THE COURT: THANK YOU.

16 PROSPECTIVE JUROR B-4751: YOU'RE WELCOMED.

17 THE COURT: JUROR 13, GOOD AFTERNOON.

18 PROSPECTIVE JUROR N-1570: GOOD AFTERNOON.

19 THE COURT: DID YOU HAVE ANYTHING NEW?

20 PROSPECTIVE JUROR N-1570: NO.

21 THE COURT: YOU SAID IN -- YOU ARE A LEGAL
22 SECRETARY?

23 PROSPECTIVE JUROR N-1570: CORRECT.

24 THE COURT: AND CURRENTLY YOU WORK FOR A
25 PRIVATE LAW FIRM THAT DOESN'T HAVE ANYTHING TO DO
26 WITH CRIMINAL LAW?

27 PROSPECTIVE JUROR N-1570: CORRECT.

28 THE COURT: IS IT LIKE BUSINESS LAW OR

1 LITIGATION OR --

2 PROSPECTIVE JUROR N-1570: IT'S BUSINESS
3 LITIGATION.

4 THE COURT: OKAY. BUT IN THE PAST, YOU HAVE
5 WORKED FOR BOTH THE DISTRICT ATTORNEY AND THE
6 PUBLIC DEFENDER.

7 PROSPECTIVE JUROR N-1570: YES.

8 THE COURT: IS THERE ANYTHING ABOUT THAT
9 EXPERIENCE OF WORKING FOR THE D.A. OR THE PUBLIC
10 DEFENDER THAT WOULD AFFECT YOUR VIEWS?

11 PROSPECTIVE JUROR N-1570: NO. I THINK THAT
12 WORKING ON BOTH SIDES WOULD MAKE ME HAVE A FAIR
13 OPINION.

14 THE COURT: OKAY. AND WHICH DID YOU LIKE
15 BEST?

16 PROSPECTIVE JUROR N-1570: I LIKED THEM BOTH.
17 I WORKED ONLY A YEAR FOR THE DISTRICT ATTORNEY,
18 AND I WORKED FOR FIVE YEARS FOR THE PUBLIC
19 DEFENDER IN THIS BUILDING.

20 THE COURT: UH-HUH.

21 PROSPECTIVE JUROR N-1570: I WAS VERY BUSY,
22 BUT I LEFT IN 1978, SO IT'S BEEN QUITE SOME TIME.

23 THE COURT: I KNOW. IT WENT BACK A WAYS.

24 PROSPECTIVE JUROR N-1570: UH-HUH.

25 THE COURT: BUT THERE WEREN'T ANY
26 PARTICULARLY NEGATIVE OR POSITIVE EXPERIENCES THAT
27 WOULD AFFECT YOUR VIEWS ABOUT THE LAWYERS IN THIS
28 CASE OR THE ISSUES?

1 PROSPECTIVE JUROR N-1570: NOT AT ALL.

2 THE COURT: OKAY. THANK YOU.

3 JUROR 14, GOOD AFTERNOON.

4 PROSPECTIVE JUROR M-9028: GOOD AFTERNOON.

5 THE COURT: IS THERE ANYTHING YOU WANTED TO
6 ADD TO YOUR QUESTIONNAIRE?

7 PROSPECTIVE JUROR M-9028: NO.

8 THE COURT: ALL RIGHT. AND I DID NOT HAVE
9 ANY FOLLOW-UP.

10 JUROR 15, GOOD AFTERNOON.

11 PROSPECTIVE JUROR L-0671: GOOD AFTERNOON.

12 THE COURT: DID YOU HAVE ANYTHING TO ADD?

13 PROSPECTIVE JUROR L-0671: NO.

14 THE COURT: IN THE -- I HAVE A FEW THINGS.

15 IN THE QUESTION ABOUT LAW ENFORCEMENT, THERE WAS A
16 QUESTION HAVE YOU OR ANYONE CLOSE TO YOU WORKED IN
17 THE FIELD OF LAW ENFORCEMENT. YOU MENTIONED A
18 COUSIN. WHAT KIND OF --

19 PROSPECTIVE JUROR L-0671: PRISON GUARDS.

20 THE COURT: PRISON GUARDS. SO IT'S MORE THAN
21 ONE?

22 PROSPECTIVE JUROR L-0671: TWO.

23 THE COURT: YOU HAVE TWO COUSINS?

24 PROSPECTIVE JUROR L-0671: YES.

25 THE COURT: AND ARE THEY PRISON GUARDS HERE
26 IN CALIFORNIA?

27 PROSPECTIVE JUROR L-0671: YES.

28 THE COURT: DO YOU EVER TALK TO THEM ABOUT

1 THEIR WORK?

2 PROSPECTIVE JUROR L-0671: YEP.

3 THE COURT: IS THERE ANYTHING ABOUT WHAT THEY
4 HAVE TOLD YOU, THEIR EXPERIENCES, THAT WOULD HAVE
5 AN EFFECT ON YOUR VIEWS AS A JUROR?

6 PROSPECTIVE JUROR L-0671: IT COULD.

7 THE COURT: IT COULD?

8 PROSPECTIVE JUROR L-0671: YEAH.

9 THE COURT: WELL, YOU HAVE TO PUT THAT ASIDE.
10 IN OTHER WORDS, I DON'T -- I DON'T SEE ANY NEED TO
11 GET INTO THE DETAILS WHETHER THEY TOLD YOU THEY
12 LIKED THEIR JOB OR THEY HATE THEIR JOB OR THEY
13 LIKE THE PEOPLE THEY WORK WITH OR THEY DON'T LIKE
14 THEM OR THEY HAVE HAD GOOD EXPERIENCE OR BAD
15 EXPERIENCES WITH INMATES.

16 PROSPECTIVE JUROR L-0671: RIGHT.

17 THE COURT: BUT YOU HAVE TO DISREGARD ALL
18 THAT AND REALLY FOCUS ON WHAT IS PRESENTED IN THIS
19 TRIAL.

20 CAN YOU DO THAT?

21 PROSPECTIVE JUROR L-0671: YES.

22 THE COURT: OKAY. AND I WAS A LITTLE UNCLEAR
23 ABOUT YOUR EXPERIENCE ON JURIES. HAVE YOU SERVED
24 IN A TRIAL ON A JURY?

25 PROSPECTIVE JUROR L-0671: YES.

26 THE COURT: ABOUT HOW MANY TIMES?

27 PROSPECTIVE JUROR L-0671: ONCE.

28 THE COURT: ONE TIME.

1 WAS THAT A CRIMINAL OR CIVIL CASE?

2 PROSPECTIVE JUROR L-0671: CIVIL CASE.

3 THE COURT: CIVIL. THANK YOU.

4 AND WHAT ARE YOUR VIEWS ABOUT THE
5 PENALTY ISSUES HERE? YOU INDICATED IN THE WRITTEN
6 RESPONSES THAT YOU REALLY DIDN'T HAVE MUCH OF A
7 VIEW.

8 PROSPECTIVE JUROR L-0671: I DON'T. I DON'T.

9 THE COURT: HAVE YOU GIVEN ANY THOUGHT TO
10 THAT?

11 PROSPECTIVE JUROR L-0671: NO.

12 THE COURT: NO?

13 YOU HAVE HEARD SOME OF THE DISCUSSIONS
14 THAT WE HAVE HAD WITH OTHER JURORS.

15 PROSPECTIVE JUROR L-0671: YES.

16 THE COURT: ARE THERE ANY THINGS THAT HAVE
17 BEEN RAISED THAT CONCERN YOU?

18 PROSPECTIVE JUROR L-0671: NO.

19 THE COURT: ARE THERE ANY ISSUES THAT YOU
20 THINK YOU WOULD HAVE TROUBLE WITH WHERE YOU
21 COULDN'T APPROACH IT IN A FAIR AND OPEN-MINDED
22 WAY?

23 PROSPECTIVE JUROR L-0671: YEP.

24 THE COURT: WHAT WOULD THAT BE?

25 PROSPECTIVE JUROR L-0671: I GREW UP IN
26 LOS ANGELES, AND I DON'T WANT TO DEAL WITH NONE OF
27 THE PEOPLE THAT YOU WOULD HAVE UP IN THIS COURT,
28 IF I SEE THEM IN THE STREET, I DON'T WANT TO SAY

1 I'M SORRY. IF I MADE A BAD DECISION, IT WOULD
2 REFLECT ME. I WANT TO GO OUT ON THE STREET AND
3 NOT SEE NOBODY. I WANT TO GO BACK TO WORK. I
4 DON'T WANT TO SEE -- I DON'T WANT TO GO THAT FAR
5 WITH IT. THAT'S HOW I FEEL, YOUR HONOR.

6 THE COURT: OKAY.

7 PROSPECTIVE JUROR L-0671: THE NEIGHBORHOOD
8 YOU ARE TALKING ABOUT WHERE THAT GANG IS, I'VE
9 BEEN IN THAT NEIGHBORHOOD.

10 THE COURT: SURE.

11 PROSPECTIVE JUROR L-0671: ALL I'M SAYING IS
12 I LIVE IN L.A. AND I -- I DON'T WANT NO -- TO SEE
13 NOBODY.

14 THE COURT: OKAY. WELL, WHAT IF YOU WERE
15 SELECTED IN THE CASE, WOULD YOU BE ABLE TO DO YOUR
16 DUTIES AND EVALUATE THE EVIDENCE, OR WOULD YOU
17 JUST TELL ME TO GO POUND SAND?

18 PROSPECTIVE JUROR L-0671: I WOULDN'T TELL
19 YOU THAT PERSONALLY.

20 THE COURT: I KNOW THAT. I'M BEING FUNNY,
21 BUT -- OR TRYING TO. BUT YOU SEE WHAT I'M TRYING
22 TO GET AT. SOME JURORS -- I'VE MET JURORS WHO
23 SAID, YOU KNOW WHAT, I DON'T CARE WHAT YOU TELL
24 ME, I'M NOT GOING TO PARTICIPATE IN THIS CASE.
25 AND OTHERS WHO HAVE SAID, YOU KNOW, I WOULD RATHER
26 NOT BE HERE, BUT I UNDERSTAND WHAT MY DUTIES ARE,
27 AND I'LL DO MY BEST.

28 PROSPECTIVE JUROR L-0671: I UNDERSTAND WHAT

1 YOU ARE SAYING, BUT I'M SAYING THAT I WOULD RATHER
2 NOT BE ON THIS CERTAIN JURY. I WOULD RATHER NOT
3 BE ON. IF IT WAS SOME OTHER TYPE OF CASE,
4 PROBABLY.

5 THE COURT: ALL RIGHT. THANK YOU.

6 JUROR 16, GOOD AFTERNOON.

7 PROSPECTIVE JUROR O-9824: GOOD AFTERNOON.

8 THE COURT: DID YOU HAVE ANYTHING TO ADD TO
9 YOUR QUESTIONNAIRE?

10 PROSPECTIVE JUROR O-9824: NO. NO.

11 THE COURT: YOU SAID THAT YOU WERE HELD UP AT
12 GUNPOINT SOME TIME AGO.

13 PROSPECTIVE JUROR O-9824: YEAH, WHILE AT
14 WORK.

15 THE COURT: ABOUT HOW LONG AGO WAS THAT,
16 ROUGHLY?

17 PROSPECTIVE JUROR O-9824: YEAH, ROUGHLY
18 ABOUT TEN, TWELVE YEARS.

19 THE COURT: TEN TO TWELVE YEARS AGO.

20 AND THAT WAS AT WORK?

21 PROSPECTIVE JUROR O-9824: YEAH.

22 THE COURT: AND WHAT KIND OF A WORKPLACE WAS
23 THAT? WAS IT LIKE A STORE?

24 PROSPECTIVE JUROR O-9824: NO, I USED TO WORK
25 FOR UPS DELIVERY.

26 THE COURT: UH-HUH. AND SO YOU WERE OUT
27 MAKING ROUNDS?

28 PROSPECTIVE JUROR O-9824: RIGHT. RIGHT.

1 THE COURT: WERE YOU INJURED?

2 PROSPECTIVE JUROR O-9824: NO.

3 THE COURT: DID YOU REPORT IT TO THE POLICE?

4 PROSPECTIVE JUROR O-9824: YEAH, AND I HAVE
5 TO GET SOME PICTURES.

6 THE COURT: OKAY. AND WERE THERE WEAPONS
7 INVOLVED?

8 PROSPECTIVE JUROR O-9824: YEAH.

9 THE COURT: A GUN OR A KNIFE?

10 PROSPECTIVE JUROR O-9824: PISTOL.

11 THE COURT: A GUN. OKAY.

12 ANYTHING ABOUT THAT THAT WOULD AFFECT
13 YOUR VIEWS AS A JUROR?

14 PROSPECTIVE JUROR O-9824: I DON'T THINK SO.

15 THE COURT: OKAY. THANK YOU.

16 NOW, YOU EXPRESSED SOME NEGATIVE VIEWS
17 ABOUT THE IDEA OF LIFE IN PRISON WITHOUT PAROLE
18 FOR CERTAIN CRIMES.

19 PROSPECTIVE JUROR O-9824: I DON'T BELIEVE IN
20 LIFE WITHOUT PAROLE, UNLESS MAYBE YOU HAVE LIFE
21 WITHOUT PAROLE IN SOLITARY CONFINEMENT. SO I
22 CONSIDER THAT EQUAL TO THE DEATH PENALTY.
23 OTHERWISE, I WOULD JUST AS SOON SEE A CRIMINAL BE
24 PUT TO DEATH.

25 THE COURT: OKAY. WELL, IN THIS CASE, AS WE
26 HAVE TRIED TO EXPLAIN, THE JURORS ARE GOING TO
27 HAVE TO WEIGH THE TWO CHOICES AND DO SO IN A
28 SERIOUS WAY, NOT JUST SAY, WELL, I'LL DO IT AND

1 THEN VOTE FOR THE ONE THEY LIKE BEST. BUT REALLY
2 LOOK AT THE EVIDENCE, WEIGH IT, EVALUATE
3 EVERYTHING AND DETERMINE WHAT IS BEST FOR THIS
4 CASE.

5 CAN YOU DO THAT?

6 PROSPECTIVE JUROR O-9824: YEAH, I TRY MY
7 BEST.

8 THE COURT: BUT CAN YOU DO IT?

9 PROSPECTIVE JUROR O-9824: I GUESS. I'LL
10 TRY. I'LL DO IT, I GUESS.

11 THE COURT: ARE THERE ANY CIRCUMSTANCES WHERE
12 YOU COULD CONCEIVE OF ACTUALLY VOTING FOR LIFE IN
13 PRISON AS OPPOSED TO DEATH? OR WOULD YOUR
14 PREFERENCE --

15 PROSPECTIVE JUROR O-9824: I'M AGAINST --
16 IT'S BEEN SINCE I'VE BEEN -- AFTER ALL THE -- I
17 CAN'T SEE WHAT IS THE REASON FOR KEEPING A PERSON
18 ALIVE FOR THE REST OF HIS LIFE IN PRISON, UNLESS
19 IT'S LIKE SOLITARY CONFINEMENT. IN OTHER WORDS, I
20 WOULD JUST AS SOON THE PERSON SUFFER FOR THE REST
21 OF HIS LIFE.

22 THE COURT: OKAY. THANK YOU.

23 JUROR 17, GOOD AFTERNOON.

24 PROSPECTIVE JUROR B-8940: GOOD AFTERNOON.

25 THE COURT: DID YOU HAVE ANYTHING TO ADD TO
26 YOUR QUESTIONNAIRE?

27 PROSPECTIVE JUROR B-8940: NO.

28 THE COURT: SO YOU TOOK SOME CLASSES IN THE

1 AREA OF CRIMINAL JUSTICE AND LAW ENFORCEMENT?

2 PROSPECTIVE JUROR B-8940: YES, I DID.

3 THE COURT: DID YOU EVER WANT TO PURSUE THAT
4 AS A CAREER?

5 PROSPECTIVE JUROR B-8940: YES, I DID.

6 THE COURT: AND -- BUT YOU ARE NOW WORKING IN
7 A DIFFERENT FIELD?

8 PROSPECTIVE JUROR B-8940: YES, I AM. WELL,
9 IN THE SAME FIELD I WAS WORKING AT THAT TIME.

10 THE COURT: WELL, A FIELD DIFFERENT FROM LAW
11 ENFORCEMENT?

12 PROSPECTIVE JUROR B-8940: CORRECT.

13 THE COURT: I SHOULD BE MORE EXACT.

14 AND IS THERE ANY REASON YOU DIDN'T
15 PURSUE LAW ENFORCEMENT? YOU ARE JUST HAPPY DOING
16 WHAT YOU DO NOW, OR DID YOU FIND SOMETHING ABOUT
17 LAW ENFORCEMENT THAT YOU DIDN'T LIKE OR WHAT?

18 PROSPECTIVE JUROR B-8940: I WAS OFFERED A
19 PROMOTION AT THAT TIME WITHIN THE DEPARTMENT THAT
20 I WORK IN NOW.

21 THE COURT: SO YOU GOT A BETTER DEAL WHERE
22 YOU ARE NOW?

23 PROSPECTIVE JUROR B-8940: RIGHT.

24 THE COURT: OKAY. GREAT. THANK YOU.

25 JUROR 18, DID YOU HAVE ANYTHING TO
26 ADD?

27 PROSPECTIVE JUROR J-6556: JUST THAT I HAVE
28 AN OUTSIDE COMMITMENT ON FRIDAY THE 20TH OF MARCH.

1 I KNOW THAT IS OUTSIDE YOUR DATES, BUT I WOULD
2 LIKE IT TO BE NOTED.

3 THE COURT: ALL RIGHT. I WILL NOTE THAT.

4 PROSPECTIVE JUROR F-1438: IN THE AFTERNOON.

5 THE COURT: I DON'T THINK WE ARE GOING TO
6 INTERFERE WITH THAT, BUT THANK YOU.

7 YOU SAID THAT YOUR FATHER HAD A
8 SITUATION WHEN HE WAS WORKING AT A GAS STATION,
9 ATTEMPTED ROBBERY.

10 PROSPECTIVE JUROR F-1438: YES.

11 THE COURT: ABOUT HOW LONG AGO WAS THAT?

12 PROSPECTIVE JUROR F-1438: THAT WOULD HAD TO
13 HAVE BEEN PROBABLY 12 OR SO YEARS AGO.

14 THE COURT: AND WAS YOUR FATHER INJURED IN
15 ANY WAY?

16 PROSPECTIVE JUROR F-1438: NO, HE WAS NOT.

17 THE COURT: AND YOUR FATHER, IT SOUNDS LIKE
18 HE DEFENDED HIMSELF.

19 PROSPECTIVE JUROR F-1438: THAT'S CORRECT.

20 THE COURT: BUT WAS HE -- NO CHARGES WERE
21 FILED AGAINST HIM OR ANY OTHER KIND OF --

22 PROSPECTIVE JUROR F-1438: THAT'S CORRECT.

23 THE COURT: -- ARREST OR ANYTHING OF THAT
24 NATURE?

25 PROSPECTIVE JUROR F-1438: NO.

26 THE COURT: ANYTHING ABOUT THAT EXPERIENCE
27 THAT WOULD AFFECT YOUR VIEWS IN THIS CASE?

28 PROSPECTIVE JUROR F-1438: I DON'T BELIEVE

1 SO, NO.

2 THE COURT: ALL RIGHT. THANK YOU.

3 JUROR 19, GOOD AFTERNOON.

4 PROSPECTIVE JUROR Q-4527: GOOD AFTERNOON.

5 THE COURT: DID YOU HAVE ANYTHING TO ADD TO
6 YOUR QUESTIONNAIRE?

7 PROSPECTIVE JUROR Q-4527: NO.

8 THE COURT: YOU HAVE EXPRESSED SOME VIEWS
9 ABOUT THE DEATH PENALTY AND LIFE IN PRISON WITHOUT
10 PAROLE. DO YOU HAVE ANY FURTHER THOUGHTS ABOUT
11 THOSE ISSUES HAVING HEARD OTHERS?

12 PROSPECTIVE JUROR Q-4527: I BASICALLY --
13 WELL, IN PART I AGREE WITH -- I FORGOT -- JUROR
14 NO. 16 IN TERMS OF NOT BELIEVING IN LIFE WITHOUT
15 PAROLE BECAUSE -- BUT MY REASONING FOR THAT IS
16 WHAT'S THE POINT? IT'S EITHER YOU LET THE PERSON
17 HAVE A CHANCE TO REDEEM THEMSELVES OR THERE IS NO
18 POINT. I BELIEVE IT IS A HUGE TAX BURDEN TO PUT
19 SOMEBODY IN PRISON FOR LIFE WITHOUT PAROLE. SO --

20 THE COURT: WELL, THAT IS NOT THE LAW OF THE
21 STATE.

22 PROSPECTIVE JUROR Q-4527: NO.

23 THE COURT: THE STATE OF CALIFORNIA SAYS
24 OTHERWISE, THAT THAT IS AN APPROPRIATE PUNISHMENT
25 UNDER CERTAIN CIRCUMSTANCES.

26 ARE YOU -- WHAT DO YOU THINK ABOUT
27 THAT?

28 PROSPECTIVE JUROR Q-4527: I DISAGREE WITH

1 THAT. SO --

2 THE COURT: WOULD THAT HAVE AN EFFECT ON YOUR
3 VIEW OF THE EVIDENCE IN THIS CASE OR YOUR DECISION
4 MAKING AS TO THE APPROPRIATE PENALTY?

5 PROSPECTIVE JUROR Q-4527: I DON'T KNOW
6 BECAUSE I -- TO BE HONEST, I AM A VERY OPINIONATED
7 PERSON. I HOLD VERY STRONG OPINIONS ABOUT THINGS,
8 AND THAT IS ONE OF THE THINGS THAT I HAVE COME TO
9 BELIEVE. SO I CAN'T SAY BECAUSE I HAVE NEVER BEEN
10 IN A SITUATION WHERE I WOULD HAVE TO, YOU KNOW --
11 I HAVE NEVER SERVED ON A JURY SO, YOU KNOW, I
12 CAN'T SAY HOW I WOULD REACT IN A SITUATION LIKE
13 THAT. SO --

14 THE COURT: OKAY. THANK YOU.

15 JUROR 20, GOOD AFTERNOON.

16 PROSPECTIVE JUROR S-4922: HELLO.

17 THE COURT: DID YOU HAVE ANYTHING TO ADD?

18 PROSPECTIVE JUROR S-4922: NO.

19 THE COURT: SO YOUR HUSBAND WORKS AS A
20 CUSTODY OFFICER FOR A POLICE DEPARTMENT IN ORANGE
21 COUNTY?

22 PROSPECTIVE JUROR S-4922: YES.

23 THE COURT: AND WHAT DOES THAT INVOLVE?

24 PROSPECTIVE JUROR S-4922: WHEN CRIMINALS ARE
25 ARRESTED, HE PUTS THEM IN JAIL.

26 THE COURT: SO THAT IS A LOCAL LIKE CITY
27 JAIL?

28 PROSPECTIVE JUROR S-4922: YES.

1 THE COURT: AS OPPOSED TO THE COUNTY --

2 PROSPECTIVE JUROR S-4922: YES.

3 THE COURT: -- JAIL?

4 PROSPECTIVE JUROR S-4922: YES.

5 THE COURT: AND HOW LONG HAS HE BEEN DOING
6 THAT KIND OF WORK?

7 PROSPECTIVE JUROR S-4922: FOUR YEARS.

8 THE COURT: YOU SAID THAT YOU HAVE A YOUNG
9 COUSIN WHO WAS SHOT?

10 PROSPECTIVE JUROR S-4922: YES.

11 THE COURT: AND FROM WHAT YOU KNOW, WERE
12 THERE ANY GANG ISSUES INVOLVED, OR WAS IT JUST A
13 PUZZLE?

14 PROSPECTIVE JUROR S-4922: JUST A PUZZLE.

15 THE COURT: JUST A RANDOM STREET SHOOTING?

16 PROSPECTIVE JUROR S-4922: YES.

17 THE COURT: AND YOUR COUSIN WAS IN THE WRONG
18 PLACE AT THE WRONG TIME?

19 PROSPECTIVE JUROR S-4922: RIGHT.

20 THE COURT: IS THERE ANYTHING ABOUT THAT
21 EXPERIENCE THAT WOULD AFFECT YOUR VIEWS AS A
22 JUROR?

23 PROSPECTIVE JUROR S-4922: NO.

24 THE COURT: YOU NEED TO PUT THAT ASIDE AND
25 JUDGE THIS CASE FROM THE EVIDENCE PRESENTED HERE.

26 CAN YOU DO THAT?

27 PROSPECTIVE JUROR S-4922: YES.

28 THE COURT: ABOUT HOW LONG AGO WAS THAT?

1 PROSPECTIVE JUROR S-4922: ONE YEAR.

2 THE COURT: ONE YEAR AGO.

3 THANK YOU.

4 AND YOU SAID IN REGARD TO THE PENALTY
5 DETERMINATION THAT THERE ARE SOME THINGS THAT
6 WOULD WEIGH ON YOUR MIND.

7 PROSPECTIVE JUROR S-4922: YEAH.

8 THE COURT: DO YOU HAVE ANY FURTHER THOUGHTS
9 ABOUT THAT?

10 PROSPECTIVE JUROR S-4922: I DON'T THINK IT
11 IS A DECISION THAT I WOULD FEEL COMFORTABLE
12 MAKING.

13 THE COURT: WOULD YOU BE ABLE TO DO IT IF YOU
14 WERE SELECTED ON THIS TRIAL?

15 PROSPECTIVE JUROR S-4922: I WOULD HAVE TO.
16 I WOULD HAVE TO MAKE A DECISION. I WOULDN'T BE
17 COMFORTABLE WITH IT, BUT I WOULD HAVE TO DO WHAT'S
18 RIGHT.

19 THE COURT: IN OTHER WORDS, IF YOU WERE
20 SELECTED, WOULD YOU GO THROUGH THE PROCESS THAT I
21 HAVE TRIED TO DESCRIBE OF WEIGHING ALL THE FACTORS
22 AND AT THE END OF IT BE ABLE TO MAKE YOUR BEST
23 DECISION FROM EVERYTHING PRESENTED? OR WOULD IT
24 BE A SITUATION WHERE -- AND IT SOMETIMES COMES UP
25 WHERE A JUROR SAYS, YOU KNOW, I JUST DON'T THINK I
26 CAN DO IT.

27 PROSPECTIVE JUROR S-4922: TO BE HONEST, I
28 JUST DON'T THINK I COULD DO IT. I DON'T.

1 THE COURT: THANK YOU.

2 JUROR 21, GOOD AFTERNOON.

3 PROSPECTIVE JUROR M-7882: GOOD AFTERNOON.

4 THE COURT: DID YOU HAVE ANYTHING TO ADD?

5 PROSPECTIVE JUROR M-7882: NO, I DON'T, SIR.

6 THE COURT: SO YOUR HUSBAND WORKS FOR THE
7 PROBATION DEPARTMENT?

8 PROSPECTIVE JUROR M-7882: MY PARTNER DOES.

9 THE COURT: YOUR PARTNER, I'M SORRY.

10 AND THAT IS HERE IN L.A. COUNTY?

11 PROSPECTIVE JUROR M-7882: IN SYLMAR.

12 THE COURT: SYLMAR. UP IN NORTH --

13 PROSPECTIVE JUROR M-7882: BY MAGIC MOUNTAIN.

14 THE COURT: NORTH PART OF THE COUNTY.

15 ABOUT HOW LONG HAS YOUR PARTNER DONE
16 THAT KIND OF WORK?

17 PROSPECTIVE JUROR M-7882: ABOUT EIGHT YEARS.

18 THE COURT: EIGHT YEARS.

19 AND IS THAT WITH JUVENILES OR --

20 PROSPECTIVE JUROR M-7882: WITH JUVENILES,
21 YES.

22 THE COURT: WITH YOUNG PEOPLE.

23 ANYTHING ABOUT THAT EXPERIENCE THAT
24 WOULD AFFECT YOUR VIEWS AS A JUROR?

25 PROSPECTIVE JUROR M-7882: NO, SIR.

26 THE COURT: OKAY. THANK YOU.

27 JUROR 22, GOOD AFTERNOON.

28 PROSPECTIVE JUROR M-8404: GOOD AFTERNOON.

1 THE COURT: DID YOU HAVE ANYTHING TO ADD?

2 PROSPECTIVE JUROR M-8404: I BELIEVE THAT I
3 DIDN'T MENTION THAT -- THE COUNTY OF COMPTON,
4 RIGHT, THAT WE ARE TALKING ABOUT, THE AREA OF THE
5 INCIDENT?

6 THE COURT: NOT FAR FROM THERE.

7 PROSPECTIVE JUROR M-8404: OKAY. I GREW UP
8 IN THE TOWN MYSELF.

9 THE COURT: YOU MENTIONED THAT. YOU GREW UP
10 IN COMPTON.

11 PROSPECTIVE JUROR M-8404: RIGHT, YEAH.

12 THE COURT: BUT THAT WAS A FEW YEARS AGO?

13 PROSPECTIVE JUROR M-8404: THAT WAS SEVERAL
14 YEARS AGO.

15 THE COURT: RIGHT.

16 PROSPECTIVE JUROR M-8404: I'M KIND OF --

17 THE COURT: DO YOU HAVE ANY CONTACT WITH THE
18 AREA NOW, ANY FAMILY?

19 PROSPECTIVE JUROR M-8404: I DON'T WANT --
20 NO, SIR, NO.

21 THE COURT: OKAY. AND YOU EXPRESSED SOME
22 BRIEF THOUGHTS ABOUT THE DEATH PENALTY AND LIFE IN
23 PRISON WITHOUT PAROLE.

24 DO YOU HAVE ANY FURTHER THOUGHTS ON
25 THAT?

26 PROSPECTIVE JUROR M-8404: NO, NOT REALLY.

27 THE COURT: DO YOU THINK YOU WOULD BE ABLE TO
28 DO THE KIND OF DECISION-MAKING THAT WE HAVE

1 DESCRIBED IF YOU WERE SELECTED AS A JUROR IN THIS
2 TRIAL?

3 PROSPECTIVE JUROR M-8404: IF I HAD TO, I
4 GUESS, BUT I REALLY WOULDN'T LIKE TO HAVE IT ON MY
5 CONSCIOUS. I'M NOT ONE OF THOSE WHO LIKES TO HAVE
6 THINGS ON YOUR MIND AND IT KEEPS YOUR MIND
7 ROLLING. I DON'T WANT TO HAVE SOMEBODY ELSE'S
8 SOUL ON MY BRAINS HERE. IT DON'T SOUND TOO GOOD.

9 THE COURT: ALL RIGHT. THANK YOU.

10 JUROR 23, GOOD AFTERNOON.

11 PROSPECTIVE JUROR H-5638: GOOD AFTERNOON.

12 THE COURT: DID YOU HAVE ANYTHING TO ADD?

13 PROSPECTIVE JUROR H-5638: NO, NOTHING TO
14 ADD.

15 THE COURT: AND I DID NOT HAVE ANY FOLLOW-UP
16 QUESTIONS FROM YOUR QUESTIONNAIRE.

17 JUROR 24, GOOD AFTERNOON.

18 PROSPECTIVE JUROR C-5140: GOOD AFTERNOON,
19 SIR.

20 THE COURT: DID YOU HAVE ANYTHING TO ADD?

21 PROSPECTIVE JUROR C-5140: NO, SIR.

22 YOU ARE RETIRED?

23 PROSPECTIVE JUROR C-5140: YES, SIR.

24 THE COURT: WHAT KIND OF WORK DID YOU DO
25 BEFORE YOU RETIRED?

26 PROSPECTIVE JUROR C-5140: I WAS A BARTENDER.

27 THE COURT: AND HOW LONG HAVE YOU BEEN
28 RETIRED?

1 PROSPECTIVE JUROR C-5140: OH, ABOUT TEN
2 YEARS.

3 THE COURT: AND IT LOOKS LIKE YOU KEEP
4 YOURSELF BUSY.

5 PROSPECTIVE JUROR F-1438: YOU SAY YOU ARE
6 INVOLVED IN COOKING, CHESS, READING?

7 PROSPECTIVE JUROR C-5140: YES, SIR.

8 THE COURT: JOGGING?

9 PROSPECTIVE JUROR C-5140: YES, SIR.

10 THE COURT: THAT'S ALL I HAVE FOR YOU. THANK
11 YOU.

12 ALL RIGHT. WE CAN HEAR QUESTIONS FROM
13 THE DEFENSE.

14 MR. SCHMOCKER: ALL RIGHT. THANK YOU, YOUR
15 HONOR.

16 GOOD AFTERNOON. I GUESS YOU HEARD A
17 LOT FROM ME. I'M SORRY WE CAN'T GET THIS DONE A
18 LITTLE BIT MORE QUICKLY. I HOPE WE CAN DO THIS --
19 WE WILL GET THROUGH IT.

20 JUROR NO. 24.

21 PROSPECTIVE JUROR C-5140: YES, SIR.

22 MR. SCHMOCKER: YOU HAD SOME CONFLICTS IN
23 REGARDS TO THE DEATH PENALTY OR LIFE IMPRISONMENT.
24 IS THAT FAIR TO SAY?

25 PROSPECTIVE JUROR C-5140: NO.

26 MR. SCHMOCKER: OKAY. IT LOOKED LIKE YOU SAW
27 THE LIFE IMPRISONMENT AS AN APPROPRIATE PENALTY IN
28 SOME CASES?

1 PROSPECTIVE JUROR C-5140: TRUE.

2 MR. SCHMOCKER: BUT IT LACKED CATHARSIS IS
3 THE WAY YOU PUT IT.

4 WHAT DID YOU MEAN BY THAT?

5 PROSPECTIVE JUROR C-5140: WELL, FOR THE
6 FAMILIES OF THE VICTIMS, IT WOULD BE AN OPEN
7 WOUND, PERHAPS, TO SEE THE PERPETRATOR TO CONTINUE
8 TO EXIST WHILE THEIR LOVED ONE WAS NO LONGER
9 AROUND. AND FINALIZING IT WITH THE DEATH OF THE
10 PERPETRATOR WOULD SORT OF BE THE END OF THE
11 SITUATION CLEARLY AND COMPLETELY.

12 MR. SCHMOCKER: I UNDERSTAND. THAT'S AN
13 INTERESTING VIEW.

14 NOW, TELL ME HOW DO YOU THINK THAT
15 WOULD AFFECT YOUR ABILITY TO BE A JUROR IN THIS
16 CASE?

17 PROSPECTIVE JUROR C-5140: MYSELF, TO MAKE A
18 DECISION EITHER WAY?

19 MR. SCHMOCKER: YES.

20 PROSPECTIVE JUROR C-5140: IT WOULDN'T AFFECT
21 ME.

22 MR. SCHMOCKER: SO YOU WOULDN'T CONSIDER THAT
23 AS ONE OF THE ISSUES?

24 PROSPECTIVE JUROR C-5140: NO. NOT FOR ME,
25 NO.

26 MR. SCHMOCKER: YOU WOULD JUST CONSIDER THE
27 MITIGATING AND AGGRAVATING CIRCUMSTANCES?

28 PROSPECTIVE JUROR C-5140: YES, SIR.

1 MR. SCHMOCKER: CAN YOU SEE A CIRCUMSTANCE --
2 CAN YOU SEE A SCENARIO WHERE MR. HARRIS -- YOU
3 KNOW HE HAS BEEN CONVICTED OF MURDER TWO TIMES?

4 PROSPECTIVE JUROR C-5140: UH-HUH.

5 MR. SCHMOCKER: SAME EVENT.

6 DO YOU SEE IN MIND A SITUATION WHEREBY
7 YOU COULD VOTE FOR LIFE?

8 PROSPECTIVE JUROR C-5140: IT'S POSSIBLE THE
9 CIRCUMSTANCES OUTSIDE OF HIS CONTROL ESCALATED OUT
10 OF HIS CONTROL, PERHAPS THAT WOULD BE MITIGATION.

11 MR. SCHMOCKER: OKAY. SO YOU COULD CONSIDER
12 MITIGATION EVEN IN THE DEATH CIRCUMSTANCES?

13 PROSPECTIVE JUROR C-5140: THERE IS NO
14 ABSOLUTES. SO SOMETHING COULD BE EITHER WAY
15 DEPENDING ON THE CIRCUMSTANCES.

16 MR. SCHMOCKER: I UNDERSTAND. OKAY. THANK
17 YOU. THANK YOU.

18 DOES ANYBODY HAVE A DIFFERENT POINT OF
19 VIEW IN REGARDS TO THAT? ANYONE WANT TO DIG IN?

20 NO. ALL RIGHT.

21 JUROR NO. 21?

22 PROSPECTIVE JUROR M-7882: YES.

23 MR. SCHMOCKER: HOW LONG HAVE YOU BEEN
24 LIVING -- WHERE ARE YOU LIVING NOW?

25 PROSPECTIVE JUROR M-7882: I LIVE IN
26 WHITTIER.

27 MR. SCHMOCKER: AND ARE YOU A LONG-TIME
28 RESIDENT OF LOS ANGELES COUNTY?

1 PROSPECTIVE JUROR M-7882: MAYBE 20 YEARS.

2 MR. SCHMOCKER: OH, OKAY. THAT SOUNDS LIKE A
3 LONG TIME TO ME.

4 PROSPECTIVE JUROR M-7882: YEAH.

5 MR. SCHMOCKER: WHERE ELSE HAVE YOU LIVED IN
6 L.A. COUNTY?

7 PROSPECTIVE JUROR M-7882: IN HIGHLAND PARK.

8 MR. SCHMOCKER: HAVE YOU HAD ANY EXPERIENCE
9 WITH GANGS THERE?

10 PROSPECTIVE JUROR M-7882: I MEAN I KNOW
11 THERE WAS SOME THERE, BUT I DON'T KNOW WHO THEY
12 ARE.

13 MR. SCHMOCKER: NO PARTICULAR NEGATIVE
14 EXPERIENCES?

15 PROSPECTIVE JUROR M-7882: NO.

16 MR. SCHMOCKER: I HAVE NOTHING FURTHER.
17 THANK YOU.

18 AND JUROR NO. 20, DO YOU THINK THAT --
19 WOULD YOU BE AN APPROPRIATE JUROR IN THIS CASE?
20 WE ARE LOOKING FOR SOMEBODY WHO COULD CONSIDER
21 BOTH?

22 PROSPECTIVE JUROR S-4922: NO.

23 MR. SCHMOCKER: YOU JUST CAN'T DO IT?

24 PROSPECTIVE JUROR S-4922: NO.

25 MR. SCHMOCKER: JUROR NO. 19, ARE YOU AN
26 APPROPRIATE JUROR IN THIS CASE? DO YOU THINK YOU
27 CAN CONSIDER --

28 PROSPECTIVE JUROR Q-4527: I DON'T THINK I AM

1 HONESTLY JUST BECAUSE, LIKE I STATED EARLIER, MY
2 VIEWS ON ONE OF THE TWO CHOICES IS -- IT
3 DOESN'T -- IT DOESN'T SEEM LIKE A GOOD CHOICE TO
4 ME. SO --

5 MR. SCHMOCKER: I UNDERSTAND.

6 THIS ISN'T ABOUT RIGHT AND WRONG. WE
7 ARE JUST TRYING -- WE JUST WANT TO KNOW WHAT
8 PEOPLE THINK.

9 ANYBODY ELSE WHO THINKS THEY WOULD NOT
10 BE AN APPROPRIATE JUROR IN THIS CASE? THEY DON'T
11 SEEM TO BE RAISING THEIR HANDS OR JUMPING IN ON
12 THIS.

13 JUROR NO. 15, YOU HAD SOME
14 RESERVATIONS ABOUT WHETHER OR NOT YOU WOULD BE A
15 GOOD JUROR; IS THAT RIGHT?

16 PROSPECTIVE JUROR L-0671: NO.

17 MR. SCHMOCKER: YOU DIDN'T HAVE ANY
18 RESERVATIONS?

19 PROSPECTIVE JUROR L-0671: NO.

20 MR. SCHMOCKER: YOU HAD RESERVATIONS ON
21 SOMETHING, AND I DON'T REMEMBER WHAT IT WAS. CAN
22 YOU TELL ME?

23 PROSPECTIVE JUROR L-0671: I DON'T RECALL.
24 YOU HAVE TO BRING IT BACK UP TO ME. I DON'T WANT
25 TO SAY SOMETHING OUT OF TURN.

26 MR. SCHMOCKER: LET ME SEE.

27 OH, OH, OKAY. YOU HAVE RATHER STRONG
28 FEELINGS ABOUT GANGS.

1 PROSPECTIVE JUROR L-0671: WHEN YOU LIVE IN
2 L.A. AND DEAL WITH L.A., GANGS ARE AROUND, YOU
3 LEARN TO STAY AWAY FROM IT AND LET THEM BE TO THEY
4 SELVES AND EVERYBODY AROUND. LIKE I SAID, I DON'T
5 WANT TO GO THROUGH L.A. WITHOUT --

6 MR. SCHMOCKER: EVERYBODY AGREES THAT GANGS
7 ARE GENERALLY NEGATIVE? IS THAT FAIR TO SAY?
8 DOES ANYBODY DISAGREE WITH THAT?

9 PROSPECTIVE JUROR L-0671: YEAH.

10 MA'AM, YOU SAID THAT WAY WHEN YOU WERE
11 YOUNG YOU WERE A MEMBER OF A GANG, JUROR NO. 4?

12 PROSPECTIVE JUROR B-4751: UH-HUH, YEAH.

13 MR. SCHMOCKER: AND THERE ARE SOME PEOPLE IN
14 A GANG THAT MIGHT BE GOOD AND SOME ARE BAD, RIGHT?

15 PROSPECTIVE JUROR B-4751: WHAT DO YOU MEAN
16 BY GOOD AND BAD?

17 MR. SCHMOCKER: WELL, I MEAN THINGS ARE
18 RELATIVE.

19 PROSPECTIVE JUROR B-4751: RIGHT. I MEAN --
20 I DON'T KNOW WHAT YOU MEAN BY GOOD AND BAD. I
21 MEAN YOU HAVE TO BE MORE SPECIFIC AS GOOD AND BAD.
22 MOST OF THE PEOPLE THAT ARE IN A GANG ARE
23 TEENAGERS AND KIDS, AND A LOT OF THEM MAKE BAD
24 DECISIONS AND THAT'S WHY THEY ENDED UP THERE.
25 THAT DOESN'T NECESSARILY MEAN THEY ARE A BAD
26 PERSON. THEY COULD DO BAD THINGS, BUT THAT
27 DOESN'T MEAN THAT THEY ARE A BAD PERSON. AND IT
28 IS UP TO THE INDIVIDUAL TO SEE IF THEY WANT TO

1 STAY THERE OR MOVE ON AND DO SOMETHING BETTER WITH
2 THEIR LIVES.

3 MR. SCHMOCKER: WELL, THANK YOU, MA'AM. I
4 THINK WE LEARNED A LOT FROM THAT. I APPRECIATE
5 THAT. I LEARNED SOMETHING. THANK YOU.

6 PROSPECTIVE JUROR B-4751: YOU'RE WELCOMED.

7 MR. SCHMOCKER: AND JUROR NO. 8, YOU HAVEN'T
8 PREVIOUSLY --

9 PROSPECTIVE JUROR J-9579: I HAVEN'T SAID
10 ANYTHING.

11 MR. SCHMOCKER: YOU HAVEN'T SAID ANYTHING.

12 WHAT DO YOU THINK ABOUT THIS PROCESS?
13 WHAT -- MEANING DO YOU THINK YOU WOULD BE A GOOD
14 JUROR IN THIS CASE?

15 PROSPECTIVE JUROR J-9579: WELL, YOU KNOW, I
16 SERVED ON A CIVIL CASE BEFORE. I ENJOYED THE
17 PROCESS IMMENSELY. I THINK IT IS OUR CIVIC DUTY,
18 AND I'M HAPPY TO SERVE.

19 I DO HAVE TO SAY THAT I AM VERY BUSY
20 AT WORK, SO I'M A LITTLE PERSONALLY TORN BETWEEN
21 WANTING TO BE AT WORK AND WANTING TO BE HERE AT
22 THE SAME TIME, BUT I DO ENJOY THE PROCESS AND I DO
23 ENJOY BEING A PART IT.

24 MR. SCHMOCKER: LET ME ASK YOU ABOUT LIFE
25 WITHOUT THE POSSIBILITY OF PAROLE.

26 DO YOU SEE THAT AS A POSSIBILITY IN
27 REACHING A DECISION?

28 PROSPECTIVE JUROR J-9579: I DO SEE IT AS A

1 POSSIBILITY.

2 MR. SCHMOCKER: AND DO YOU THINK THAT YOU
3 TEND TO, GENERALLY SPEAKING -- NOT ABOUT THIS
4 CASE, BUT GENERALLY SPEAKING, DO YOU THINK THAT
5 BOTH OF THESE PENALTIES ARE VERY SERIOUS
6 PENALTIES?

7 PROSPECTIVE JUROR J-9579: I DO BELIEVE BOTH
8 OF THEM ARE SERIOUS.

9 MR. SCHMOCKER: YOU BELIEVE ONE IS MORE
10 SERIOUS THAN THE OTHER?

11 PROSPECTIVE JUROR J-9579: I DO BELIEVE THAT
12 DEATH IS MORE SERIOUS THAN LIFE IN PRISON.

13 MR. SCHMOCKER: OKAY. AND DO YOU UNDERSTAND
14 THAT NOBODY WILL EVER ORDER YOU TO EXECUTE
15 SOMEBODY OR ORDER YOU TO REACH A DEATH VERDICT.

16 DO YOU UNDERSTAND THAT?

17 PROSPECTIVE JUROR J-9579: I UNDERSTAND THAT.

18 MR. SCHMOCKER: THANK YOU, YOUR HONOR.

19 I HAVE NO FURTHER QUESTIONS.

20 THE COURT: THANK YOU.

21 MR. DHANIDINA.

22 MR. DHANIDINA: THANK YOU.

23 THIS IS JUST AS TO THE NEWLY SEATED
24 JURORS, CORRECT?

25 THE COURT: IF THERE IS SOME AREA THAT YOU
26 NEED TO FOLLOW UP, GO AHEAD.

27 MR. DHANIDINA: OKAY. THANK YOU.

28 JUROR NO. 4, MA'AM, YOU INDICATED SOME

1 OPINIONS ABOUT OVERALL FAIRNESS OF THE JUSTICE
2 SYSTEM.

3 DO YOU REMEMBER THAT?

4 PROSPECTIVE JUROR B-4751: YEAH.

5 MR. DHANIDINA: YOU FELT THAT THE SYSTEM WAS
6 OFTENTIMES UNFAIR TO POOR PEOPLE?

7 PROSPECTIVE JUROR B-4751: RIGHT.

8 MR. DHANIDINA: AND I THINK YOU SAID, WITH
9 RESPECT TO THE DEATH PENALTY, SOMETHING LIKE YOU
10 NEVER SEE A WEALTHY PERSON GET THE DEATH PENALTY.

11 PROSPECTIVE JUROR B-4751: RIGHT, YES.

12 MR. DHANIDINA: DO YOU THINK THERE IS
13 SOMETHING ABOUT -- THERE IS SOMETHING TO THAT,
14 THAT THE SYSTEM FAVORS WEALTHY PEOPLE OVER --

15 PROSPECTIVE JUROR B-4751: I THINK WEALTHY
16 PEOPLE CAN AFFORD BETTER ATTORNEYS, AND THAT'S WHY
17 THEY DON'T END UP ON DEATH ROW. NOT JUST DEATH
18 ROW, BUT ANYTHING IN GENERAL THAT IF THERE IS
19 GOING TO BE A POOR PERSON AND A RICH PERSON, THE
20 RICH PERSON CAN AFFORD A BETTER DEFENSE THAN A
21 POOR PERSON, SO MOST LIKELY THE POOR PERSON WILL
22 GO TO JAIL. BUT THAT DOESN'T MEAN THAT I'M NOT --
23 I MEAN THE DEATH PENALTY IS THE LAW, AND IF THAT'S
24 THE LAW AND THE PERSON EARNS THAT OR DOES
25 SOMETHING BAD ENOUGH TO BE PUT TO DEATH, THEN THEY
26 SHOULD BE PUT TO DEATH.

27 BUT THAT'S ONE OF THE REASONS WHY I
28 DON'T LIKE THE DEATH PENALTY BECAUSE I DON'T THINK

1 IT'S EQUAL BECAUSE OF HOW MUCH -- YOU KNOW, IF YOU
2 MAKE MORE MONEY YOU ARE LESS LIKELY TO GO TO JAIL.

3 MR. DHANIDINA: AND THAT'S A TOTALLY
4 LEGITIMATE POINT TO HAVE.

5 ARE YOU FAMILIAR AT ALL WITH THE SCOTT
6 PETERSON CASE?

7 PROSPECTIVE JUROR B-4751: YES.

8 MR. DHANIDINA: WOULD YOU AGREE THAT WAS A
9 SITUATION WHERE A WEALTHY PERSON DID IN FACT GET
10 THE DEATH PENALTY?

11 PROSPECTIVE JUROR B-4751: RIGHT. BUT THAT'S
12 ONE PERSON OUT OF HOW MANY. I MEAN I COULD BRING
13 UP O.J. AND THEN THERE IS ANOTHER THING THERE. I
14 MEAN YOU COULD GO BACK AND FORTH ON BRINGING CASES
15 BACK AND FORTH ON MONEY AND NO MONEY, BUT THAT'S
16 ONE OF THE THINGS THAT I WOULD SAY THAT THE
17 JUSTICE SYSTEM IS NOT EQUAL WHEN YOU DON'T HAVE
18 ANY MONEY.

19 MR. DHANIDINA: DO YOU THINK SOMETIMES
20 VICTIMS ARE TREATED DIFFERENTLY BASED ON HOW MUCH
21 MONEY THEY HAVE OR HOW MUCH INFLUENCE THEY HAVE IN
22 SOCIETY?

23 PROSPECTIVE JUROR B-4751: YES.

24 MR. DHANIDINA: THAT'S NOT FAIR EITHER, IS
25 IT?

26 PROSPECTIVE JUROR B-4751: RIGHT.

27 MR. DHANIDINA: WITH THIS IDEA IN MIND, IF
28 YOU ARE SEATED AS A JUROR, YOU KNOW, THIS CONCEPT

1 OF THE JUSTICE SYSTEM DOESN'T EXIST ANYMORE.

2 PROSPECTIVE JUROR B-4751: THAT QUESTION
3 ASKED ABOUT THE DEATH PENALTY, IF I AGREED OR
4 WHATEVER -- I FORGOT HOW IT WAS WORDED ABOUT THE
5 DEATH PENALTY, WHICH IS DIFFERENT THAN BEING ON A
6 JURY AND HAVING TO DECIDE IF SOMEONE DESERVES LIFE
7 IN PRISON AND SOMEONE DESERVES THE DEATH PENALTY,
8 BECAUSE THAT IS THE LAW, THAT IS THE CHOICES THAT
9 YOU HAVE. I MIGHT NOT LIKE THE LAW, BUT THAT IS
10 THE LAW OF THE LAND, SO WE HAVE TO GO WITH WHAT
11 THE LAW SAYS.

12 SO I WOULD HAVE TO HEAR ALL THE
13 EVIDENCE AND SAY, YOU KNOW, I MIGHT NOT LIKE IT
14 AND I MIGHT NOT AGREE WITH IT, BUT THAT IS THE LAW
15 AND WE HAVE TO GO BY THE LAW.

16 MR. DHANIDINA: OKAY. ARE YOU GOING TO
17 CONSIDER THE PERFORMANCE OF THE ATTORNEYS INVOLVED
18 IN THE CASE, YOU KNOW, IN DETERMINING WHETHER I
19 THINK THAT ATTORNEY IS BETTER THAN THE OTHER ONE?

20 PROSPECTIVE JUROR B-4751: NO, I WOULD --
21 WELL, IF YOU HAVE BETTER EVIDENCE. I MEAN IF YOU
22 PRESENT YOUR CASE BETTER THAN THE OTHER ONE.

23 I MEAN BETTER? WHAT DO YOU MEAN BY
24 BETTER?

25 MR. DHANIDINA: YOU ARE THE ONE WHO BROUGHT
26 IT UP THAT SOMETIMES PEOPLE HAVE BETTER LAWYERS
27 THAN OTHER PEOPLE AND THAT THAT AFFECTS HOW FAIR
28 THE SYSTEM IS.

1 SO ALL I'M ASKING IS, ARE YOU GOING TO
2 BE THINKING ABOUT WHETHER YOU THINK ONE SIDE OR
3 THE OTHER IS GETTING THE KIND OF REPRESENTATION
4 THAT YOU THINK THEY SHOULD HAVE?

5 PROSPECTIVE JUROR B-4751: NO, I'M JUST GOING
6 TO SEE WHAT THE EVIDENCE EACH ATTORNEY PRESENTS,
7 AND WITH THAT, THEN YOU MAKE YOUR DECISION.

8 MR. DHANIDINA: OKAY. IF YOU ARE SELECTED TO
9 SIT AS A JUROR IN THIS CASE, ARE YOU GOING TO BE
10 CURIOUS ABOUT WHETHER, YOU KNOW, THE VICTIM COMES
11 FROM A POOR BACKGROUND OR THE DEFENDANT COMES FROM
12 A POOR BACKGROUND? ARE YOU GOING TO LET THOSE
13 TYPES OF THINGS AFFECT HOW YOU VIEW THE EVIDENCE?

14 PROSPECTIVE JUROR B-4751: IF THAT IS NOT
15 PART OF THE EVIDENCE, I WOULDN'T CONSIDER IT. I'M
16 JUST SUPPOSED TO CONSIDER WHATEVER EVIDENCE YOU
17 PRESENT. IF THAT IS NOT PART OF THE EVIDENCE,
18 THEN THAT IS NOT SOMETHING I'M GOING TO THINK
19 ABOUT BECAUSE SOMEBODY RICH DID TWO PEOPLE AND
20 KILLED THEM THAT DOESN'T MATTER. ON THIS PHASE OF
21 THE TRIAL, HE IS ALREADY CONVICTED, SO IT DOESN'T
22 MATTER IF HE HAD MONEY OR NO MONEY TO GET
23 CONVICTED BECAUSE NOW WE ARE TALKING ABOUT THE
24 PENALTY PHASE OF IT.

25 MR. DHANIDINA: OKAY.

26 PROSPECTIVE JUROR B-4751: SO THAT DOESN'T
27 MATTER. IF ONE OF THE ATTORNEYS BRINGS IT UP,
28 THEN THAT IS SOMETHING THAT WE WOULD HAVE TO

1 CONSIDER AS A JURY, BUT THAT IS NOT SOMETHING I'M
2 GOING TO BE THINKING ABOUT WHEN YOU ARE PRESENTING
3 YOUR EVIDENCE.

4 MR. DHANIDINA: OKAY. PROSPECTIVE JUROR
5 NO. 15, THAT IS YOU, SIR?

6 PROSPECTIVE JUROR L-0671: YES.

7 MR. DHANIDINA: JUST TO FOLLOW UP ON WHAT I
8 THINK HAS BEEN ASKED OF YOU BEFORE, AND WE HAVE TO
9 BE DIRECT BECAUSE, YOU KNOW, THE COURT REPORTER IS
10 TAKING EVERYTHING DOWN. ARE YOU CONCERNED THAT IF
11 YOU WERE SEATED AS A JUROR IN THIS CASE THE
12 RESULT -- THE VERDICT THAT YOU REACHED MIGHT
13 JEOPARDIZE YOUR SAFETY DOWN THE ROAD BEING IN
14 CERTAIN NEIGHBORHOOD?

15 PROSPECTIVE JUROR L-0671: CORRECT. I DON'T
16 WANT TO SEE NOBODY. I DON'T WANT TO SEE NONE OF
17 THE JURY MEMBERS OR NONE OF THE WITNESSES IN HERE,
18 I DON'T WANT TO SEE THEM. I DON'T WANT TO SEE
19 THEM HERE, I DON'T WANT TO SEE THEM OUT IN THE
20 STREET, I DON'T WANT TO SEE THEM PERIOD. THAT'S
21 WHAT I'M SAYING, ON THIS CASE. IF IT WAS ANOTHER
22 TYPE OF CASE AND I'M NOT REALLY DEALING WITH
23 SOMEBODY'S LIFE OR THEIR WELL-BEING OR TRYING TO
24 MAKE A DECISION OVER THAT, THEN IT MAY BE
25 SOMETHING DIFFERENT. BUT AT THIS TIME, NO.

26 MR. DHANIDINA: SO YOU DON'T -- DO YOU FEEL
27 LIKE YOU WOULD LET THAT CONCERN FOR YOUR OWN
28 PERSONAL SAFETY --

1 PROSPECTIVE M-7163: YES, I WOULD.

2 MR. DHANIDINA: -- AFFECT YOU IN THE OUTCOME
3 OF THE CASE?

4 PROSPECTIVE M-7163: YES, I WOULD.

5 MR. DHANIDINA: THANK YOU.

6 I JUST WANTED TO BE A LITTLE BIT MORE
7 EXPLICIT ABOUT THAT.

8 PROSPECTIVE JUROR L-0671: OKAY.

9 MR. DHANIDINA: JUROR NO. 16, YOU INDICATED
10 THAT YOU DIDN'T SEE THE POINT TO LIFE WITHOUT
11 PAROLE BECAUSE YOU FELT THAT IT'S JUST AS BAD AS
12 DEATH.

13 WHAT DID YOU MEAN BY THAT?

14 PROSPECTIVE JUROR O-9824: I WOULD JUST AS
15 SOON SEE THESE CRIMINALS IN THIS CASE IN A WAY
16 THAT HE WON'T BE ABLE TO HURT NO ONE NO MORE,
17 SOMETHING LIKE THAT ANYWAY.

18 MR. DHANIDINA: OKAY. NOW, AT THIS STAGE IN
19 THE GAME AS THE JUDGE HAS EXPLAINED TO YOU, THERE
20 ARE REALLY TWO CHOICES FOR THE JURY THAT IS
21 SELECTED. THE PUNISHMENT THAT IS MORE SEVERE
22 WHICH THE LAW DETERMINES AS DEATH, AND THE
23 PUNISHMENT THAT IS LESS SEVERE WHICH IS LIFE
24 WITHOUT PAROLE, WHICH MEANS THE JURY IS HERE TO
25 SORT OF DETERMINE IF THE DEFENDANT DESERVES THE
26 MORE SEVERE PUNISHMENT OR THE LESS SEVERE
27 PUNISHMENT.

28 DO YOU FEEL LIKE YOU CAN SIT AS A

1 JUROR AND EVALUATE ALL OF THE EVIDENCE THAT YOU
2 HEAR FROM BOTH SIDES TO DETERMINE IF HE DESERVES
3 THE MORE SEVERE OR THE LESS SEVERE PUNISHMENT?

4 PROSPECTIVE JUROR O-9824: WELL, I HAVE TO
5 FOLLOW THE COURT'S ORDERS, I GUESS, RULES. AS FAR
6 AS I'M CONCERNED, MY THINKING, I MIGHT BE GOING
7 AGAINST MY WISHES OR MIGHT NOT. MY THINKING, I
8 HAVE TO GO BY THE RULES.

9 MR. DHANIDINA: SO ULTIMATELY WOULD YOU BASE
10 YOUR DECISION ON THE LAW THAT THE JUDGE INSTRUCTS
11 YOU WITH?

12 PROSPECTIVE JUROR O-9824: I HAVE TO.

13 MR. DHANIDINA: OKAY.

14 PROSPECTIVE JUROR NO. 19, YOU
15 INDICATED -- ONE OF THE LAST THINGS YOU SAID IS
16 YOU DON'T THINK YOU WOULD BE A GOOD JUROR ON THIS
17 CASE BECAUSE OF YOUR STRONG OPINION REGARDING A
18 LIFE SENTENCE VERSUS A DEATH SENTENCE; IS THAT
19 RIGHT?

20 PROSPECTIVE JUROR Q-4527: YES, THAT'S
21 CORRECT.

22 MR. DHANIDINA: AND CORRECT ME IF I'M WRONG,
23 BUT I THINK WHAT YOU WERE SAYING WAS EITHER
24 SOMEBODY CAN BE REHABILITATED IN WHICH CASE THEY
25 SHOULD HAVE A CHANCE AT PAROLE, OR THERE IS NO
26 HOPE IN REHABILITATING THEM AND WHAT'S THE
27 DIFFERENCE BETWEEN KEEPING THEM FOREVER AND
28 EXECUTION.

1 IS THAT KIND OF YOUR OPINION?

2 PROSPECTIVE JUROR Q-4527: YES, THAT'S
3 CORRECT.

4 MR. DHANIDINA: NOW, UNDERSTANDING HOW
5 OPINIONATED THAT YOU ARE ON THIS PARTICULAR TOPIC,
6 IF THE JUDGE INSTRUCTS YOU TO BASE YOUR DECISION
7 ON AGGRAVATING EVIDENCE AND MITIGATING EVIDENCE SO
8 THAT THE MORE SEVERE PENALTY WOULD BE DEATH, AND
9 IF THE DEFENDANT YOU FELT DESERVED A LESS SEVERE
10 PENALTY, IT'S LIFE WITHOUT PAROLE, THOSE BEING THE
11 ONLY TWO OPTIONS THAT WE HAVE IN A CASE LIKE THIS.

12 COULD YOU FOLLOW THOSE INSTRUCTIONS OF
13 THE COURT, OR WOULD YOU NOT ABLE TO FOLLOW THE
14 JUDGE'S INSTRUCTIONS?

15 PROSPECTIVE JUROR Q-4527: I WOULD BE ABLE TO
16 FOLLOW THE JUDGE'S INSTRUCTIONS EXCEPT I WOULD
17 HAVE A BIAS ALREADY. I MEAN THAT'S -- LIKE I
18 SAID, I DON'T KNOW IF I COULD PUT ASIDE EVERYTHING
19 AND BASE EVERYTHING JUST ON WHAT I HEAR BECAUSE OF
20 WHAT I SAID OF MY OPINION ABOUT LIFE WITHOUT
21 PAROLE.

22 MR. DHANIDINA: WELL, THAT'S INTERESTING.

23 PROSPECTIVE JUROR Q-4527: SO --

24 MR. DHANIDINA: WHAT IF -- ARE YOU SAYING
25 THAT YOU WOULD HAVE A BIAS TOWARDS THE DEATH
26 PENALTY?

27 PROSPECTIVE JUROR Q-4527: VOTING IN FAVOR OF
28 THE DEATH PENALTY, YEAH.

1 MR. DHANIDINA: OKAY. SO IF YOU HEARD THE
2 EVIDENCE AND YOU ACTUALLY FELT THERE WAS MORE
3 MITIGATION THAN AGGRAVATION, SOME REALLY GOOD
4 THINGS ABOUT THE DEFENDANT THAT YOU BELIEVED WERE
5 TRUE, ARE YOU SAYING THAT BECAUSE THE ONLY OPTIONS
6 ARE DEATH OR LIFE WITHOUT PAROLE, YOU WOULD VOTE
7 TO EXECUTE HIM?

8 PROSPECTIVE JUROR Q-4527: NO. I MEAN IN THE
9 END, I WOULD HAVE TO FOLLOW THE INSTRUCTIONS GIVEN
10 BY THIS COURT, BUT MY OWN PERSONAL OPINION WOULD
11 BE, AS I STATED BEFORE, WHAT IS THE POINT OF LIFE
12 WITHOUT PAROLE IF YOU THINK THAT THE PERSON -- THE
13 MITIGATING FACTORS OUTWEIGH THE AGGRAVATING FACTS,
14 THEN YOU SHOULD GIVE HIM A CHANCE TO REDEEM
15 HIMSELF, YOU KNOW. BUT I MEAN THAT'S NOT THE --
16 THAT IS NOT ONE OF THE CHOICES IN THIS CASE.

17 MR. DHANIDINA: RIGHT. I JUST WANT TO MAKE
18 SURE YOU UNDERSTAND. WE HAVE TWO CHOICES, AND THE
19 JUDGE IS GOING TO EXPLAIN SORT OF HOW YOU AS A
20 JUROR WOULD PICK ONE CHOICE OR THE OTHER.

21 DO YOU THINK YOU CAN PUT SOME OF YOUR
22 PERSONAL BIASES ASIDE AND FOLLOW THE PROCEDURE AS
23 INSTRUCTED BY THE COURT, OR DO YOU THINK THAT,
24 NEVER MIND WHAT THE JUDGE SAYS, I'M JUST GOING TO
25 DO WHAT I WANT TO DO?

26 PROSPECTIVE JUROR Q-4527: NO, I DON'T THINK
27 MY BIAS IS THAT STRONG THAT I WOULD GO AGAINST THE
28 INSTRUCTIONS.

1 MR. DHANIDINA: OKAY.

2 PROSPECTIVE JUROR Q-4527: BUT YEAH.

3 MR. DHANIDINA: ALL RIGHT. THANK YOU.

4 I HAVE NOTHING FURTHER.

5 THE COURT: ARE THERE ANY MOTIONS OR OTHER
6 MATTERS?

7 MR. DHANIDINA: YES.

8 MR. SCHMOCKER: YES, YOUR HONOR.

9 THE COURT: ALL RIGHT. LET'S TAKE A -- MAY I
10 SEE COUNSEL AT SIDEBAR?

11

12 (THE FOLLOWING PROCEEDINGS WERE
13 HELD AT SIDEBAR:)

14

15 THE COURT: DO YOU WANT TO GO THROUGH THE
16 MOTIONS FOR CAUSE AND PEREMPTORY CHALLENGES THIS
17 AFTERNOON OR --

18 MR. DHANIDINA: WE MAY AS WELL, THEN WE WON'T
19 HAVE TO ORDER ANYBODY BACK.

20 MR. SCHMOCKER: THAT'S FINE.

21 THE COURT: ALL RIGHT. DO YOU WANT TO DO THE
22 MOTIONS FOR CAUSE AT SIDEBAR HERE, OR SHALL I
23 EXCUSE THE JURY?

24 MR. DHANIDINA: WHATEVER IS EASIER FOR THE
25 COURT.

26 THE COURT: I DON'T CARE.

27 MR. SCHMOCKER: WE CAN DO IT HERE.

28 THE COURT: ALL RIGHT.

1 DEFENSE.

2 MR. SCHMOCKER: YES, YOUR HONOR. WE WOULD
3 LIKE TO MAKE A MOTION FOR CAUSE IN REGARDS TO 15,
4 16 AND 19. JURORS 15, 16 AND 19.

5 THE COURT: WHAT IS THE PEOPLE'S POSITION?

6 MR. DHANIDINA: WE WILL AGREE WITH JUROR 15.

7 THE COURT: AND 16 AND 19?

8 MR. SCHMOCKER: ON 16, HE IS THE JUROR THAT
9 TOLD US THAT HE DIDN'T SEE THE POINT OF LIFE
10 WITHOUT THE POSSIBILITY OF PAROLE. HE SOUNDED TO
11 ME LIKE HE WAS SUBSTANTIALLY IMPAIRED IN HIS
12 ABILITY TO RETURN SUCH A VERDICT.

13 THE COURT: AND 19 FOR THE SAME REASON?

14 MR. SCHMOCKER: FOR THE SAME REASON.

15 THE COURT: PEOPLE.

16 MR. DHANIDINA: TO ME THESE JURORS, THEY ARE
17 NO DIFFERENT FROM THE GENTLEMAN ON THE LAST PANEL,
18 NO. 26 THAT WE HAD WHO HAD VERY STRONG PERSONAL
19 BELIEFS BUT SAID THAT HE COULD SET THOSE ASIDE AND
20 FOLLOW THE COURT'S INSTRUCTIONS.

21 BOTH OF THESE TWO JURORS, WHILE
22 EXPRESSING A PERSONAL DISAGREEMENT WITH THE
23 PENALTY CHOICES, BOTH I THINK WERE SINCERE IN
24 STATING IN THE END THAT THEY WOULD BE ABLE TO SET
25 THOSE ASIDE AND WHAT IS MOST IMPORTANT IS THAT
26 THEY WOULD FOLLOW THE INSTRUCTIONS GIVEN BY THE
27 COURT.

28 THE COURT: ALL RIGHT. I'LL GRANT THE MOTION

1 AS TO 16 AND 19. I DO HAVE CONCERNS ABOUT THEIR
2 ABILITY TO FOLLOW THE LAW.

3 MR. SCHMOCKER: THANK YOU, YOUR HONOR.

4 THE COURT: ARE THERE ANY OTHER PEOPLE'S
5 MOTIONS.

6 MR. DHANIDINA: 20.

7 MR. SCHMOCKER: I WILL SUBMIT IT, YOUR HONOR.
8 OR I MEAN I DON'T HAVE ANYTHING TO -- I'M NOT
9 GOING TO ARGUE AGAINST IT.

10 THE COURT: THE MOTION IS GRANTED AS TO JUROR
11 20. SHE DID EXPRESS SERIOUS RESERVATIONS ABOUT
12 HER ABILITY TO RENDER A DECISION, AND I BELIEVE
13 THAT SHE WOULD HAVE PERSONAL DIFFICULTY DECIDING
14 IN THIS CASE. SO IT'S GRANTED.

15 MR. DHANIDINA: OH, YOU KNOW WHAT. I DO HAVE
16 ONE MORE.

17 22 I THINK ALSO STATED THAT HE DIDN'T
18 FEEL COMFORTABLE BEING ON THIS JURY BECAUSE HE
19 DIDN'T THINK THAT HE COULD RENDER PENALTY OF
20 DEATH. HE DIDN'T WANT IT WEIGHING ON HIS
21 CONSCIOUS. HE SAID HE DIDN'T WANT SOMEBODY'S SOUL
22 WEIGHING ON HIS CONSCIOUS OR SOMEBODY'S LIFE
23 WEIGHING ON HIS CONSCIENCE.

24 MR. SCHMOCKER: I SEE HIM AS LESS IMPACTED
25 THAN THE OTHER JURORS.

26 THE COURT: I AGREE. 22 IS DENIED.

27 I THINK HE DID EXPRESS SOME FEELINGS
28 ALONG THOSE LINES, BUT HIS ULTIMATE EXPRESSION WAS

1 THAT HE COULD FOLLOW THE LAW AND MAKE A DECISION,
2 AND I BELIEVE THAT.

3 SO 15, 16, 19 AND 20.

4 MR. SCHMOCKER: I'M SORRY, WHICH NUMBERS?

5 THE COURT: 15, 16, 19 AND 20.

6 MR. SCHMOCKER: VERY GOOD. THANK YOU.

7
8 (THE FOLLOWING PROCEEDINGS WERE
9 HELD IN OPEN COURT IN THE
10 PRESENCE OF THE JURY:)

11
12 THE COURT: ALL RIGHT. THE FOLLOWING JURORS
13 ARE EXCUSED.

14 JURORS IN SEATS 15, 16, 19 AND 20.
15 THANK YOU ALL FOR YOUR PARTICIPATION. YOU SHOULD
16 GO TO THE JURY ROOM AND TELL THEM THAT YOU HAVE
17 BEEN EXCUSED.

18 ALL RIGHT. WE WILL RETURN TO
19 PEREMPTORY CHALLENGES ADDRESSED TO SEATS 1 THROUGH
20 12.

21 IF YOU ARE EXCUSED, YOU HAVE MY THANKS
22 AND YOU SHOULD GO TO THE JURY ROOM.

23 THE NEXT PEREMPTORY CHALLENGE IS WITH
24 THE DEFENSE.

25 MR. SCHMOCKER: WE ACCEPT THE JURY AS
26 PRESENTLY CONSTITUTED, YOUR HONOR.

27 THE COURT: PEOPLE.

28 MR. DHANIDINA: THE PEOPLE ASK THE COURT TO

1 PLEASE THANK AND EXCUSE PROSPECTIVE JUROR NO. 4.

2 THE COURT: JUROR 4 IS EXCUSED.

3 JUROR IN SEAT 13, PLEASE TAKE SEAT
4 NO. 4.

5 DEFENSE IS NEXT.

6 MR. SCHMOCKER: WE ACCEPT THE JURY, YOUR
7 HONOR.

8 THE COURT: PEOPLE.

9 MR. DHANIDINA: THE PEOPLE ASK THE COURT TO
10 PLEASE THANK AND EXCUSE PROSPECTIVE JUROR NO. 9.

11 THE COURT: JUROR IN SEAT 9 IS EXCUSED.

12 JUROR 14, SEAT 9, PLEASE.

13 AND THE DEFENSE IS NEXT.

14 MR. SCHMOCKER: YOUR HONOR, WE WOULD ASK THE
15 COURT TO THANK AND EXCUSE JUROR NO. 9.

16 THE COURT: JUROR 9, MA'AM, YOU ARE EXCUSED.

17 JUROR 17 GOES TO SEAT NO. 9.

18 PEOPLE.

19 MR. DHANIDINA: THE PEOPLE ASK THE COURT TO
20 PLEASE THANK AND EXCUSE PROSPECTIVE JUROR NO. 7.

21 THE COURT: JUROR 7 IS EXCUSED.

22 JUROR 18 GOES TO SEAT 7.

23 DEFENSE.

24 MR. SCHMOCKER: YOUR HONOR, WE WOULD ASK THE
25 COURT TO THANK AND EXCUSE JUROR NO. 7.

26 THE COURT: JUROR 7 IS EXCUSED.

27 JUROR 21 GOES TO SEAT NO. 7.

28 PEOPLE.

1 MR. DHANIDINA: THE PEOPLE ASK THE COURT TO
2 PLEASE THANK AND EXCUSE PROSPECTIVE JUROR NO. 2.

3 THE COURT: JUROR NO. 2 IS EXCUSED.

4 JUROR 22 GOES TO SEAT NO. 2.

5 AND THE DEFENSE IS NEXT.

6 MR. SCHMOCKER: WE ACCEPT THE JURY AS
7 PRESENTLY CONSTITUTED, YOUR HONOR.

8 THE COURT: PEOPLE.

9 MR. DHANIDINA: THE PEOPLE ASK THE COURT TO
10 PLEASE THANK AND EXCUSE PROSPECTIVE JUROR NO. 2.

11 THE COURT: JUROR 2 IS EXCUSED.

12 JUROR 23, PLEASE TAKE SEAT NO. 2.

13 DEFENSE.

14 MR. SCHMOCKER: WE ACCEPT THE JURY, YOUR
15 HONOR.

16 THE COURT: PEOPLE.

17 MR. DHANIDINA: THE PEOPLE ASK THE COURT TO
18 PLEASE THANK AND EXCUSE PROSPECTIVE JUROR NO. 6.

19 THE COURT: JUROR 6.

20 MR. SCHMOCKER: MAY WE APPROACH, YOUR HONOR.

21 THE COURT: ACTUALLY JUROR 6, HAVE A SEAT.

22 WHAT -- WE ARE ALMOST AT THE END OF
23 THE DAY AND WE ARE GOING TO NEED ADDITIONAL
24 JURORS. THERE ARE -- THERE IS ANOTHER GROUP OF
25 JURORS, BUT UNFORTUNATELY THEY ARE NOT SCHEDULED
26 TO BE HERE UNTIL WEDNESDAY MORNING. SO I THINK
27 WHAT MAKES THE MOST SENSE IS TO BREAK FOR THE DAY
28 AND EXCUSE EVERYONE, INCLUDING JUROR NO. 6. ALL

1 JURORS TO RETURN ON WEDNESDAY AT 9:00 O'CLOCK.

2 SO AT THAT TIME WE WILL HAVE AN
3 ADDITIONAL GROUP OF JURORS, AND I BELIEVE WE WILL
4 COMPLETE JURY SELECTION ON WEDNESDAY, BUT
5 LOGISTICALLY THAT IS THE WAY THAT IT IS. SO I
6 APPRECIATE YOUR PATIENCE.

7 IT WILL NOT BE NECESSARY FOR YOU TO
8 COME TO THE COURTHOUSE AT ALL TOMORROW. SO YOU
9 DON'T NEED TO BE HERE. BUT YOU DO NEED TO BE HERE
10 WEDNESDAY THE 25TH AT 9:00 O'CLOCK. SO EVERYBODY
11 IS EXCUSED UNTIL WEDNESDAY THE 25TH AT 9:00
12 O'CLOCK. THANK YOU ALL SO MUCH FOR YOUR PATIENCE.
13 WE WILL SEE YOU THEN.

14

15 (THE JURORS LEFT THE
16 COURTROOM.)

17

18 THE COURT: ALL RIGHT. ALL OF THE JURORS
19 HAVE LEFT.

20 WHAT IS IT THAT THE DEFENSE WANTED TO
21 RAISE?

22 MS. VITALE: YOUR HONOR, IT IS A
23 BATSON-MILLER TYPE MOTION. THE EXCLUSION OF AT
24 LEAST THREE FEMALE BLACKS, YOUR HONOR, FROM THIS
25 PANEL WHEN EACH OF THEM IN OUR OPINION MAINTAINED
26 THEY WOULD BE ABLE TO ASSESS AND JUDGE THE
27 EVIDENCE FAIRLY AND PROVIDE A FAIR TRIAL TO BOTH
28 THE PROSECUTION AND THE DEFENSE. IT'S OUR

1 POSITION THAT THERE WAS NO LEGITIMATE REASON FOR
2 EXCUSING THOSE INDIVIDUALS.

3 THE COURT: ALL RIGHT. THE -- AND WHAT
4 REMEDY ARE YOU REQUESTING?

5 MS. VITALE: MAY I HAVE A MOMENT?

6

7 (COUNSEL CONFER.)

8

9 MS. VITALE: YOUR HONOR, I THINK A -- JUST
10 MOVE FOR A MISTRIAL AT THIS POINT.

11 THE COURT: ALL RIGHT. AS OPPOSED TO
12 RESEATING THE JUROR?

13 MS. VITALE: WELL, AT LEAST TWO OF THEM HAVE
14 ALREADY BEEN EXCUSED, AND THE THIRD ONE IS STILL
15 THERE. SO NOW WE HAVE A PATTERN OF THREE BLACK
16 FEMALES BEING EXCUSED, AND I DON'T THINK THAT
17 THERE WERE MORE THAN FOUR BLACK FEMALES AND MAYBE
18 TWO BLACK MALES OUT OF A WHOLE PANEL, AND THE
19 PROSECUTOR EXCUSED AT LEAST THREE OF THOSE
20 FEMALES. I THINK ONE MAY HAVE BEEN FOR CAUSE,
21 0750 ^CK.

22 THE COURT: WELL, ALL RIGHT.

23 THE PEOPLE, BY MY RECORDS, HAVE
24 EXERCISED TEN PEREMPTORY CHALLENGES, THE FIRST,
25 B-7993, WAS A FEMALE HISPANIC. THE SECOND, J-2466
26 WAS A FEMALE BLACK.

27 THE THIRD, D-5649, WAS A FEMALE BLACK.

28 THE FOURTH, V-4099, MALE HISPANIC.

1 THE FIFTH, R-5857, MALE HISPANIC.
2 THE SIXTH, B-4751, FEMALE HISPANIC.
3 THE SEVENTH, J-6556, FEMALE BLACK.
4 THE 8TH, 6745, G, FEMALE HISPANIC.
5 THE NINTH, A-1180, MALE WHITE.
6 THE 10TH, M-8404, MALE HISPANIC.
7 AND THE CURRENT JUROR, P-9765, FEMALE
8 BLACK.

9 MS. VITALE: SO I MISSPOKE, YOUR HONOR.
10 THAT'S FOUR FEMALE BLACKS.

11 THE COURT: YES. ALTHOUGH I HAVE TO SAY,
12 JUROR -- THE THIRD PEREMPTORY CHALLENGE, D-5649 I
13 BELIEVE IS AFRICAN-AMERICAN, BUT I HAD A QUESTION
14 MARK BY THAT. BUT I BELIEVE -- SHE IS THE CITY
15 ATTORNEY.

16 MS. VITALE: YES.

17 THE COURT: APPEARS TO ME TO BE
18 AFRICAN-AMERICAN, BUT IS NOT AS CLEAR AS THE
19 OTHERS THAT I --

20 MR. SCHMOCKER: SHE DID DESCRIBE HERSELF IN
21 HER QUESTIONNAIRE AS BEING A MEMBER OF A LAW
22 SOCIETY FOR FEMALE AFRICAN-AMERICANS.

23 THE COURT: OH, SHE DID. I'M SURE SHE IS
24 FEMALE.

25 MR. SCHMOCKER: YEAH.

26 THE COURT: I HAVE NO QUESTION ABOUT THAT.
27 ALL RIGHT.

28

1 (INTERRUPTION IN PROCEEDINGS.)

2
3 PROSPECTIVE JUROR P-9765: I'M SORRY. CAN I
4 CHECK TO SEE IF I LEFT MY CELL PHONE?

5 THE COURT: ALL RIGHT.

6 PROSPECTIVE JUROR P-9765: I'M SORRY.

7 THE COURT: DID YOU FIND IT?

8 PROSPECTIVE JUROR P-9765: YES. THANK YOU.

9 THE COURT: THANK YOU.

10
11 (JUROR P-9765 LEFT THE
12 COURTROOM.)

13
14 THE COURT: ALL RIGHT. DO THE PEOPLE WANT TO
15 ADDRESS WHETHER THERE IS A PRIMA-FACIE CASE?

16 MR. DHANIDINA: YOU KNOW, YOUR HONOR, GIVEN
17 THE CASE LAW, I THINK I WOULD LIKE TO CONCEDE
18 PRIMA-FACIE CASE AND JUST CONTINUE ON AND PROVIDE
19 THE JUSTIFICATION.

20 THE COURT: ALL RIGHT.

21 MR. DHANIDINA: ALL RIGHT. WELL, I WILL JUST
22 GO IN THE ORDER THAT I HAVE THEM.

23 AND -- YEAH, LET ME JUST START WITH.
24 JUROR NO. 2466. 2466 WAS -- FROM HER
25 QUESTIONNAIRE, I GOT SOME INFORMATION OF TWO
26 RELATIVES, INCLUDING A BROTHER AND A SON THAT HAD
27 RUN-INS WITH THE LAW, AND WHAT THE SON WAS FOR AN
28 UNREGISTERED GUN. THE BROTHER WAS IN CUSTODY FOR

1 I GUESS AN UNLAWFUL TOUCHING OF A MINOR WHO WAS A
2 FAMILY FRIEND OR ASSOCIATE.

3 THOSE ARE THE PRIMARY REASONS FOR THAT
4 JUROR. AND JUST TYPICALLY I FIND THAT JURORS THAT
5 ARE VERY CLOSE RELATIVES WITH PEOPLE WHO HAVE BEEN
6 CONVICTED OR HAD RUN-INS WITH THE LAW IN SERIOUS
7 CASES TO IDENTIFY MORE WITH THE DEFENDANT'S SIDE
8 OF THE CASE AND HIS FAMILY AND WITNESSES THAT WILL
9 TESTIFY. SO JUST AS MATTER OF COURSE, I TEND NOT
10 TO KEEP JURORS WITH THAT BACKGROUND ON THE JURY IF
11 I CAN AVOID IT.

12 JUROR 5649 WAS THE CITY ATTORNEY THAT
13 WE TALKED ABOUT. SHE SAID THAT SHE WAS AGAINST
14 THE DEATH PENALTY IN GENERAL. SHE SAID THAT
15 SEVERAL TIMES. IN ADDITION TO THAT, SHE INDICATED
16 THAT -- IN HER QUESTIONNAIRE, THAT HER SON HAD
17 MULTIPLE RUN-INS WITH THE LAW BOTH A HIT-AND-RUN
18 AND KNIFE POSSESSION CASES, AND BASED ON HER
19 GENERAL NEGATIVE FEELINGS TOWARDS THE DEATH
20 PENALTY AND THAT SITUATION IN HER FAMILY, I
21 EXCUSED THAT JUROR.

22 NEXT IS JUROR NO. 6556. JUROR
23 NO. 6556 INDICATED A FEW THINGS THAT WERE
24 TROUBLING TO ME. ONE, THIS IS A VERY RELIGIOUS
25 JUROR WHO INDICATED WHEN I ASKED THAT SHE WOULD
26 BASICALLY THROUGH PRAYER SEEK GUIDANCE AND
27 STRENGTH WHILE ON THE JURY.

28 WHILE I DON'T THINK THERE IS ANYTHING

1 WRONG WITH THAT PERSONALLY, I AM ALWAYS WARY OF
2 JURORS THAT INDICATE THAT THEY WOULD SEEK THAT
3 TYPE OF GUIDANCE WHILE THEY ARE ON A JURY. I
4 TRIED TO EXERCISE PEREMPTORIES AGAINST ALL PEOPLE
5 ON THE JURY WHO RAISED THEIR HANDS WHEN I POSED
6 THAT AS A QUESTION. I THINK THAT I HAVE DONE
7 THAT.

8 IN ADDITION, KIND OF GOING ALONG WITH
9 THAT GENERAL PHILOSOPHY, THIS JUROR INDICATED THAT
10 SHE BELIEVED PEOPLE JOIN GANGS BECAUSE THEY SORT
11 OF GET CAUGHT UP IN SITUATIONS BEYOND THEIR
12 CONTROL WHICH I THOUGHT WAS AN OVERLY LENIENT WAY
13 OF LOOKING AT A SITUATION, ESPECIALLY SINCE WE
14 HAVE A CASE WITH A GANG MEMBER WHERE I KNOW FROM A
15 PREVIOUS TRIAL THE DEFENSE HAS GOT INVOLVED IN A
16 CRIME SINCE HE WAS ENCOURAGED BY HIS CO-DEFENDANT.

17 SHE ALSO INDICATED ON HER
18 QUESTIONNAIRE THAT SHE BELIEVED THAT ALL PEOPLE
19 CAN CHANGE, AND I FOUND THAT TO BE A PARTICULARLY
20 LENIENT VIEW WHEN I KNOW OUR DEFENSE ARGUMENT IN
21 THIS CASE FOR PENALTY IS THAT KAI HARRIS OUGHT TO
22 BE ALLOWED TO LIVE BECAUSE HE WOULD STILL HAVE AN
23 OPPORTUNITY TO CHANGE.

24 HER ANSWER TO THAT QUESTION KIND OF
25 LED ME TO BELIEVE SHE WOULD BE AMENABLE TO THAT
26 ARGUMENT. AND THAT WAS IT FOR THAT PARTICULAR
27 JUROR.

28 AND THE LAST ONE, JUROR NO. 96 --

1 EXCUSE ME, 9765 HAD A SITUATION -- LET'S SEE WHERE
2 IS IT HERE.

3 OH, THAT WAS ANOTHER JUROR THAT
4 INDICATED THAT -- SHE RAISED HER HAND WHEN I ASKED
5 THE QUESTION OF PEOPLE WHO WOULD SEEK GUIDANCE OR
6 WISDOM THROUGH PRAYER. SHE WAS ANOTHER JUROR THAT
7 ANSWERED THAT WAY WHEN I ASKED THAT QUESTION, AND
8 SO SHE ALONG WITH SOME OF THE OTHER JURORS,
9 INCLUDING SOME THAT THE DEFENSE HAS NOT CHALLENGED
10 THAT RAISED THEIR HANDS, I USED PEREMPTORIES ON
11 THOSE.

12 THE LAST POINT THAT I WILL BRING UP
13 WITH RESPECT TO THE FINAL PEREMPTORY WAS THAT I
14 KNEW HER SEAT WOULD BE FILLED BY JUROR NO. 5140
15 WHO, BASED ON HIS ANSWERS ON THE QUESTIONNAIRE, I
16 FELT WOULD BE A VERY DESIRABLE JUROR TO HAVE ON
17 THE PANEL.

18 I CAN TALK MORE ABOUT JUROR 5140 IF
19 THE COURT WANTS AS TO I DIDN'T THINK HE IS A GOOD
20 JUROR FOR MY SIDE. IN FACT, I WILL JUST SO THE
21 RECORD ISN'T SILENT AS TO IT.

22 I PARTICULARLY LIKED HIS ANSWERS
23 REGARDING THE DEATH PENALTY GIVING A SENSE OF
24 CLOSURE OR CATHARSIS FOR THE VICTIM'S FAMILY. I
25 FELT THAT THAT JUROR WOULD BE ONE THAT WOULD BE
26 AMENABLE TO VICTIM IMPACT TYPE EVIDENCE THAT I AM
27 EXPECTING TO PRESENT IN THIS CASE.

28 BASED ON THOSE ANSWERS -- AND ALSO

1 THAT HE PUT ON HIS QUESTIONNAIRE THAT THE REASON
2 PEOPLE JOIN GANGS IS TO ENGAGE IN CRIMINAL
3 BEHAVIOR. THAT VIEW IS MORE IN LINE WITH THE
4 POINT OF VIEW I EXPECT TO BE ARGUING IN THIS CASE.
5 THAT IS WHY THAT JUROR IS A DESIRABLE JUROR FOR
6 THE PROSECUTION TO HAVE SEATED ON THE PANEL.

7 THE COURT: DOES THE DEFENSE WISH TO ADDRESS
8 ANY OF THESE?

9 MS. VITALE: SUBMITTED, YOUR HONOR.

10 THE COURT: ALL RIGHT. THE MOTION IS GRANTED
11 AS TO JUROR P-9765. I DO FIND THAT THERE HAS NOT
12 BEEN A SUFFICIENT SHOWING THAT THE CHALLENGE WAS
13 EXERCISED ON A PERMISSIBLE GROUND.

14 HER RESPONSES TO THE QUESTIONNAIRE ARE
15 VERY UNREMARKABLE. SHE ACTUALLY EXPRESSES SOME
16 POSITIVE FEELINGS ABOUT POLICE OFFICERS. SHE HAS
17 SAID THAT SHE EXPRESSES SOME NEGATIVE VIEWS ABOUT
18 GANGS. AND AS TO THE PENALTY ISSUES, SHE RANKS
19 HERSELF AS A NO. 4 AND BASICALLY SAYS THE SAME
20 THING IN WORDS, THAT IT DEPENDS ON THE EVIDENCE.
21 AND HER RESPONSES -- I DON'T REMEMBER HER SAYING
22 ANYTHING IN REGARD TO RELIGION.

23 MR. DHANIDINA: I ASKED FOR A SHOW HANDS.

24 THE COURT: SHE MAY HAVE RAISED HER HAND IN
25 REGARD TO JURORS WHO MIGHT ENGAGE IN PRAYER OR
26 RELIGIOUS CONTEMPLATION, BUT I CERTAINLY DID NOT
27 HEAR ANYTHING THAT SHE SAID THAT WOULD RAISE ANY
28 CONCERNS ABOUT HER -- RAISE ANY CONCERNS ABOUT AN

1 ATTITUDE THAT WOULD DISPLACE THE LAW WITH
2 RELIGIOUS BELIEFS WHICH IS REALLY WHAT THE CONCERN
3 IS. SO --

4 MR. DHANIDINA: YOUR HONOR, MAY I --- SINCE WE
5 HAVE --

6 THE COURT: AND JUST TO FOLLOW MY THOUGHTS.
7 AND AS FOR THE REFERENCE FOR THE NEXT JUROR IN
8 LINE, I JUST DON'T SEE THAT AS A VALID GROUND. I
9 THINK THAT IS EXTRANEOUS TO THE ISSUES OF THE
10 JUROR IN QUESTION.

11 MR. DHANIDINA: I -- YOU KNOW, YOUR HONOR,
12 I'M GLAD THAT YOU BROUGHT UP THAT LAST POINT
13 BECAUSE I KNOW THAT THE CASE LAW DOES SUPPORT MY
14 POSITION WITH RESPECT TO THAT JUROR. SO MAY I ASK
15 THE COURT TO WITHHOLD THE RULING TO GIVE ME AN
16 OPPORTUNITY TO PRESENT THAT AUTHORITY TO THE
17 COURT, YOU KNOW, BECAUSE I HAVE LOOKED AT THESE
18 CASES VERY RECENTLY, AND I REMEMBER THAT BEING A
19 PERMISSIBLE REASON WHICH WAS PART OF MY
20 CALCULATION IN TRYING TO PICK THE JURY. SO IF THE
21 COURT WOULD INDULGE ME, I CAN PRESENT THAT.

22 THE COURT: WE CAN ADDRESS THAT FURTHER AT
23 1:30 TOMORROW.

24 MR. DHANIDINA: THANK YOU.

25 THE COURT: I DON'T KNOW THAT IT'S GOING TO
26 AFFECT MY RULING, BUT I AM INTERESTED TO SEE THE
27 AUTHORITIES.

28 MR. DHANIDINA: YOUR HONOR, I'M JUST

1 CONCERNED IN PARTICULAR ABOUT THE COURT'S FINDING.
2 SO JUST FOR MY OWN CLARIFICATION.

3 THE COURT: SURE.

4 MR. DHANIDINA: IS THE COURT FINDING THAT THE
5 REASONS STATED ARE INSUFFICIENT AS A MATTER OF
6 LAW, OR THAT THEY HAVE BEEN GIVEN BASICALLY
7 FALSELY TO THE COURT AS SOME SORT OF A SUBTERFUGE?

8 THE COURT: NO, NOT THE LATTER. I DON'T VIEW
9 BATSON MOTIONS AS A CONTEST OF WHAT IS BELIEVABLE
10 AND NOT. I THINK IT IS A MATTER OF EVALUATING THE
11 FACTORS THAT HAVE BEEN GIVEN AND DETERMINING IF IT
12 IS LEGALLY SUFFICIENT TO SUSTAIN THE BURDEN OF
13 PROOF AS TO WHETHER A JUROR WAS EXCUSED FOR
14 NEUTRAL REASONS OR RACE. AND I'M NOT -- I DON'T
15 THINK IT IS A MATTER OF CULPABILITY OR OF ANY
16 KIND. I THINK IT IS -- MY JOB IS TO EVALUATE THE
17 EVIDENCE.

18 MR. DHANIDINA: NO, I UNDERSTAND.

19 THE COURT: AND YOU KNOW, I BELIEVE YOUR
20 REASONS ARE SINCERE, JUST THAT MY TENTATIVE RULING
21 IS I DON'T THINK THEY ARE ADEQUATE TO OVERCOME THE
22 FACTORS IN REGARD TO THIS JUROR.

23 MR. DHANIDINA: THAT WILL HELP ME IN CITING
24 THE APPROPRIATE AUTHORITY TO THE COURT. SO I
25 APPRECIATE THAT.

26 THE COURT: AND THEN THE DEFENSE CAN GIVE
27 SOME FURTHER THOUGHT AS TO REMEDY. I AM CERTAINLY
28 PREPARED TO RESEAT THE JUROR IF THE DEFENSE AGREES

1 TO THAT. I SUPPOSE IF THE DEFENSE WISHES TO
2 DECLARE A MISTRIAL, THEN WE WILL SET -- I DON'T
3 KNOW THAT WE HAVE ENOUGH JURORS IN THE NEXT GROUP
4 TO SELECT A JURY, ALTHOUGH WE COULD TRY, START
5 FROM SCRATCH WITH THE GROUP THAT IS COMING IN ON
6 WEDNESDAY MORNING. BUT YOU CAN GIVE SOME THOUGHT
7 TO THAT AS WELL.

8 MR. SCHMOCKER: VERY GOOD. THANK YOU.

9 WE WILL BE HERE TOMORROW AT 1:30,
10 THEN.

11 THE COURT: AT 1:30.

12 ALL RIGHT. THANK YOU. WE ARE IN
13 RECESS.

14
15 (AT 4:31 P.M., AN ADJOURNMENT
16 WAS TAKEN UNTIL FEBRUARY 24,
17 2009.)

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1 CASE NUMBER: TA074314
2 CASE NAME: PEOPLE VS. KAI HARRIS
3 LOS ANGELES, CALIFORNIA TUESDAY, FEBRUARY 24, 2009
4 DEPARTMENT NO. 108 HON. MICHAEL JOHNSON, JUDGE
5 REPORTER: LORA JOHNSON, CSR NO. 10119
6 TIME: 2:00 P.M.
7

8 APPEARANCES:

9 DEFENDANT, KAI HARRIS, PRESENT
10 WITH COUNSEL, JOHN SCHMOCKER AND
11 LYNDIA VITALE, BAR PANEL; HALIM
12 DHANIDINA, DEPUTY DISTRICT ATTORNEY,
13 REPRESENTING THE PEOPLE OF THE STATE
14 OF CALIFORNIA.
15
16

17 (THE FOLLOWING PROCEEDINGS WERE
18 HELD OUTSIDE OF THE PROSPECTIVE
19 JURY'S PRESENCE:)
20

21 THE COURT: GOOD AFTERNOON.

22 PEOPLE VS. HARRIS. THE DEFENDANT AND
23 ALL COUNSEL ARE PRESENT.

24 THIS AFTERNOON WE ARE GOING TO ADDRESS
25 THE MOTION IN LIMINE AND FURTHER DISCUSS THE
26 BATSON-WHEELER ISSUES.

27 MS. VITALE: YES.

28 THE COURT: WHICH WOULD YOU LIKE TO DO FIRST?

1 MR. DHANIDINA: WELL, SINCE WE HAVE OUR
2 WITNESS HERE FOR THE MOTION IN LIMINE, MAYBE WE
3 COULD DO THAT FIRST.

4 THE COURT: ALL RIGHT.

5 MR. DHANIDINA: SO THE PEOPLE WOULD CALL TO
6 THE STAND DETECTIVE MARK THARP. THIS IS FOR THE
7 1994 GUN POSSESSION INCIDENT.

8 THE COURT: YES. YES.

9 GO AHEAD.

10

11

12 MARK THARP,
13 CALLED BY THE PEOPLE AS A WITNESS, WAS SWORN AND
14 TESTIFIED AS FOLLOWS:

15 THE CLERK: YOU DO SOLEMNLY STATE THAT THE
16 TESTIMONY YOU SHALL GIVE IN THE CAUSE NOW PENDING
17 BEFORE THIS COURT SHALL BE THE TRUTH, THE WHOLE
18 TRUTH AND NOTHING BUT THE TRUTH, SO HELP YOU GOD.

19 THE WITNESS: I DO.

20 THE CLERK: PLEASE HAVE A SEAT.

21 WILL YOU PLEASE STATE AND SPELL YOUR
22 FIRST AND LAST NAME FOR THE RECORD.

23 THE WITNESS: MARK THARP, FIRST NAME M-A-R-K,
24 LAST NAME T-H-A-R-P.

25 THE CLERK: THANK YOU.

26 THE COURT: ALL RIGHT. AND THIS CONCERNS
27 AGGRAVATING FACTOR NO. 2, THE POSSESSION OF
28 FIREARMS IN --

MR. DHANIDINA: MARCH 22ND, '94.

1 THE COURT: 1994, YES.

2 GO AHEAD.

3 MR. DHANIDINA: THANK YOU.

4

5 DIRECT EXAMINATION

6 BY MR. DHANIDINA:

7 Q GOOD AFTERNOON, DETECTIVE.

8 A GOOD AFTERNOON.

9 Q SIR, WHAT WAS YOUR OCCUPATION AND
10 ASSIGNMENT BACK IN MARCH OF 1994?

11 A I WAS A DETECTIVE TRAINEE ASSIGNED TO
12 SOUTHEAST DIVISION AND ON LOAN TO SOUTH BUREAU
13 GANG UNIT.

14 Q ON THAT DAY, WERE YOU WORKING WITH A
15 PARTNER, AN OFFICER TERRONES, T-E-R-R-O-N-E-S?

16 A ON WHICH DATE, SIR?

17 Q MARCH THE 22ND.

18 A I BELIEVE SO, YES.

19 Q AND WERE THE TWO OF YOU INVESTIGATING
20 A ROBBERY UNDER L.A.P.D., FILE NUMBER 941808068?

21 A YES.

22 Q PURSUANT TO THAT, DID YOU SERVE A
23 SEARCH WARRANT?

24 A YES.

25 Q WHERE WAS THAT SERVED?

26 A THE SEARCH WARRANT WAS SERVED AT THE
27 RESIDENCE OF KAI LAVAR HARRIS, WHICH IS -- THAT
28 TIME WAS 1756 EAST 113TH STREET IN THE CITY OF

1 LOS ANGELES IN SOUTHEAST DIVISION.

2 Q AND THAT INDIVIDUAL NAMED KAI LAVAR
3 HARRIS, IS THAT SOMEBODY WHO IS IN COURT TODAY?

4 A YES, THE DEFENDANT AT THE END OF THE
5 TABLE WITH THE BLUE JUMPSUIT.

6 Q WAS MR. HARRIS PRESENT AT THE TIME OF
7 SERVICE OF THE SEARCH WARRANT?

8 A HE INITIALLY WAS PRESENT. HE
9 ATTEMPTED TO EVADE US BY FLEEING BETWEEN THE
10 HOUSES. HE WAS WITH ANOTHER MALE, A MALE
11 HISPANIC. HE WAS ARRESTED AND TAKEN INTO CUSTODY
12 WITHOUT INCIDENT.

13 Q DID YOU ACTUALLY ENTER THE RESIDENCE,
14 THEN, PURSUANT TO THE SEARCH WARRANT?

15 A YES, WE DID.

16 Q DESCRIBE IF YOU FOUND ANY ITEMS OF
17 EVIDENTIARY VALUE PURSUANT TO THAT SEARCH WARRANT.

18 A WE WERE -- YES, WE DID. WE WERE
19 LOOKING FOR EVIDENCE OF THE INITIAL CRIME WHICH
20 WAS A ROBBERY WITH A HANDGUN OR FACSIMILE HANDGUN
21 WHICH APPEARED TO BE OF A CERTAIN TYPE AND MODEL
22 AND OTHER INSTRUMENTS AT THE CRIME, SPECIFICALLY A
23 BANDANA. AND WE LOCATED EVIDENCE SIMILAR TO THAT,
24 EVIDENCE THAT HAD BEEN EARLY -- ITEMS THAT HAD
25 BEEN INDICATED BY THE VICTIM OF THE CRIME IN A
26 ROOM BELONGING TO MR. HARRIS.

27 Q NOW, WHEN YOU SAY A ROOM BELONGING TO
28 MR. HARRIS, DESCRIBE FOR US WHAT OBJECTIVE FACTS

1 YOU MADE NOTE OF THAT LED YOU TO THE CONCLUSION
2 THAT THAT ROOM BELONGED TO MR. HARRIS?

3 A WELL, SPECIFICALLY THE CLOTHING, HIS
4 CLOTHING, THAT OF A 16-YEAR-OLD AT THAT TIME IN
5 HISTORY, 16-YEAR-OLD MALE, AROUND THE ROOM,
6 SCATTERED AROUND THE BED. THE ROOM WAS KIND OF IN
7 DISARRAY INDICATIVE OF A YOUNG MAN AT THAT TIME.
8 AND OTHER PERSONAL ITEMS, SOME OF WHICH WERE
9 MARIJUANA PLANTS. I ASKED HIS MOTHER OR FOLKS
10 AROUND WHO THEY BELONGED TO AND ALL INDICATIONS
11 WERE THAT THEY WERE HIS PLANTS. I ASKED HIM -- I
12 ASKED HIM OUTSIDE OF MIRANDA IF THEY WERE HIS
13 PLANTS, AND HE SAID YES, HIM AND HIS HOMEBOYS THAT
14 THEY WERE GROWING.

15 I FOUND VARIOUS OTHER ITEMS THAT MADE
16 IT PRETTY COMMON SENSE JUDGEMENT AT THAT TIME THAT
17 IT WAS HIS ROOM AND HIS ROOM SOLELY.

18 Q SPECIFICALLY DID YOU FIND ANY ITEMS
19 THAT RELATED TO GANG AFFILIATION OR GANG
20 MEMBERSHIP IN THE ROOM THAT YOU WERE ATTRIBUTING
21 TO BEING HIS ROOM?

22 A BEFORE -- YES. I FOUND 115TH STREET
23 SIGN WHICH HAD BEEN STOLEN FROM THE CITY OF
24 LOS ANGELES, CITY PROPERTY, INDICATIVE OF THAT SET
25 AND THAT AREA.

26 I FOUND A RED BANDANA. I FOUND OTHER
27 ITEMS. AND IT'S HARD FOR ME TO REMEMBER ALL THE
28 WAY BACK THERE, BUT IT WAS ENOUGH TO MAKE AN

1 IMPRESSION AT THAT TIME THAT THERE WAS NO DOUBT
2 THAT THIS WAS HIS ROOM.

3 Q WAS THERE A DRESSER LOCATED IN THE
4 BEDROOM?

5 A YES, THERE WAS.

6 Q AND ANYTHING CONNECTED TO IN OR AROUND
7 THE DRESSER THAT COULD BE CONNECTED TO THE
8 DEFENDANT, MR. HARRIS?

9 A IF YOU --
10 THE WITNESS: MAY I REVIEW THE REPORT?

11 THE COURT: YES.

12 THE WITNESS: THANK YOU.

13 YES, THERE WAS A PHOTOGRAPH OF THE
14 SUBJECT, OR THE SUSPECT, I'M SORRY, MR. HARRIS, IN
15 THAT DRESSER.

16 BY MR. DHANIDINA:

17 Q DESCRIBE -- OR IN THE RESIDENCE IN
18 GENERAL, DID YOU FIND ANY OTHER ITEMS THAT COULD
19 BE CONNECTED TO MR. HARRIS EITHER BY PHOTOGRAPH OR
20 BY NAME?

21 A IN A HALLWAY, I FOUND -- IN A CLOSET
22 IN THE HALLWAY, I FOUND LETTERS ADDRESSED TO THE
23 SUBJECT.

24 Q SO THEY ACTUALLY HAD HIS NAME, KAI
25 HARRIS --

26 A YES, SIR.

27 Q -- WITH THE ADDRESS ON IT?

28 A YES, SIR.

1 Q DESCRIBE WHAT ITEMS OF -- ANY ITEMS
2 RELATING TO FIREARMS OR AMMUNITION THAT YOU FOUND
3 AND WHERE THOSE ITEMS WERE FOUND IN THE RESIDENCE?

4 A I FOUND A HANDGUN, MODEL RAVEN P25 IN
5 THE ROOM. THAT WAS UNDER THE BED.

6 I FOUND A .22 CALIBER RIFLE AND
7 AMMUNITION FROM HIS DRESSER, AS WELL AS A
8 FACSIMILE BB GUN, PELLET GUN, WHICH RESEMBLED AN
9 ACTUAL FIREARM, A SKI MASK AND A PLASTIC REPLICA
10 .45 CALIBER HANDGUN. AND WHEN I SAY .45 CALIBER,
11 IT LOOKED LIKE .45 CALIBER HANDGUN. AND THAT AND
12 LOTS OF AMMUNITION.

13 Q WERE THE FIREARMS AND AMMUNITION ALL
14 FOUND IN THE SAME PART OF THE ROOM?

15 A IN THE VICINITY OF HIS BED, SOMEWHERE
16 REACHABLE, SOMEWHERE YOU WOULD CONSIDER PUTTING
17 SOME OF YOUR PERSONAL ITEMS.

18 Q SO EITHER DIRECTLY ON THE BED OR
19 WITHIN JUST AN ARM'S LENGTH?

20 A OVER -- YEAH, I DON'T REMEMBER IT TO
21 BE A VERY LARGE ROOM.

22 THE COURT: WERE ALL OF THESE THINGS FOUND
23 WITHIN THE BEDROOM?

24 THE WITNESS: ALL OF THEM, YOUR HONOR, WITH
25 THE EXCEPTION OF THE MARIJUANA PLANTS WHICH WERE
26 ON THE WINDOWSILL OF THE BEDROOM ON THE OUTSIDE
27 WINDOWSILL. AND SOME LETTERS ADDRESSED TO THE
28 SUBJECT AT THAT TIME, THEY WERE IN A HALLWAY

1 CLOSET.

2 THE COURT: THANK YOU.

3 MR. DHANIDINA: THANK YOU. I HAVE NOTHING
4 FURTHER.

5 THE COURT: CROSS-EXAMINATION.

6 MR. SCHMOCKER: THANK YOU, YOUR HONOR.

7

8 CROSS-EXAMINATION

9 BY MR. SCHMOCKER:

10 Q DETECTIVE, THE HOUSE THAT YOU
11 SEARCHED, HOW MANY BEDROOMS WERE IN IT?

12 A I DON'T RECALL EXACTLY, BUT I'M --
13 IT'S 1994, AND WE PRIMARILY FOCUSED ON HIS
14 BEDROOM. I THINK WE CLEARED THE HOUSE, AND I HAD
15 A UNIT, A TACTIC UNIT CLEAR THE HOUSE FOR ME, AND
16 THEN I PROCEEDED INTO HIS BEDROOM.

17 Q WAS IT A TWO-STORY OR ONE-STORY HOUSE?

18 A I BELIEVE IT TO BE A TWO-STORY HOUSE.

19 Q AND WERE THE BEDROOMS GENERALLY
20 UPSTAIRS?

21 A YES.

22 Q IS THE BEDROOM THAT YOU SEARCHED
23 UPSTAIRS OR DOWNSTAIRS?

24 A UPSTAIRS. AND THIS IS -- YOU KNOW,
25 THIS IS THE BEST OF MY RECOLLECTION. THIS IS
26 1994.

27 Q AND THE REPORT -- YOU PREPARED A
28 REPORT WITH REGARDS TO THAT?

1 A YES.

2 Q AND THE REPORT YOU HAVE WITH YOU HERE
3 TODAY?

4 A MAY I LOOK AT IT?

5 Q SURE.

6 (PAUSE WHILE WITNESS VIEWS
7 DOCUMENT(S).)

8 A THANK YOU.

9 Q IS THAT THE REPORT? DID YOU BRING THE
10 REPORT WITH YOU TODAY?

11 A YES, I DID.

12 Q AND BESIDE THE REPORT, WAS THERE A
13 VIDEOTAPE MADE OF THE SEARCH?

14 A NO.

15 Q WERE THERE ANY PHOTOGRAPHS TAKEN OF
16 THE INTERIOR?

17 A YES. THERE WERE -- AS WAS POLICY IN
18 1994, POLAROID PHOTOGRAPHS WERE TAKEN AND
19 SUBMITTED WITH THE CASE PACKAGE, I BELIEVE, TO,
20 YOU KNOW, THE RECORDS UNIT. THAT DIDN'T COME BACK
21 WITH ANY OF THIS.

22 Q NO MENTION IN THE REPORT IN REGARDS TO
23 THE PHOTOGRAPHS, IS THERE?

24 A I WOULD HAVE TO REVIEW IT AGAIN.
25 BUT NO, NOT THAT I CAN SEE.

26 Q YOU MENTIONED THERE WAS A STATEMENT
27 MADE BY MR. HARRIS OUTSIDE OF MIRANDA?

28 A YES.

1 Q IS THAT MENTIONED IN THE REPORT?

2 A YES, IT IS.

3 Q WHEN THE HOUSE WAS CLEARED, HOW MANY
4 PEOPLE CAME OUT?

5 A I DON'T RECALL.

6 Q OKAY. WERE THERE ANY -- WAS THERE
7 ANYBODY BESIDES MR. HARRIS DETAINED?

8 A THERE WAS ONE OTHER INDIVIDUAL THAT
9 WAS DETAINED.

10 Q IS THAT THE MALE HISPANIC THAT WAS
11 WITH HIM?

12 A YES.

13 Q WHAT ABOUT -- WHAT ABOUT WAS THERE ANY
14 ADULTS?

15 A YES. HIS MOTHER WAS THERE IN THE
16 HOUSE.

17 Q OKAY. AND DID YOU INQUIRE OF HER
18 WHERE HER SON SLEPT?

19 A I DON'T RECALL.

20 MR. SCHMOCKER: MAY I JUST HAVE A MOMENT,
21 YOUR HONOR?

22 THE COURT: YES.

23 BY MR. SCHMOCKER:

24 Q BESIDES KAI, DID YOU -- YOU SAID KAI
25 FLED THE SCENE; IS THAT CORRECT?

26 A HE ATTEMPTED TO FLEE, YES.

27 Q AND THE -- HIS MOTHER WAS THERE WHEN
28 THE HOUSE WAS SEARCHED; IS THAT RIGHT?

1 A YES. YES, SIR.

2 Q WAS THERE ANY OTHER ADULTS -- ADULTS
3 THERE?

4 A I DON'T RECALL.

5 MR. SCHMOCKER: I HAVE NOTHING FURTHER, YOUR
6 HONOR.

7 THE COURT: ANY REDIRECT?

8 MR. DHANIDINA: NO. THANK YOU.

9 THE COURT: THANK YOU, SIR. YOU ARE EXCUSED.

10 THE WITNESS: THANK YOU, YOUR HONOR.

11 THE COURT: SO WHAT WOULD THE PEOPLE SEEK TO
12 INTRODUCE AS TO THIS INCIDENT?

13 MR. DHANIDINA: YOU KNOW, YOUR HONOR, SIMILAR
14 TO LAST TIME WE BROUGHT THIS UP, I THINK THE --
15 ANY WEAPONS AND AMMUNITION ARE RELEVANT. I WILL
16 CONCEDE THE POINT THAT THE COURT BROUGHT UP
17 REGARDING THE MARIJUANA. I DON'T THINK THIS IS
18 NECESSARY NECESSARILY FOR THAT TO COME IN, BUT I
19 CERTAINLY THINK ANY FIREARMS, AMMUNITION. THERE
20 WAS A KNIFE AS WELL AS A SKI MASK AND BANDANA.
21 THE REASON WHY I WOULD SEEK THE SKI MASK AND
22 BANDANA IS BECAUSE IT PUTS THE ITEMS IN A CONTEXT
23 FOR THE JURY WHERE THEY CAN CONSIDER THE WEAPONRY
24 AS BEING -- CONSTITUTING AN IMPLIED THREAT OF
25 VIOLENCE BECAUSE OF THE NATURE OF THE POSSESSION
26 OF THOSE WEAPONS. IT ALSO -- IN FACT, YOU KNOW, I
27 WOULD ADD TO THAT THE STREET SIGN SHOWS CONNECTION
28 BETWEEN THE DEFENDANT HIMSELF AND THE ROOM AND.

1 SOME OF THE OTHER FOUNDATIONAL ITEMS THAT THE
2 DETECTIVE TALKED ABOUT IN ORDER TO CONVEY TO THE
3 JURY THAT THERE WAS OBJECTIVE THINGS FOUND IN THE
4 ROOM THAT COULD BE CONNECTED TO THE DEFENDANT
5 HIMSELF. BUT I WOULD CONCEDE THE MARIJUANA AS NOT
6 BEING RELEVANT TO THIS PARTICULAR INQUIRY.

7 THE COURT: ALL RIGHT. THE DEFENSE
8 OBJECTIONS AND ANY ARGUMENT?

9 MR. SCHMOCKER: NOTHING FURTHER, YOUR HONOR.
10 WE WILL SUBMIT IT ON THE STATE OF THE RECORD.

11 THE COURT: ALL RIGHT. THEN I WILL PERMIT --
12 WELL, I DO FIND FROM THE TESTIMONY OF OFFICER
13 THARP THAT THERE IS A SUFFICIENT FOUNDATION
14 LINKING THE ITEMS TO THE DEFENDANT, AND THE PEOPLE
15 ADMIT EVIDENCE OF A SEARCH AND THAT THE RELEVANT
16 ITEMS WERE FOUND CONSISTING OF THE FIREARMS, AMMO,
17 THE REPLICA WEAPONS, THE KNIFE, THE SKI MASK, ALL
18 OF WHICH ARE UNDER THE CIRCUMSTANCES EVIDENCE THAT
19 THERE WAS NO LEGITIMATE POSSESSION OTHER THAN
20 POTENTIAL USE FOR VIOLENT PURPOSES.

21 IN ADDITION, THE PEOPLE MAY INTRODUCE
22 AS EVIDENCE OF PERSONAL OR IDENTIFYING ITEMS THE
23 STREET SIGN, THE BANDANA, THE LETTERS.

24 MR. DHANIDINA: AND THERE IS ALSO A
25 PHOTOGRAPH FROM THE DRESSER.

26 THE COURT: AND A PHOTOGRAPH.

27 THE MARIJUANA, WHILE IT MAY HAVE SOME
28 RELEVANCE TO IDENTIFYING THE DEFENDANT WITH THE

1 ROOM, I WILL EXCLUDE UNDER EVIDENCE CODE 352.

2 MR. SCHMOCKER: YOUR HONOR, MAY I INQUIRE
3 WITH REGARDS TO THE STREET SIGN. I'M SORRY. IT
4 WAS IDENTIFYING -- I WOULD OBJECT. I DON'T REALLY
5 THINK THAT IT'S IDENTIFYING MR. HARRIS TO THE
6 LOCATION.

7 MR. DHANIDINA: WELL, I THINK THE TESTIMONY
8 OF THIS DETECTIVE, AS WELL AS DETECTIVE SCHMIDT
9 WHO IS EXPECTED TO TESTIFY, CAN CONNECT A STOLEN
10 115TH STREET SIGN WITH THE -- A SET OF THE
11 PARTICULAR GANG THE DEFENDANT BELONGED TO.

12 THE COURT: THAT IS HOW I UNDERSTOOD THE
13 OFFICER'S TESTIMONY, IS THAT IT WAS -- HE FELT IT
14 WAS FURTHER EVIDENCE LINKING THE DEFENDANT WITH
15 THE ROOM, AND THAT IT WAS THE KIND OF SIGN THAT HE
16 WOULD HAVE WANTED TO POSSESS.

17 MR. SCHMOCKER: VERY WELL. THANK YOU, YOUR
18 HONOR.

19 MR. DHANIDINA: BEFORE WE CONTINUE --

20 THE COURT: PARDON ME? GO AHEAD.

21 MR. DHANIDINA: I WAS JUST GOING TO ASK
22 BEFORE WE GOT TO ANYTHING ELSE, IF I COULD JUST
23 HAVE A SECOND TO INFORM THE DETECTIVE THAT HE
24 NEEDS TO COME BACK ON THURSDAY.

25 THE COURT: YES.

26 MR. DHANIDINA: I'LL BE RIGHT BACK.

27

28 (PAUSE IN PROCEEDINGS.)

1 THE COURT: ALL RIGHT. EVERYONE IS HERE
2 AGAIN. I HAVE ALREADY RULED ON THE SHANK,
3 PERMITTING THE INTRODUCTION OF THAT.

4 AS FAR AS THE LAST ITEM TO WHICH THE
5 DEFENSE HAD AN OBJECTION --

6 MR. DHANIDINA: YOU KNOW, YOUR HONOR, I DON'T
7 MEAN TO INTERRUPT, BUT I FORGOT TO TELL THE
8 COURT -- I DID TELL THE DEFENSE -- THAT I AM GOING
9 TO BE WITHDRAWING THAT LAST ITEM.

10 THE COURT: THE ASSAULT IN CUSTODY?

11 MR. DHANIDINA: YES, FROM FEBRUARY 2008. I'M
12 WITHDRAWING THAT ONE.

13 THE COURT: ALL RIGHT.

14 THEN THE OTHER ISSUE IS THE BATSON
15 QUESTION. I RECEIVED THE BRIEF WHICH THE PEOPLE
16 FILED AND REVIEWED IT. THERE WERE ALSO SOME
17 SUPPLEMENTAL CASES SUBMITTED, PEOPLE VERSUS
18 ALAMEIDA AND PEOPLE VS. JOHNSON.

19 I DON'T HAVE THE CITES. DID YOU -- DO
20 YOU HAVE THOSE WITH YOU FOR THE RECORD?

21 MR. DHANIDINA: YOU KNOW, I BELIEVE I SENT
22 THOSE BY WAY OF E-MAIL TO THE COURT, THOUGH I LEFT
23 THEM UP IN MY OFFICE. BUT IF THE COURT CAN ACCESS
24 ITS E-MAIL, THE NAMES AND THE CITES WOULD BE ON
25 THERE.

26 MR. SCHMOCKER: I THINK I HAVE THE JOHNSON
27 CITE.

28 THE COURT: I HAVE THEM.

1 IT'S PEOPLE VS. JOHNSON, 47 CAL. 3D
2 1194, PAGE 1220. PATTERSON, P-A-T-T-E-R-S-O-N,
3 VERSUS ALAMEIDA, A-L-A-M-E-I-D-A, WHICH IS A
4 FEDERAL DISTRICT COURT DECISION AT 2008 U.S.
5 DISTRICT LEXIS, 91711, AND THE OTHER CASE IS
6 PEOPLE VS. ALVAREZ, A-L-V-A-R-E-Z, 14 CAL. 4TH,
7 155 AT 195.

8 SO IS THERE ANYTHING FURTHER THAT
9 EITHER SIDE WOULD LIKE TO ADD BY WAY OF ARGUMENT?

10 MS. VITALE: JUST BRIEFLY, YOUR HONOR, IF I
11 MAY.

12 FIRST OF ALL, I'M A LITTLE TAKEN ABACK
13 BY THE CONTENT OF THE INTRODUCTION, AND I'M SURE
14 THE COURT IS NOT GOING TO BE CONSIDERING THE
15 EFFECT THAT IT MAY HAVE -- ITS RULING MAY HAVE ON
16 THE PROSECUTING ATTORNEY. I'M NOT SURE WHY THAT
17 IS EVEN A CONSIDERATION.

18 MR. HARRIS OBVIOUSLY IS ON TRIAL FOR
19 HIS LIFE, AND SO I THINK THE BENEFIT OF ANY DOUBT
20 SHOULD ALWAYS SHIFT TO THE DEFENDANT IN ANY CASE,
21 BUT PARTICULARLY IN THIS CASE.

22 THE CONCERN AGAIN IS THE EXCLUSION OF
23 THE EXCUSAL OF FOUR FEMALE AFRICAN-AMERICANS ON
24 THE BASIS STATED BY THE PROSECUTION AFTER
25 STIPULATING TO A PRIMA-FACIE SHOWING, ON THE BASIS
26 THAT THEY WERE INDICATING THAT THEY WOULD SEEK
27 SOME GUIDANCE THROUGH PRAYER.

28 TAKEN IN THAT CONTEXT, IN LIGHT OF

1 EVERYTHING ELSE THAT THEY SAID BOTH IN THEIR
2 QUESTIONNAIRE AND ORALLY, IT IS OUR POSITION THAT
3 THAT ALONE, STANDING ALONE, IS NOT A BONA FIDE
4 REASON TO HAVE EXCLUDED THESE FEMALE
5 AFRICAN-AMERICAN JURORS.

6 I WOULD ASK THE COURT TO TAKE JUDICIAL
7 NOTICE THAT I DON'T BELIEVE THAT THERE ARE ANY
8 MORE AFRICAN-AMERICAN MEMBERS OF THE JURY LEFT AT
9 THIS TIME, ALTHOUGH WE ARE NOT THROUGH WITH OUR
10 SELECTION OF THE REMAINING JURORS OUT OF THE B
11 GROUP.

12 IT IS OUR POSITION THAT COUNSEL HAS
13 NOT ARTICULATED A RACE NEUTRAL REASON FOR
14 EXCLUDING THESE AFRICAN-AMERICANS AND PARTICULARLY
15 FEMALES. I THINK THERE IS A PERCEPTION THAT
16 SOMETIMES FEMALE JURORS HAVE A TENDENCY TO MAYBE
17 GIVE SOME GREATER WEIGHT TO MITIGATION EVIDENCE,
18 AND WE DON'T BELIEVE THAT THE PEOPLE HAVE SHOWN A
19 SUFFICIENT BONA FIDE NON RACIAL REASON FOR
20 EXCLUDING THESE JURORS, PARTICULARLY JUROR 5649,
21 WHO IS A PROSECUTOR, HAS FRIENDS IN LAW
22 ENFORCEMENT.

23 I THINK HER SON HAD SOME MINIMAL
24 RUN-IN WITH THE LAW ON A WEAPONS CHARGE. IT
25 SOUNDED AS THOUGH HE MAY HAVE HAD A DIVERSION KIND
26 OF DISPOSITION. SHE WAS CLEAR THAT SHE WOULD
27 FOLLOW THE LAW. SHE VERY ARTFULLY STATED WHAT THE
28 LAW WAS WITH RESPECT TO CONSIDERATION OF THE DEATH

1 PENALTY, AND THE FACT THAT SHE MAY HAVE -- SHE
2 CERTAINLY DIDN'T SAY THAT SHE WOULD NOT BE ABLE TO
3 OPPOSE THE DEATH PENALTY IF THE CIRCUMSTANCES
4 WARRANTED IT. NONE OF THE JURORS THAT WERE
5 EXCLUDED HAD ANY OVERRIDING CONCERN ABOUT IMPOSING
6 THE DEATH PENALTY UNDER THE PROPER SET OF
7 CIRCUMSTANCES, AND IT IS OUR BELIEF THAT THERE HAS
8 NOT BEEN A PROPER SHOWING OR AN ADEQUATE SHOWING
9 BY THE PEOPLE THAT THERE WAS A RACE-NEUTRAL REASON
10 FOR EXCLUDING THESE AFRICAN-AMERICANS FROM THIS
11 PANEL.

12 SUBMITTED.

13 THE COURT: AND WHAT ARE YOU SEEKING BY WAY
14 OF REMEDY?

15 MS. VITALE: I THINK WE STATED YESTERDAY THAT
16 WE WOULD BE MOVING FOR A MISTRIAL. I THINK THE
17 COURT SUGGESTED PERHAPS LEAVING ONE OF -- THE LAST
18 JUROR TO BE EXCUSED ON. IT IS JUST HARD TO KNOW
19 WHAT IS COMING UP WITH THE B GROUP, YOUR HONOR,
20 QUITE FRANKLY. SO I THINK WE ARE OPEN TO
21 SUGGESTIONS FROM THE COURT WITH RESPECT TO THAT,
22 BUT I THINK OUR POSITION WOULD BE TO START OVER
23 AGAIN.

24 THE COURT: ALL RIGHT. I'LL HEAR FROM THE
25 PEOPLE.

26 MR. DHANIDINA: THANK YOU.

27 YOUR HONOR, THE REASON WHY I ASKED FOR
28 CLARIFICATION FROM THE COURT YESTERDAY IS BECAUSE

1 MY UNDERSTANDING OF THE WHEELER BATSON LINE OF
2 CASES IS THAT, AS LONG AS A RACE-NEUTRAL REASON IS
3 OFFERED, ONE OR MORE IS OFFERED FOR ANY PARTICULAR
4 CHALLENGED JUROR AND THAT IT'S A LEGITIMATE
5 REASON -- AND BY LEGITIMATE, I JUST MEAN SINCERELY
6 GIVEN OR TRUTHFULLY GIVEN REASON, THEN THAT REALLY
7 ULTIMATELY IS THE END OF THE INQUIRY. THERE --
8 EVEN THE FACT THAT OTHER JURORS MAY HAVE FELT
9 ABOUT THE DEATH PENALTY IN PARTICULAR, THAT IS
10 GETTING INTO THE AREA OF A CHALLENGE FOR CAUSE,
11 AND THAT'S NOT WHAT I'M TALKING ABOUT HERE.

12 I THINK IT IS ALSO IMPORTANT TO NOTE
13 THE DEFENSE HAS STATED THAT THERE ARE NO MORE
14 AFRICAN-AMERICANS LEFT ON THE JURY. THE DEFENSE
15 THEMSELVES MADE A MOTION FOR CAUSE TO ELIMINATE
16 ONE OF THE AFRICAN-AMERICAN JURORS YESTERDAY. AND
17 WE DO HAVE ANOTHER HALF OF THE PROSPECTIVE JURY
18 PANEL COMING IN. JURY SELECTION IS BY NO MEANS
19 CONCLUDED OR EVEN NECESSARILY NEARING AN END.

20 WITH RESPECT TO THE JURORS THAT THE
21 DEFENSE IS TALKING ABOUT THAT WE TALKED ABOUT A
22 LITTLE BIT YESTERDAY, IN PARTICULAR THE FINAL ONE
23 THAT I USED A CHALLENGE ON, INDICATING THAT SHE AS
24 WELL AS OTHER JURORS -- AND NON AFRICAN-AMERICAN
25 JURORS, TOO, I MIGHT ADD -- THAT I STRUCK WITH MY
26 PEREMPTORY CHALLENGES, THAT SHE WOULD SEEK SOME
27 SORT OF A GUIDANCE IN PRAYER IS SOMETHING THAT I
28 IN EVERY CASE AM VERY WARY OF, BUT IN PARTICULAR

1 IN A DEATH PENALTY CASE WHERE JURORS I THINK ARE
2 OFTENTIMES TEMPTED -- AND WE SAW YESTERDAY FROM
3 ONE JUROR IN PARTICULAR -- TO CONSULT OUTSIDE
4 AUTHORITY, OUTSIDE RESOURCES IN COMING TO A
5 DECISION WHEN FACED WITH A DIFFICULT DECISION LIKE
6 THIS. THAT BY ITSELF IS A RACE-NEUTRAL REASON,
7 UNLESS THE COURT THINKS THAT I'M CONTRIVING IT TO
8 MISLEAD THE COURT.

9 BUT IN ADDITION TO THAT HE --

10 THE COURT: WELL, I JUST DON'T RECALL ANY
11 QUESTIONS OF JUROR 6 ABOUT THAT.

12 MR. DHANIDINA: THAT'S TRUE.

13 THE COURT: AND I LOOKED BACK THROUGH THE
14 NOTES, AND YOU DID QUESTION A GREAT MANY OTHERS
15 WHO RAISED THEIR HANDS ABOUT SAYING THAT THEY
16 MIGHT PRAY AT VARIOUS TIMES DURING THE TRIAL, BUT
17 NOT NO. 6.

18 MR. DHANIDINA: NOT ALL OF THEM, YOUR HONOR.
19 BUT THERE WERE -- I DID I THINK TWO OR THREE OF
20 THEM. AND I JUST DIDN'T WANT TO BELABOR THE POINT
21 BY LOOKING LIKE I WAS ATTACKING ALL OF THESE
22 JURORS, AND I THINK I WAS SAYING IT IS A
23 LEGITIMATE ATTITUDE TO HAVE, IT'S TOTALLY
24 REASONABLE. I THOUGHT THE POINT HAD BEEN MADE,
25 AND FROM MY STANDPOINT I WAS JUST TRYING TO
26 IDENTIFY WHO THEY WERE. BUT THEN IN ADDITION TO
27 THAT, THE POINT THAT I WAS TRYING TO GET TO WAS
28 THE FACT THAT AT LEAST WITH THE ONE ALTERNATE THAT

1 WAS LEFT AT THE TIME YESTERDAY WAS A JUROR THAT I
2 WAS ANXIOUS TO GET ON THE PANEL, AND THAT WAS
3 BECAUSE OF A VARIETY OF THINGS THAT HE SAID IN HIS
4 QUESTIONNAIRE AND ALSO IN COURT REGARDING, YOU
5 KNOW, HOW THE PENALTY MIGHT IMPACT THE VICTIM'S
6 FAMILY, WHICH I CONSIDER TO BE A FAVORABLE OPINION
7 FOR OUR SIDE SINCE WE ARE GOING TO BE PRESENTING
8 VICTIM IMPACT TESTIMONY.

9 THIS WAS AN AREA THAT THE COURT OPINED
10 YESTERDAY WAS NOT A RELEVANT INQUIRY.

11 THE COURT: WELL, I DIDN'T SAY THAT. I SAID
12 I HAD NEVER SEEN A CASE WHICH HAS UPHELD A
13 CHALLENGE ON THAT ALONE.

14 MR. DHANIDINA: OKAY. WELL, IN ANY EVENT,
15 THE -- I WASN'T PRESENTING THAT CHALLENGE, THAT
16 PARTICULAR POINT BY ITSELF, AND THAT WAS PART OF
17 THE REASON WHY I SUBMITTED THE ALVAREZ CASE
18 BECAUSE, SINCE MY EARLIEST DAYS IN TRAINING, THAT
19 HAS BEEN SORT OF THE STATE OF THE LAW THAT WE
20 DISCUSSED IN RESPECT TO JURY SELECTION AND THESE
21 TYPES OF CHALLENGES.

22 FROM MY READING OF THE CASES, AS LONG
23 AS REASONS THAT ARE ADVANCED ARE NOT SHAM EXCUSES
24 AND THEY ARE RACE-NEUTRAL IN AND OF THEMSELVES, AS
25 THEY WERE -- LIKE I INDICATED YESTERDAY, THERE
26 WERE NON AFRICAN-AMERICAN JURORS THAT RAISED THEIR
27 HAND TO THE PRAYER QUESTION AND THEY WERE EITHER
28 DISMISSED FOR CAUSE OR BY THE USE OF ONE OF MY

1 PEREMPTORIES.

2 THE COURT: WELL, AGAIN, NOT ACCORDING TO MY
3 REVIEW OF THE NOTES. THERE IS A JUROR SITTING UP
4 THERE NOW WHO RAISED HER HAND AND IN FACT YOU
5 QUESTIONED ABOUT PRAYER, JUROR IN SEAT 5. AND SHE
6 IS STILL THERE.

7 MR. DHANIDINA: AND AGAIN, YOUR HONOR, WE --

8 THE COURT: I UNDERSTAND THERE IS A WHOLE
9 VARIETY OF FACTORS THAT GO INTO IT, BUT --

10 MR. DHANIDINA: AND WE ARE STILL IN THE
11 PROCESS OF SELECTING THIS JURY. YOU KNOW, I THINK
12 WE ARE AT 10 AND 8 PEREMPTORY CHALLENGES, AND I AM
13 NOT REALLY AT A POINT WHERE I BELIEVE THE JURY IS
14 FINALIZED. I'M TAKING ALL THE FACTORS IN THE
15 COMPOSITE OF THE JURY TOGETHER.

16 I'M SENSING FROM THE COURT THAT THE
17 COURT IS NOT PERSUADED BY THE AUTHORITY THAT I
18 HAVE SUBMITTED WHICH MAY JUST BE A DIFFERENCE IN
19 UNDERSTANDING OF WHAT IS REQUIRED.

20 I AM AT LEAST GRATIFIED BY WHAT THE
21 COURT STATED YESTERDAY IN THE RECORD THAT THE
22 COURT DOESN'T BELIEVE I'M OFFERING CONTRIVED
23 EXCUSES, AND I APPRECIATE THAT.

24 WHAT I WOULD SUGGEST IF -- BEING AT
25 THE POINT WHERE WE ARE, IF THE COURT WOULD PERMIT
26 ME, I WOULD OFFER TO WITHDRAW THE PEREMPTORY
27 CHALLENGE AND WE CAN RESEAT THE JUROR, AND IF
28 FURTHER INQUIRY IS NECESSARY OR ANYTHING ELSE

1 COMES OUT, THEN WE CAN ADDRESS IT AT THAT POINT.
2 BUT IF IT IS ALL RIGHT WITH THE COURT AND WITH
3 COUNSEL, I HAVE NO PROBLEM JUST WITHDRAWING IT AND
4 CONTINUING WITH JURY SELECTION AS WE HAVE GONE.

5 I THINK THE COURT'S VIEW OF A GRANTED
6 WHEELER-BATSON MOTION AND MY VIEW ARE SUBSTANTIALLY
7 DIFFERENT WHICH IS WHY I PUT IN SOME OF THE
8 LANGUAGE THAT I DID IN THE INTRODUCTION. AND
9 RATHER THAN GET TO THAT POINT, YOU KNOW, IF IT CAN
10 BE AVOIDED, AND GIVEN SOME OF THE COURT'S COMMENTS
11 YESTERDAY WHICH I APPRECIATE, I'M GOING TO ASK THE
12 COURT IF IT WOULD PERMIT ME TO WITHDRAW THE
13 CHALLENGE AND JUST PROCEED WITH JURY SELECTION.

14 THE COURT: I'LL HEAR FROM THE DEFENSE.

15 MS. VITALE: YOUR HONOR, I THINK THAT WHAT IS
16 HAPPENING IS THAT WE ARE LUMPING TOGETHER THE
17 PEOPLE THAT SAID THAT THEY MIGHT ASK FOR GUIDANCE
18 DURING THIS TRIAL WITH JUROR NO. 2 WHO ACTUALLY
19 SOUGHT THE ADVICE OF A SPIRITUAL VISOR. AND I
20 DON'T THINK ANY OF THOSE PEOPLE THAT WERE EXCUSED
21 BECAUSE THEY SAID THEY PERHAPS WOULD SEEK SOME
22 GUIDANCE THROUGH PRAYER FALL UNDER THE SAME
23 CATEGORY AS THE JUROR WHO SOUGHT OUTSIDE ADVICE.

24 I MEAN SOME OF US SEEK GUIDANCE
25 THROUGH PRAYER AS TO WHICH ELEVATOR TO GET ON IN
26 THIS BUILDING, AND THAT DOESN'T MEAN THAT WE
27 WOULDN'T THEREAFTER FOLLOW THE INSTRUCTIONS OF THE
28 COURT OR THE RULES OF LAW THAT GOVERN US ALL.

1 SO I DON'T AGAIN THINK THAT THE
2 REASONS GIVEN BY THE PROSECUTION ARE BONA FIDE FOR
3 HAVING EXCUSED THOSE VERY LIMITED NUMBER OF BLACK
4 FEMALE JURORS. I THINK WE STILL HAVE THAT SAME
5 PROBLEM, EVEN WITH THE SEATING OF THE JUROR THAT
6 COUNSEL FORMERLY EXCUSED AND HAS OFFERED TO
7 RETRACT.

8 I'M GOING TO DEFER TO MY --

9
10 (DEFENSE COUNSEL
11 CONFER.)

12
13 MS. VITALE: AND WE ARE TAKING THE POSITION
14 THAT A MISTRIAL IS APPROPRIATE.

15 THE COURT: HAVE YOU LOOKED AT PEOPLE VS.
16 WILLIS, 27 CAL. 4TH, 811, IN TERMS OF THE REMEDIES
17 THAT IT DISCUSSES?

18 MS. VITALE: NO, I HAVE NOT.

19 THE COURT: WOULD YOU LIKE THAT OPPORTUNITY?

20 MS. VITALE: YES, I WOULD.

21 THE COURT: IT TALKS ABOUT RESEATING THE
22 JUROR, PROVIDING ADDITIONAL PEREMPTORY CHALLENGES.

23 MS. VITALE: ALL RIGHT.

24 THE COURT: IF REQUESTED, CONDUCTING
25 PEREMPTORY CHALLENGES AT SIDEBAR UNDER A MORE
26 CONTROLLED CIRCUMSTANCE. IT BASICALLY SAYS A
27 WHOLE VARIETY OF REMEDIES ARE AVAILABLE.

28 MS. VITALE: THAT IS WHY WE ARE ASKING FOR

1 SOME GUIDANCE FROM THE COURT BECAUSE OBVIOUSLY THE
2 MISTRIAL IS THE MOST SEVERE PENALTY TO IMPOSE AT
3 THIS POINT. SO --

4 THE COURT: WELL --

5 MR. DHANIDINA: MAY I INTERJECT WITH JUST ONE
6 POINT?

7 THE COURT: NO, NOT YET.

8 MR. DHANIDINA: OKAY.

9 THE COURT: I MEAN I AM STILL INCLINED -- AND
10 I WILL EXPLAIN MY REASONS AND SO FORTH -- TO GRANT
11 THE MOTION.

12 AND AS I WILL EXPLAIN, I DO NOT FIND
13 THAT THE DEFENSE HAS SUSTAINED THE MOTION WITH
14 REGARD TO THE FIRST THREE. BUT THE ONE THAT I DO
15 FIND THE DEFENSE HAS SUSTAINED ITS BURDEN ON IS
16 THE JUROR WHO IS CURRENTLY IN SEAT NO. 6, JUROR
17 P-9765.

18 WELL, I MAY AS WELL EXPLAIN MYSELF,
19 AND THEN I CAN -- IF YOU WANT MY SUGGESTION OR MY
20 THOUGHTS ON REMEDY, I WILL GIVE THEM. OF COURSE
21 THEY ARE NOT BINDING.

22 MS. VITALE: YES.

23 THE COURT: I REVIEWED THE PEOPLE'S
24 PEREMPTORIES YESTERDAY. THE JURORS IN QUESTION
25 ARE J-2466, THE PEOPLE'S SECOND PEREMPTORY, A
26 BLACK FEMALE. SHE INDICATED THAT SHE HAD A SON
27 WHO HAD BEEN ARRESTED. SHE EXPRESSED FAVORABLE
28 REVIEWS ABOUT GANGS. SHE SAID PEOPLE IN GANGS ARE

1 SEARCHING FOR LOVE, AMONG OTHER THINGS. SHE
2 REALLY HAD NO THOUGHTS ABOUT PENALTY.

3 THE PEOPLE, IN GIVING JUSTIFICATIONS,
4 HAVE SAID THAT THEY WERE CONCERNED ABOUT HER
5 FAMILY MEMBERS BEING ARRESTED AND CONVICTED. SHE
6 HAD ANOTHER FAMILY MEMBER WHO WAS CONVICTED. AND
7 HER RATHER FAVORABLE VIEWS ABOUT GANGS. I FIND
8 THAT ENTIRELY SUFFICIENT. SHE HAS A NUMBER OF
9 PROBLEMS.

10 THE NEXT IS JUROR D-5649. THAT WAS
11 THE THIRD PEREMPTORY CHALLENGE BY THE PEOPLE.
12 THAT'S A BLACK FEMALE. SHE IS A LAWYER FOR THE
13 CITY ATTORNEY'S OFFICE. FRANKLY, I THINK ANY TIME
14 YOU HAVE A LAWYER, IT IS A PROBLEM -- OR A
15 POTENTIAL PROBLEM. BUT MORE TO THE POINT, THE
16 PEOPLE SAID THAT THEY HAD CONCERNS ABOUT HER VIEWS
17 ON THE DEATH PENALTY. SHE IN FACT SAID SHE IS
18 AGAINST THE DEATH PENALTY IN GENERAL AND THAT SHE
19 AGREES MOSTLY WITH LIFE WITHOUT THE POSSIBILITY OF
20 PAROLE.

21 SHE HAD TALKED ABOUT HER SON BEING
22 ARRESTED, THOSE VIEWS ON THE DEATH PENALTY, THOSE
23 VIEWS ABOUT HER SON TO A LESSER EXTENT, BUT MOSTLY
24 HER VIEWS ABOUT THE DEATH PENALTY ARE ENTIRELY
25 SUFFICIENT, AND I CREDIT THOSE.

26 THE NEXT JUROR IN QUESTION IS J-6556.
27 THAT WAS THE PEOPLE'S SEVENTH PEREMPTORY
28 CHALLENGE, ALSO A BLACK FEMALE. SHE TOLD US THAT

1 SHE WAS A DEPARTMENT OF PUBLIC SERVICES SOCIAL
2 WORKER. SHE EXPRESSED IN HER QUESTIONNAIRE SHE
3 HAD FRIENDS WHO WERE POLICE OFFICERS, OBVIOUSLY
4 POSITIVE. BUT SHE ALSO EXPRESSED FAVORABLE VIEWS
5 ABOUT GANGS. SHE SAID THAT YOUNG PEOPLE WERE
6 FORCED INTO GANGS. SHE ALSO EXPRESSED RATHER
7 STRONGLY HELD RELIGIOUS BELIEFS AGAINST THE DEATH
8 PENALTY. SHE TOLD US THAT SHE HAD FAMILY MEMBERS
9 WHO WERE IN PRISON.

10 THE PEOPLE SAID THAT SHE WAS EXCUSED
11 BECAUSE OF HER EXTREMELY RELIGIOUS VIEWS
12 CONCERNING THE DEATH PENALTY AND HER POSITIVE
13 VIEWS ABOUT GANGS. I FIND THAT FULLY SUPPORTED,
14 AND I CREDIT THAT AND HER LEGITIMATE REASONS.

15 AS I SAID, MY CONCERN IS JUROR P-9765.
16 THAT WAS THE PEOPLE'S ELEVENTH PEREMPTORY
17 CHALLENGE. SHE IS A BLACK JUROR, FEMALE BLACK,
18 AND AS NOTED SHE IS THE LAST REMAINING
19 AFRICAN-AMERICAN JUROR AMONG THIS FIRST GROUP.

20 SHE WAS SEATED IN NO. 6 INITIALLY, AND
21 SHE REMAINED THERE THROUGHOUT THE PROCESS UNTIL
22 SHE WAS EXCUSED BY THE PEOPLE LATE YESTERDAY.

23 SHE TOLD US IN HER QUESTIONNAIRE THAT
24 SHE IS SINGLE, SHE HAS FOUR CHILDREN. IT APPEARS
25 THAT EVERYTHING ABOUT HER AND HER CHILDREN IS
26 STABLE. THEY ARE ALL WORKING AND SO FORTH. SHE
27 IS A TYPIST FOR THE DEPARTMENT OF WATER AND POWER.
28 SHE SAID SHE HAS RELATIVES IN LAW ENFORCEMENT.

1 SHE TOLD US THAT HER SON WAS ARRESTED BUT WAS
2 FAIRLY TREATED BY THE POLICE. SHE EXPRESSED IN
3 HER QUESTIONNAIRE POSITIVE VIEWS ABOUT THE POLICE.
4 SHE EXPRESSED NEGATIVE VIEWS ABOUT GANGS. SHE
5 EXPRESSED NO PREFERENCE REGARDING THE DEATH
6 PENALTY, NO STRONG VIEWS ABOUT THE DEATH PENALTY.

7 HER COMMENTS WERE SO UNREMARKABLE THAT
8 I DID NOT ASK HER ANY QUESTIONS. MR. SCHMOCKER
9 DID NOT ASK HER ANY QUESTIONS. THE PEOPLE
10 QUESTIONED HER AND SHE ACTUALLY SAID THAT -- IN
11 REGARD TO QUESTIONS ABOUT HER SON'S ARREST, THAT
12 SHE THOUGHT HE WAS TREATED VERY WELL, HE WAS
13 RELEASED IMMEDIATELY. SHE SAYS SHE HAD NO HARD
14 FEELINGS ABOUT THE POLICE.

15 SHE RESPONDED TO MR. DHANIDINA'S
16 QUESTIONS ABOUT THE DEATH PENALTY BY SAYING
17 WITHOUT QUALIFICATION SHE COULD RETURN A DEATH
18 VERDICT IF THE FACTS WERE THERE, AND SHE AGREED
19 WITH MR. DHANIDINA THAT THE DEATH PENALTY IS NOT
20 RESERVED FOR WEALTHY VICTIMS OR VICTIMS WHO HAVE
21 SPECIAL CIRCUMSTANCES, THAT SHE THOUGHT IT SHOULD
22 APPLY TO ALL VICTIMS EQUALLY.

23 THE PEOPLE HAVE SAID THAT -- THEY
24 EXPRESSED TWO CONCERNS, ONE THAT SHE RESPONDED
25 THAT SHE WOULD SEEK GUIDANCE THROUGH PRAYER DURING
26 THE COURSE OF THE TRIAL, AND SECONDLY THAT THE
27 NEXT JUROR WAS MORE FAVORABLE TO THE PROSECUTION.

28 I LOOKED THROUGH THE RECORD, AND I

1 SIMPLY DID NOT FIND ANY QUESTIONS OF JUROR NO. 6
2 OR ANY INDICATIONS THAT SHE WAS QUESTIONED ABOUT
3 PRAYER. AND I HAVE TO SAY I DON'T REMEMBER --
4 MR. DHANIDINA MAY BE RIGHT THAT SHE RAISED HER
5 HAND, BUT UNLIKE SEVEN OTHER JURORS, SHE WAS NEVER
6 ASKED WHAT ARE YOU GOING TO PRAY ABOUT OR WHAT ARE
7 YOUR CONCERNS? SEVEN OTHER PEOPLE WERE
8 SPECIFICALLY QUESTIONED.

9 I THINK IT IS SIGNIFICANT THAT THE
10 PEOPLE ACCEPTED THE PANEL SEVERAL TIMES WITH THIS
11 JUROR, JUROR NO. 6 AND HER SEAT MATE, JUROR NO. 5,
12 WHO ALSO SAID SHE WOULD PRAY.

13 SO IT'S -- WHEN I LOOK AT ALL OF THESE
14 THINGS, I THINK THAT THE DEFENSE HAS A STRONG
15 SHOWING THAT THERE IS SOME RACIAL DISCRIMINATORY
16 INTENT OR EFFECT.

17 SHE IS THE LAST JUROR. SHE IS THE
18 ONLY REMAINING BLACK JUROR. HER QUESTIONNAIRE IS
19 NEUTRAL, IN SOME RESPECTS POSITIVE TO THE
20 PROSECUTION. HER ORAL QUESTIONS WERE NEUTRAL AND
21 IN SOME RESPECTS POSITIVE TO THE PROSECUTION. AND
22 THEN WHEN I LOOK AT THE PROSECUTION'S
23 JUSTIFICATIONS, I JUST DON'T SEE ANY SUPPORT IN
24 THE RECORD ABOUT CONCERNS FOR PRAYER.

25 AND AS FOR THE FINAL POINT THAT THE
26 NEXT JUROR IS PREFERABLE, I CERTAINLY APPRECIATE
27 THAT, BUT I JUST DON'T THINK THERE IS CASE LAW
28 WHICH SUPPORTS THAT AS A SUFFICIENT REASON BY

1 ITSELF, PARTICULARLY WHEN THE NEXT JUROR IS A MALE
2 WHITE.

3 THE CASES THAT HAVE BEEN CITED,
4 PEOPLE VS. ALVAREZ, PEOPLE VS. ALAMEIDA, BOTH
5 INVOLVE SITUATIONS WHERE THERE WERE A VARIETY OF
6 FACTORS THAT HAD BEEN CITED BY THE PROSECUTION,
7 ACTUALLY A HANDFUL OF FACTORS, ONLY ONE OF WHICH
8 WAS AN EXPRESSION ABOUT A PREFERENCE FOR LATER
9 JURORS OR THE OVERALL COMPOSITION OF THE PANEL.

10 AND SO I JUST -- I MEAN IT SEEMS TO ME
11 TO DEFEAT THE WHOLE PURPOSE OF BATSON-WHEELER TO
12 BE ABLE TO SAY WHEN IT COMES DOWN TO IT THAT THE
13 ONLY VALID JUSTIFICATION IS A PREFERENCE FOR THE
14 NEXT JUROR WHO IS OF A DIFFERENT RACIAL GROUP.

15 SO AGAIN, I DON'T VIEW THESE AS SOME
16 KIND OF SEARCH FOR MISCONDUCT BY LAWYERS. I HAVE
17 JUST VIEWED IT AS A MATTER OF WEIGHING THE
18 EVIDENCE.

19 I MEAN I SPENT A GOOD DEAL OF MY
20 CAREER AS A LAWYER DEFENDING PEOPLE IN CIVIL
21 RIGHTS AND DISCRIMINATION CASES, AND I DEFENDED A
22 LOT OF GOOD PEOPLE WHO HAD THE BEST OF INTENTIONS,
23 BUT IF THE EVIDENCE ISN'T THERE, YOU KNOW, THE
24 RULING IS THE WAY IT IS. AND THAT'S KIND OF THE
25 WAY I SEE THIS.

26 I'M NOT GOING TO REPORT MR. DHANIDINA
27 TO ANYBODY. I DON'T THINK HE IS ENGAGED IN SOME
28 KIND OF INTENTIONAL MISCONDUCT, BUT WHEN I WEIGH

1 THE EVIDENCE, I JUST, AS I HAVE TRIED TO EXPRESS,
2 I FIND THAT THE PEOPLE'S EXPLANATION IS NOT STRONG
3 IN COMPARISON WITH THE FACTORS RELIED UPON BY THE
4 DEFENSE.

5 MR. DHANIDINA: WOULD THE COURT THEN --

6 THE COURT: SO JUST TO FINISH MY THOUGHTS, I
7 DO RECOMMEND THAT THE DEFENSE READ PEOPLE VS.
8 WILLIS, 27 CAL. 4TH, 811. IT GIVES THE COURT
9 DISCRETION TO FASHION ALTERNATIVE REMEDIES TO A
10 MISTRIAL. IT IS A QUESTION OF WHAT THE VICTORIOUS
11 PARTY, IN THIS CASE THE DEFENSE, WANTS. IT IS NOT
12 SOMETHING I WOULD COMPEL OR CAN COMPEL. IT IS
13 ESSENTIALLY A STIPULATION BY THE DEFENSE AS TO
14 WHAT THE APPROPRIATE REMEDIES ARE.

15 YOU ASKED, SO I WILL TELL YOU. MY
16 VIEW IS YOU ACCEPTED THE PANEL A NUMBER OF TIMES
17 WITH JUROR NO. 6 ON IT, AND SO IF WE RESEAT
18 JUROR NO. 6, IT SEEMS TO ME IT PUTS YOU RIGHT BACK
19 IN THE SAME PLACE THAT YOU WERE BEFORE WE
20 ENTERTAINED ALL OF THIS.

21 THERE ARE A NUMBER OF -- A LARGE
22 NUMBER OF JURORS WHO ARE REMAINING, SO IT IS NOT
23 AS THOUGH WE ARE DOWN TO THE LAST SELECTION OR
24 TWO. AND IF THERE IS SOME OTHER REMEDY THAT YOU
25 REQUEST IN ADDITION SUCH AS AN ADDITIONAL
26 PEREMPTORY CHALLENGE OR TO DENY THE PEOPLE THE
27 PEREMPTORY CHALLENGE THAT THEY HAVE USED, OR TO
28 MAKE -- EVEN THOUGH WE ARE RESEATING NO. 6 TO NOT

1 GIVE BACK THE PEOPLE THE PEREMPTORY CHALLENGE THAT
2 WAS USED TO DENY HER OR TO ELIMINATE HER, YOU
3 KNOW. I'M NOT VERY ARTICULATE IN WHAT I'M SAYING,
4 BUT YOU KNOW, THERE IS A VARIETY OF ALTERNATIVES.

5 AND AGAIN, IT IS UP TO YOU AT THIS
6 POINT. IF WHAT YOU SAY IS, NO, WE WANT A
7 MISTRIAL, START ALL OVER, THEN I GUESS WE WILL SET
8 A NEW TRIAL DATE IN THE FUTURE AND GET STARTED
9 AGAIN. BUT IT'S UP TO YOU.

10 MR. SCHMOCKER: YOUR HONOR, IF WE COULD HAVE
11 AN OPPORTUNITY TO READ THAT CASE.

12 THE COURT: YES.

13 MR. SCHMOCKER: I HAVE READ CERTAIN CASES IN
14 REGARDS TO REMEDIES ALREADY, BUT I'M NOT FAMILIAR
15 WITH THE WILLIS CASE, AND I WOULD LIKE TO TAKE A
16 LOOK AT IT.

17 THE COURT: SO DO YOU WANT TO DO THAT THIS
18 AFTERNOON OR REPORT BACK TOMORROW OR WHAT?

19 MR. SCHMOCKER: HOW ABOUT THIS AFTERNOON.
20 LET'S TAKE A LOOK AT IT RIGHT NOW.

21 THE COURT: ALL RIGHT. YOU CAN USE MY VOLUME
22 EVEN.

23 MS. VITALE: THANK YOU.

24 MR. SCHMOCKER: THANK YOU.

25 THE COURT: ALL RIGHT. IS THERE ANYTHING
26 FURTHER, THEN?

27 MR. SCHMOCKER: NO, SIR.

28 THE COURT: ALL RIGHT. SO WE CAN TAKE A

1 RECESS AND YOU CAN LOOK AT THE CASE.

2

3 (AT 2:45 P.M., A RECESS WAS
4 TAKEN UNTIL 3:05 P.M.)

5

6 THE COURT: ALL RIGHT. WE HAVE TAKEN A
7 RECESS. EVERYONE IS BACK.

8

WHERE DO WE STAND?

9 MR. SCHMOCKER: YOUR HONOR, THANK YOU FOR
10 ALLOWING ME TO READ THE WILLIS CASE. I UNDERSTAND
11 THE WILLIS CASE, AND I HAVE READ THE ISSUE IN
12 SIMILAR CONTEXT. AND I HAVE SPOKEN WITH MY CLIENT
13 IN REGARDS TO IT. WE WOULD ASK FOR A MISTRIAL.

14 THE COURT: ALL RIGHT. WELL, I'M SURE YOU
15 HAVE CONSIDERED THE ISSUE CAREFULLY.

16 MR. SCHMOCKER: WE DID.

17 THE COURT: AND THAT'S YOUR CALL.

18 VERY WELL. THEN THE MATTER IS
19 DECLARED A MISTRIAL.

20 MR. SCHMOCKER: YOUR HONOR, WE HAVE -- OR
21 MR. DHANIDINA STARTED THE INQUIRY OF THE CLERK. I
22 UNDERSTAND THAT THERE IS A POTENTIAL OF A TRIAL
23 DATE IN AUGUST. I HAVE ADVISED MR. HARRIS OF
24 THAT.

25 MR. DHANIDINA: THIRD WEEK OF AUGUST.

26 MR. SCHMOCKER: AND MR. HARRIS WOULD BE
27 WILLING TO WAIVE TIME IN ORDER TO HAVE A DATE IN
28 AUGUST.

1 THE COURT: 17TH, YOU MEAN?

2 MR. DHANIDINA: WHATEVER THE BEGINNING OF THE
3 THIRD WEEK IS.

4 MS. VITALE: IT IS.

5 MR. SCHMOCKER: SHOULD WE --

6 THE COURT: SO IS THAT WHEN YOU WANT TO
7 START?

8 MR. SCHMOCKER: YES.

9 THE COURT: SO AUGUST 17. WE CAN MAKE THAT
10 EIGHT OF TEN WITH WEDNESDAY THE 19TH AS THE LAST
11 DAY.

12 MR. SCHMOCKER: VERY WELL.

13 THE COURT: MR. HARRIS, YOU HAVE THE RIGHT TO
14 A TRIAL WITHIN 60 DAYS OF TODAY'S DATE WHICH WOULD
15 BE THE LATTER PART OF APRIL. THE DATE THAT WE
16 HAVE DISCUSSED IS BEYOND THAT.

17 DO YOU AGREE WITH THAT DELAY?

18 THE DEFENDANT: YES.

19 THE COURT: SO THE LAST DAY FOR YOUR TRIAL,
20 THEN, WOULD BE AUGUST 19.

21 DO YOU AGREE TO THAT?

22 THE DEFENDANT: YES.

23 THE COURT: WHEN DO YOU WANT TO RETURN?

24 MR. SCHMOCKER: SHOULD WE HAVE SOME SORT OF A
25 STATUS CALL IN THE MEANTIME?

26 THE COURT: RIGHT.

27 IN EARLY JUNE?

28 MR. SCHMOCKER: THAT WOULD BE FINE.

1 THE COURT: JUNE 5, FRIDAY?

2 MR. SCHMOCKER: JUNE 5 WOULD BE FINE, YOUR
3 HONOR.

4 THE COURT: ALL RIGHT. VERY WELL.

5 MR. DHANIDINA: YOUR HONOR, WOULD THE
6 COURT -- I DON'T MEAN TO BE REDUCTANT ON THIS
7 PARTICULAR COURT, BUT JUST BASED ON THE COURT'S
8 COMMENTS, WOULD THE COURT CONSIDER ADDING INTO THE
9 MINUTES SOMETHING TO THE EFFECT THAT THE COURT IS
10 NOT -- IS GRANTING A MISTRIAL BUT NOT MAKING A
11 FINDING OF PROSECUTION MISCONDUCT?

12 IT WOULD BE HELPFUL, YOU KNOW, RATHER
13 THAN ORDERING UP TRANSCRIPTS AND THAT SORT OF
14 THING.

15 THE COURT: WELL, I'M -- WE CAN PUT IT IN THE
16 MINUTE ORDER, OR I CAN WRITE-UP AN ORDER.
17 WHATEVER THE PARTIES WANT.

18 MR. DHANIDINA: A MINUTE ORDER IS FINE.

19 THE COURT: ALL RIGHT. WELL, THE MINUTE
20 ORDER SHOULD INDICATE THAT THE MOTION WAS GRANTED
21 BASED UPON THE WEIGHING OF EVIDENCE, AND THE COURT
22 DETERMINED THAT THE DEFENSE SUSTAINED ITS BURDEN
23 OF PROOF UNDER BATSON. THE COURT DOES NOT FIND
24 ANY KIND OF INVIDIOUS CONDUCT OR OTHER MISCONDUCT
25 BY THE PROSECUTION, IT'S SIMPLY A FACTOR OF
26 WEIGHING THE EVIDENCE.

27 MR. DHANIDINA: I APPRECIATE THAT. THANK
28 YOU.

1 MR. SCHMOCKER: THANK YOU, YOUR HONOR.

2 THE COURT: ALL RIGHT.

3 VERY WELL. WE WILL SEE EVERYONE
4 JUNE 5.

5 MR. DHANIDINA: THANK YOU.

6 MR. SCHMOCKER: YOUR HONOR, WE WILL BE
7 DECLARING A -- WE ARE READY FOR TRIAL. THE COURT
8 UNDERSTANDS THAT. WE ARE WAIVING TIME.

9 THE COURT: YES.

10 MR. SCHMOCKER: BUT WE ARE READY FOR TRIAL.

11 THE COURT: RIGHT.

12 LET ME JUST ADDRESS ONE OTHER THING.
13 IT WOULD SEEM TO ME UNDER THE CIRCUMSTANCES IT IS
14 NO LONGER NECESSARY TO RETAIN ALL OF THESE
15 QUESTIONNAIRES IN THE RECORD.

16 AM I WRONG ABOUT THAT?

17 MR. SCHMOCKER: YOU ARE NOT WRONG. I DON'T
18 BELIEVE YOU ARE WRONG.

19 THE COURT: SO EVERYBODY AGREES THAT WE CAN
20 DESTROY THE QUESTIONNAIRES FOR ALL OF THE JURORS?

21 MR. SCHMOCKER: THAT WOULD BE AGREEABLE.

22 MR. DHANIDINA: AGREED.

23 THE COURT: ALL RIGHT.

24 MR. SCHMOCKER: YOUR HONOR, IF I MAY ASK, THE
25 COURT OF COURSE WILL TAKE CARE OF PANEL B? PANEL
26 B IS DUE TOMORROW.

27 THE COURT: AS WELL AS THE REMNANTS OF
28 PANEL A.

1 MR. SCHMOCKER: PANEL A, YES.

2 WELL, WE WOULD HELP IF YOU WANT US TO.

3 THE COURT: NO, I THINK I WILL PROBABLY BRING
4 THEM ALL IN THE COURTROOM AND JUST SAY THAT THE
5 TRIAL HAS BEEN DISCONTINUED. I'M NOT GOING TO
6 GIVE ANY REASONS, BUT I APOLOGIZE FOR EVERYONE
7 THAT WE TOOK UP THEIR TIME, BUT THESE THINGS
8 HAPPEN.

9 MR. SCHMOCKER: THANK YOU, YOUR HONOR.

10

11 (AT 3:13 P.M., AN ADJOURNMENT
12 WAS TAKEN UNTIL JUNE 5, 2009.)

13

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DECLARATION OF SERVICE BY MAIL

People v. Donte Lamont McDaniel

Supreme Court No. S171393
Superior Court No. TA074274

I, the undersigned, declare as follows:

I am over the age of 18, not a party to this cause. I am employed in the county where the mailing took place. My business address is 1111 Broadway, 10th Floor, Oakland, California, 94607. I served a copy of the following document(s):

MOTION FOR JUDICIAL NOTICE

by enclosing it in envelopes and

/ / **depositing** the sealed envelope with the United States Postal Service with the postage fully prepaid;
/X/ **placing** the envelopes for collection and mailing on the date and at the place shown below following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

The envelopes were addressed and mailed on **August 6, 2015**, as follows:

Kathy Pomerantz, Deputy Attorney
General
Office of the Attorney General
300 S. Spring St., Ste. 1702
Los Angeles, CA 90013

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California Appellate Project
101 Second St., Suite 600
San Francisco, CA 94105

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Signed on August 6, 2015, at Oakland, California.



MARCUS THOMAS

