

Allen SNYDER, Petitioner, v. LOUISIANA.
Supreme Court of the United States, 128 S.Ct. 1203 (2008).

EXCERPTS FROM JURY SELECTION

JUSTICE ALITO described the jury selection process as follows in the opinion for the majority:

Voir dire began on Tuesday, August 27, 1996, and proceeded as follows. During the first phase, the trial court screened the panel to identify jurors who did not meet Louisiana's requirements for jury service or claimed that service on the jury or sequestration for the duration of the trial would result in extreme hardship. More than 50 prospective jurors reported that they had work, family, or other commitments that would interfere with jury service. In each of those instances, the nature of the conflicting commitments was explored, and some of these jurors were dismissed.

In the next phase, the court randomly selected panels of 13 potential jurors for further questioning. The defense and prosecution addressed each panel and questioned the jurors both as a group and individually. At the conclusion of this questioning, the court ruled on challenges for cause. Then, the prosecution and the defense were given the opportunity to use peremptory challenges (each side had 12) to remove remaining jurors. The court continued this process of calling 13-person panels until the jury was filled. In accordance with Louisiana law, the parties were permitted to exercise "backstrikes." That is, they were allowed to use their peremptories up until the time when the final jury was sworn and thus were permitted to strike jurors whom they had initially accepted when the jurors' panels were called.

Eighty-five prospective jurors were questioned as members of a panel. Thirty-six of these survived challenges for cause; 5 of the 36 were black; and all 5 of the prospective black jurors were eliminated by the prosecution through the use of peremptory strikes. The jury found petitioner guilty of first-degree murder and determined that he should receive the death penalty.

The excerpts that follow include the responses of juror Jeffrey Brooks to the court's question about whether there was any reason jurors would not be able to serve, the questioning of the first panel, which included Brooks, the questioning of the third panel, and the use of peremptory strikes after the questioning of the third panel. The prosecution struck two blacks, Thomas Hawkins and Elaine Scott. The defense made a *Batson* challenge with regard to the strike of Ms. Scott. The prosecution used a backstrike against Jeffrey Brooks after the questioning of the fourth panel. That strike, the *Batson* challenge by the defense, the prosecution's response to the *Batson* challenge and the trial court's ruling are included in these excerpts. The strike of Jeffrey Brooks was the subject of the *Batson* issue addressed by the Supreme Court.

The numbers in brackets refer to transcript pages. Ignore them.

**TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON
STATE OF LOUISIANA**

NO: 95-5114 DIVISION "H"

**STATE OF LOUISIANA
VERSUS
ALLEN SNYDER**

Testimony and proceedings taken in the above numbered and entitled cause in open court on August 27, 1996, before the Honorable Kernan A. Hand, Judge presiding.

[Voir Dire]

* * *

THE COURT: All right. Let's bring in the jurors.

(THE JURORS WERE BROUGHT INTO THE COURTROOM)

THE COURT: Some of you may move up here and sit in the jury box. Yeah, up here.

Let me begin by apologizing to everyone. This is one of the largest courtrooms that we have, and so we'll try to handle this as expeditiously as possible, to cause as [21] [483] little inconvenience as possible.

All right. Ladies and gentlemen, this is Division "H" of the Twenty-Fourth Judicial District Court. I am Skip Hand, Judge for this division, and I'd like to take this opportunity to express our appreciation to each of you for your participation in the jury system, which maintains civil and criminal laws.

I apologize for any inconvenience this may cause you, but I assure you that your presence is indeed necessary.

I would like at this time to introduce the court personnel. We have Shea Pertuit and Becky Loup, our clerks. We have Linda LaBorde our court reporter. We have Roy LeBlanc our deputy. And we have Angela Gerrets our law clerk.

The State of Louisiana mandates that potential jurors meet certain requirements.

- 1) You must be a citizen of the United States and of Louisiana, and have resided in Jefferson Parish for at least one year prior to today.
- 2) You must be at least eighteen years of age.
- 3) You must be able to read and write English.
- 4) You must not be interdicted or incapable of serving because of a mental or physical infirmity.

And 5) You must not be under indictment [22] [484] for a felony, or convicted of a felony for which you have not been pardoned.

If you fail to meet any of these qualifications, please raise your hand at this time.

Do you want to come forward?

* * *

THE COURT: All right, in this case the defendant Allen Snyder is charged with first degree murder. The defendant is seated before the Bar, he is represented by Graham daPonte and Casear Vazquez.

MS. daPONTE: Good morning ladies and gentlemen.

THE COURT: The Assistant District Attorney is James Williams, who is assisted by Alfred Olinde and Walter Floyd.

MR. WILLIAMS: Good morning ladies and gentlemen.

MR. OLINDE: Good morning ladies and gentlemen.

THE COURT: Does anyone here know any of these people?

MR. DUBOUE: I know Mr. Vazquez.

THE COURT: I'm sorry? Come forward, sir.

(THE FOLLOWING IS A CONFERENCE AT THE BENCH)

[34] [496] MR. DUBOUE: I know Casear Vazquez.

MR. WILLIAMS: Your name?

MR. DUBOUE: Last name is Duboue, D-U-B-O-U-E, first name is Rolando, R-O-L-A-N-D-O.

THE COURT: Would the fact that you know Mr. Vazquez effect your judgment in this case?

MR. DUBOUE: I don't think so.

THE COURT: Okay. All right. Have a seat.

(END OF CONFERENCE)

MR. DONNES: I've met the D.A. once or twice, I think, over at -

THE COURT: Would the fact that you've met the D.A. effect your judgment?

MR. DONNES: I met him through the District Attorney, Jack Capella.

MS. daPONTE: Could we get everybody's name when -

THE COURT: What is your name, sir? What is your name?

MR. DONNES: Donnes, D-O-N-N-E-S.

THE COURT: [35] [497] First name?

MR. DONNES: John.

THE COURT: John Donnes. Okay.

Would that effect you in any way, can you be a fair juror?

MR. DONNES: Sure can.

THE COURT: Would the fact that you have met the D.A., would that effect you in any way, can you still be a fair juror?

MR. DONNES: I would think so.

THE COURT: Okay. All right, the purpose of this part of the proceeding is to select a jury. The jury must find the facts in this case based upon the evidence presented at trial.

You must truthfully answer the questions which the lawyers and I will ask. These questions solely are for the purpose of helping the lawyers learn about those persons who may be called upon to serve as jurors.

Please do not be offended by the questions, they are simply a means of learning something about prospective jurors.

The lawyers or I may excuse some of you if it is felt that you may not be an appropriate juror for this case. Being [36] [498] excused in no way reflects upon you personally, or upon your ability or integrity.

Because this is a first degree murder case, it is required that the jurors be separated or sequestered. Thus, if selected to serve as a juror, you will be housed at Travel

Lodge Hotel, westbank, and will not be able to go to your home or job until the trial is concluded.

You will not be permitted to make unmonitored communications.

The trial is expected to go into the weekend. Considering the sequestration requirement, we need now to know if there are any prospective jurors who would suffer extreme hardship should they be chosen for this jury.

Okay. We're going to have to have you all line up right over here, and we're going to have to interview you all one by one.

MR. WILLIAMS: Yes, I think the ones who do not – actually the best way to do it, is the ones who don't have a problem, go to the other courtroom and wait. That way we don't have to –

THE COURT: Yeah. All right, those who are not in this line, you are to follow Officer LeBlanc to another courtroom.

* * *

[74] [536] THE COURT: Next.

MR. JEFFREY BROOKS: My name is Jeffrey Brooks.

I'm a student at Southern University, New Orleans. This is my last semester. My major requires me to student teach, and today I've already missed a half a day. That is part of my - it's required for me to graduate this semester.

MS. daPONTE: Mr. Brooks, if you - how many days would you miss if you were sequestered on this jury? Do you teach every day?

MR. JEFFREY BROOKS: Five days a week.

MS. daPONTE: Five days a week.

MR. JEFFREY BROOKS: And it's 8:30 through 3:00.

MS. daPONTE: If you missed this week, is there any way that you could make it up this semester?

MR. JEFFREY BROOKS: Well, the first two weeks I observe, the remaining I begin teaching, so there is something I'm missing right now that will better me towards my teaching career.

MS. daPONTE: Is there any way that you could make up the observed observation that you're missing today, at another time?

[75] [537] MR. JEFFREY BROOKS: It may be possible, I'm not sure.

MS. daPONTE: Okay. So that -

THE COURT: Is there anyone we could call, like a Dean or anything, that we could speak to?

MR. JEFFREY BROOKS: Actually I spoke to my Dean, Doctor Tillman, who's at the university probably right now.

THE COURT: All right.

MR. JEFFREY BROOKS: Would you like to speak to him?

THE COURT: Yeah.

MR. JEFFREY BROOKS: I don't have his card on me.

THE COURT: Why don't you give Angela his number, give Angela his name and we'll call him and we'll see what we can do.

(MR. JEFFREY BROOKS LEFT THE BENCH)

* * *

[after questioning of several other prospective jurors]

THE LAW CLERK: Jeffrey Brooks, the requirement for his teaching is a three hundred clock hour observation. Doctor Tillman at Southern University said that as long as it's just this week, he doesn't see that it would cause a problem with Mr. Brooks completing his observation time within this semester.

(MR. BROOKS APPROACHED THE BENCH)

THE COURT: We talked to Doctor Tillman and he says he doesn't see a problem as long as it's [90] [552] just this week, you know, he'll work with you on it. Okay?

MR. JEFFREY BROOKS: Okay.

(MR. JEFFREY BROOKS LEFT THE BENCH)

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[EXAMINATION OF THE FIRST PANEL]

THE COURT: Okay, ladies and gentlemen, these proceedings are being recorded, so please speak loudly and clearly.

I will begin by asking each of you to give your full name, address, occupation, marital status, and the number and ages of your children, if any. If you are married, please tell us your spouses [sic] occupation if your spouse is employed outside the home.

Let's begin with you, sir.

MR. BENNETT: My name is William Bennett, William Edward Bennett, 2146 Mars Street, Harvey, Louisiana.

I'm a certified emergency nurse, and I'm married. I have two children, ages fifteen and thirteen.

MR. BONDI: My name is Dominick Joseph Bondi, I'm a Captain on the New Orleans Police [153] [615] Department.

I'm married, I live at 1512 Houma Boulevard in Metairie. I have two children, ages fourteen and eleven, and my wife is a housewife.

MS. LEBOURGEOIS: Lynette Marie Lebourgeois. I work at Entergy as a customer assistant person.

I am not married. I live at 4825 Alphonse Drive in Metairie. And no children.

MR. BROOKS: Jeffrey Bevin Brooks, number 852 Kathy Drive, Gretna, Louisiana.

I'm twenty six, I'm single, and have no children.

MR. BROWN: Harlan S. Brown. I'm married, my wife is a teacher, she's pregnant. I live at 195 Ravan Avenue, that's Harahan.

I'm an auto mechanic.

MS. BOUDREAUX: Peggy M. Boudreaux. I live at 612 Avenue E in Marrero.

I'm a registered nurse. My husband is an accountant. And I have two children, twenty five and twenty one.

MR. BOURGEOIS: William P. Bourgeois. I'm a contractor. I live at 2725 Sear Drive in Kenner.

I'm married, my wife is a CPA. I have three children, twelve, nine, and four.

[154] [616] **MS. BRAUD:** Polly Braud. My husband just died, he was an engineer. I'm a retired school teacher.

I live at 2328 Little Flower Lane, Marrero, Louisiana.

We have four sons, forty four, forty two, thirty seven, thirty eight.

MR. LEWIS: William R. Lewis, 2100 East Ridgelane, Marrero.

Married, four children, twenty three, twenty two, nineteen, and twelve.

MS. LOVELL: Barbara Lovell. I -

MR. WILLIAMS: Excuse me, I'm sorry ma'am.

Mr. Lewis, what do you do for a living, sir?

MR. LEWIS: I work for Avondale Shipyards.

MR. WILLIAMS: I'm sorry, ma'am.

MS. LOVELL: Barbara Lovell, 2600 Houma Boulevard. I'm single, and I'm a general clerk.

MR. BURNS: Brendan M. Burns. I live at 410 Heritage Avenue in Terrytown.

I have two daughters, seventeen and fourteen.

I manage a landscape construction [155] [617] company.

MS. REMOND: Marian Remond. I'm married. My husband is with the Jefferson Parish Sheriff's Office. We live at 2800 Danny Park in Metairie.

I'm a secretary. We have two children ages thirty two and twenty eight.

THE COURT: What does your husband do for the Sheriff's Office?

MS. REMOND: He works with the Detective - he's a detective with the school intervention program.

MS. CLERK: My name is Lenor Clerk. I'm a crossing guard for the Jefferson Parish Sheriff's Department.

I'm also a certified nursing assistant. I have seven kids, ages seventeen, sixteen, fifteen, thirteen, twelve, ten, and nine.

My husband is also employed with the Sheriff's Department.

THE COURT: Okay. Please answer the questions of the attorneys.

MR. WILLIAMS: Thank you, Your Honor. May it please the Court, ladies and gentlemen.

Good afternoon. As I was introduced [156] [618] this morning, my name is Jim Williams, and I'm an assistant District Attorney, and I will be representing the State of Louisiana in the prosecution of this case, along with Mr. Fred Olinde, who was likewise introduced to you this morning.

A gentleman that you'll be seeing - you've already seen today running back and forth, is our investigator. His name is Walter Floyd.

Now, ladies and gentlemen, as you are aware, this portion of the trial is what is known as the - technically it's called voir dire, but this is the jury selection. It's the part of the trial where the lawyers here will be asking you all questions so that we can get some information, some limited information from you all so that we can make a decision about who we want to select to hear this case.

And I can assure you that all the questions that we ask you are solely for that purpose. If we ask questions that might seem to you like we're prying, we certainly don't mean that, but we have to pick from amongst your number, twelve of you who could sit in this case. Actually, we'll pick twelve jurors, and probably two alternates, who can assure us that you all will be fair and impartial, not only to the defendant before the Bar, who you've been introduced to, his name is Allen Snyder, but [157] [619] also to the State in this case. So both sides want jurors who can be fair, as well as impartial.

Now, ladies and gentlemen, as you were briefly told this morning, the case that's going to be heard in Division "H" this week is a case of first degree murder.

The Grand Jury for the Parish of Jefferson indicted Allen Snyder for the first degree murder of a fellow by the name of Howard Wilson. This occurred back in August of 1995 in an area between Kenner and River Ridge here in Jefferson Parish. That is the case.

Now, I don't recall this case receiving a great deal of publicity, however there might be some of you all who live in that part of town who may know something about it. So just briefly, by a show of hands, are there any of you all who have any familiarity with this case. Okay. I didn't think so.

But we can't, at this point in the trial, say anything at all about the case, the facts of the case, but we might say something that might trigger a memory, and if there's any of you all who do recollect anything about this case, let us know when you're called up to the jury box. And basically, the question will be, whatever it is you may have heard about the case, does that amount of information cause you to [158] [620] already make up your mind about how you would vote if you were selected as a juror. So I don't think we're going to have a problem there.

And ladies and gentlemen, one thing that's extremely important in this case, and that is, I want you all to listen very tentatively to what the attorneys in this case have to say, because we're going to ask you all some - literally some life and death questions. And we'd ask, you know, the thirteen of you all who have been called up, you're going to be asked the questions first. And it's very highly unlikely that all of the lawyers in this case are going to agree with

you thirteen people as being our jury, so what that means, is a lot of you all are going to be called up here, and if you listen carefully to what we're saying, we won't have to repeat ourselves.

Now I can assure you that the attorneys, Ms. daPonte and Mr. Vazquez, and Mr. Olinde and myself, we are going to do - and of course Judge Hand, we're going to do everything that we can to make this as comfortable for you as possible.

We are going to do the best we can to move this along as quickly as possible.

I can assure you, this is some good news, that this isn't going to take as long to pick a jury as some cases you've heard of. We've discussed it before, we hope that [159] [621] we can get a jury seated, at the latest, by tomorrow. You know, with a little luck, maybe we can do it today. But this isn't going to be anything where we're spending hours and hours and hours asking you what kind of T.V. shows you watch, and what kind of magazines you read. We're going to get right to the point, because we certainly appreciate that you all are here. And every single one of you all saw this morning, that if you said that it would work an excessive hardship on you to be here this weekend, you could have gotten off of jury duty, and we appreciate that.

Now, ladies and gentlemen, with that, I'm going to start asking you questions, and giving you a little bit of information about the case.

The first thing I want to tell you, is that, as you know, as I've said, that the Grand Jury has indicted Allen Snyder, and Ms. daPonte will tell you, very rightfully so, that

an indictment by a Grand Jury has about the same legal effect as when you're issued a ticket, a traffic ticket, it's just a vehicle by which you get into court. You know, we're not going to go into anything more than to say that he's here, and he's been indicted, and indicted for the crime of first degree murder.

Now for those of you all who don't know, first degree murder is the most serious [160] [622] crime in the State of Louisiana, because it carries with it the potential of the death penalty.

And I'm going to ask each and every one of you all who comes up in this box about your feelings about the death penalty. And I know that there's a number of you out there who don't believe in the death penalty, and that is going to be a line of questioning that I'm going to ask, because the law says that if you all don't believe in the death penalty, and cannot impose it because of a long-standing religious, moral, or personal belief, you're not going to sit on this jury, you can go home.

And maybe I shouldn't have said that, I mean, it's a holiday weekend and all of that, and this might seem the easy thing to do, but I think all of you all have demonstrated by the very fact that you're here right now, that you take this duty, this jury duty very very seriously, and we do appreciate that.

But getting back to what I was saying, the law of the land, not only in Louisiana, but of the states that do have the death penalty, all of them recognize that in a case like this, that the jury, the people who sit on the jury must be able to say that they could consider the imposition of the death penalty. We're not asking you if you would automatically impose it, we want to [161] [623] know, we want

to get twelve people who could consider the imposition of the death penalty. And I'm going to be asking you all questions about that. And believe me, it's very difficult, difficult for me, really difficult for the defense to get up and talk to strangers they don't even know about, and ask you how you feel about the death penalty. It's difficult for me because none of you all, by your silence, have indicated you know anything about this case, and Allen Snyder, make no mistake about it, is on trial for his life. And yet, you all haven't heard a shred of evidence, and here I am up here asking you about could you impose the death penalty on that man, not having heard anything about the case. So it puts us in an uncomfortable position, but it's the only way we know how to do it. And until we think of a better way of doing it, this is the way we have to do it, so we have to make some very grand assumptions, which I will get to in just a minute.

But before I do that ladies and gentlemen, I want to very briefly discuss the law that's applicable in this case, the law of first degree murder.

But before I do that, I want to tell you all - let me see a show of hands, who's been on a jury before, who sat on a jury? Okay, good, that's about, it looks like about a fourth of you all.

[162] [624] Those of you who have been on a jury before know the way a trial works, and the way that it's going to work, is we're going to pick the jury, we're going to put on the case, we're going to argue the case, the Judge will charge the jury at the conclusion of the case as to the law that they are to apply to the evidence that they've heard, and then you go back and you deliberate.

So, Judge Hand will give you, at the conclusion of the trial, all of the law that you need to know. It will be very concise, it will be very easy to understand.

I'm going to briefly discuss with you what I understand the law of Louisiana to be, but as will be told you by Judge Hand, and certainly by myself, and certainly by the attorneys for Mr. Snyder, that what the lawyers say is not evidence.

You know, sometimes it sure looks like we want you to think that it is, but that's just the nature of the game. We're here to just try to talk to you about things, see how you feel about things, and then make an intelligent decision about who we want on this case. And then at that point we don't talk to you all any more, and more importantly, after that you can't talk to us.

So, if there's anything that - where you question yourselves about whether you'd be a good juror in this case, or if there's [163] [625] anything about the law, or anything that we discuss, if you don't understand, please ask questions.

I know surveys have shown that people are more afraid of speaking in public than they are of dying. And I'm going to help you all with that, because I'm going to call on everybody. Every single one of you all who gets up in this box is going to be talking. So you'll become more acquainted with one another, and I invite you all, as a matter of fact, I ask that you all listen very carefully.

For example, when Mr. Bennett, who is going to be the first person I'm going to talk to, because he got called up here first, when I ask him his feelings about certain things, you all listen, and it might strike something that

sounds like to you, and you know, maybe some of you all out there have never thought about whether or not you could impose the death penalty. I want you all to be listening to the answers of some of your fellow jurors, and it might make it a lot easier for you all to express your feelings. And I can assure you that it's going to make you uncomfortable, but I ask - and I know I speak for everybody here, that we ask only for your most sincere and honest responses.

Now, Mr. Bennett, I'm going to tell you a little bit about first degree murder. But [164] [626] before I do that, I want to tell you all that there is, I think, five or six, I have to count them now, grades of homicide under Louisiana law. There's first degree murder, which is the most serious; there's second degree murder; there's manslaughter; there is negligent homicide; and there's vehicular homicide, so there's five grades of homicide.

Now, vehicular homicide is when somebody is legally intoxicated, and they're in an accident and they cause somebody else's death.

Negligent homicide is a homicide where the person who did the murder is guilty of criminal negligence. Now that might be, for example, be somebody driving a car at a high rate of speed through like the French Quarter, not necessarily intoxicated, but acting criminally negligent.

Manslaughter is the killing, which would normally be murder, but it's reduced to a lesser charge of manslaughter, because the person who committed the murders, his blood, or her blood was excited, or they lost control of their ability to coolly reflect on the situation. And the law recognizes that under certain circumstances, that a murder will be reduced to a manslaughter.

Second degree murder is simply defined as the killing of a human being when the offender has a specific intent to kill or [165] [627] inflict great bodily harm.

First degree murder is the same definition as second degree murder, but the murder is committed along with another crime, or under a certain set of circumstances. For example, if you commit a murder during an armed robbery, if you rob somebody with a gun and you kill them that's first degree murder.

If there's an aggravated rape and the victim is killed, that's first degree murder.

If there's an aggravated kidnapping, somebody is taken against their will for something of value, and that person is killed, that's first degree murder.

If there is a case where somebody commits a simple robbery, and the person is killed, that's first degree murder.

Now the case that we're going to deal with in this instance, ladies and gentlemen, is first degree murder where the offender had a specific intent to kill or inflict great bodily harm upon more than one person. And that is the version of first degree murder - that's what Allen Snyder has been indicted for.

There are other forms of first degree murder which are obviously not applicable.

If someone kills a police officer in the line of duty, or a fireman.

If somebody is killed during certain [166] [628] narcotics transactions.

If somebody kills somebody for something of value, or a contract killing, that would be a first degree murder. So, there's - and there's a few others, I'm not going to waste your time going through all of them, but I say this to kind of show you the delineation between the various grades of homicide.

First degree murder is at the top, it's the only crime in the State of Louisiana that carries with it the possibility of the death penalty.

Second degree murder is, if somebody is found guilty of second degree murder, it's life imprisonment.

And for those of you all who don't already know, and this might come as a shock to some of you, under the current law of Louisiana, if someone is sentenced to life imprisonment in a murder case, that means they must spend the rest of their natural life in jail. It used to be a long time ago, that after twelve years, six months, you'd be eligible for parole. In a murder, life imprisonment, you don't get out, life is life.

The only time in a life imprisonment you might get out, is in a distribution of heroin case.

But in a murder case, life means life. So for the benefit of you all who didn't [167] [629] know that, that is a fact.

Now, Mr. Bennett, you feel like you've got an understanding of the various grades of murder?

And once again, your first degree murder is a little bit different than other crimes. Not only does it carry with it the imposition of the death penalty, but it's the only case, the only crime under Louisiana law, where the jury

decides the penalty. In every other crime, well - in every other crime that's not life in prison, the Judge is the one who hands out the penalty. But in a first degree murder, if the jury returns a verdict of guilty as charged, that same jury will come back, and they'll come back almost immediately afterwards, this won't be six months from now, it will be right after you return the verdict. I think the law now allows, I think, twelve hours between the verdict and the beginning of the penalty phase. It might be twenty four, I think it's twelve though, but it's like directly afterwards, and the same jury will make the decision on the penalty.

And at that point in the penalty phase, as it's known, the jury will make a decision, once again, based on the evidence that you hear, whether the penalty should be life imprisonment, or it should be the death penalty.

[168] [630] And currently under Louisiana law, the death penalty in Louisiana is administered through lethal injection.

So, I think you will all agree with me that we're dealing with the most serious case, and there's no question but that Allen Snyder here is on trial for his life, literally.

There's also no question but that there was - one person has been killed, and another very seriously injured, that the State has to look after. So I'm asking you all on behalf of - not only as his attorneys will do for Mr. Snyder, but I'm asking you on behalf of the victims in this case, for your very careful consideration, and for your utmost attention.

So, with that, Mr. Bennett, - and trust me on this, if you all got - anybody in the box here, any questions about the law of first degree murder? I'm going to talk to you a

little bit more about it, but I'm going to start asking the death penalty questions now.

And Mr. Bennett, let us assume, sir, and I'm basically going to ask every single one of you, worded the same way, because there's kind of - the Supreme Court has told us the way we have to do this, so I'll try not to bore you, but I'm going to say this a lot, because it's the law.

Mr. Bennett, if you are selected as a [169] [631] juror in this case, and you heard all of the evidence - now once again, we have to make this assumption, right now sir, - and I may ask from time to time, some of you questions. It's not a test, you're not graded, and there are absolutely no wrong answers.

So I'm going to put Mr. Bennett on the spot, because he looks like he'll probably be able to handle it.

Mr. Bennett, if you had to vote in this case right now, if this was the jury right here, and I had to ask you, Mr. Bennett, what's your verdict in this case as to Allen Snyder, what would it be?

MR. BENNETT: The case has already been tried, correct?

MR. WILLIAMS: No, just right now.

MR. BENNETT: I can't say, I don't know.

MR. WILLIAMS: You'd have to say not guilty, wouldn't you?

MR. BENNETT: Right.

MR. WILLIAMS: Because you haven't heard a bit of evidence.

MR. BENNETT: That's right.

[170] [632] MR. WILLIAMS: He's presumed to be innocent, and his attorneys will tell all of you all about that. As he sits here right now, he is just as innocent as you or I, because you haven't heard a thing.

But once again, for purposes of the death penalty, we have to make these assumptions, that you've heard the evidence, and you've already made a decision that he was guilty. Okay? And then you get into the penalty phase, and that's the time in the trial where you'll decide whether or not he gets life imprisonment, or the death penalty.

And once again, for your information, in a first degree murder, like in Federal Court, it has to be a unanimous verdict. All twelve people have to agree.

In all other cases, ladies and gentlemen, serious cases in the State of Louisiana, ten out of twelve people can return a verdict.

In a first degree murder it's got to be unanimous, all twelve have to agree on any verdict.

Likewise before a jury can recommend the death penalty, all twelve have to agree. If one person out of the twelve votes against the death penalty, then there's an automatic imposition of life in prison. So, to get the death penalty, all twelve have to agree. [171] [633] So, are you with me on that?

And these things, they'll all be explained to you later on by the Judge, but just for your general information, I'm telling you now.

Let us assume, sir, you get to the penalty phase, and I'll step back one more time, then I'll give you a chance to answer.

In the penalty phase, ladies and gentlemen, it is like a mini trial, it certainly won't be as long as the case in chief, but it's still a trial, it's still subject to the rules of evidence. And in the penalty phase, the State will present evidence of aggravating circumstances, and the State will likewise present evidence which will show the character and propensities of the defendant who is on trial.

The defense has the right to put on evidence of mitigation, and I'll tell you all about that. But they will try to put on evidence to show you why you should spare his life. And they can virtually put on anything they want to, and they will address that at length when they get up during their portion of the voir dire.

But that's basically the way it works, you will listen to the aggravating circumstances, you will listen to evidence about Allen Snyder, you will hear from the defense regarding mitigation. The Judge will then [172] [634] charge you as to the law, and you will make a decision. Okay?

So with that Mr. Bennett, if you are selected as a juror in this case, and you've heard all the evidence and you are convinced that he was guilty of that crime, and you got into the penalty phase, could you consider the imposition of the death penalty?

MR. BENNETT: Yes, I could.

MR. WILLIAMS: Okay. Mr. Bondi, if you are selected - Captain Bondi, all right, let's get this out, because I know they were making notes when they heard you're in N.O.P.D., they started thinking, there's no way

on earth you can be a fair juror in a case like this, and I want you to tell me whether -

MR. VAZQUEZ: Your Honor, I'm going to object. Excuse me.

I object to him saying anything that we may be thinking. I don't think that's correct. I certainly wasn't thinking that.

THE COURT: The objection is sustained.

MR. WILLIAMS: Okay. We'll see what they say.

Do you feel, - Captain, where are you assigned over there?

MR. BONDI: [173] [635] I'm the commander of the First District.

MR. WILLIAMS: Okay. You know what I'm talking about, you've dealt with it. How long have you been in N.O.P.D.?

MR. BONDI: Twenty five years.

MR. WILLIAMS: Okay. Could you be a fair juror if you're selected in this case?

MR. BONDI: Yes, sir.

MR. WILLIAMS: Do you have any knowledge about this case whatsoever?

MR. BONDI: No, sir.

MR. WILLIAMS: Do you have any acquaintances in Jefferson Parish that are such close friends of your [sic] that you think you would owe them a verdict of guilty,

or the death penalty, without having heard any evidence in the case?

MR. BONDI: No, sir.

MR. WILLIAMS: All right, the two chief investigative detectives in this case, a Detective Debbie Labit and Sergeant Norman Schultz. There was also a homicide detective Gray Thurman who was involved very, you know, [174] [636] tangentially in this case. Do you know either one of those people?

MR. BONDI: No, I do not.

MR. WILLIAMS: Okay. All right.

Now, sir, if you were selected as a juror in this case, could you consider the imposition of the death penalty?

MR. BONDI: No, I could not.

MR. WILLIAMS: Okay. Is that based upon a long-standing religious, moral, or personal belief that you have?

MR. BONDI: Yes.

MR. WILLIAMS: Okay. Which of the three, if you can identify it for us?

MR. BONDI: A religious belief.

MR. WILLIAMS: Okay. And would it be fair to say that no matter what the evidence was that you heard about Allen Snyder, that it wouldn't change your mind, that you would automatically vote against the imposition of the death penalty?

MR. BONDI: Yes, sir.

MR. WILLIAMS: [175] [637] Okay. Ms. Lebourgeois, if you were – have you understood everything that I've said so far?

MS. LEBOURGEOIS: Yes.

MR. WILLIAMS: Okay. If you were selected as a juror in this case, and you heard all the evidence, and if you've got a question, if any of you all got a question, because I'm going to kind of go a little bit faster as I get to each one of you all, stop me and I'll be happy to explain it as best I can.

If, after having heard the evidence in the case, and that's the State's evidence, and the defense, should they decide to put anything on, they don't have to, they'll tell you all about that.

If you felt the State proved its case beyond a reasonable doubt, and you were part of the jury that returned a verdict of guilty, you got to the penalty phase, could you consider the imposition of the death penalty?

MS. LEBOURGEOIS: Yes.

MR. WILLIAMS: Okay. Mr. Brooks, if you were selected as a juror in this case, – you've followed me with everything that I've said?

MR. BROOKS: Yes.

[176] [638] MR. WILLIAMS: And I truly apologize to those of you who might think I'm talking down to you, I'm not trying to do that.

Mr. Brooks, could you consider the imposition of the death penalty if you're selected as a juror?

MR. BROOKS: Yes.

MR. WILLIAMS: Okay. Mr. Brown, could you consider the imposition of the death penalty if you're selected as a juror in this case?

MR. BROWN: Yes.

MR. WILLIAMS: Ms. Boudreaux, if you are selected as a juror in this case, and you found yourself having been convinced that the State proved its case, and he was guilty of the first degree murder, could you consider the imposition of the death penalty?

MS. BOUDREAUX: I have to state it would be one of the most difficult things I would have to do.

MR. WILLIAMS: Without a doubt, ma'am.

MS. BOUDREAUX: But, yes.

MR. WILLIAMS: Okay. Now, I'm going to stop right here, and not to steal their thunder, but [177] [639] when Ms. daPonte and Mr. Vazquez stand up here, they're going to ask you a similar question. Those of you all who have said that you could consider the imposition of the death penalty, they're going to ask you Would you automatically impose the death penalty, without any consideration of life imprisonment. And if there are any of you all who feel that way, and I know that there are out there, if there are those of you who feel that the only appropriate penalty for murder is death, you're going to get to go home too, because it cuts both ways.

If there are people that could never do it, they won't sit on this case, and if there are people who would automatically do it in every instance, without regard to the

evidence, they'll be excused likewise. That's why you'll hear me always say the word Consider. And that means could you consider the death penalty, and the flip side of that is, could you likewise consider life imprisonment.

So I'm going to -- is there anybody here in the first row who would automatically impose the death penalty, who's already stated -- okay, all right.

I will let the defense ask you about this. Ms. Boudreaux, you could consider both?

MS. BOUDREAUX: Yes, I could.

[178] [640] MR. WILLIAMS: Okay. Mr. Bourgeois, if you were selected as a juror in this case, sir, could you consider the imposition of the death penalty?

MR. BOURGEOIS: Yes.

MR. WILLIAMS: Ms. Braud, could you, ma'am?

MS. BRAUD: Yes, sir.

MR. WILLIAMS: Mr. Lewis, if you were selected as a juror in this case, could you consider the imposition of the death penalty?

MR. LEWIS: Yes, sir.

MR. WILLIAMS: All right, Ms. -- is it Lovell or --

MS. LOVELL: Lovell.

THE COURT: Ms. Lovell, could you consider the imposition of the death penalty if you were selected?

MS. LOVELL: Yes sir, I could.

MR. WILLIAMS: Mr. Burns, could you consider the imposition of the death penalty?

MR. BURNS: Yes, I could.

[179] [641] MR. WILLIAMS: Okay. Let's see, Ms. Remond, if you were -- Remond, I beg your pardon. I believe your husband is a Sheriff's Deputy, is that correct?

MS. REMOND: That's correct.

MR. WILLIAMS: Okay. And you said he was detailed to the School Board?

MS. REMOND: He's detailed with the school intervention program.

MR. WILLIAMS: Oh, I see. Okay.

All right, I'm going to ask you all, after I finish this round, a round of questions of some other things, and one of them will be about your relationship with law enforcement.

Ms. Remond, if you were selected as a juror in this case, ma'am, could you consider the imposition of the death penalty?

MS. REMOND: Yes, I could.

MR. WILLIAMS: Okay. And Ms. Clerk, if you were selected as a juror in this case, could you consider the imposition of the death penalty?

MS. CLERK: [180] [642] No. A religious belief.

MR. WILLIAMS: Okay. All right.

I have to kind of back up and ask you, and I understand you said your reservations against the death penalty are based upon long-standing religious beliefs?

MS. CLERK: Yes.

MR. WILLIAMS: All right. As I asked Captain Bondi, do you feel that there's any set of facts, or any evidence, anything that you hear about Allen Snyder that would cause you to change your mind?

MS. CLERK: No.

MR. WILLIAMS: Okay. So no matter what the evidence is in this trial, just imagine the worst possible case scenario, because of your long-standing religious belief, you would automatically vote against the imposition of the death penalty?

MS. CLERK: Correct.

MR. WILLIAMS: Thank you Ms. Clerk. Okay.

Now, one of the things – we've got that out of the way. See, that didn't take long at all.

There are some misconceptions regarding [181] [643] murder cases that I want to discuss with you. There are a lot of people who believe that premeditation is something that has to be proven in a murder case. Well, it doesn't. For those of you all who have, through television, or reading, become of the belief that the State has to prove premeditation, a long planned out affair before you could the – before you could consider a verdict, a guilty verdict in a first or second degree murder. That's not quite correct.

The State does not, at any time, in any case, have to prove premeditation.

If you'll listen carefully to what the definition of murder is, it's the killing of a human being where the offender has a specific intent to kill or to inflict great bodily harm. So the key words are "Specific intent".

What has to be shown, ladies and gentlemen, is that the offender, the person who did the crime, has to have actively desired the consequences of his or her action. In other words, it wasn't an accident. It's not the accidental killing of somebody, it's the intentional killing of somebody, and I'm going to – I'm looking for Walter Floyd, because I always use him as my example, but I don't see him here.

I'm going to give you a kind of a little example that I've always used in every [182] [644] homicide case that I've ever tried, to illustrate specific intent.

Let us suppose that you all, you're looking at me, you don't know me, other than me speaking to you today, and you see me walk over here by Mr. Olinde, and you see me produce a revolver from the back of my jacket, and point it right in his chest and pull the trigger and shot him. Now, I think that all of you all would agree with me, that based upon my actions, you'd have to believe that I had a specific intent, I actively desired either to kill him, or to inflict great bodily harm upon him.

Let me give you another example. Suppose I'm out somewhere hunting out in the country in South Louisiana, I've got my rifle and I'm hunting for say rabbit or something like that, whatever's in season, and I see something that I believe is what I'm looking for in the bushes, I think it's a rabbit, and I shot over in the bushes where I see the jumping around, and I go over and find it's Mr. Olinde. God knows what he's doing in the bushes out there, but I shot him, accidentally, not knowing it was him. I think it's

very apparent from that example that I certainly didn't intend to kill him. It could be said that I was criminally negligent, or it was an accident, it's not an intentional killing. I know these examples are, you know, kind of silly, [183] [645] but I think they illustrate the point. And that point is, there's no such thing as premeditation.

The law of Louisiana, and the Judge will charge you, is that specific intent can be formed in an instant prior to the actual killing. It doesn't have to be something that's thought out, planned out, or anything like that. All that has to be shown, is that at the time of the killing the offender had a specific intent, an active desire to do what was done.

Are there any of you all seated in the box who have a question about that?

Are there any of you all, and if you don't raise your hands I'm going to start calling on you. Are there any of you all who feel that because, in a case like this that has the death penalty, that the State would have to prove that there was premeditation?

Let's see, Ms. Remond, how do you feel about that? Are you comfortable with the law as I've given it to you?

MS. REMOND: Yes, I am.

MR. WILLIAMS: That what the State must prove, is at the time of the crime, whether the intent was formed the second before the act happened, or it was formed a week before, or a month before, it has to be shown only that [184] [646] the offender actively desired the consequences of his action?

MS. REMOND: That's correct, yes.

MR. WILLIAMS: Okay. Ms. Lovell, how do you feel about that?

MS. LOVELL: It's quite clear to me.

MR. WILLIAMS: Very good. All right.

Now, let's talk about something else that you all heard a lot about.

In this case, Allen Snyder's plea – when you come to court in any case, whether it's a misdemeanor or a first degree murder, you come before the court and you enter your plea.

In this case Allen Snyder's plea has been not guilty, and not guilty by reason of insanity. That's the plea that he has before the Court right now.

Now I hear a little moan out there, and all of you all have got your own ideas about what you think an insanity defense is, you've seen a lot about it. I am going to tell you very simply, that under the law of Louisiana, if a defendant pleads not guilty, and not guilty by reason of insanity, the burden of proof shifts to them.

In virtually every other instant, the State has to prove everything, we have to [185] [647] prove that there was a murder, we have to prove that he did it, we have to prove that it occurred in Jefferson Parish, we have to prove that there was an intent to kill or inflict great bodily harm upon more than one person, we have to prove all of those things beyond a reasonable doubt, which is something I know you've all heard before. I'll talk about that in a second, briefly.

However, when a defendant comes in – and you know what else, if the defendant had a defense of alibi, that he wasn't there, the State has to disprove the alibi, because we've got to prove identity.

If the defense comes up with a defense of self-defense, we have to disprove that.

But, in a case where the defense enters a plea of not guilty, and not guilty by reason of insanity, the burden shifts to them, they have to prove to the jury, by a different burden of proof.

I'm throwing a lot of stuff at you. I'm going to answer your questions if you have any, but they have to prove by a preponderance of the evidence, which is defined as more likely than not that he was insane at the time of the event.

So with that, we'll talk about that, because I'm going to ask you all how you feel about this.

Under Louisiana law, and it's about the simplest thing that there is, the insanity [186] [648] defense – do you know what that means? That means that at the time of the commission of the crime, the perpetrator did not know the difference between right from wrong. That's it, period.

MS. daPONTE: Judge, I'm going to object. There is a little bit more to it than that.

MR. WILLIAMS: Well, if I could be allowed to continue, I'm going to explain everything to the jury, and they can voir dire too.

Technically Ms. daPonte is right, it must be shown that there is a mental defect, that the defendant suffers from some sort of mental defect that rendered him or her unable to tell the difference between right from wrong.

And who decides whether or not somebody knows the difference between right and wrong? The jury, that's who decides. You all, whoever it is, the thirteen, fourteen, twelve people that sit on this case, there's no formula, there's no mathematically formula, there's no light that goes off; you're going to hear evidence, and the twelve people that sit on this case will decide, based upon your own good common sense and your common experiences, do you believe that at the time of the commission of this crime, that the defendant didn't know the difference between right and wrong.

[187] [649] That's basically what we're talking about.

Now I know there's a lot of you, and I'm going to ask you all here, just say I don't believe that, I think it's an excuse, I think it's a cop-out, how could somebody do a certain thing and not know that – I just don't believe it, I think it's a trumped-up defense.

Well, ladies and gentlemen, a couple of things about that. You don't have to believe it, it's a defense. But what you have to do, and what the defense is going to ask you to do, is to be able to listen to the evidence.

They're going to, perhaps, call witnesses, I don't know, don't know what they're going to do, I'm not going to pretend to. But they're going to ask you how you feel about the insanity defense.

And what I need to know, and what they need to know as well, and I'm sure they'll ask you this, is could you

listen to the evidence before you make a decision about the validity of that defense?

If there are those of you who feel that I – you say insanity, I say that's an excuse, I say he's guilty. If you feel like that, guess what, you won't be on this case. But if you tell us, Mr. D.A., Ms. Defense Attorney, Mr. Defense Attorney, I'm going to listen to all the evidence before I make up [188] [650] my mind on anything. I'm going to listen to what everybody in this case that sits in that chair has to say, and then I'll go back with my fellow jurors, and we'll sort it all out. That will be just fine.

So are you all with me on that? Okay. Anybody got any questions? And I know I sound like I'm talking to school kids some times, but there's kind of a lot that I'm throwing at you.

Let me give you an example that I often use in cases like this one, there is a claim of not guilty by reason of insanity. What I'm thinking, and what I'd suggest to the jurors that they think, would this defendant have committed this crime if there was a uniform policeman standing right next to him at the time the crime was committed. And if from the evidence that you hear, you feel that he would have committed this crime if there had been a uniform police officer standing right there, then I guess you've got to believe that he was crazy and didn't know the difference between right from wrong.

And anything short of that, ladies and gentlemen, I'll suggest to you, and it's up to you, is not insanity. Okay? But that's a decision that the jury makes.

Now, let's see, Ms. Remond, do you feel, ma'am, if you were selected as a juror in this case, that you could listen,

and that's [189] [651] all you have to do, listen to the evidence regarding the insanity plea, and listen to all the evidence, and then make your decision at the conclusion of hearing all the evidence?

MS. REMOND: I would have to listen to all the evidence first.

MR. WILLIAMS: Right. Mr. – correct.

Mr. Burns, how about your [sic], sir?

MR. BURNS: I'd listen to the evidence.

MR. WILLIAMS: Ms. Lovell?

MS. LOVELL: Innocent until proven guilty.

MR. WILLIAMS: Mr. Lewis?

MS. LEWIS: I would have to listen to the evidence.

MR. WILLIAMS: Ms. Braud?

MS. BRAUD: I'd listen to the evidence.

MR. WILLIAMS: Mr. Bourgeois:

MS. [sic] BOURGEOIS: I'd listen to the evidence.

MR. WILLIAMS: Mr. Bennett?

MR. BENNETT: [190] [652] I'd listen to the evidence.

MR. WILLIAMS: Ms. Lebourgeois?

MS. LEBOURGEOIS: I'd listen to the evidence.

MR. WILLIAMS: Mr. Brooks?

MR. BROOKS: I would listen.

MR. WILLIAMS: Very good.

Let's see, Mr. Brown, how about you, sir?

MR. BROWN: I kind of think it's a little ridiculous myself, and I don't find that personally to be, you know, -

MR. WILLIAMS: Okay. A lot of people feel exactly the same that you do. However, the bottom line question on this, you know, it may very well be that you could hear somebody say that, you know, they were in a satellite orbiting the earth at the time of the commission of the crime, and if you hear that without having heard the other evidence, that sounds ridiculous too. But if that was their defense, the law of the land allows them to put it on, they can put on any kind of defense they want to. And what's expected of the jurors, that they'll listen to all of the evidence before they decide.

[191] [653] Do you feel that you could listen to all of the evidence in the case, or -

MR. BROWN: I'd have to listen to the evidence, before -

MR. WILLIAMS: Okay. Then that's, that's - trust me, I'm not asking, you know, - really, what you feel about the insanity defense is really not relevant. What's relevant, is could you listen to the evidence, all of the evidence, who was there, the doctors, the police officers, everybody, before you make up your mind.

Could you do that, sir?

MR. BURNS: Yeah, before I make up my mind whether he's guilty or not guilty, eventually.

MR. WILLIAMS: That's all we can ask. Okay.

I'm moving right along, just a few more minutes. I'm going to ask you all some questions -

MR. VAZQUEZ: Jim, -

MS. daPONTE: Jim.

MR. VAZQUEZ: - she has a question.

MR. WILLIAMS: Yes ma'am, I'm sorry.

MS. BOUDREAUX: [192] [654] I don't think you addressed me for that, that question.

MR. WILLIAMS: Oh, I'm sorry, I certainly didn't.

MS. BOUDREAUX: No, I could not.

MR. WILLIAMS: You could not even consider it?

MS. BOUDREAUX: No.

MR. WILLIAMS: If you had evidence, and I'm not suggesting that any of this is evidence, I have no idea what they're going to say, but somebody was institutionalized, and then broke out of an institution, he'd been there for life, and they committed, let's say, not a murder, but let's say a robbery, and that they, you know, kind of stood there waiting for the police to come, and got caught, and you had a slew of doctors come in and say this guy is crazy as a loon, he has no idea what he's doing, that's why he's locked up and not allowed to be out. Would that be a situation where you could consider the insanity defense?

In other words, can you envision a set of circumstances where somebody could be legally insane and not know what they're doing?

MS. BOUDREAUX: No, no, not when it comes to killing somebody.

[193] [655] MR. WILLIAMS: Okay, okay. I appreciate that.

Okay. Now is there anybody else that feels as Ms. Boudreaux does?

Okay. Very good.

Now, ladies and gentlemen, the next question I want to ask you about is about your understanding of the burden of proof here.

As I said before, the State of Louisiana bears the burden of proving each and every element alleged, except the insanity defense, beyond a reasonable doubt, and that's a term I know you've all heard, I'm not even going to attempt to try to tell you what I think it is. I'll submit to you that it's your own good common sense. And if you have a doubt about any element of the State's case, and you can give a reason for it, only to yourself, you don't have to convince anybody else, but if you can give a reason why you have a doubt, then that is a reasonable doubt, and I'll leave it at that.

One thing that I will submit to you ladies and gentlemen, and ask you about, - let's see, Mr. Lewis, would you agree with me, sir, and this is in fact the law, that beyond a reasonable doubt doesn't mean that you can consider prejudice or sympathy or bias or any of those things in

making your decision in a case, you have to go by the [194] [656] facts.

Do you agree with that, sir?

MR. LEWIS: Yes, sir.

MR. WILLIAMS: In other words, let's say for example you've got a situation where a poor lady who's got a lot of children, shoplifts some milk from a Time Saver because she has no money, and she has to take care of her kids. Obviously, you know, I could make a lot of scenarios like that, and there would be a great deal of sympathy involved in the case. More than one defense attorney has defended their client, and pleading for mercy and for sympathy. That has no place in a court of law. It may sound cold, but you're supposed to go by the facts.

Do you understand that? And would you keep your consideration, in this particular case, to the law and the evidence, and not let sympathy or prejudice or bias enter into your deliberation?

MR. LEWIS: That would be your duty as a jury.

MR. WILLIAMS: That's exactly correct.

Ms. Braud, could you make the same promise to me?

MS. BRAUD: Yes.

MR. WILLIAMS: [195] [657] Mr. Bourgeois, could you make that promise? Is there anybody that could not make that promise to me? Okay.

Now, how many of you all have ever, in here, been on a jury before?

Let's see, start with the first row, Mr. Brown, what kind of case was it?

MR. BROWN: It was an armed robbery –

MR. WILLIAMS: Civil or – armed robbery. Was that here in Jefferson Parish?

MR. BROWN: Yes, sir.

MR. WILLIAMS: How long ago was that?

MR. BROWN: I think about ten years ago.

MR. WILLIAMS: Okay. And do you remember the verdict of the jury?

MR. BROWN: It was guilty.

MR. WILLIAMS: Okay. In that case did the defendant testify?

MR. BROWN: No, no sir, he didn't.

MR. WILLIAMS: Okay. Any other cases Mr. Brown? Okay. Back row, Ms. Remond?

MS. REMOND: [196] [658] I served on a grand jury.

MR. WILLIAMS: Okay.

MS. REMOND: About three years ago.

MR. WILLIAMS: Jefferson Parish Grand Jury?

MS. REMOND: That's correct.

MR. WILLIAMS: Okay. Okay, who else on the back row? Mr. Burns?

MR. BURNS: It was an aggravated crime against nature about fifteen years ago.

MR. WILLIAMS: Okay. And do you remember the verdict of the jury?

MR. BURNS: And the verdict was guilty.

MR. WILLIAMS: All right. Were you the foreperson on that jury?

MR. BURNS: I was not.

MR. WILLIAMS: Okay. Anybody else? Okay.

Are there any of you all who have personally been the victims of a violent crime, or have any very close friends or relatives who have been the victims of a violent crime, and how the fact that it [197] [659] happened to a close friend or relative touched your life?

And if it's something that's really really bad, and you'd rather not say it in front of everybody, I understand that, and I'm not asking you to do that. The purpose of my question is to find out if there are any of you all who find yourselves in that situation, and you might want to get even as a juror in a case like this.

So, in the first row, are there any of you all who have personally been the victim of a violent crime, or have any close friends or relatives that have been? Okay.

In the back row, is there anybody in that situation? All right.

Now, let's see, there have been, let's see, Ms. Remond, Captain Bondi, and let's see who else has – Ms. Clerk,

your husband works for the Jefferson Parish Sheriff's Office as a crossing guard, correct ma'am?

Okay. Let me ask this question about law enforcement. We're going to call a number of witnesses, actually, let me tell you now so you can gauge about how long this trial is going to last, because as you already know from this morning, once you're sworn in as a juror, you're stuck, you don't get to go home, you don't get to live your life as you normally would, you're kind of like under lock and key. Not really, because I know from experience that what [198] [660] this Court will do, is try to make it as you know, I guess, tolerable as is humanly possible. We're going to work hard, we're going to work as late as the jury wants to work, so that we can get this case decided as quickly as possible. When I say that, I don't mean to say that we're going to rush through this thing, because of the nature of the case, we're not going to do that, we're just going to try to work hard. And based upon my knowledge of the case, if things go really really well, we're hoping that this case will be over by the weekend, by Saturday at the latest. You never can tell, but we're working really really hard, and maybe there's an outside chance of Friday, but that's kind of stretching it. We're pushing hard for Saturday. So that gives you my best guess of how long I think this case is going to last. And the reason I said that, the State plans to call about fifteen witnesses.

I don't know how many witnesses the defense has, they'll talk to you about that if they choose. But, we're going to work hard.

Now, my question, I kind of got away from it, but it's about law enforcement. I need to know from the thirteen of you all who are seated here in the jury box, are there any

of you all who have ever called on any member of law enforcement for assistance [199] [661] at any time in your adult lives, for any reason, whether it was a disturbance in the neighborhood, a car theft, anything that you've ever called 911, or called on any law enforcement for assistance; by a show of hands?

Okay, that's almost everybody.

Now, those of you all who have raised your hands, were you all essentially satisfied by the way in which law enforcement responded to your call for assistance, outside of maybe the time element. But, is everybody basically okay?

Ladies and gentlemen, that's about it, I'm going to sit down now.

I want to know, and this is going to be the last time that I get to talk to the thirteen of you all, if there's anything that I've said that you have a question in your mind about – there's a lot of other things that I could talk about, but this is the way I choose to do it, I try to get straight to the point.

Any question about anything that I've said that anybody has at this point? Okay. My final question, Mr. Bennett, if you were selected as a juror in this case, sir, and you heard all the evidence in the case, and you were convinced beyond a reasonable doubt in your own mind that Allen Snyder committed the murder, committed the murder of, I should say, I haven't said yet, that [200] [662] the victim's name in this case is Howard Wilson, Jr., and the other victim who survived and who will testify, her name is Mary Snyder, it's his wife.

Are there – Mr. Bennett, if the State proves beyond a reasonable doubt that he's guilty of that crime, what would your verdict be?

MR. BENNETT: Guilty.

MR. WILLIAMS: Ms. Lebourgeois, what would your verdict be?

MS. LEBOURGEOIS: Guilty.

MR. WILLIAMS: Mr. Brooks, what would your verdict be?

MR. BROOKS: Guilty.

MR. WILLIAMS: Mr. Brown?

MR. BROWN: Guilty.

MR. WILLIAMS: Ms. Remond?

MS. REMOND: Guilty.

MR. WILLIAMS: Mr. Burns?

MR. BURNS: Guilty.

MR. WILLIAMS: [201] [663] Ms. Lovell?

MS. LOVELL: Guilty.

MR. WILLIAMS: Mr. Lewis?

MR. LEWIS: Guilty.

MR. WILLIAMS: Ms. Braud?

MS. BRAUD: Guilty.

MR. WILLIAMS: Mr. Bourgeois?

MR. BOURGEOIS: Guilty.

MR. WILLIAMS: Thank you very much.

Tender the panel.

MS. daPONTE: Good afternoon ladies and gentlemen, good afternoon. I'm going to try to keep my voice up as loud as Mr. Williams did, I don't know if I'll be able to do that.

Can everybody in the back hear me okay? Okay.

The first thing I want to do is introduce you to the most important person in this courtroom, and that is Allen Snyder. This trial is about him, and I need all of you all to make sure that this trial is about nothing else.

We're going to go into that a little [202] [664] bit. Mr. Williams talked about sympathy and things like that, I have a couple of more things that I want to add to that, because this trial is about Allen Snyder and whether or not he committed the crime of first degree murder, and that's all it's about.

I'm Graham daPonte, I have the honor of representing Allen Snyder, along with Casear [sic] Vazquez.

I'm going to be asking you some questions first, and then because this is a death penalty case, Mr. Vazquez is going to get up and talk to you about your feelings about the death penalty.

My job right now is to talk to you about your feelings about the rest of the case, because there's a lot more to this case than just whether it's a death penalty case.

And there is a lot more to this case than whether this is an insanity defense.

I'm going to start out by saying there are two pleas here, not guilty, and not guilty by reason of insanity.

We're the lawyers, Mr. Vazquez and I are the lawyers here, we've gone to law school, Mr. Snyder acquired us because we have experience in the law, and like most of you all, he doesn't, and he's relying on our knowledge, and on our experience, and on our expertise. We make the legal decisions here.

And let me ask you, Mr. Brown, I heard [203] [665] you voice what I'm anticipating a lot of you will voice, the opinion that the insanity defense is ridiculous.

And Ms. Boudreaux can't even consider it, and you may feel the same way. And Mr. Williams asked you could you listen to the evidence; I'd like to ask you, could you consider that someone may be suffering from a mental disease or defect which would make them unable to determine right from wrong.

MR. BROWN: I don't believe that at all.

MS. daPONTE: You couldn't consider that.

And I think that's valid, and I appreciate you being honest and telling me that.

So I'm going to move to Mr. Brooks. My decision was to enter that plea on Allen's behalf. If you're going to hold that against anybody, can you hold it against me and not against Allen?

MR. BROOKS: The final decision is his, isn't it?

MS. daPONTE: In a trial, the final decision on certain things is his, but the legal decisions are made by his lawyer.

Can everybody understand that Allen Snyder didn't go to law school, he doesn't practice law, and the technical, legal decisions that are made in this case are [204] [666] going to be made by me and by Mr. Vazquez.

I see you nodding Mr. Bennett, can you understand that?

MR. BENNETT: I can understand that.

MS. daPONTE: If you hire a lawyer, if you have a lawyer representing you for something, would you feel that that lawyer was the person with the knowledge?

MR. BENNETT: He's the one that has the knowledge, that's the reason I hired him.

MS. daPONTE: That's why you got him?

MR. BENNETT: That's why I got him.

MS. daPONTE: What do you think about that?

MR. BROWN: I mean, I wouldn't want to lay that responsibility on you.

MS. daPONTE: Okay. And I'm not sure I understand your answer.

MR. BROWN: What I mean is, if he's pleaded insanity, I would think that that was -

MS. daPONTE: It was his idea. Okay?

And if you decide that you didn't like the fact that he pled insanity, would you [205] [667] hold it against him for having done that, or would you look at me?

MR. BROWN: I would not hold that against him.

MS. daPONTE: Okay, all right. And that's a fair answer.

What I'm asking everybody right now, is can you understand that there are decisions that are going to be made in this trial, and things that are going to happen in this trial?

I'll give you another example. A lot of jurors absolutely hate it when an attorney jumps up and says objection, and then we all run to the Bench and we all talk to the Judge, and we whisper about stuff, because they think, what are you trying to hide.

Can you all understand that if Mr. Vazquez or I make some objection, there's a legal reason for it.

You're nodding Ms. Braud, you can live with that?

MS. BRAUD: Yes.

MS. daPONTE: And there are other legal decisions that we may make that you all may not like. Can you live with that and not hold that against Allen?

Mr. Burns?

MR. BURNS: [206] [668] Yes, I can.

MS. daPONTE: And Ms. Lovell?

MS. LOVELL: Yes.

MS. daPONTE: Everybody understands what I'm getting at?

I'm going to ask you all to be as candid as possible, just like Mr. Williams did, and as verbal as possible. I'm very impressed with the way that you talked when you were spoken to, and I'd just ask that you do the same thing with me.

And if there is anything that you know in your heart is going to prevent you from being a fair juror, and I don't read your mind, and I ask you, please, I'm asking you from my heart to tell me what it is. Okay? Thank you.

Ms. Remond?

MS. REMOND: Remond.

MS. daPONTE: Remond. All right, Ms. Remond you sat on a Grand Jury?

MS. REMOND: Yes.

MS. daPONTE: So you understand that a Grand Jury really is nothing more than a vehicle by which to get something into court, right?

[207] [669] MS. REMOND: That's exactly right.

MS. daPONTE: Who did you hear from when you sat on the Grand Jury? Did you ever – did you ever hear from any defense witnesses?

MS. REMOND: No.

MS. daPONTE: Did you ever see a defense attorney it there?

MS. REMOND: No.

MS. daPONTE: Because they're not allowed.

MS. REMOND: That's right.

MS. daPONTE: Does everybody know that? Does everybody know – when Mr. Williams stands up and says, A Grand Jury indicted Allen Snyder; and then he says, Oh, the Grand Jury is just like a traffic ticket; and then you think, Oh yeah, right, a Grand Jury is just like a traffic ticket.

Well, it really is, because the Grand Jury hears from the prosecutor, and that's all. And defense attorneys are not even allowed in there, we don't even know when the Grand Jury is going to meet to talk about indicting our client.

So there are a whole range of things [208] [670] that the Grand Jury – well, that a petit jury, a small jury, could do with a case that a Grand Jury is not going to know anything about. A Grand Jury is not going to hear any defense. They're not going to hear about lesser responsive verdict.

Mr. Williams talked about the five grades of homicide. In this case there are three responsive verdicts to first degree murder, and that is Not guilty, Guilty of manslaughter, and guilty of second degree murder.

The Grand Jury doesn't hear the evidence that might make them say, you know, this sounds like a manslaughter to me.

If we're going to indict somebody, maybe we should indict him for manslaughter. They don't hear that.

So, would everybody agree that not every indictment by a Grand Jury is necessarily going to be right? Can everybody go along with that?

And likewise, can everyone agree that not every charge that a Grand Jury brings down is necessarily the right charge, necessarily reflects what actually happened. Can everybody agree with that?

Mr. Bennett, did you know that about the Grand Jury?

MR. BENNETT: Not until now, no.

MS. daPONTE: [209] [671] Is anybody on the panel a neighborhood watch member? Anybody – yes ma'am, Ms. Braud, you're on the neighborhood watch?

MS. BRAUD: We joined, my husband and I, several years ago.

MS. daPONTE: And does anybody have – we know about Ms. Remond, does anybody have any friends or family who are members of either the Police Department, the Sheriff's Office, the District Attorney's Office, the U.S. Attorney's Office, Marshall's Office, anybody in law enforcement?

We'll take the first row. Yes, and Ms. LeBourgeois?

MS. LEBOURGEOIS: Yes.

MS. daPONTE: Who do you know?

MS. LEBOURGEOIS: Several N.O.P.D. policemen in the Third District.

MS. daPONTE: Okay. Friends or family?

MS. LEBOURGEOIS: Very close friends.

I had a very close friend that was on the Jefferson Parish Police Department, that recently committed suicide last year.

I have a friend that is on – that is an assistant D.A., I think New Orleans, I'm not [210] [672] really sure where he is now.

MS. daPONTE: So you've had a lot of friends in law enforcement?

MS. LEBOURGEOIS: Uh huh.

MS. daPONTE: Would that effect you in any way in your being a fair juror?

MS. LEBOURGEOIS: I don't think so. I don't think so.

MS. daPONTE Let me ask you this. Let's say you listen to the case and you decided that the State hasn't proved their case, and you found Allen not guilty, or you found him not guilty by reason of insanity, or you found him guilty of a lesser verdict like manslaughter, –

MS. LEBOURGEOIS: Uh huh.

MS. daPONTE: – do you think that you'd have a tough time telling your friends that are on the police department about that?

MS. LEBOURGEOIS: Uh uh, no.

MS. daPONTE: You're sitting next to Captain Bondi, so we all know that police officers have varying ideas about what's justice, –

MS. LEBOURGEOIS: [211] [673] Right.

MS. daPONTE: – whether they would consider the death penalty or not.

Do you feel like those friends that you know on the police department are going to insist that you find people guilty even if they're not guilty?

MS. LEBOURGEOIS: No, I don't think so.

MS. daPONTE: Anybody else have any friends or family? Mr. Brown, you have friends or family in law enforcement?

MR. BROWN: I have a couple of friends on the Jefferson Parish Police Department.

MS. daPONTE: Anybody else in the back row? Mr. Bourgeois?

MR. BOURGEOIS: I went to school with Jack Capella.

MS. daPONTE: You went to school with Jack. And how does that – how is that going to effect the way that you view this case?

MR. BOURGEOIS: Not at all.

MS. daPONTE: Not at all. Do you see Mr. Capella on a regular basis?

MR. BOURGEOIS: [212] [674] I haven't seen him in about ten years or more.

MS. daPONTE: Okay. If you saw him at a class reunion and you told him that you sat on one of his cases,

and you found the defendant not guilty, would you be embarrassed about that?

MR. BOURGEOIS: Not at all.

MS. daPONTE: Anybody else?

Mr. Lewis?

MR. LEWIS: I've got casual friends that are with the Jefferson Parish Sheriff's Office.

MS. daPONTE: Okay.

MR. LEWIS: And neighbors in my neighborhood that are with the J.P.S.O., and Gretna City Hall.

MS. daPONTE: Anybody such a close friend that you think it might influence --

MR. LEWIS: No.

MS. daPONTE: -- your decision?

Anybody else?

Ms. Remond, you're married to a Sheriff's Deputy?

MS. REMOND: Yes.

[213] [675] MS. daPONTE: What effect, if any, do you think that might have on your ability to be fair?

MS. REMOND: I don't think that would have any effect. I'd have to hear the evidence first.

MS. daPONTE: Anybody either been in the military, or have close family members who have been in the military? Front row.

Mr. Bennett, what branch?

MR. BENNETT: Navy.

MS. daPONTE: Navy. And what was your rank -- how long were you there, first?

MR. BENNETT: Four years active duty, I was an airman.

MS. daPONTE: You were an airman. All right. And when was that?

MR. BENNETT: I'm sorry?

MS. daPONTE: When did you serve?

MR. BENNETT: '76 to '80.

MS. daPONTE: Mr. Bondi?

MR. BONDI: Yes, if we had relatives in the [214] [676] military?

MS. daPONTE: Yes.

MR. BONDI: I have a brother who's in the Coast Guard Reserve.

MS. daPONTE: Mr. Brooks?

MR. BROOKS: My brother is in the Army Reserve, Army Reserves.

MS. daPONTE: Anyone in the back row?

Ms. Remond?

MS. REMOND: I was in the Army.

MS. daPONTE: You were in the Army?

MS. REMOND: Yes.

MS. daPONTE: How long?

MS. REMOND: Two years.

MS. daPONTE: And what was your rank?

MS. REMOND: Chief Private First Class.

MS. daPONTE: And when was that Ms. Remond?

MS. REMOND: Oh, that tells my age.

[215] [677] MS. daPONTE: Oh, I'm sorry. Not really.

MS. REMOND: Back in the mid 60s.

MS. daPONTE: That's fine. Real early.

And Ms. Clerk?

MS. CLERK: A brother and a sister; U.S. Army.

MS. daPONTE: In the Army?

MS. CLERK: Yes.

MS. daPONTE: Are they career officers?

MS. CLERK: Sergeants.

MS. daPONTE: Sergeants. And anybody else in the back row?

MS. LOVELL: My father was a Master Sergeant in the Marine Corps, World War II, and Korea.

MS. daPONTE: Yes, sir.

MR. LEWIS: My father was a Marine in World War II, and one of my older brothers was an Army Officer during Vietnam.

MS. LEBOURGEOIS: My father was in the National Guard, but I don't know how long, or when, or what he [216] [678] did.

MS. daPONTE: You know he was there. Did he used to go on deployment with fatigues and –

MS. LEBOURGEOIS: I don't know.

MS. daPONTE: okay.

MS. LEBOURGEOIS: He was long out of that by the time I was born.

MS. daPONTE: I'm going to talk to you a little bit about something that – well, I guess I'm going to get into a little bit of the special issues in this case, that I need to find out how you feel about it.

First of all, Mr. Williams talked to you about the possibility that you might have heard or read something about the case. There is also the possibility that there's going to be some publicity surrounding this trial. There may or may not be. You may have some television cameras outside on your way to lunch, on your way out of court during the evening, and – probably not on your way to court in the morning.

But I need to know from you if that's going to make you think any differently about the evidence in this case. The fact that the press is interested in it, or might be interested in it, is that going to make [217] [679] you any more likely to think that Mr. Snyder is guilty?

How about you, Mr. Brown?

MR. BROWN: No.

MS. daPONTE: And is it going to intimidate you at all, the fact that you might be filmed going to lunch? Anybody feel like, Boy, I guess I'd really owe it to my neighborhood to make sure I come back with a guilty verdict, because, you know, they know I'm a juror in this high profile case. Anybody feel that way? Anybody going to be at all intimidated by that?

Your job in this case, as Mr. Williams said, is really to put on blinders, and make sure that none of that extrinsic evidence gets in. You're supposed to make a very intellectual, and not at all emotional decisions. The job of the jury really is to decide what happened. What happened, the facts, and you do that by listening to the witnesses on the witness stand, and judging their credibility.

You're going to hear from police officers, you're going to hear from what's called expert witnesses, and you're going to hear from lay witnesses just like you and me, although, you know, some of you all may have some expertise that would qualify you as an expert in some things.

[218] [680] An expert is someone who has special qualifications which render them able to give an opinion about a certain field of expertise.

And just like any other witness, you can take them or leave them. You can decide whether you believe what they're telling you or not, you use your own common sense, nobody is going to give you a formula to figure out who's telling the truth. So that's one of your jobs, judge the

credibility of the witnesses, in order to determine what happened.

And in order to determine the facts of the case, – or once you're determined the facts of the case, then you'll be asked to decide whether the facts of the case fit the law that the Judge gives you, whether – once you've decided what happened, once it's in your mind what happened, then you have to decide whether the elements of the crime have been met. So you are the judges of the law, to a certain extent. Everybody always says the jurors are the judge of the facts, but you also have to judge the law, you have to decide whether in fact they've met their burden, the State has met their burden of proving all the elements to you.

Can everybody – everybody understands what your job is?

And would you agree with me that your job in determining the facts, is to be [219] [681] completely intellectual. This is what happened. And let me give you an example. Let's say this is a robbery case, and the victim is a very frail elderly woman on her way to church, and the defendant was on trial, and the State didn't prove to you that the defendant was anywhere near that woman, but here she is, and she's pathetic, and she's very old, and she's very frail. Would everyone agree that you couldn't find somebody guilty because you feel sorry for the victim. Everybody agree with that? All right.

And likewise, your job is to screen out sensational, not just emotional evidence, but sensational evidence.

Let's say the defendant today was David Duke, and the District Attorney's Office paraded a whole scrapbook

full of photographs in front of you. Let's say David Duke was charged with embezzling from his company, and he presented a whole scrapbook full of picture to you of David Duke in his Ku Klux Klan robes.

Would you all agree that that had nothing to do with whether he embezzled any money? Could you recognize that evidence and see it for what it is, an attempt to sensationalize things, make you not like the defendant? And could you throw that evidence out, because it doesn't have anything to do with anything?

[220] [682] And likewise in that instance, you have to guard against prejudice against who David Duke is. And could you just say, whether you like him or not, I'm not going to look at who he is, I've got to look at whether he did what they say. Everybody can do that?

We talked a little bit about law enforcement officer, and judging the credibility of witnesses. I'm going to ask you if there's anybody who feels like under no circumstances could you believe that a police officer might lie on the witness stand. Any circumstances in which you could believe that would happen?

Captain Bondi, police officers are human they can lie like anybody else. Does everybody feel that way?

MR. BONDI: Yes.

MS. daPONTE: Or does anybody feel like they're going to automatically believe a police officer more than they would believe another witness.

How about you Mr. Brooks?

MR. BROOKS: No. I can believe that a police officer would lie.

MS. daPONTE: Is there any chance that you could believe Mr. Snyder if he tells a different story than what a police officer tells, any [221] [683] chance you could believe him over a police officer?

MR. BROOKS: I would weigh what I heard.

MS. daPONTE: Everybody agree with that?

MR. BROOKS: Yes.

MS. daPONTE: You will hear about some instances of domestic violence in this case, and there are going to be some instances where Mr. Snyder is alleged to have abused his wife Mary Snyder. And that evidence, I'm going to tell you two things about it.

First, there are a few instances of it that the State is going to present to you, and second, there's a very specific reason for the presentation of that evidence; and that reason is to show motive, and to show intent.

And you're going to hear from the Judge that you can only consider it for those two reasons, motive and intent. And that you cannot consider it to determine actual guilt.

That's asking a lot. That's asking a lot, and I'm going to ask you if you think that might be asking too much.

Mr. Burns, it's a very hard distinction, and I don't even know if I've made it clear.

MR. BURNS: [222] [684] I'm not clear on it.

MS. daPONTE: It's what's called other crime's evidence. And generally that's not admissible, but when

the State seeks to use it in order to prove motive or intent for the crime charged, they can do that. But you can't determine that just because that evidence came before you, that Mr. Snyder actually committed the crime.

In other words, you can't use it to determine his ultimate guilt. You can only use it to determine motive and intent, and I know that's a very difficult standard.

Is there anybody that feels like you'd be so inflamed by testimony about domestic violence, that you couldn't use it only for that very limited - that very limited reason?

Has anybody - and certainly we could approach the Bench if it were more comfortable for any of you; has anybody had any experiences with friends or family members who have been the victim of domestic violence, that might make it just real difficult for you?

I'm going to start with you, Ms. Lebourgeois. Is this something that you would - anybody, at any time, if there's something you prefer to discuss at the Bench, we can do that.

MS. LEBOURGEOIS: [223] [685] I had an ex-boyfriend who pushed me around a lot.

MS. daPONTE: Given that - and I appreciate your honesty. Is that something that you think might weigh on your mind and make it difficult -

MS. LEBOURGEOIS: Yeah.

MS. daPONTE: - for you to -

MS. LEBOURGEOIS: You know, I don't think it's - I don't think it's right.

MS. daPONTE: Okay. And knowing what I told you about the evidence that is going to come in in this case, do you think that it's possible you might decide, if you hear about evidence of domestic violence, he did the murder, period? I really am going to be very prejudice against him if I hear about that domestic violence?

MS. LEBOURGEOIS: I don't know. It would depend on the - I don't know.

MS. daPONTE: Okay. Anybody - Mr. Brown?

MR. BROWN: My sister was in a really bad marriage, her husband beat her up.

MS. daPONTE: [224] [686] I'll ask you the same question.

MR. BROWN: All right. It would be tough, I don't know.

MS. daPONTE: Back row. Mr. Lewis?

MR. LEWIS: A sister that has been abused by her husband.

MS. daPONTE: Same question to you. Given your family circumstances, do you think that evidence might be so inflammatory that you couldn't just consider it for the limited purpose for which it can be considered, but that you might decide the ultimate issue of guilty based on that evidence that you hear?

MR. LEWIS: No. It would be all the evidence.

MS. daPONTE: Okay. Ms. Lovell?

MS. LOVELL: You know, I have a couple of close friends that were abused by their husbands and boy-friends, but it wouldn't effect nothing about the outcome.

MS. daPONTE: Mr. Burns?

MR. BURNS: I've had some cousins that were in a tough marriage, and I think I could probably separate it out, but it would be tough. I [225] [687] could probably separate –

MS. daPONTE: It would be tough for you to separate that out?

MR. BURNS: It would be tough, yeah. I think – again, you can't tell unless you hear it but should emotions get involved with that.

MS. daPONTE: I'm just going to ask you as honestly as you can be, if you heard about evidence of domestic violence, if you heard about evidence that Allen abused his wife Mary or some specific occasions, do you think that that might push you over the edge where you would absolutely – in other words, decide the ultimate issue of guilt on a close case, because you heard that evidence about domestic violence?

MR. BURNS: I sure wouldn't want to. On a thinking level, no I wouldn't want to do that, I wouldn't do that. But I would – the emotional weight of that, I don't know.

MS. daPONTE: Anybody else?

I probably should have started with this, but I wanted to jump right in with some issues that I thought were hot

buttons. Mr. Williams talked about the presumption of innocence, and that's – you need to – our system of justice in this country, [226] [688] because what it means is, that – remember when I introduced you to Allen, and I said this is the most important person in this courtroom; well this person is also, – he's got the highest status of anybody in this courtroom, and if you met me or Mr. Williams or the Judge at a cocktail party, and we told you what we did, Judge Hand is a Judge, and you might think that's very interesting, you know, tell me more about that. And Mr. Williams might say, I'm a prosecutor for Jefferson Parish, and you all might say, what a great job, tell me about that, that sounds very interesting. And I might say I'm a defense attorney, and you might say, well, okay, that's okay too.

But what about if you met Mr. Snyder and he told you I'm a criminal defendant in a first degree murder case? I think you'd probably all move away from him. You know, I don't think – I think there wouldn't be any doubt that at that cocktail party he would be the least popular person in the room, and he'd probably have a lower status there.

But in this courtroom, Mr. Snyder has the highest status. His status as a criminal defendant is higher than their status as assistant D.A.s, and that's because of the presumption of innocence.

In this country, your mind-set has to be – you have to be able to look at Mr. [227] [689] Snyder, and look at the D.A.s, and say to them, I don't believe Mr. Snyder committed first degree murder, I don't believe it, and you have to prove it to me.

Mr. Louis, you're nodding at me.

MR. LEWIS: I can't stand violence.

MS. daPONTE: Something you could do. I believe you. Is that something – Mr. Bourgeois, can you do that? Can you tell them right now, I don't believe your case?

MR. BOURGEOIS: I believe that he's innocent until proven guilty.

MS. daPONTE: Ms. Braud?

MS. BRAUD: He has to be proven guilty.

MS. daPONTE: And you can look at him right now and believe that he's innocent?

MS. BRAUD: Uh huh.

MS. daPONTE: Ms. Lovell?

MS. LOVELL: Clean slate.

MS. daPONTE: Okay. You've said that before.

All right, Mr. Burns, how about you?

MR. BURNS: [228] [690] Yes.

MS. daPONTE: Ms. Remond?

MS. REMOND: He's innocent right now.

MS. daPONTE: And you can look at him and believe that?

MS. REMOND: Yes.

MS. daPONTE: How about you Mr. Bondi?

MR. BONDI: He's innocent right now.

MS. LEBOURGEOIS: He's innocent.

MS. daPONTE: You say that so reluctantly.

MS. LEBOURGEOIS: I know, because now I'm thinking about the previous question.

MS. daPONTE: Okay. Do you have something you want to add on that?

MS. LEBOURGEOIS: Uh uh.

MS. daPONTE: Okay.

MS. LEBOURGEOIS: No.

MS. daPONTE: Okay. Is it going to be hard for you to [229] [691] give him the presumption of innocence, knowing what you know about the domestic violence issues that are going to come in?

MS. LEBOURGEOIS: Probably.

MS. daPONTE: Okay. And I understand that, and I appreciate you telling me that. Thank you.

Mr. Brooks, how about you, can you presume Mr. Snyder innocent?

MR. BROOKS: I have a question about the law that he said earlier, that the reason of insanity shifts to you all.

MS. daPONTE: I'm coming right up to that, if you'll give me just a minute.

MR. BROOKS: So actually, you make the case, or who?

MS. daPONTE: Okay. I'll get to that.

Can I get to that in just a minute?

MR. BROOKS: Okay.

MS. daPONTE: Okay. Is that going to effect whether you're able to give him the presumption of innocence?

MR. BROOKS: I'm just listening to the law.

MS. daPONTE: I understand that. Can you presume that [230] [692] Mr. Snyder is innocent right now?

MR. BROOKS: Yes.

MS. daPONTE: And you can presume that they -- they're wrong about this charge?

MR. BROOKS: Yes.

MS. daPONTE: Let's talk about why -- you see, the burden of proof goes hand and hand with the presumption of innocence, it's because of the presumption of innocence in this country that the burden, except for -- in this case, except for in the defense, that the burden is on the State.

When somebody is presumed innocent, they are presumed innocent, so it's up to the State to show you why they are right, why they're not wrong about their charge. So they've got to do, at this point, all of the proving, they've got to prove all of the elements of first degree murder, they've got to prove it was Mr. Snyder, and they've got to prove that he had a specific intent to kill or to

commit great bodily harm on more than one person. They do all of that.

Does anybody have any problem with that?

Is that fair, Mr. Bennett, that they have to prove that?

MR. BENNETT: Yes, I think so.

[231] [693] MS. daPONTE: Is that fair, Mr. Lewis?*

MR. LEWIS: Yes.

MS. daPONTE: Is that fair, Ms. Lovell?

MS. LOVELL: Yes.

MS. daPONTE: Mr. Brooks?

MR. BROOKS: I think so.

MS. daPONTE: Now, Mr. Snyder has two pleas here, not guilty, and not guilty by reason of insanity.

And what that means is, if I put his sanity at issue, I must show you, not beyond a reasonable doubt, but by a preponderance of the evidence, that he did in fact suffer from a mental disease or defect that he was not able to tell right from wrong.

What that means is, okay, this is a two-pronged plea, this is a two-pronged, not guilty is the first plea; and not guilty by reason of insanity is the second plea.

So you decide, you decide if I've proved that on August the 16th of 1995, Mr. Snyder was suffering from a mental disease or defect which rendered his ability to tell right from wrong, he couldn't do it, he couldn't tell right from wrong. You decide [232] [694] that. And if you decide yes

he knew right from wrong, then you decide if the State has proven that he's guilty.

So it's not not guilty by reason – you're nodding, you understand?

MR. LEWIS: You have to prove first that he was – due to insanity.

MS. daPONTE: Yes.

MR. LEWIS: And if you prove that, then we have to fall back on the prosecution, proving that he was guilty, is that correct?

MS. daPONTE: Yeah. Well, if I prove that he didn't know right from wrong, and you believe that, then the case is kind of over.

MR. LEWIS: Oh.

MS. daPONTE: If I don't, if I don't, then you still have to decide whether he was guilty of the crime or not. All right? So that all of the defenses that would be available to a defendant in a criminal case, are still available. It's not – he's not insane, so he must be guilty as charged. That's not the way that it works, it's not guilty when all of the defenses available on a not guilty verdict, and all of the responsive verdicts, you remember those four – those [233] [695] three responsive verdicts, not guilty, guilty of manslaughter, and guilty of second degree murder, all of those are available if you decide that I did not prove that he did not know the difference between right and wrong. Then you decide about the rest of the case.

That may be unclear right now. I think it's going to be real clear if you're chosen to sit on the trial, it sort of falls into place.

Mr. Burns, am I confusing you?

MR. BURNS: No.

MS. daPONTE: Okay. All right.

So if I put on evidence that Mr. Snyder had a mental disease or defect which rendered his ability to – which made him unable to tell right from wrong, and you decided that you didn't believe that evidence, and you think he did know right from wrong, could you still consider whether the State had met its burden of proving to you that he committed the crime of first degree murder, that's my question?

MR. BURNS: Yeah, no problem with that.

MS. daPONTE: Okay. Everybody understood the way I put it? Does anybody have a problem with that?

[234] [696] Did I answer your question, Mr. Brooks?

MR. BROOKS: Yes, ma'am.

MS. daPONTE: Let's talk a little bit about the State's burden of proof.

It is – Mr. Williams doesn't want to tell you what it is, – I mean, he doesn't want to tell you what it means. I'll tell you what it is, it's beyond a reasonable doubt, and it's the highest legal standard known to man, it's the highest legal standard that we have. You've got probable cause, and a preponderance of the evidence, which means just the tip of the scale, and then you've got something higher than that,

which is clear and convincing evidence, and then you have beyond a reasonable doubt, which is a real big hurdle.

And the State has to prove it as to every element that they're charging him. If they miss even one, if they don't prove specific intent to kill more than one person, it's not first degree murder. Okay? If they miss one of the elements, they don't prove that charge.

Does everybody understand that?

I would ask that in applying that standard, and I'd ask the same thing that I have asked every single jury I've ever asked, and that is that you apply the same standard that you would apply in making the [235] [697] very important decisions of your own life. And we've said it a hundred times, this is life or death.

There is no question that this next week, these next few days are the most important days of Allen Snyder's life.

And there is no question but that the twelve people that are selected to sit on this jury, will never have a responsibility for somebody else like they're going to have in this room.

So what I'd ask, is that in making the decision, you use the very same standard you would use in making the most important decisions of your own life, and only you know what they are.

For me, it would be whether to get married, whether to buy a house, whether to have a second opinion, or go get the surgery that the doctor is telling me to get. Important decisions like that, I'd ask you to take this case that seriously.

Can everybody promise that you'll do that?

All right, let's go back and talk about what we mean when we talk about not guilty, and not guilty by reason of insanity. I just want to make sure everybody is clear about the mental disease or defect part.

I think everybody understands the inability to distinguish right from wrong, but you'd have to find that Mr. Snyder [236] [698] suffers from a mental disease or defect.

Does anybody - has anybody ever dealt with anybody who suffered from a mental disease or defect?

Mr. Bennett?

MR. BENNETT: As an emergency nurse I have too.

MS. daPONTE: Yes you have, that's right.

And did those people act the same as you or me?

MR. BENNETT: No.

MS. daPONTE: No. And do you believe that some of the things those people did were because they didn't know that it was wrong?

MR. BENNETT: Yes, I believe that.

MS. daPONTE: Has anybody else every [sic] had any dealings with people with mental illness?

MS. LOVELL: I have a close friend of mine who has a severe personality disorder.

MS. daPONTE: A very close friend? Is that person on medication?

MS. LOVELL: Yes.

MS. daPONTE: Okay. And when your friend is on the [237] [699] medication – is it a man or a woman?

MS. LOVELL: A woman.

MS. daPONTE: Woman. When she's on the medication, do you see a big difference?

MS. LOVELL: Yes.

MS. daPONTE: And when she's not on the medication, –

MS. LOVELL: Oh, yeah.

MS. daPONTE: – you know it? Okay.

Do you know the name of that disorder that's she's got?

MS. LOVELL: Multiple personality.

MS. daPONTE: And when she's not on the medication, do you feel like sometimes she doesn't know that what's she's doing is wrong?

MS. LOVELL: Yes.

MS. daPONTE: Anybody else have any dealings with mental illness, Alzheimer's, anything like that? Okay.

You, Mr. Brooks?

MR. BROOKS: I'm a future teacher, and I run into students who have different problems, [238] [700] retardation, things like that.

MS. daPONTE: Things that are caused by a process in the brain?

MR. BROOKS: Mental retardation, yes.

MS. daPONTE: Okay. Ms. Lebourgeois?

MS. LEBOURGEOIS: My grandmothers both have Alzheimer's.

MS. daPONTE: Alzheimer's. So you understand that some times there's a process in the brain, we look normal on the outside, but because of a deteriorating process in the brain we do things that we wouldn't do?

MS. LEBOURGEOIS: Uh huh.

MS. daPONTE: Can anybody, other than Alzheimer's, multiple personality, name any mental diseases?

How about clinical depression?

MS. LEBOURGEOIS: Yes.

MR. BENNETT: Blood sugar problems.

MS. daPONTE: I'm sorry?

MR. BENNETT: Blood sugar problems –

MS. daPONTE: [239] [701] Okay.

MR. BENNETT: – can cause people to act abnormally.

MS. daPONTE: All right. Have you ever run into any cases of clinical depression, and by clinical depression I'm not just talking about just being sad, I'm talking about clinical depression that actually is caused by an imbalance of serotonin in the brain?

MR. BENNETT: Yes, yes ma'am.

MR. LEWIS: My mother.

MS. daPONTE: Your mother. Is it all right if we talk about that a little bit?

Does she take medication to control that depression?

MR. LEWIS: Yes, it's due to diabetes.

MS. daPONTE: Okay. It's depression due to the diabetes?

MR. LEWIS: Yes. She had gone into low blood sugar.

MS. daPONTE: Just like a bunch of you have.

MR. LEWIS: Right.

MS. daPONTE: And do you notice the difference when [240] [702] she's on the medication and when she's not?

MR. LEWIS: Yes.

MS. daPONTE: So would everybody agree that – or has everybody heard or read that clinical depression is a brain problem, it is caused by something in the brain, it's not just being sad? Does everybody understand that? All right.

And there are medications to control it. Everybody understand that?

Has anybody heard of cases of depression that are so severe that somebody does something that they wouldn't ordinarily do, because they didn't know that what they were doing was wrong?

And I'll give you the example that I think is kind of a hot example, is postpartum depression. You've heard about

mothers who, because there's something wrong with the brain, something happens with hormones in the brain, are so severely depressed that in extreme instances they were killing their newborns. Has everybody heard about that?

Has anybody not heard about it?

Is that something, Ms. Lovell, that you could recognize?

MS. LOVELL: Uh huh.

MS. daPONTE: [241] [703] Is there anybody that could not recognize that that might have happened because they didn't know the difference between right and wrong?

Ms. Braud?

MS. BRAUD: I could understand that.

MS. daPONTE: I'm sorry, I can't –

MS. BRAUD: I could understand that.

MS. daPONTE: All right. Everybody understands that Mr. Snyder's presumption of innocence means that he is not required to do anything today. If I didn't want to stand up here and talk to you for such a long time, I wouldn't have had to do this at all, and you couldn't have held that against Mr. Snyder.

Likewise, Mr. Snyder is not required to present a single witness, he's not required to testify and tell you his side of the story.

Is there anyone who feels like a criminal defendant should be required to testify? Anybody feels that way?

Ms. Lebourgeois, how about you?

MS. LEBOURGEOIS: Uh uh.

MS. daPONTE: How about you, Mr. Bennett?

MR. BENNETT: [242] [704] Not necessarily.

MS. daPONTE: Mr. Bourgeois?

MR. BOURGEOIS: No. If he feels he's really innocent, I would wonder why wouldn't he want to testify.

MS. daPONTE: Okay. That's a good question.

Do you all feel the same way, why wouldn't he?

Can anybody think of a reason why a defendant might not testify?

MR. BROOKS: He may say something to destroy his credibility, by accident.

MS. daPONTE: And would that necessarily mean he was lying?

MR. BROOKS: No.

MS. daPONTE: Or would that necessarily mean he was guilty?

MR. BROOKS: Not necessarily.

MS. daPONTE: You all have seen me struggling up here to convey various things to you that I need you to know, and you can see that this communication is a process that's some times difficult.

[243] [705] Imagine if you're on trial for your life, how difficult it might be to convey, all right?

And Mr. Bennett, you talked about what you would do if you had a lawyer represent you. What if your lawyer said, Mr. Bennett, don't take that witness stand, this man has been trained to tear you apart like a pit bull, don't take the witness stand.

MR. BENNETT: I would heed his advice.

MS. daPONTE: You would listen to your lawyer.

Does anybody else feel like if your lawyer said don't take the witness stand, you would understand and would sit there and keep quiet.

Mr. Bourgeois, how about -- even if you wanted to say I'm innocent, and if I said Mr. Bourgeois, I know this man, he will tear you to shreds, you can be Mother Theresa and he will make you look like a thief.

Could you listen to me?

MR. BOURGEOIS: Yes.

MS. daPONTE: Could everybody listen to me and stay off the witness stand if I told you to? And not hold it against Allen if I advise him not to take the witness stand?

I'm almost done.

Let me talk about the responsive [244] [706] verdicts in this case. We talked about first degree murder which carries the sentence of life or death.

We talked about second degree murder which carries a life sentence.

And the third responsive verdict is manslaughter, and I want to talk to you about manslaughter.

The fourth responsive verdict is not guilty.

Mr. Williams talked to you about first degree – about second degree murder, what that means is, specific intent to kill.

Manslaughter, it's just like first degree murder or second degree murder. You can be – if Mr. Williams proves up every single element of first degree murder, second degree murder, the jury can mitigate that case to manslaughter if it finds these special elements.

Well first of all, let me just ask, I might be able to shorten this up. Does anybody know about manslaughter? It's been so long since I haven't thought like a lawyer, I don't remember if I knew about manslaughter before. Has anybody heard about manslaughter and what that means?

Captain Bondi?

MR. BONDI: It's when you kill somebody where the particulars of the case don't fit into the first degree or second degree murder.

[245] [707] MS. daPONTE: Heat of passion? Have everybody hear of heat of passion?

That's basically that hot blood, and, it's even in the Code of Criminal Procedure that way.

A manslaughter is a murder which would be – or it's a homicide which would be murder, because all the elements are present, except that it's committed in heat of blood, immediately caused by provocation sufficient to deprive an average person of his cool reflection. All right, heat of blood, what else?

Heat of passion, hot blood, crime of passion, those are the things that you think of when you think of manslaughter? Okay.

And what you need to decide is, – well, you know what heat of passion is, it's so mad I could kill, everybody kind of gets that. You wouldn't do it if you weren't so inflamed.

But what the law requires you to do, is to decide whether the heat of passion was caused by provocation, and whether that provocation was something that would make an average man go crazy. What are some of the terms that you hear when you hear about heat of passion; he went crazy, he was off his – you know, he went nuts, he went insane, he lost his mind. It's very emotional.

And you decide whether the provocation [246] [708] is sufficient that an average person, and you decide what average is, and we'll talk about that in a minute, would lose his cool reflection.

And what that does, is it mitigates the crime, it certainly doesn't excuse it. You can get up to forty years for manslaughter, so we're not talking about excusing the crime, we are talking about mitigating it, because the law recognizes human frailties, and the law, in every jurisdiction in the whole country, has the crime of manslaughter, because those statutes, those legislatures have recognized human frailties and hot blood.

Let me ask you, is there anybody that can think of an example of something which would be a murder, but which might be mitigated to manslaughter? Anybody want to volunteer anything?

Let me give you an example. You knew I'd have one. Let me give you an example.

Say we have a woman whose lover is leaving her, and he tells her it's been great, so long, I'm leaving; by the way, I have AIDS. And she's horrified, and she rushes to the doctor's office and she gets a blood test, and two weeks later she gets the results, and she has AIDS too. And for three days she's out of her mind, and she goes to a bar, and she – the bar where she knows her ex-lover hangs out, and she [247] [709] brought a gun, and she waits until he comes out of the bar, and she shoots him.

That might be a case where murder would be mitigated to a manslaughter because of hot blood caused by provocation sufficient to deprive an average person of their cool reflection.

You would decide that. You would decide – certainly the hot blood is there. You would decide whether the provocation was sufficient, you would decide; the Code says immediate provocation. Actually the Code also says it's not going to be a manslaughter if the jury finds, the jury, not the D.A., not the Judge, if the jury finds that the offender's blood had actually cooled, or that the average person's blood would have cooled.

So in this situation, you get to decide. Number one, is finding out that somebody gave you AIDS sufficient provocation to cause you to lose your cool reflection, and act in hot blood and kill somebody? Is that sufficient?

Number two, just because this happened two weeks and three days after the initial confrontation, is that too long to make this a manslaughter?

Some of you might think that it is too long, and some of you might think, I don't care if she waited a year, that's a manslaughter, that is not a murder.

[248] [710] That's what's the great thing about the jury system, you get to decide that. And you also get to decide what the average person is, whether the average person finding that out would have lost their cool reflection. All right? So those are some things for you to consider.

Does anybody have any other – can anybody give me any other example of a murder that might end up being a manslaughter?

A man finds his wife in bed with the milk man, he comes home early – there was a man in Baton Rouge who shot the man who had been accused of molesting his son.

Do you remember that case, Mr. Brown? That man actually lay in wait [sic], he was at the airport, found out when the guy's plane was coming in, pretended to be on the telephone, and then shot the guy.

Now, would you agree, – well, I'm not even going to ask you if the District Attorney's decision to let him plead guilty to manslaughter was the right decision.

But that's the kind of case that you –

MR. WILLIAMS: Judge, objection, that's not what happened. The Grand Jury didn't charge him, they let him go, as a matter of fact.

MS. daPONTE: Well then, I'm mistaken. I thought that he pled guilty to manslaughter. But at any [249] [711] rate, the decision was made that this man was not responsible.

Would you consider things like that in deciding whether a case is mitigated from murder to manslaughter,

or are those things that you all could consider? Or do you believe that manslaughter just has no place in the law? Is there anybody that believes that, manslaughter just doesn't belong in the law?

When you have listened to the evidence in this case, you'll be called upon, – as Mr. Williams told you, this is a unanimous decision, you have to all agree.

But we also, each one of us, Mr. Williams and Mr. Snyder and I and Mr. Vazquez, we are entitled to your individual verdict. In other words, if you are persuaded by what your fellow juror tells you, and reminds you about the case, certainly you could change your mind. But if you have an opinion, we are entitled to you to hold fast to that opinion, if you are not persuaded. If it's late, or it's Labor Day, that is not sufficient persuasion.

So I'd just ask you to promise to speak up in the jury room, and hold on to your individual decision.

Can everybody promise me that?

MR. BROWN: Yes.

MS. daPONTE: [250] [712] I don't think I have any more at this point.

Mr. Vazquez has some questions that he wants to talk to you about with regard to the penalty issue.

I thank you for your attention.

MR. VAZQUEZ: Good afternoon ladies and gentlemen.

I'll try to be as direct as Mr. Williams was, and as thorough as both of these attorneys have been, and because they've been so thorough, I really don't have all that many questions to ask of you.

For the folks out in the audience, I think the next few rounds will go a lot quicker and a lot smoother, so don't think that this is a precursor of what's coming. I think we'll be able to move it a lot quicker. These folks are sort of – you're all sort of like guinea pigs, we're going over things in minute detail. But for the next batch, I think we'll be a lot quicker.

And I'd like to commend you for your honest answers, and let you know that there are no right and no wrong answers here. All we're seeking, both the State and the defense, are people who can keep an open mind.

Mr. Brown, I'm going to pick on you first, because I believe in response to a question by Mr. Williams, you had indicated that if you found the defendant guilty of [251] [713] first degree murder, you would automatically impose the death penalty. I thought I saw you raise your hand.

MR. BROWN: Yeah.

MR. VAZQUEZ: Is that correct?

MR. BROWN: Yes.

MR. VAZQUEZ: Okay. So what you're saying, sir, is that if you found Allen Snyder guilty of first degree murder, you could not consider anything that I may present to you by way of mitigation?

MR. BROWN: No. I think if he's guilty of first degree murder, he deserves the death penalty.

MR. VAZQUEZ: Okay. And let me tell you, there's nothing wrong with that opinion, everybody is entitled to their own opinion. I don't think you're a Nazi or anything like that, because we all have our own opinion.

Does anybody else feel that way?

MR. BOURGEOIS: If he's totally proven guilty of first degree murder?

MR. VAZQUEZ: Yes, sir. Because what's going to happen -

[252] [714] MR. BOURGEOIS: Then I think he should be put to death.

MR. VAZQUEZ: Okay. Let me just explain the process again, because the way we're doing it here - you know, the law requires that we do it this way, the problem is to do it. We're sort of presenting the cart before the horse when we're talking about the death penalty.

If in fact, after how ever many number of days, you all as jurors decide that Allen Snyder is guilty of first degree murder, we come back for what is the penalty phase.

Actually, you have, - you've already decided that the least he's going to get is life imprisonment, without probation, parole, or suspension of sentence.

Then, what you have to decide is, well, is that good enough, or should he then be given the death penalty.

So Mr. Bourgeois, what I'm going to do, is we're going to jump ahead a few days, and we're going to assume that the State has proven their case beyond a reasonable doubt, and that you are one of the jurors who was selected, and

has decided that he is - that Allen is guilty of first degree murder.

Is there anything that I could present to you by way of mitigation evidence, anything regarding his upbringing, anything regarding any sort of state of mind, anything regarding the way he conducted his [253] [715] life up until a certain point, whereby you would consider anything other than the death penalty?

MR. BOURGEOIS: Probably not, not if the evidence proves to me that it's first degree murder. I believe in the death penalty, I don't believe in somebody just living the rest of their life in prison.

MR. VAZQUEZ: So you would vote to impose the death penalty?

MR. BOURGEOIS: Yes.

MR. VAZQUEZ: Okay. Did someone else raise their hand? Did someone else say that as well, that is if you found him guilty beyond a reasonable doubt, Mr. Vazquez, I don't care what you put - whatever you put on that stand, I don't care who testifies, there's nothing else I could consider, he would automatically get the death penalty as far as I'm concerned. Okay?

MR. BOURGEOIS: This you didn't make clear, is this before you all try to prove your case of insanity, or after, or what?

MR. VAZQUEZ: Well, the defense is not guilty, and not guilty by reason of insanity, so it would be after that.

[254] [716] I mean, you would already have – let's assume you would have already have rejected that argument, that he was insane.

However, let me tell everyone that the law, the Code of Criminal Procedure, the Louisiana Code of Criminal Procedure, and this is the law, allows the defendant to present mitigating circumstances.

Mitigating circumstances are not excuses to the crime, because remember, whether he did the crime or not has already been decided, we're now talking about mitigation. We are now talking about reasons that may justify sparing his life, and letting him spend the rest of his life in jail.

One of the mitigators that the law allows us to present, is the fact that the offense was committed while the offender was under the influence of extreme mental or emotional disturbance. Okay?

Is that something – let me pick on someone else. Mr. Burns, is that something that you could consider, that you could seriously consider in determining life versus death? Because that's all I'm talking to you all about at this point, life versus death. Forget about guilt, you've already decided that.

MR. BURNS: His mental state at the time?

MR. VAZQUEZ: Yes, sir.

[255] [717] MR. BURNS: Yes, I could consider that.

MR. VAZQUEZ: By way of mitigation?

MR. BURNS: Yes.

MR. VAZQUEZ: Mr. Lewis, I'm going to disagree a little bit with what Mr. Williams said regarding the concept of mercy or sympathy, because in the penalty, or the sentencing phase, you are allowed to consider the concept of mercy.

And mercy can be anything, anything that comes from your heart, from your mind, from your experiences, you are allowed to consider that. The code specifically says that any other relevant mitigating circumstance is something that shall be considered.

So is that something that you could seriously consider, the concept of mercy?

MR. BURNS: Yes.

MR. VAZQUEZ: Does everyone understand that – because the State is also allowed to present several aggravating circumstances. Does everyone understand that this is not a counting process? In other words, if the State gets up and presents four aggravating circumstances, and the defense does not [256] [718] present any, that does not automatically mean that Allen Snyder gets the death penalty. Okay? Because the death penalty is never automatic, it's something that you all are to consider, you're not obligated to impose it.

Does anyone have a question about that? Okay.

Ms. Clerk, you indicated that because of your religious beliefs you would not be able to impose the death penalty, is that correct?

MS. CLERK: Correct.

MR. VAZQUEZ: If, let's say, you were to be selected on this jury, and the Judge instructs you on what the law is, and the Judge says that you are to follow the law, do you think that you could put aside your religious beliefs and follow the Judge's instructions? Or do you believe that - or are your beliefs so strong that you could not follow the Judge's instructions?

MS. CLERK: I would not be able to.

MR. VAZQUEZ: Now let me just say that the Judge isn't going to put anybody in jail if they say that, okay, that they can't follow the Judge's instruction one way or the other; there's nothing wrong with that.

[257] [719] Ms. Braud, if I were to present to you evidence that - again, we're going forward in time, and you've found the defendant guilty of first degree murder. If I present evidence to you that he does not have a substantial criminal history, is that something that you could seriously consider in returning life versus death?

MS. BRAUD: After listening to the entire case, and he is found guilty of murder, I'm for the death penalty.

MR. VAZQUEZ: Is -

MS. BRAUD: Nothing else would persuade me.

MR. VAZQUEZ: Nothing that I could present to you?

MS. BRAUD: No. It's the only judgment.

MR. VAZQUEZ: Ms. Lovell, let me ask you?

MS. LOVELL: It's based on the facts.

MR. VAZQUEZ: Right.

MS. LOVELL: The death penalty is substantial in and of its right, and so is the lack thereof. So it's just a matter of what the facts are like.

MR. VAZQUEZ: [258] [720] Ms. Lebourgeois?

MS. LEBOURGEOIS: I feel that if he has taken someone else's life, I think he should get the same.

MR. VAZQUEZ: You think he should get the death penalty?

MS. LEBOURGEOIS: Uh huh.

MR. VAZQUEZ: There's nothing I could do by way of mitigators, whereby you could consider any of the mitigators?

MS. LEBOURGEOIS: I don't think so.

MR. VAZQUEZ: Your opinion would be so fixed that -

MS. LEBOURGEOIS: Probably so.

MR. VAZQUEZ: Judge, could I have just one moment to confer with co-counsel?

You see, you've got a lawyer that actually kept his promise.

That's it. Thank you very much.

MR. WILLIAMS: Your Honor, I'd like the Court's permission to traverse several of the jurors regarding -

THE COURT: Permission granted.

MR. WILLIAMS: [259] [721] Thank you.

Let's see, specifically Mr. Bourgeois and Ms. Braud regarding their feelings about the death penalty.

First, let me – before I ask you, let me ask you, based upon the voir dire of Ms. daPonte and Mr. Vazquez, do you think you know what happened in this case? You've got a feeling you know what happened in this case?

MS. BRAUD: I –

MR. BOURGEOIS: Just some of the things, but not the whole story, no.

MR. WILLIAMS: Ms. Braud, how about you ma'am, based upon what Ms. daPonte and Mr. Vazquez just told you all over the last hour or so, do you think you know what happened in this case?

MS. BRAUD: No, I haven't heard – I haven't heard the case.

MR. WILLIAMS: Okay. Well then, Mr. Bourgeois, if I suggested to you that you don't know anything about the case, because all they're doing is throwing out legal concepts.

Like I said, what the lawyers say doesn't mean anything, it's just asking you all, as prospective jurors, how you feel [260] [722] about a certain defense, because you've heard insanity, you've heard manslaughter, you've heard he won't testify, you've heard just about everything. And obviously that doesn't make any sense, all of those things. But it's just – and it's their right to do it, it's absolutely proper to ask each and every one of you how you feel about certain legal concepts.

I want to make it clear that nobody is making up their mind about what us lawyers are saying right now. That will be after you're seated as a juror. It's just because it's human nature to sit there and think, well, I wonder what happened in this case. Well, she's talking about insanity and manslaughter, and what if he doesn't testify, and will you hold it against him, and all this. It's got to start making the ticker go, but it doesn't mean anything, it's just individual legal concepts, how do you feel about it.

Just as when Mr. Vazquez ask [sic] you about the death penalty, you said that I think that I would automatically impose it.

Well, let me give you – once again, we don't know what happened, we don't know what evidence you're going to hear, but let me give you an example, and ask you if you could consider the imposition of life imprisonment if the evidence showed that the defendant was a – just a principal whose [261] [723] participation was relatively minor.

And let me give you an example, let's suppose that a group of people decide to rob a bank. You get a guy who charts out the bank, you've got one guy that is the wheel man, the driver, and another guy is the guy that goes in with the gun and does the robbery. And they all decide before they go in that if anybody does anything, or tries to stop us, we'll kill everybody; and they all three agree on that. And let us suppose that the bank robbery is accomplished, one fellow stays home, one fellow is driving, and one fellow is the gunman. And the gunman goes into the bank and he kills the teller just because he doesn't want any witnesses; he gets back into the car, they drive off, and they go back and split up the loot with the third guy who is back at home.

Now, could you consider life imprisonment for the two guys who didn't actually commit the murder, in that kind of instance? Consider, and that's obviously not what happened here, but there are a large number of mitigating circumstances which you can consider. And that's all we're asking, is for you to listen to all of the evidence regarding whether you get the death penalty or life imprisonment, and if you can tell us that you would not, before you heard the evidence, make up your mind, but you'd listen to all the evidence, and then [262] [724] depending on what the evidence is, you'd render your decision.

Could you do that, sir?

MR. BOURGEOIS: Yes.

MR. WILLIAMS: Okay.

Ms. Braud, how about you, ma'am?

MS. BRAUD: Well, what you stated, three people planned a robbery, -

MR. WILLIAMS: Uh huh.

MS. BRAUD: - and one person shot another person.

MR. WILLIAMS: Yes, ma'am.

MS. BRAUD: The people that didn't shoot are just as guilty as the one who shot.

MR. WILLIAMS: That's the law.

MS. BRAUD: That's my theory.

MR. WILLIAMS: Well, and that's exactly what the law is.

But let's say, for example, that that was the case here, which it's not, but since we're just talking legal principles today; if that were the case, and if there was three guys sitting there on trial for that [263] [725] murder, then certainly the lawyers for the two guys that didn't actually pull the trigger -

MS. BRAUD: It would be the same.

MR. WILLIAMS: - would argue - would argue, we think you should spare our clients because they didn't kill anybody.

And that is a legitimate mitigating circumstance according to the law.

Now, if you could consider that, great. If you said guilty, death, end of story.

MS. BRAUD: That would be the end of the story for me.

MR. WILLIAMS: Okay. Could you envision any circumstance, perhaps somebody who's - what if there was a young man of fifteen years of age who committed a murder and was convicted of first degree murder, could you consider someone's age as a possible reason to give them life in prison as opposed to the death penalty?

MS. BRAUD: I'd have to hear the thing myself, I'd have to hear the case myself.

MR. WILLIAMS: Ma'am, that's exactly my point. And that is, - what I'm asking you to do now, if you can, is to listen to all of the [264] [726] evidence before you decide.

MS. BRAUD: That's right.

MR. WILLIAMS: Exactly. But if you tell us now that if he's guilty of murder, it's automatically the death penalty, I will not listen to any evidence that you want to present to me to try to convince me to give him life imprisonment, then that's one thing.

But if you say, all right, if he's guilty of murder, he's guilt [sic] of murder, I'll listen to what you have to say before I make up my mind, that's entirely another thing.

Do you understand what I'm saying?

MS. BRAUD: Uh huh.

MR. WILLIAMS: And if you've made up your mind already, that's okay with me, you know, if that's what you truly believe.

But if you can tell us that I'll listen to all of the evidence before I make up my mind -

MS. BRAUD: I'm not easily swayed is what I'm trying to tell you.

MR. WILLIAMS: Okay. But could you consider mitigating evidence, or would you -

MS. BRAUD: If I've heard all the evidence, -

[265] [727] MR. WILLIAMS: Uh huh.

MS. BRAUD: - and this jury finds him guilty, that he killed somebody, -

MR. WILLIAMS: Yes, ma'am.

MS. BRAUD: - when it's going to be decided if he goes for death or life imprisonment; it'll be that death as far as I'm concerned.

MR. WILLIAMS: Okay. And Mr. Bourgeois, you understand, you could listen to the mitigation before you decided, is that correct, sir?

MR. BOURGEOIS: What you're saying is, it's like a separate -

MR. WILLIAMS: Absolutely.

MR. BOURGEOIS: Is that totally after?

MR. WILLIAMS: Absolutely. And I want to make sure you understand.

MR. BOURGEOIS: But you've already proven your case that he was guilty of first degree murder.

So all they're asking for is some sympathy for the defendant.

MR. WILLIAMS: Well, no. What they're asking for; the [266] [728] law allows the defense, in the penalty phase, you've already found him guilty, okay? In the penalty phase the law allows the defense to put on evidence, there are about twelve mitigating circumstances; that the offender was young, that the offender suffered from a mental defect at the time of the offense, that the offender was a principal whose participation was relatively minor, that the offender was under the domination of another person, you know, kind of a Patty Hurst [sic] kind of thing, there are a lot of things that they could put on evidence to try to tell you, look, this guy ain't the worst guy that there is. He's not up there with the Charles Manson kind of guy, give him a break, give him life in prison. And you make the decision.

And I'm going to put on evidence, I'm going to show that he's the kind of guy that does deserve the death penalty.

But it's up to you to weigh what the evidence is.

Can you do that?

MR. BOURGEOIS: It would have to be very strong mitigating evidence.

MR. WILLIAMS: But you could consider it?

MR. BOURGEOIS: Yes.

MR. WILLIAMS: [267] [729] Okay. Now, let's see, Ms. Lebourgeois, you had a problem with the domestic violence aspect of this. You heard a lot – do you think you know what happened in this case?

MS. LEBOURGEOIS: No.

MR. WILLIAMS: You've got an idea of what you think happened?

MS. LEBOURGEOIS: Probably, maybe.

MR. WILLIAMS: Okay. Well, I have to say, you have to just throw that out.

You were just asked about legal concepts, –

MS. LEBOURGEOIS: Uh huh.

MR. WILLIAMS: – and how you felt about them. And I believe you felt – or your told Mr. Vazquez that you would automatically vote for the death penalty.

Now, you've just heard what I told Ms. Braud, who feels very strongly about it, and Mr. Bourgeois who feels as he feels; how do you feel about that?

MS. LEBOURGEOIS: If they are – if they can take someone else's life, they deserve to have theirs taken too.

MR. WILLIAMS: [268] [730] Well, they deserve it, but would you automatically do that without listening to any evidence in their favor?

MS. LEBOURGEOIS: If he's found guilty of first degree murder, –

MR. WILLIAMS: Uh huh.

MS. LEBOURGEOIS: – without whatever that phrase is, without a reasonable cause or whatever, –

MR. WILLIAMS: Beyond a reasonable doubt.

MS. LEBOURGEOIS: Yeah. Then, yes.

MR. WILLIAMS: Okay. I respect that.

Let's see, I think that's all.

Yes sir, Mr. Bennett.

MR. BENNETT: Just one question. I need to make it clear in my own mind. Can he be proven insane, and still be found guilty in this case?

MR. WILLIAMS: No, no. In some states they have guilty and insane, not in Louisiana, no.

MR. VAZQUEZ: Judge, could I approach for a minute?

THE COURT: Sure.

(THERE WAS AN OFF THE RECORD CONFERENCE AT THE [269] [731] BENCH)

THE COURT: Mr. Bourgeois, Mr. Bourgeois, would you come over to the Bench, please?

(THE FOLLOWING IS A CONFERENCE AT THE BENCH)

MR. VAZQUEZ: Mr. Bourgeois I just have a few more questions, and I thought we'd do it a lot quicker up here.

I'm a little bit confused by your answers, and maybe it's me confusing you, or the D.A. confusing you, or whatever.

Did you not say, sir, that if you found Mr. Snyder guilty, beyond a reasonable doubt, of first degree murder, that you could not consider anything –

MR. BOURGEOIS: I wasn't considering the mitigating evidence as like separate course of action after – after we find him guilty.

So I could listen to the mitigating evidence. But like I said, it would have to be very very strong evidence for me to be swayed not to give him the death penalty.

MR. VAZQUEZ: Well, do you understand, that just like in the guilt phase, the defendant does not have to present any mitigation evidence?

So let me ask you to assume that I don't present any mitigation evidence.

MR. BOURGEOIS: If there was no mitigating evidence, no [270] [732] mitigating evidence, then I would say yes I would give the death penalty if he was found guilty of first degree murder.

MR. WILLIAMS: That's an improper question.

MR. VAZQUEZ: No, it's not.

MR. WILLIAMS: That's absolutely improper, you can't say you're going to do something and get a commitment from somebody, and then say, well, what if I didn't do it.

That's ridiculous.

MR. VAZQUEZ: But the law – it's not ridiculous.

MR. WILLIAMS: It is ridiculous.

MR. VAZQUEZ: No. Your objection is ridiculous.

I'm not required to present any mitigation.

They have to prove beyond a reasonable, doubt aggravating factors.

MR. WILLIAMS: They're not required to find life –

MR. VAZQUEZ: Yes he is, it's either life or death, that's the only two penalties.

MR. WILLIAMS: But if you're asking for an ultimate decision based upon what you might do, he doesn't have to give you a guarantee –

[271] [733] MR. VAZQUEZ: I'm not asking for a guarantee, I'm asking him if he could consider anything

other than the death penalty. And he's indicated he can not.

MR. WILLIAMS: That's after you said you presented no evidence.

MR. VAZQUEZ: Okay.

MR. BOURGEOIS: First degree murder, I do consider death - I mean, I would consider the death penalty.

I mean, I feel like the death penalty is what he should get on a proven first degree murder, without any mitigating evidence.

THE COURT: You heard some of the examples Mr. Williams said, or stated of mitigation, possible mitigating factors; under those - after hearing some of those examples, are there any sets of circumstances that you think that you would consider, giving life instead of death, after conviction for first degree murder?

MR. BOURGEOIS: Well, like I said, I would hear the evidence. I mean, I don't know, I can't think of any off hand, but -

MR. VAZQUEZ: Well, let me toss one out to you.

[272] [734] MR. BOURGEOIS: Like temporary insanity, is that, you know, is that one you might be thinking of?

MR. VAZQUEZ: Let me toss one out to you.

One of them, under the law, is lack of significant criminal history. Is that something that you could seriously consider in determining life versus death?

MR. BOURGEOIS: In other words, what do you mean by significant criminal history?

MR. VAZQUEZ: I know, that's the law, it's vague.

MR. BOURGEOIS: It's very vague. I mean -

THE COURT: It would have to be dependent on how significant to you?

MR. BOURGEOIS: To me, yes. That's what I said, it would have to be -

THE COURT: But if it was -

MR. BOURGEOIS: - strong evidence, you know, then I would consider, you know, life instead of death.

THE COURT: Okay, thank you, sir.

(MR. BOURGEOIS LEFT THE BENCH)

MR. WILLIAMS: [273] [735] In challenges for cause, I have Captain Bondi. He said he would never -

THE COURT REPORTER: Jim, you have to talk -

MR. WILLIAMS: Okay.

Dominick Bondi for cause, for no death.

THE COURT: All right, we're going to excuse Mr. Bondi.

MR. WILLIAMS: Okay.

MR. VAZQUEZ: Do you have an objection on that?

MS. daPONTE: No objection.

MR. WILLIAMS: Ms. Clerk, at the top, the crossing guard, she said she could never vote for the death penalty.

THE COURT: All right, we're going to excuse Ms. Clerk.

MR. WILLIAMS: And that's all for me.

THE COURT: Any objection?

MS. daPONTE: No objection to Ms. Clerk.

Judge, do you want our challenges for cause? Can we have just a second?

(DISCUSSION OFF THE RECORD)

[274] [736] Judge, we issue a challenge for cause as to Ms. Lebourgeois.

MR. WILLIAMS: No objection.

MS. daPONTE: Thank you.

As to Harlan Brown, who indicated that, for a variety of -

MR. WILLIAMS: No objection.

MS. daPONTE: Thank you. Okay.

Peggy Boudreaux, couldn't even consider an insanity defense, couldn't even listen to it.

MR. WILLIAMS: No objection.

MS. daPONTE: Okay. And Judge, William Bourgeois, we're -

MR. WILLIAMS: Object.

MS. daPONTE: - going to request a challenge for cause.

MR. WILLIAMS: He said he could consider it, that's the - if they could consider it, they're okay. Whether he was leaning towards it or not doesn't matter. You asked if he could consider mitigation, and he said he could.

THE COURT: [275] [737] He said he would consider mitigation, it would have to be very strong.

MR. VAZQUEZ: I think that imposes an unfair burden on us.

MS. daPONTE: I think it does, I think that imposes a higher burden on us.

MR. VAZQUEZ: He said it would have to be very strong mitigation, and -

MR. WILLIAMS: That's not the issue.

There's no law on that. The issue is, could they consider it. Just like if somebody got up there and said, I'm leaning heavily toward life, but I might could do the death penalty. There's no law on the burden, it's just "Consider" is the issue.

THE COURT: Okay. I'm not going to excuse him for cause.

MR. VAZQUEZ: Please note our objection.

MS. daPONTE: And Ms. Braud.

MR. WILLIAMS: No objection.

THE COURT: Peremptory challenges.

MR. WILLIAMS: Mr. Bennett is acceptable to the State.

[276] [738] MS. daPONTE: Accepted by the defense.

THE COURT: Mr. Brooks.

MR. WILLIAMS: Mr. Brooks is acceptable to the State.

MS. daPONTE: Accepted.

MR. WILLIAMS: Mr. Bourgeois is accepted.

MS. daPONTE: Excused.

MR. WILLIAMS: Mr. Lewis is acceptable.

MS. daPONTE: Acceptable.

MR. WILLIAMS: Ms. Lovell is excused by the State.

Mr. Burns is accepted by the State.

MS. daPONTE: Excused.

MR. WILLIAMS: Ms. Remond is accepted by the State.

MS. daPONTE: Excused.

MR. WILLIAMS: We've got three, Bennett, Brooks, and Lewis.

(END OF CONFERENCE)

Examination and striking of third panel
(Two prospective jurors, Thomas Hawkins and
Elaine Scott, are African American)

THE COURT: Please answer the questions of the attorneys.

MR. OLINDE: May it please the Court, Ladies and Gentlemen, my name is Alfred Olinde, Jr. and along with Jim Williams, I also represent the State of Louisiana in this case. I thank all of you for your patience yesterday, for sitting through all of this. You all know it's an important process, and I'm sure everyone remembers what was said yesterday. Just with a show of hands here, does everyone remember what Mr. Williams said about what first degree murder was, that crime? Does everyone remember what that crime was? Okay, then we'll move along.

Does everyone here remember, as Ms. DaPonte and Mr. Williams told you, that this process is going to be like two trials, potentially? The first trial would be to determine whether or not Allen Snyder is guilty of first degree murder, and then the second part, if you reach that phase, will go into a penalty phase and the second trial will start. And you'll hear more evidence from the State of Louisiana, and the defense at that time will have an opportunity to put on evidence. In that second trial, you would [9] [848] determine whether he should receive life imprisonment or the death penalty. Everybody's with me, what happened yesterday?

With that said, I'd like to immediately ask the questions that were asked yesterday and take the assumption that you've sat on this jury, you've heard all of the evidence, and it's tough to do since you don't know what the evidence is yet in this case. After hearing all of the evidence, you, as a member of that jury, along with the rest of

your jurors, said, Okay, we believe Allen Snyder is guilty of first degree murder. At that point, you're ready to enter the penalty phase.

Entering the penalty phase, Mr. Hawkins, sir, and I'm going to preface this by saying I'm not asking anybody to answer other than their honest answer. If you are personally and morally, religiously, philosophically against the death penalty, tell us that. You heard the New Orleans Police Officer yesterday who said that. That's what we need to know.

Mr. Hawkins, sir, could you consider the imposition of the death penalty upon Allen Snyder if you were selected as a juror in this case?

MR. HAWKINS: Yes.

MR. OLINDE: [10][849] Mr. Moore?

MR. MOORE: No, I could not.

MR. OLINDE: Is it because of a longstanding religious, personal, or moral belief that you hold?

MR. MOORE: Religious and moral, yes.

MR. OLINDE: Okay. And regardless of what evidence you would hear from our side, can you ever envision a set of facts or circumstances which would cause you to change your mind on that topic?

MR. MOORE: No, I could not.

MR. OLINDE: Thank you, sir, for your honesty. Ms. Primeaux?

MS. PRIMEAUX: Yes.

MR. OLINDE: You could consider the imposition of the death penalty on Allen Snyder?

MS. PRIMEAUX: Yes.

(Court Reporters requests prospective juror speak up and repeat what was said.)

MS. PRIMEAUX: Yes.

MR. OLINDE: She said yes.

Ms. Rizzo, if you found him guilty of [11] [850] first degree murder, could you consider the imposition of the death penalty?

MS. RIZZO: Yes, I could.

MR. OLINDE: Ms. Alvarez - I'm sorry, Ms. Prem, if you found him guilty of first degree murder, could you consider the imposition of the death penalty?

MS. PREM: Yes.

MR. OLINDE: Ms. Alvarez, if you found Allen Snyder guilty of first degree murder, could you consider the imposition of the death penalty?

MS. ALVAREZ: No. Under no circumstances, no.

MR. OLINDE: Is this because of a longstanding moral, religious or personal -

MS. ALVAREZ: Yes, sir.

MR. OLINDE: And can you envision any set of facts or circumstances which would cause you to change your mind in that regard?

MS. ALVAREZ: No, I can't.

MR. OLINDE: Ms. Goff, could you consider the imposition of the death penalty on Allen Snyder if you found him guilty of first degree murder?

[12] [851] MS. GOFF: Depending -- Yes, I guess I could.

MR. OLINDE: Ms. DuBois, could you consider the imposition of the death penalty if you found Allen Snyder guilty of first degree murder?

MS. DuBOIS: Yes.

MR. OLINDE: I'm going to have a little problem with your name.

MS. SARACIONE: Saracione.

MR. OLINDE: Thank you very much.

If you found Allen Snyder guilty of first degree murder, could you consider the imposition of the death penalty?

MS. SARACIONE: Yes.

MR. OLINDE: Mr. Saulino, sir, if you found Allen Snyder guilty of first degree murder, could you consider the imposition of the death penalty?

MR. SAULINO: Yes, sir.

MR. OLINDE: Ms. Scott, could you consider imposing the death penalty on Allen Snyder if you found him guilty of first degree murder?

MS. DaPONTE: I'm sorry, I can't hear you.

[13] [852] MS. SCOTT: I think I could.

MR. OLINDE: Mr. Shah?

MR. SHAH: No, sir.

MR. OLINDE: Is this based upon a longstanding personal, religious or moral belief that you hold, sir?

MR. SHAH: Yes, sir.

MR. OLINDE: And is there anything that I could say or Mr. Williams could say or anyone could say that could cause you to change your mind?

MR. SHAH: No.

MR. OLINDE: Mr. Breaux, if you found Allen Snyder guilty of first degree murder, could you consider imposing the death penalty?

MR. BREAUX: Yes, I could.

MR. OLINDE: I have the reverse question to ask of everybody, and I want everyone to put out of their minds anything you've heard about this case yesterday which would cause you to think you believe you know what happened in this case, because no one has heard any evidence yet. I want to talk about the mitigating circumstances in the [14] [853] second part of the trial that you would hear. The law says you are to consider mitigating circumstances as well as aggravating circumstances when deciding whether or not to impose the death penalty. If you find him guilty of first degree murder, you've already found an aggravating circumstance; so, you'd be entitled to impose the death penalty if you so desired.

The word "consider" for mitigating circumstances means to listen to the evidence and decide whether or not you, as a juror, accept or reject that mitigating evidence, and I want to briefly do one hypothetical so that you guys can understand exactly what the Louisiana Legislature meant when they said consider mitigating circumstances. They were fair in giving you the long list of all the mitigating circumstances. I'm going to pick one of them.

Domination or control of another person is a mitigating circumstance. Now, if you heard evidence of domination or control where these guys got together, Ms. Prem, and they decided to rob an elderly lady as she was taking her Social Security check back from the Social Security office and the guy with the gun, the other two guys are going, Go ahead and kill her. Go ahead and kill her. That's a good idea. He came in and said, well, I was under the domination and control of some other [15] [854] people, after he pulled the trigger. You could consider that evidence and decide whether or not you said, Okay, I believe that, or Okay, I think that's ridiculous. I'm not going to accept that. Could you consider it that way, decide whether or not you believe that applied or didn't apply?

MS. PREM: I could consider it -

MR. OLINDE: Okay.

MS. PREM: - but I don't think I could believe that.

MR. OLINDE: Okay. And that is the threshold question in the hypothetical. Considering doesn't mean believe, and it doesn't mean not believing. It means listening and deciding.

Another hypothetical question, and I want you to assume all of this is true: A man is called by his wife over the telephone, and she tells her husband, Honey, some people have just kidnapped me and the children, and they want you to go out and kill somebody, and this guy doesn't know what's going on, and he's listening on the telephone, and the person gets on there and says, What your wife is telling you is the truth, and I want you to know that we're serious. I want you to go out and kill this guy who's going to be [16] [855] out there, who's going to be testifying against me in a trial. I'm not going to tell you who I am, but he's going to testify against me in a case where I'm a criminal defendant, and to show you that our intentions are serious, I'm going to kill your son right now, one of your kids. And you hear over the phone - The guy hears a gunshot. The wife gets on the phone and says, Honey, our son is dead. One of our sons is dead.

This person has a time limit to go out and kill this person who's going to testify against him. He's got 30 minutes to decide whether he can do that or not, and the man decides I love my family. I love my wife. I did not ask for these circumstances to be brought upon me, but they were, and for the love my children and my wife, I'm going to go out and kill that innocent person who's going to testify against that guy. And he decides to do it for those reasons. He comes to trial; he sits in this chair and he tells you, Ladies and Gentlemen, this is why I did this: I killed that man. I killed him for my wife. I killed him for my children. I was under the domination or control of another.

In Louisiana there is no defense of compulsion for murder. You cannot murder someone else because you were totally dominated by another. Even if those sets of facts are true, you listened to that [17] [856] evidence that

was rendered, you believed it, that person is still guilty of murder, of first degree murder, and you believed, after listening to the evidence of his reasons for why he did what he did, you considered it, and let's say in this hypothetical question, you actually did believe that, that he was under that kind of domination or control, does everybody understand now why you can't make your mind up on the death penalty or not the death penalty without hearing exactly what happened and exactly what the circumstances are? You have to listen to the evidence before you can decide whether you can consider something and believe it or not consider something and believe it.

Mr. Hawkins, do you feel you've understood what I've said about mitigating circumstances and the way they apply?

MR. HAWKINS: Yes.

MR. OLINDE: Could you consider a sentence of life imprisonment if you heard and believed mitigating circumstances which would cause you to think maybe life is appropriate in a particular case?

MR. HAWKINS: I can consider it, yes.

MR. OLINDE: And, Ladies and Gentlemen, it's not this case. It's any case in any forum, that's all that counts. And you can say [18] [857] in any particular case. All right, I've heard one aggravating circumstance, and I think this a first degree murder, and I've heard six or seven mitigating circumstances, and I believed four of them and I disbelieved three of them, but I'm still going to impose the death penalty. No one can tell you how to weigh mitigating circumstances against aggravating circumstances. There could be nine that you listen to and

believe and decide, Okay, even with these, I'm going to impose the death penalty.

The thing you can't do, is just go like this and say, I can't listen. I can't evaluate. I can't consider if it's a first degree murder. There's no hypothetical, even the one that you told me where I would impose the death penalty.

MS. DaPONTE: Judge, I'm going to object.

Certainly, the juror can do that. That juror just would not be appropriate to sit.

MR. OLINDE: That's correct. If you were the kind of juror who would do that, you would not be appropriate to sit.

MS. DaPONTE: Thank you.

MR. OLINDE: Mr. Moore, could you also consider a sentence - I'm sorry. You said you could not consider the death penalty; is [19] [858] that correct?

MR. MOORE: That's correct.

MR. OLINDE: All right.

Ms. Primeaux, could you consider, under certain circumstance which you haven't heard yet, the possibility of a life imprisonment, even the hypothetical that I gave?

MS. PRIMEAUX: No. No.

MR. OLINDE: You could not? Even in the situation where someone was thrust into a situation that they didn't choose to be in?

MS. PRIMEAUX: No.

MR. OLINDE: Okay. I won't go any further.

Ms. Rizzo, could you consider life imprisonment as well as the death penalty under certain circumstances?

MS. RIZZO: Yes, I could.

MR. OLINDE: Ms. Prem, did you understand the hypothetical I gave earlier about the man and his wife and his children?

MS. PREM: I think I could, but it would have to be under real extreme circumstances.

MR. OLINDE: And the law is only if you could, if [20] [859] under real - Even - No one can tell you whether to or whether not to. I can't tell you you have to, and they can't tell you you can't.

MS. PREM: I personally - I'm against life imprisonment and towards the death penalty.

MR. OLINDE: The question is not whether you lean towards one or the other. It's whether under certain circumstances you could consider a sentence of life imprisonment, and that's the question. You heard the hypothetical that I gave about the man who is thrust into circumstances beyond his control. Throw in some other mitigating circumstances. Say, the guy's never spit on the sidewalk before, never gotten a traffic ticket before. There are tons of mitigating circumstances you could possibly hear.

MS. PREM: I'd have to say, no.

MR. OLINDE: Okay. You don't think there's any situation where you could not impose the death penalty for murder?

MS. PREM: Unh-unh (negative reply).

MR. OLINDE: Ms. Alvarez, you said that you could not impose the death penalty.

Ms. Goff?

[21] [860] MS. GOFF: I could consider the death penalty.

MS. DaPONTE: I'm sorry, I couldn't hear.

MR. OLINDE: You could consider both?

MS. GOFF: Yes, I would consider it.

MR. OLINDE: Ms. DuBois?

MS. DuBOIS: I could consider it, yes.

MR. OLINDE: Ms. Saracione?

MS. SARACIONE: I could consider it.

MR. OLINDE: Mr. Saulino, sir?

MR. SAULINO: I could consider it.

MR. OLINDE: Ms. Scott?

MS. SCOTT: I could.

MR. OLINDE: Mr. Shah?

MR. SHAH: No.

MR. OLINDE: You said you couldn't consider it?

MR. SHAH: I'd consider it.

MR. OLINDE: Everyone heard Mr. Williams yesterday. [22] [861] It says murder in Louisiana, there's no requirement of premeditation. Can everyone accept that?

Now, you heard a lot of things yesterday about there could be possible defenses in this case, and you really heard the entire board: You heard not guilty, not guilty by reason of insanity. You heard people talk about manslaughter. No one's asking you at this point in time to put those things together and try and figure out what this case is or is not about.

You heard Mr. Williams, yesterday, tell you that if you go not guilty by reason of insanity, for that particular plea, the law imposes a heavy burden upon you, if you do that. First of all, unlike in any other case, you've got to prove by a preponderance of the evidence that you were legally insane, and the higher burden, even, is proving that you're legally insane.

You can listen to psychiatrist say you can be schizophrenic. You can be really, really crazy, but it doesn't mean necessarily that you're legally insane, and legally insane, the only way you can be legally insane is if you – You have a mental defect which prevents you from appreciating the difference between right and wrong. That's the only way that insanity flies in the defense for any case, including murder. And I'll also [23] [862] tell you that if you are legally insane and the jury would find someone not guilty by reason of insanity, they don't walk on the streets if they're dangerous. They go to a forensic facility where a psychiatrist determines how long they're kept there.

MS. DaPONTE: I object, Your Honor. Actually, it's the Judge who determines how long they're kept there.

MR. OLINDE: That's fine. I agree with that.

Based upon many years.

Mr. Hawkins, do you understand exactly how someone who pleads not guilty by reason – Do you understand what that burden is?

MR. HAWKINS: I understand when you're describing it – The way you describe it, I understand.

MR. OLINDE: They've got to prove to you that he did not know the difference between right and wrong, not that he's crazy; that's not it. Legally insane, didn't know the difference, can you hold him to that burden?

MR. HAWKINS: I have to consider it.

MR. OLINDE: Can you hold them to the burden of having to show he didn't know the difference between right and wrong? [24] [863] That's the law. If you can't hold him to that burden, then I need to know that, if you would consider insanity for something lesser than that.

MR. HAWKINS: I have to – I have to consider it. I couldn't say I'd hold him to it. I'll consider it. I have to hear the evidence. I don't know.

MR. OLINDE: Okay. Hearing the evidence, but you have to apply it to the law; you could hear the evidence, you make your mind on, on what the evidence is.

MR. HAWKINS: Right.

MR. OLINDE: Okay. But the law says after hearing the evidence, they have to prove that he didn't know the difference between right and wrong, and we're entitled to have them have to prove that before you say not guilty by reason of insanity. Do you follow me?

MR. HAWKINS: Yeah.

MR. OLINDE: Can you do that?

MR. HAWKINS: No.

MR. OLINDE: So, you can't hold them to that burden, then?

MR. HAWKINS: [25] [864] I'm going to have to consider it. I don't know about that.

MR. OLINDE: Ms. Rizzo, you've heard what I've had to say about insanity and what that burden that they have is. Can you hold them to having to show you that before you can find someone not guilty by reason of insanity?

MS. RIZZO: Yes.

MR. OLINDE: And let me say this, also, Ladies and Gentlemen, insanity is just like mitigating circumstances in the penalty phase. It never requires you to believe it. You have to listen to the evidence and consider whether you accept it or reject it, whether that person knew the difference between right and wrong. That's up to you: Listen, consider, accept or reject. Can you do that?

MS. RIZZO: Yes, I can.

MR. OLINDE: Ms. Goff, can you hold them to that burden of showing that he didn't know the difference between right and wrong and proving that? Can you hold them to that burden?

MS. GOFF: I guess. I don't know if I really believe in that defense or not, but I guess I could consider it.

[26] [865] MR. OLINDE: And you've heard what I've said about listening and accepting or rejecting? The law says if they're able to show you and convince you that he did not know the difference between right and wrong, that's not guilty by reason of insanity; and then the Judge takes whatever action he has to take.

And the question is: The judge tells you that's the law, and you have to apply it; can you do that? Ms. DuBois, can you hold them to the burden of showing he didn't know the difference between right and wrong, not that he's crazy or not that there's something wrong with him, but that he didn't know the difference between right and wrong. That's legal insanity. Can you hold him to that burden?

MS. DuBOIS: Yes.

MR. OLINDE: Can you listen to evidence and consider whether to accept it or reject it?

MS. DuBOIS: Yes.

MR. OLINDE: Ms. Saracione, you've heard what –

MS. SARACIONE: I could.

MR. OLINDE: You could do the same?

MS. SARACIONE: [27] [866] Uh-huh (affirmative reply).

MR. OLINDE: Mr. Saulino?

MR. SAULINO: Yes, sir.

MR. OLINDE: Ms. Scott?

MS. SCOTT: Yes.

MR. OLINDE: Mr. Breaux?

MR. BREAU: Yes.

MR. OLINDE: You heard Ms. DaPonte mention to you about the word manslaughter. Does everybody think they know what a manslaughter is?

And I think she was fair in her reading of the definition yesterday. I just want to make sure that people are able to appreciate the difference between manslaughter and murder. In order for something to be a manslaughter, there has to be sufficient provocation that would deprive an average person to lose their self-control and cool reflection. In other words, you would have to say, I think an average person, given this provocation and given the amount of time that they had to react to that provocation, may have done the same thing. An average person would do the same thing under those circumstances.

[28] [867] That's what a manslaughter is. It doesn't mean I got mad and I killed somebody, and my blood was boiling hot and, therefore, it's a manslaughter because I got mad.

Do you understand that, Ms. Rizzo?

MS. RIZZO: Yes.

MR. OLINDE: It has to be provocation that an average person would do the same thing under those sets of circumstances with that amount of time to react. Can everybody agree on that?

You heard Ms. DaPonte talk about domestic violence. I'm not going to ask everybody whether or not they, themselves, or had someone close to them who's been a victim of domestic violence. You know whether you have or

you haven't. The question is, is whether or not you can listen to evidence in this regard.

Now, she's told you that we're going to introduce some evidence of that in our case in chief, and you know that we're going to do that. We still have to prove that to you. Well, that may be totally – In fact, when the trial starts, they may say that's totally false, none of that happened. That's our burden. If we say that that happened, we've got to prove that that happened. Don't assume that anything happened yet. You haven't heard any evidence on that, okay? Don't make [29] [868] any assumptions that anything like that ever happened.

And Ms. DaPonte told you that we could use it for motive and intent. There are a couple – which is substantially correct, – and there are a couple of other things we could use it for: absence of mistake, to show that this was no mistake.

MS. DaPONTE: Judge, I'm going to object. It's been announced what this evidence is to be used for, and I don't think that Mr. Olinde needs to get into the reason it could be used.

THE COURT: Objection sustained.

MS. DaPONTE: Thank Your Honor.

MR. OLINDE: Very well, your Honor.

Really, I – What you can't use it for is to say, Okay, I believe someone abused their spouse, ergo or thus, they must have committed a first degree murder. You cannot do that. That's the one thing you cannot do. But you can use that evidence in deciding motive and intent and whether

this is the kind of person who did this particular crime and use it in connection with other evidence that you might hear in the trial. You can put these two bridges together. You can't say, Someone's a domestic abuser; therefore, they're a murderer. [30] [869] Everybody understand what you can and cannot use that for? Anybody have any problems with that?

It was talked about yesterday, was a right to remain silent – well, before I go on, has anyone on the panel here, just by a raise of hand, and you can go to the bench if it's something private, have anyone who is a close friend of theirs or they, themselves, victims of domestic violence which would say, Hey, I can't listen to you. I can't even listen to evidence on that. I can't be fair. Is there anybody like that here?

Okay, Ms. Prem. Is it something that you would like to talk about with the Judge, or can you –

MS. PREM: My mother with my dad, –

MS. DaPONTE: I'm sorry, I couldn't hear you.

MS. PREM: – My mother with my dad, and I don't think I could be fair if I was to be a juror.

MR. OLINDE: All right. I won't even go any further with you on that, then.

You heard, yesterday, about the right to remain silent and presumption of innocence. And what that means, Ladies and Gentlemen, is not presuming we're wrong about the charge. That will come to light when you hear the evidence, whether [31] [870] we're right or we're wrong, but what it does mean is that Allen Snyder starts the trial with a clean slate, and you can't presume he's

guilty of anything until you've heard sufficient evidence to show you that he's guilty of something. Everybody understand? That's what presumption of innocence means. It doesn't mean we're right or wrong. At this point in time, you don't know. It means he starts with a clean slate, and you can't presume him guilty until you've heard evidence to justify that. Everybody follow that?

The last thing I want to talk about, in addition to the presumption of innocence, that any person in America has, every person in America also has the right to remain silent. And the reasons why someone may choose to remain silent or take the witness stand are irrelevant; I'll tell you that. It doesn't matter whether their attorney advises them to or there's some other reason why they decide not to. That doesn't matter. The matter is: They have the right to make us prove our case and not take the witness stand.

Does anybody have feelings against that Fifth Amendment Constitutional Right to where you can't be a fair juror, just by a raise of the hands? I'm not going to ask everybody, but tell me if you do, because we need to talk about it.

So everyone can give someone their [32] [871] Fifth Amendment Right; is that correct?

Ladies and Gentlemen, is there anything that was said yesterday by any of the lawyers in this case, both for the State or the Defense, that you have a question about, before I sit down? Is there anything that I failed to ask anybody or that they're confused about or need any clarification on?

Mr. Williams has told me I forgot about one thing, prior jury service. Who sat on a jury before?

Okay. What kind of case was that, a civil or a criminal case, Ms. Goff?

MS. GOFF: Criminal.

MR. OLINDE: And were you the foreperson of that jury?

MS. GOFF: No, sir.

MR. OLINDE: Not what your verdict was, but do you remember what the verdict in the case was?

MS. GOFF: Guilty.

MR. OLINDE: And what kind of case was it?

MS. GOFF: Murder.

MR. OLINDE: First degree or second degree?

MS. GOFF: First degree.

[33] [872] MR. OLINDE: Did you all go into the penalty phase? If it was a first degree murder, then you went on to decide life or death?

MS. GOFF: Right.

MR. OLINDE: What was the ultimate conclusion?

MS. GOFF: Life.

MR. OLINDE: And was that a unanimous verdict?

MS. GOFF: Yes.

MR. OLINDE: Do you remember what the aggravating circumstance was in that murder case?

MS. GOFF: A man murdered his wife. She wouldn't let him see his children, and the reason he just got life was because his in-laws pleaded for his life.

MR. OLINDE: Okay. And you, along with the other jurors, felt that that was sufficient?

MS. GOFF: Yes.

MR. OLINDE: Anybody else? Anything else?

Ms. Goff, after being involved in that process that you sat - How long ago was it?

MS. GOFF: About 12 years ago.

[34] [873] MR. OLINDE: Do you think that you would be comfortable sitting on another one of these cases? Would that -

MS. GOFF: I'd rather not.

MR. OLINDE: After being through it one, going through it one time, -

MS. GOFF: No.

MR. OLINDE: - do you feel that this process might wear you - This process might wear you down, though? I just want to -

MS. GOFF: Like I said, I'd rather not. If I had to, I will, you know. I think I could be fair, but I'd rather not do it again because we were sequestered.

MR. OLINDE: Let me ask you this question and you can envision what will be coming once, if and when we

get to the penalty phase in this case, what you're going to hear. It's obvious that we're going to ask you to impose the death penalty and put on evidence. It's obvious that they're going to beg for his life and tell you not to impose the death penalty. Can you envision, knowing what the process is about and knowing how that case turned out, I'm not going to equate that case with this case, is there a possibility [35] [874] that you could impose the death penalty, having sat through that process once and knowing what's coming your way?

MS. GOFF: Yes.

MR. OLINDE: You think so?

MS. GOFF: Yes.

MR. OLINDE: Thank you, Ladies and Gentlemen.

MS. DaPONTE: Good morning, Ladies and Gentlemen. Thank you for being back.

I'm going to try to be as short as Mr. Olinde was. I think everybody had a great grasp of what went on yesterday.

Mr. Hawkins, I'd like to start with you. I was a little bit confused about what Mr. Olinde was actually asking you, and I'm not sure - I'm not sure I got it straight. Mr. Olinde asked you if Mr. Snyder's plea is not guilty and not guilty by reason of insanity, before you find him not guilty by reason of insanity, will you make me prove that he was insane? Because that's the burden. The burden goes to me. If I want you to find him not guilty by reason of insanity, then I have to prove to you that he didn't know right from

wrong. Would you make me do that before you'd even consider it?

MR. HAWKINS: Yes.

[36] [875] MS. DaPONTE: Okay. And, Mr. Hawkins, let me ask you: How do you feel about the insanity defense? Could you consider as a viable defense whether someone was suffering from a mental disease that made them unable to know right from wrong?

MR. HAWKINS: Yes.

MS. DaPONTE: Okay.

Ms. Goff, you have a hard time with the insanity defense?

MS. GOFF: I don't know if I really believe it.

MS. DaPONTE: Okay. Let me ask: Do you know anyone or have you heard of anyone with Alzheimer's?

MS. GOFF: Yes, I know somebody.

MS. DaPONTE: Okay. Do you know that person to do things that they don't even know that they're doing?

MS. GOFF: Yes.

MS. DaPONTE: Okay. If that person were to commit a crime, is there any way that you would believe that that person did not know that crime was wrong?

MS. GOFF: I guess so.

[37] [876] MS. DaPONTE: All right, do you think that you could consider the insanity defense in this case?

MS. GOFF: Yes.

MS. DaPONTE: Okay. I will assume, from everyone's answer to Mr. Olinde's questions, that everyone else feels the same way, they could consider whether someone actually was – No, two things: Whether somebody was suffering from a mental disease or defect and the second thing, whether that mental disease or defect rendered them incapable of distinguishing right from wrong. Is there anyone who just could not consider that as a viable defense?

Mr. Breaux, can you consider that as a defense?

MR. BREAUX: I can.

MS. DaPONTE: Okay. Does anyone in their family, and I'll start with Mr. Hawkins and Ms. Rizzo have family members or friends who are police officers, security guards, any involvement in law enforcement?

MR. HAWKINS: I have a lot of friends that are police officers.

MS. DaPONTE: And where are those friends police officers, in what –

[38] [877] MR. HAWKINS: Jefferson Parish.

MS. DaPONTE: Jefferson Parish, all right.

MR. HAWKINS: Third District.

MS. DaPONTE: Third District, all right. Your involvement with those people, would that, first of all, would that make you more likely to – There's going to be police officer testimony in this case. Do you think that it is

possible for a police officer to get on the witness stand and not tell the truth?

MR. HAWKINS: Yes.

MS. DaPONTE: Okay. Would you – So, you would not automatically believe a police officer over, say, my client?

MR. HAWKINS: No.

MS. DaPONTE: Okay.

Ms. Rizzo, no friends or family?

MS. RIZZO: Not really close, just some friends.

MS. DaPONTE: All right. And how do you feel about the possibility that a police officer might not be telling you the truth on the witness stand?

MS. RIZZO: [39] [878] They're human.

MS. DaPONTE: Okay. And is there any possibility that you might believe a lay witness over a police officer if their testimony was conflicting?

MS. RIZZO: Yeah.

MS. DaPONTE: Okay. Back row, Mr. Saulino, friends, family, police officer?

MR. SAULINO: Family in Ohio.

MS. DaPONTE: Okay. And they're police officers?

MR. SAULINO: Chief of police.

MS. DaPONTE: Chief of police in Ohio? What relative is that?

MR. SAULINO: My cousins.

MS. DaPONTE: How do you feel about the question that I just asked Ms. Rizzo and Mr. Hawkins?

MR. SAULINO: They're human. They lie –

MS. DaPONTE: So, you believe they can –

MR. SAULINO: Sometimes, they lie.

MS. DaPONTE: Okay. On the witness stand, even?

[40] [879] MR. SAULINO: Yeah.

MS. DaPONTE: Okay. Where in Ohio is your cousin police chief?

MR. SAULINO: One's in Liberty Township, and my uncle's in Youngstown, Ohio.

MS. DaPONTE: Anybody else, back row, friends or family, police officers?

Okay. And I'll ask the back row, Ms. Goff, do you believe a police officer could lie on the witness stand?

MS. GOFF: I guess.

MS. DaPONTE: Ms. DuBois?

MS. DuBOIS: Yes.

MS. DaPONTE: I'm going to say this right, Saracione?

MS. SARACIONE: Yes.

MS. DaPONTE: Sounds like Sierra Leone.

MS. SARACIONE: Right.

MS. DaPONTE: Ms. Scott, do you believe a police officer could lie on the witness stand?

MS. SCOTT: Yes.

[41] [880] MS. DaPONTE: And, Mr. Breaux?

MR. BREAU: Yes.

MS. DaPONTE: All right.

Does anybody have any family in the military, or has anyone served in the military, themselves? Mr. Hawkins?

MR. HAWKINS: Yes, I served.

MS. DaPONTE: You served in what branch?

MR. HAWKINS: The Army.

MS. DaPONTE: How long?

MR. HAWKINS: Two years.

MS. DaPONTE: Okay. And how long ago was that?

MR. HAWKINS: I went in in '66 and came out in '68.

MS. DaPONTE: Okay.

Ms. Rizzo?

MS. RIZZO: My brother was in the Army.

MS. DaPONTE: Back row?

MS. SARACIONE: My brother was in the Marines, and my husband was in the Army, the end of World War II and the Korean War.

[42] [881] MS. DaPONTE: Ms. Goff?

MS. GOFF: My brother was in the Army in the '60s and my husband's with the National Guards for 8 years.

MS. DaPONTE: Okay.

Mr. Saulino?

MR. SAULINO: '70 to '74, Marine Corps.

MS. DaPONTE: You were?

MS. SAULINO: Yes.

MS. DaPONTE: Ms. Scott?

MS. SCOTT: I was in the Army from '71 to '73 and a brother that was in the Army, a brother-in-law -

MS. DaPONTE: Lots of military relatives, okay, and, Mr. Breaux?

Does everybody feel like what I said yesterday about the job of a juror, to be completely intellectual and not at all emotional, is something that you all could do? Everybody think you could do that? Okay.

And do you think, Ms. DuBois, if you heard some very sensationalistic and irrelevant evidence, do you think that you'd be able to screen that out, [43] [882] recognize it for what it is and throw it away, and I'll give you that example that I gave yesterday: If David Duke were on trial here for embezzlement and the prosecutors trotted out a bunch of

pictures of him in his Ku Klux Klan uniform and had nothing -- Could you recognize that that had nothing to do with the charge, and could you throw that out and not consider it?

MS. DuBOIS: Yes.

MS. DaPONTE: And putting aside any feelings, personal feelings you might have about him, could you decide the case based on the facts that were relevant?

MS. DuBOIS: Yes.

MS. DaPONTE: Okay. Could everybody else do the same thing? Everybody recognize that irrelevant, sensational evidence and throw it out?

Mr. Breaux, do you feel like a defendant should be required to testify on his behalf?

MR. BREAUX: Yes.

MS. DaPONTE: You think he should be required to take the witness stand?

MR. BREAUX: Right.

[44] [883] MS. DaPONTE: And if Mr. Snyder elects not to take the witness stand, would you hold that against him?

MR. BREAUX: I don't know. I've got to look at the evidence.

MS. DaPONTE: And I'm going to try to ask you to pretend you've already listened to the evidence and Mr. Snyder didn't take the witness stand, and the State may not have convinced you a hundred percent, maybe you've got a close call and you're in the jury room deciding, and

you think, You know, I have some questions about the State's case. I sure wish Mr. Snyder had taken the witness stand, and I sure would like to hear what he has to say.

MR. OLINDE: I just have one objection and that's to the hundred percent comment. It's reasonable doubt.

MS. DaPONTE: I agree with that, Mr. Olinde, and I worded that badly.

If you were thinking about whether the State had proved its case to you beyond a reasonable doubt and you had some questions about the State's case and you said, I'm just not sure, I really wish I'd heard from Mr. Snyder, maybe he could have answered those questions for me. Do you think that might -- The fact that he [45] [884] didn't take the witness stand, do you think that might make you vote with the State on a close case?

MR. BREAUX: Yes.

MS. DaPONTE: You think you would, all right. I appreciate that, Mr. Breaux. And, Mr. Breaux, let me just push you a little bit farther.

The Judge is going to tell you, you can't hold it against him. You can't. You can only consider the evidence that the State presents to you. Do you still think that on a close case, even if the Judge instructs you you can't hold that against him, do you still think that somewhere you might hold it against him because you didn't hear from him?

MR. BREAUX: I would think so.

MS. DaPONTE: I appreciate that, Mr. Breaux.

Ms. Scott, how do you feel? Can a defendant – Do you think that Mr. Snyder should get up and tell you what happened?

MS. SCOTT: It's his right.

MS. DaPONTE: Okay. And, Mr. Saulino, do you think that he should have to tell you what happened?

MR. SAULINO: It's his right. It's the law.

[46] [885] MS. DaPONTE: Okay. And you can hold – You can give him that right?

MR. SAULINO: That is his right.

MS. DaPONTE: Okay. Would you hold it against him if he elected to stand on that right?

MR. SAULINO: No.

MS. DaPONTE: Okay.

Ms. Saracione?

MS. SARACIONE: No, I wouldn't hold it against him.

MS. DaPONTE: You wouldn't hold it against him. Do you think that he should testify?

MS. SARACIONE: Well, I'd have to hear the evidence, but if his lawyers advised him not to, there must be a reason why they don't want him to, and I wouldn't hold it against him.

MS. DaPONTE: You wouldn't hold it against him. Ms. DuBois?

MS. DuBOIS: I wouldn't hold it against him.

MS. DaPONTE: You wouldn't hold it against him? All right.

Ms. Goff?

MS. GOFF: [47] [886] I don't guess.

MS. DaPONTE: You don't guess? Do you think that you could put – Do you think that you could put– Do you think that he should tell you what happened?

MS. GOFF: Yes, I do.

MS. DaPONTE: Can you envision any set of circumstances in which you would not take the witness stand?

MS. GOFF: Oh, yeah.

MS. DaPONTE: You could consider that you might not, yourself? Okay. So, you could allow Mr. Snyder to take that position as well?

MS. GOFF: (Nods head affirmatively.)

MS. DaPONTE: All right. Mr. Hawkins, how about you?

MR. HAWKINS: I couldn't hold it against him.

MS. DaPONTE: You wouldn't hold it against him?

MR. HAWKINS: No.

MS. DaPONTE: Okay.

And, Ms. Rizzo?

MS. RIZZO: No, I wouldn't hold it against him.

[48] [887] MS. DaPONTE: Ms. Saracione, you just now said something that I wanted to expand on. You said – Or, I'm sorry, was it Ms. DuBois? No, it was Ms. Saracione. You said if his lawyer advised him not to take the witness stand, there must be a reason.

MS. SARACIONE: Right.

MS. DaPONTE: Okay. Let me ask you about that. How do you feel about the fact that lawyers are going to be making a lot of the – actually, all of the legal decisions in this case? Can you understand that those decisions are our decisions?

MS. SARACIONE: Right.

MS. DaPONTE: And that Mr. Snyder – If you hold those decisions, if you don't like them, you can hold them against us but not against him. Could you do that?

MS. SARACIONE: Right.

MS. DaPONTE: Could every – Does everybody feel that way? Mr. Breaux, you feel that way?

MR. BREAUX: Right.

MS. DaPONTE: Everybody else feel that way, too?

Ms. Rizzo? Mr. Hawkins?

[49] [888] And I guess this is the last thing I have to say: We talked about the crime of manslaughter and whether every murder is or every homicide, I'm sorry, whether every homicide is actually a murder. I agree with everything Mr. Olinde said because he said everything I

said yesterday about manslaughter being committed in the heat of passion, which is caused by a serious provocation, something that would deprive the average person of his self-control and cool reflection.

What I just would like to ask all of you is whether you could consider that a murder might be mitigated to manslaughter, given the right circumstances. I'll start with you, Mr. Breaux. Do you think that you could consider mitigating circumstances, and I'm not talking about excusing the crime. I'm not talking about excusing the crime. You go to jail for manslaughter or you can for 40 – for up to 40 years. The sentencing range is from zero to 40 years, and it's up to the Judge.

Mr. Breaux, given circumstances such as I described yesterday – You remember those examples we talked about yesterday? Do you think that there's ever a time when a homicide, which would actually be a murder because it fits into the element, do you think that there would be a circumstance which you could envision where you could see that there was heat of [50] [889] blood, that it was caused by what you consider a serious provocation that would cause the average person to lose it?

You could consider that?

MR. BREAUX: Yes,

MS. DaPONTE: All right. How about you, ma'am?

MS. SCOTT: I can.

MS. DaPONTE: Sir?

MR. SAULINO: It would have to be based on the evidence.

MS. DaPONTE: Sure.

MR. SAULINO: Yes.

MS. DaPONTE: But you could consider a set of circumstances where if the evidence showed you there was all those elements present, you could consider that mitigation?

MR. SAULINO: Yes.

MS. DaPONTE: Ma'am?

MS. GOFF: Yes.

MS. DaPONTE: And can I ask you all when you're considering this case, if you are selected as jurors, if you would consider this as [51] [890] you would consider the most very serious decisions in your own life, whether to get married, whether to buy a house, whether to have children, whether to have second opinion or have surgery and maybe even then some, because as we live our lives, we realize that sometimes the decisions that we make for ourselves, the bad decisions that we make for ourselves, sometimes we can undo those decisions.

I had a friend once who, after a long, long, long separation, finally got divorced, and she said, "If I had known it was this easy, I would have done it sooner and I would have done it more often." And so, a lot of times, we can get those bad decisions, we can get rid of them. But this is a circumstance that you can never change; so, I'd ask you to use an even higher standard knowing that once this

decision is made, that decision is your decision and it's final.

Can you take that very serious responsibility and promise me you'll give it that very serious standard of proof? Mr. Hawkins?

MR. HAWKINS: Yes.

MS. DaPONTE: Mr. Moore?

MR. MOORE: Yes.

MS. DaPONTE: Okay. You can do that, Ms. Rizzo?

[52] [891] MS. RIZZO: Yes.

MS. DaPONTE: Mr. Breaux?

MR. BREAUX: Yes.

MS. DaPONTE: Ms. Scott?

MS. SCOTT: Yes.

MS. DaPONTE: Okay. Thank you.

Mr. Vasquez is going to talk to you for a minute about the penalty phase. Thank you.

MR. VASQUEZ: Good morning, Ladies and Gentlemen. It may be more than a minute but it won't be too much more than that.

I'm going to ask you all to go forward, again. Let's assume that we're in the penalty phase of this case.

Ms. Saracione, if I present - If I'm able to, and I'm not saying I will, but if I'm able to present evidence to you that Mr. Snyder was a hard-working man, that he cared about

kids, that he led a pretty clean life, is that mitigating circumstance – Are those mitigating circumstances that you could consider?

MR. OLINDE: Your Honor, I'm sorry, but with all due respect, the objection is without hearing any of the evidence in evaluating [53] [892] the testimony and asking them. These facts, can you consider these facts without hearing the testimony under cross-examination and looking at the witnesses, I think he can ask whether he can consider – they can consider mitigating circumstances, but throwing in the facts and whether they can consider those without actually being here to consider them is objectionable, specific facts.

MR. VASQUEZ: Judge, I'm entitled to ask the jurors if they can consider mitigating circumstances. I can give specific examples of certain mitigating circumstances and ask the jurors whether they can consider it or not. That's clear case laws, I mean, historic. I'm entitled to ask that.

THE COURT: Objection overruled.

MR. VASQUEZ: Thank you.

Ma'am, did you understand the question?

MS. SARACIONE: Can you repeat it?

MR. VASQUEZ: Sure. I'll try to clear it up a little bit more.

Let's assume, because the law allows me to present mitigating circumstances, let's assume, you found Allen Snyder guilty of first degree murder. We're now [54] [893] in the sentencing phase or the penalty phase where the

two things that you are to consider are life imprisonment or the death penalty. If I present evidence to you that Allen Snyder loved his kids or that he was a hard-working man or that he was a good neighbor, are those factors that you could consider – Forget about the guilt because we're beyond that at this stage – Are those factors that you could consider in determining life versus death?

MS. SARACIONE: Well, I'd have to hear all the evidence.

MR. VASQUEZ: Yes, ma'am.

MS. SARACIONE: And I guess I could consider it –

MR. VASQUEZ: Okay.

MS. SARACIONE: – whether he gets life or death.

MR. VASQUEZ: You could consider those factors?

MS. SARACIONE: Right.

MR. VASQUEZ: You could keep an open mind?

MS. SARACIONE: Right.

MR. VASQUEZ: And that's really all we want, both sides, believe it or not, that's what we [55] [894] want, people that can keep open minds. Okay.

Mr. Saulino, same question to you, sir.

MR. SAULINO: I'd have to hear all the evidence.

MR. VASQUEZ: And you could consider things like that when it comes to deciding life versus death?

MR. SAULINO: Yeah.

MR. VASQUEZ: Okay, Ms. DuBois, same question to you.

MS. DuBOIS: I could consider it.

MR. VASQUEZ: Is it something you can seriously consider, or is that –

MS. DuBOIS: After hearing all the facts, I could consider it.

MR. VASQUEZ: Okay. Fair enough.

Mr. Breaux, I want to ask you a question. I hate to – I know we've been picking on you and I don't mean to, but do you believe that perhaps life imprisonment is a waste of taxpayers' money?

MR. BREAUX: Not really if they deserve to be there.

MR. VASQUEZ: [56] [895] Okay. So if I present evidence to you of certain mitigating circumstances that would mitigate a life sentence versus a death penalty, could you consider all of that?

MR. BREAUX: Yes, sir.

MR. VASQUEZ: Ms. Rizzo, same question: Could you consider –

MS. RIZZO: Wait. Tell me –

MR. VASQUEZ: Well, which one? Yeah, I asked a bunch of them. Questions about mitigating circumstances, can you consider those types of –

MS. RIZZO: Yes, I can.

MR. VASQUEZ: Ms. Scott, can you consider mitigating circumstances, you know, a person's upbringing or the kind of life that he led prior to a certain incident in his life, can you consider that in deciding life versus death?

MS. SCOTT: Right.

MR. VASQUEZ: Mr. Moore, do you understand that you don't have to impose the death penalty, that you're never required to impose it?

MR. MOORE: Yes. I understand that.

[57] [896] MR. VASQUEZ: The legal question then, and that's what we've been trying to ask is: Could you at least consider the imposition of the death penalty, not necessarily that you have to vote for it, just like you don't have to vote for life, but could you consider an imposition of it?

MR. MOORE: No, I could not.

MR. VASQUEZ: Under no circumstances whatsoever?

MR. MOORE: No.

MR. VASQUEZ: Judge, if I could have just a brief moment.

Thank you, Ladies and Gentlemen. Thank you.

MR. OLINDE: Judge, I've got two witnesses, two jurors I want to traverse.

Mr. Saulino, we're not allowed to get into facts but I'm going to tell you Allen Snyder was in the Marine Corps at one point in his life, and the fact that you were also in the Marine Corps, is there going to be some kind of bond of brotherhood there that will make you be unfair to us?

MR. SAULINO: No, or unfair to him.

MR. OLINDE: That's no. All right. All right, so [58] [897] you can disregard that and can call the case on the facts?

MR. OLINDE: Mr. Breaux, only a couple of brief questions for you and that is, you said, when I asked the panel and said, "Could everybody give Allen Snyder his Fifth Amendment Rights regarding the right to remain silent", okay? Can you do that if the Judge tells you - Even though you may feel, Hey, I want to hear both sides of the story. I may want to hear what everybody has to say about this, but in this system, the way the constitution is, you've got to make your mind up on the evidence you hear from the witness stand, without thinking about what he might or might not say, okay? And you've got to hold us to our burden of proof beyond a reasonable doubt. Do you think you can, like everybody else here, do that?

MR. BREAU: Yes.

MR. OLINDE: You can?

MR. BREAU: Yes.

MR. OLINDE: So, if he decides to remain silent, can you make your mind up just on what you hear from

the witness stand, the evidence we present and still hold us to our burden of proof and reasonable doubt?

MR. BREAU: [59] [898] Yes.

MR. OLINDE: You can do that?

MR. BREAU: Yes.

MR. OLINDE: I have no questions.

(The following is taken outside the hearing of the prospective jurors.)

THE COURT: Challenges for cause.

MR. OLINDE: Yes, Your Honor.

MR. OLINDE: I think Ms. DaPonte rehabilitated Mr. Hawkins, but I do challenge Mr. Moore for no death.

THE COURT: All right. I'm going to excuse Mr. Moore.

MR. OLINDE: Ms. Alvarez said she could not impose the death penalty.

THE COURT: I'm going to excuse Ms. Alvarez.

MR. OLINDE: Mr. Shah said he could not impose the death penalty.

THE COURT: Excuse Mr. Shah.

MR. VASQUEZ: That's all?

MR. OLINDE: I have no other challenges.

[60] [899] MS. DaPONTE: Judge, for cause, Karen Primeaux.

THE COURT: I'm going to excuse Ms. Primeaux.

MS. DaPONTE: For cause, Jessika Prem.

MR. OLINDE: No objections.

THE COURT: Excuse Ms. Prem.

MS. DaPONTE: And, Judge, I think that Mr. Breaux, although Mr. Olinde rehabilitated him to the extent that he said he could hold the State to their burden, on the gabber came off as saying that he needed to hear from the defendant.

THE COURT: I'll allow you to traverse him, but I'm not going to excuse him for cause at this point.

MR. WILLIAMS: I think he made it pretty clear.

MR. OLINDE: I think he did, too. They can use a peremptory.

MS. DaPONTE: Well, that's why the Judge is giving us a chance to traverse him.

THE COURT: Yes. Let's bring him to the bench. Mr. Breaux, would you come to the bench, sir?

(Mr. Breaux joins the Judge and counsel at [61] [900] the bench out of the hearing of the prospective jurors.)

THE COURT: Mr. Breaux, I wanted to ask you about the Fifth Amendment Right to remain silent, whether the fact that if he decides to exercise that right, whether you hold that against him?

MR. BREAU: Not really, no. Just --

THE COURT: You realize that that's a right that he has.

MR. BREAU: I know.

THE COURT: That shouldn't --

MR. BREAU: Yeah.

THE COURT: -- have any bearing in your decision.

MR. BREAU: No, it ain't going to hurt my decision, no.

THE COURT: Okay. All right. Thank you, sir.

(Mr. Breau rejoins prospective jurors remaining out of the hearing of the prospective jurors.)

MS. DaPONTE: Challenge denied? Challenge denied?

THE COURT: Challenge denied.

MS. DaPONTE: [62] [901] Note my objection.

THE COURT: All right. Mr. Hawkins?

MR. OLINDE: State excuses Mr. Hawkins.

MS. DaPONTE: Note for the record that Mr. Hawkins is a black juror.

MR. OLINDE: Are you making a challenge that you want me to make --

MR. VASQUEZ: She didn't object.

MR. OLINDE: Okay.

THE COURT: All right. Ms. Rizzo?

MR. OLINDE: We'll keep her.

MS. DaPONTE: She's acceptable.

THE COURT: All right. Ms. Goff?

MR. OLINDE: Excused.

THE COURT: Ms. DuBois?

MR. OLINDE: She's acceptable.

MS. DaPONTE: Acceptable.

THE COURT: Ms. Saracione?

MR. OLINDE: [63] [902] She's acceptable.

MS. DaPONTE: Yes.

THE COURT: Mr. Saulino?

MR. OLINDE: Accepted.

MS. DaPONTE: Excused.

THE COURT: Ms. Scott?

MR. OLINDE: Excused.

MS. DaPONTE: Judge, at this time, I would note for the record Ms. Scott is an African American juror, and that's three, now. I'd like a – I think that there has been a pattern, and I would ask the State to provide a racially neutral reason.

MR. WILLIAMS: For Ms. Scott, the reason is is I observed she was very weak on her ability to consider the imposition of the death penalty. Her words, exactly – I wrote it down, that she thinks she could, and that's the reason for our challenge.

MR. OLINDE: And she was very – My notes indicate she was very positive on when I said about a life sentence, she was very positive on her reason – Her agreement that she could do that. It's for that reason –

MR. VASQUEZ: [64] [903] You know, the law is clear. If I were doing the same thing, they'd be up here holding me to the same standard. This lady indicated that she could consider both. She was honest about it. She also said she could consider the death penalty. She was not hiding anything. She knows how to get off of this jury if she wants to, either way, and she could have done that. She's kept an open mind, and that's what we're looking for.

MR. OLINDE: Your Honor, –

MR. VASQUEZ: That is not a sufficient reason.

MR. OLINDE: This is a peremptory challenge. I'm not asking to excuse her –

MR. VASQUEZ: This is a Batson challenge.

MR. OLINDE: No, this is a peremptory challenge by us, and we can do it if we find anything that makes us believe that she's weak on death. We can excuse her for that reason.

MR. WILLIAMS: The Supreme Court has so held in the case that I – Feltus Taylor. There's probably 50 reasons, and one of the reasons that we gave has been declared race neutral, and it is. I mean, it is; she's weak.

THE COURT: All right. I'm going to go ahead and [65] [904] allow the challenge.

MR. VASQUEZ: Please note our objection.

MR. OLINDE: And Mr. Hawkins, my reason --

MR. WILLIAMS: We don't -- You don't have to.

THE COURT: So, we have three, right?

MR. OLINDE: No, Mr. Breaux --

MS. DaPONTE: Mr. Breaux.

MR. WILLIAMS: -- is accepted.

So we've got six Defense --

MS. DaPONTE: Six Defense and State.

MR. WILLIAMS: --six State. And eight jurors.

(The following is taken within the hearing of the prospective jurors.)

THE COURT: All right. The Court would like to thank and excuse everyone except for Ms. Rizzo, Ms. DuBois, and Ms. Saracione. Thank you very much.

All right. Will the bailiff please escort the jurors to the jury room?

Let's swear them in.

(Whereupon the chosen jurors are sworn to hear the case.)

THE COURT: All right. Will the bailiff please [66] [905] escort the jurors to the jury room.)

(Jurors exit courtroom.)

THE COURT: Please draw 13 more names at random.

* * *

[Following questioning of the fourth panel:]

THE COURT:

Okay. Go ahead, Mr. Williams.

MR. WILLIAMS: Okay. First, we're backstriking Mr. Brooks.

MR. VASQUEZ: Judge, we need to get our chart.

[115] [954] MS. DaPONTE: Hang on just a second.

MR. WILLIAMS: Mr. Brooks, first panel.

Tell me if I'm right. We've each got six peremptories, and there's eight jurors selected, correct?

THE LAW CLERK: Correct.

MS. DaPONTE: Judge, Mr. Brooks is an African-American, and I would ask the State to provide a racially neutral reason for their backstrike.

MR. WILLIAMS: I will provide three. I thought about it last night. Number 1, the main reason is that he looked very nervous to me throughout the questioning. Number 2, he's one of the fellows that came up at the beginning and said he was going to miss class. He's a student teacher. My main concern is for that reason, that being that he might, to go home quickly, come back with guilty of a lesser verdict so there wouldn't be a penalty phase. Those are my two reasons.

MR. VASQUEZ: Do you want me to respond or do you want -

MS. DaPONTE: Judge, I think there's -

MR. WILLIAMS: There's nothing to respond to.

[116] [955] MS. DaPONTE: Yeah, I don't think there is, either -

MR. WILLIAMS: It's either is or there isn't.

MS. DaPONTE: - but I would - No, that's all. I would just say that if he wants to go home early, he's got to come back with the death penalty.

MR. WILLIAMS: No, I think that's -

MR. VASQUEZ: That's not relevant, anyway.

MR. WILLIAMS: The hell it isn't relevant. It's happened to me before -

MR. VASQUEZ: That was -

MR. WILLIAMS: - where jurors - If this case goes to the jury on Friday and one of them gets back there and gets smart and thinks that if they come back guilty of second degree murder, they won't have to do a penalty phase. I guarantee that's a very real concern to -

MR. VASQUEZ: I was talking to Ms. DaPonte, not to you, and I was referring to something else.

His main problem yesterday was the fact that he didn't know if he would miss some teaching time as a student teacher. The clerk called the school and whoever it [117] [956] was and the Dean said that wouldn't be a problem. He was told that this would go through the weekend, and he expressed that that was his only concern, that he didn't have any other problems.

As far as him looking nervous, hell, everybody out here looks nervous. I'm nervous.

MR. OLINDE: Judge, it's -

MR. VASQUEZ: Judge, that's - You know.

MR. OLINDE: - a question of this: It's a peremptory challenge. We need 12 out of 12 people. Mr. Brooks was very uncertain and very nervous looking and -

THE COURT: All right. I'm going to allow the challenge. I'm going to allow the challenge.

MS. DaPONTE: And, Judge, can I - I just need to make the record.

Your Honor, Mr. Brooks was the first African American chosen. The State subsequently proceeded to cut, at this point; it's either three or four and the record will reflect which it is, and the State has now gone back and cut the only African American that they chose. So that that needs to be on the record.

MR. VASQUEZ: Please note our objection.

[118] [957] MR. WILLIAMS: Judge, Mr. Africh is acceptable by the State.

MS. DaPONTE: He's accepted by the Defense.

MR. VASQUEZ: That's Juror 6 now?

MR. WILLIAMS: Eight.

MR. VASQUEZ: I'm sorry.

MR. OLINDE: Ms. Savoie is accepted by the State.

MS. DaPONTE: She's accepted.

MR. WILLIAMS: Ms. Dyess is accepted by the State.

MS. DaPONTE: She's excused.

MR. WILLIAMS: Mr. Wolfe is accepted by the State.

MS. DaPONTE: He's acceptable by the Defense.

MR. WILLIAMS: Ms. Stine is accepted by the State.

MS. DaPONTE: She's excused.

MR. WILLIAMS: I had a feeling.

THE COURT: What happened to Ms. Walker?

MR. WILLIAMS: Oh, Ms. Walker we passed over her.

MS. DaPONTE: [119] [958] Oh, I'm sorry.

MR. WILLIAMS: We excuse Ms. Walker.

MR. VASQUEZ: No, she was moved out, wasn't she?

No, I'm sorry. She was rehabilitated.

MR. WILLIAMS: She was rehabilitated by me.

MS. DaPONTE: Judge, I would just note for the record that Ms. Walker is an African American, and I would ask for a race neutral reason.

MR. WILLIAMS: The reason is very obvious that at first she said she could not do the death penalty for a long-standing, and then she said under a limited circumstance if he killed a child, she could do it. We don't have any evidence that this man killed a child, so.

MR. VASQUEZ: It doesn't matter, Judge. That's not what the law is, and Mr. Williams asked me earlier for some cases.

MR. OLINDE: There's no need to argue this.

MR. VASQUEZ: State vs. Robinson, State vs. Comeaux. I have the books right there.

MR. WILLIAMS: But that's irrelevant right now.

MR. VASQUEZ: Well, it's perfect when you need it.

[120] [959] THE COURT: All right. The Court is going to allow the challenge.

MR. VASQUEZ: Please note our objection.