

IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
(CRIMINAL TRIAL DIVISION)

- - -

COMMONWEALTH	:	JANUARY SESSION 1982
	:	
vs.	:	1357 - Poss. Instru. Crime Gen.
	:	1358 - Murder
MUMIA ABU-JAMAL	:	Voluntary Manslaughter
a/k/a Lesley Cook	:	1359 - Involuntary Manslaughter

- - -

Philadelphia, Pennsylvania, 8 June 1982  
Room 253 City Hall

- - -

Bei re: HONORABLE ALBERT F. SABO

- - -

APPEARANCES:

JOSEPH MCGILL, Esquire  
Assistant District Attorney

ANTHONY JACKSON, Esquire  
For the Defendant

MUMIA ABU-JAMAL  
Pro Se

- - -

VOIR DIRE

VOLUME II

- - -

COURT OFFICER: 191, Nancy Keenan.

...NANCY E. KEENAN...

MR. MCGILL: Your Honor, who is up,  
do you remember?

THE COURT: Commonwealth.

BY MR. MCGILL:

Q Good morning. Is that Mrs. Keenan?

A Yes.

Q Mrs. Keenan, I'm going to ask you some  
questions, and then Mr. Jamal will ask you some  
questions.

A Yes, sir.

Q Mrs. Keenan, what section of the City do you  
live?

A South Philadelphia.

Q What zip code is that?

A 19148.

Q How long have you lived there?

A I have to think now. Almost ten years.

Q Before then where did you live, Mrs. Keenan?

A Well, part of the time I was in Fort Wayne,  
Indiana, going to college and prior to that in  
Allentown, Pennsylvania, and prior to that in India.

My parents are missionaries.

Q Your parents are missionaries?

A Yes.

Q You said you were in college in Indiana?

A Yes.

Q When did you finish college there?

A Well, I didn't quite finish.

Q When did you go to college there?

A From '69 to '72.

Q What was your major?

A Elementary education.

Q Are you a teacher now?

A No.

Q What is the nature of your work, if any?

A I'm a busy housewife and mother.

Q That's busy enough.

How many children do you have?

A I have three boys.

Q What are their ages?

A 5, 3, and 16 months.

Q Is your husband employed?

A Yes, to an extent.

Q What is the nature of his work?

A           He's a mailer for the Philadelphia Inquirer,  
a mailer for the Philadelphia Newspapers Incorporated.

Q           When you say "a mailer," what does that  
mean, he distributes?

A           He's in the final production, putting the  
paper out to be put on the trucks and stuffing  
advertising into the newspaper. Originally it was  
called mailer because the papers were folded and  
sent out to be mailed.

Q           Have you ever been a juror before?

A           No, sir.

Q           How long has your husband been in this line  
of work?

A           I think about 14 years. I'm not exactly sure.  
It's around that.

Q           Did you say your parents were missionaries?

A           Yes, sir.

Q           Do your parents live around here?

A           No. They are in India at the present time.

Q           Still in India?

A           Yes. They are due to come home for my sister's  
wedding in July.

Q           When is your sister's wedding?

A July 17.

Q Have you yourself been at all involved in any kind of missionary work yourself?

A Well, not per se. I mean, I have helped my parents, you know, on occasion with children and things like that, and we were required, because I went to the bible school, to have a particular service assignment in teaching children or whatever, church-related, but not specifically being called as a missionary.

Q When you say "bible school," was that your college?

A Yes, Fort Wayne Bible College.

Q How many years did you spend at that college?

A Let me see. Three years, 1969 to 1972.

Q I have to ask these questions. It sounds like a resume. I have to ask you these things to determine your jury qualifications.

A Certainly.

Q Mrs. Keenan, let me ask you this question: If you were selected a juror in this case, it would be your function to sit in one of these chairs and listen to the evidence and reach a verdict based solely

on the evidence and nothing else. Do you understand that?

A Yes, sir.

Q Do you think you could do that?

A I think so, sir.

Q Now, I want to ask you another question and I would ask you to consider your background and your education. Do you have any kind of social, personal, ethical, philosophical or religious opinions or beliefs that would in any way prevent you from imposing the death penalty in the appropriate case?

A No, sir.

Q If after hearing all of the evidence then, as I understand it -- I'm naturally concerned about your religious background. Do you understand that?

A Certainly.

Q As I understand it, if after hearing all of the evidence if you were convinced in accordance with the law that not only was the defendant guilty of first degree murder, but the case is appropriate for the imposition of the death penalty, that you would be able to vote for that under those circumstances?

A Certainly.

Q You have no hesitation?

A No hesitation.

Q Now, Mrs. Keenan, the Court would instruct you, as it has to the panel at large, at the end of the case what the law is of this case. Okay?

A Yes.

Q Now, you as a juror would determine the facts. You would listen to the evidence and you would determine the facts and say these are the facts, but the Judge has the law, murder and so forth and so on. He will go through the law.

Will you be able to follow and accept the law that the Court would give you and apply it to the facts that you find even though you may disagree with the law or think it may be something else? Would you still follow the law of the Court?

A Certainly, that's my responsibility.

Q Now, Mrs. Keenan, you indicated I believe you were never a juror before?

A No, I was never.

Q You will hear various witnesses. Would you be able to listen fairly and impartially to all of

the witnesses even though their backgrounds may be very different than your own, their ages, their race, their habits or their appearance? Would you be able to listen to all of them fairly and impartially?

A To the best of my ability.

Q In particular, would you be able to or would the fact that perhaps one of the witnesses may have a criminal record, convictions of criminal charges, would you still be able to listen fairly and impartially to the evidence and set aside their background and consider what they say for the merit that you would take it as a juror? Would you be able to do that?

A I think so.

Q I have to ask these questions.

A I know. I am not offended.

Q Now, have you or anyone close to you ever had any kind of an experience with Philadelphia Police that would in any way prevent you from being fair and impartial? I mean an unpleasant experience, you or anyone close to you, friends, relatives.

A No.

Q Not at all?

A Nothing.



Q Now, the defendant will be asking you questions and the defendant will be giving you an opening and closing and all of that. Would the fact that the defendant himself is asking you questions and taking an active part, would that in any way create in you either any kind of sympathy or perhaps intimidation which would prevent you from being fair and impartial to the Commonwealth as well as the defendant in this case?

A No, I don't think so.

Q No matter who asked you the questions?

A Well, if he has that right to be able to defend himself, then why should I object?

Q Fine. I'm not asking whether you would object.

A I don't think it would affect me.

Q He has an absolute right to do that. I'm just saying would you still be able despite the fact that he will himself ask you questions and actually speak with you and take an active part in the prosecution would you still be able to reach a verdict based on the evidence?

A I think so.

Q Would you, Mrs. Keenan, be able to stand and

recite your verdict in open court at the end of this case?

A           Sure.

MR. MCGILL:   Thank you.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q           Mrs. Keenan, what civic, social or professional clubs or organizations do you belong to?

A           Pardon me?

Q           What civic, social or professional organizations or clubs do you belong to?

A           None.

Q           All but one of the jurors or potential jurors in this case stated they read something about this case. Are there any facts or recollections that you presently believe as a result of that press coverage, and if so what?

MR. MCGILL:   I would object, Your Honor, to that.

THE COURT:    Can you rephrase it so we only have one question at a time?

BY THE DEFENDANT:

Q Are there any facts or recollections that you presently believe as a result of the press coverage that you have read?

MR. MCGILL: Your Honor, I object to that. It's asking the prospective venireperson what she believes and it's an inappropriate venirequestion.

THE COURT: Can you rephrase the question?

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Are there any facts or recollections that you presently hold or think as a result of what you have read --

MR. MCGILL: Again I would object, Your Honor.

THE COURT: Let me see you over here at side-bar.

(Side-bar conference in presence of the Court, Mr. McGill, Mr. Jackson and the Defendant reported as follows:

THE COURT: What's the basis of the objection?

MR. MCGILL: The basis for my objection is asking individual venirepersons what they believe or what they recall about things that they have read, Your Honor, is a very open question and requiring them to think exactly what they have read about it. That is not relevant at this point.

The relevant issue is this, and I have no objection to this question: Is there anything at all that you have read in the newspaper or heard on the radio that in any way has prevented you from giving me a fair trial? That would be an appropriate question.

To ask them what they know, what they have heard about, Judge, is just asking them anything. They have to think about that. The important thing is whether they can be fair in this case, and that should be the question that should be asked.

THE DEFENDANT: It's very clear that all but one of the potential jurors have read

something. They may have read for the last several months, and it's very clear that it's going to be extremely difficult for them to separate what they read, especially if they presume what they read is entirely correct.

MR. MCGILL: They should ask the question or he should ask the question, Judge: Is there anything that you have read that would prevent you from giving me or the Commonwealth a fair trial?

THE DEFENDANT: That's not the question I want to ask.

THE COURT: You mean then if they say yes, then you can go into detail?

MR. MCGILL: Sure, if he says yes.

THE COURT: As to what they may have read.

MR. MCGILL: Then you can go into detail.

THE COURT: Suppose they say no.

MR. MCGILL: Then they have answered the question they can be fair.

MR. JACKSON: Judge, to ask them in advance if there is something that they have read or heard that's going to interfere with what they are going to hear here is speculative. It seems to me the only way that we can truly make that a specimen is find out what it is that they know, and then the question can be related, because you are backing in.

In other words, what is it that you know? As a result of what you know, would that interfere with what's going on here? Because if we leave out that first question, then we just have to assume that then what's going to come into court that they understand what the legal basis is for their recollections, what you are going to tell them, what's going to be argued, and things of that sort. It seems to me again the only way both counsel for the defense and prosecution, as well as Your Honor, can make an appropriate ruling on whether they can in fact disassociate and disregard what they have read is to know what it is.

THE COURT: You mean after they have told us what it is they read, then you would ask them the question whether this would in any way.

All right, go ahead.

(End of side-bar conference.)

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Mrs. Keenan, back to the original question that I asked you. It's clear that most of the jurors here have heard something about this case. What's the basis of your knowledge or what you recall about this case, newspapers?

A I'm not an avid newspaper reader. I did see a picture and headline. I do not recall the headline. I heard on television during the news about the shooting and about the officer's death and I heard names, but that's about the extent. I have not really sat down to mull over in my mind what I think about it, so I have not really -- I feel badly for the officer's family and it's sad to me that he would

have to lose his life. But other than those feelings of sympathy for the family, I really have not given any specific thought to the case, because I haven't really got myself totally involved in it.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q You said you felt sympathetic to the officer's family?

A Yes, sir.

Q Would that sympathy tend to interfere with your ability to concentrate on the facts?

A I don't think so.

Q You said you have heard about the case -- viewed something about the case on TV. What specifically do you remember about what you have seen on TV?

MR. MCGILL: Objection, repetitious.

THE COURT: Sustained. She already answered that question.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Is there anything that you have heard or that



you have seen that might tend to interfere with your ability to judge the case based solely on the evidence that you hear from the witness stand?

A No.

Q Is there anything about my appearance that may influence you one way or the other?

A No. How you look is your choice. How you feel to present yourself is your choice.

Q Is there anything about my appearance that offends you?

A No.

(Mr. Jackson and the defendant

confer.)

BY THE DEFENDANT:

Q Is there anything about my appearance that suggests to you a particular lifestyle?

A In this day and age that's very difficult to do. No.

Q I didn't hear you.

A In this day and age that's a very difficult thing to do, judge someone's lifestyle by their appearance. No, I couldn't.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q You are familiar, I am sure, about reports  
of violent crime in Philadelphia; right?

MR. MCGILL: Objection, Your Honor.

Q (Continued) Without telling us --

MR. MCGILL: Objection. You ruled  
on that area, Your Honor.

THE COURT: Objection is sustained.

THE DEFENDANT: Judge, you haven't  
heard the question.

THE COURT: Well, come over here.

(Side-bar conference in the presence  
of the Court, Mr. McGill, Mr. Jackson and  
the Defendant reported as follows:

THE COURT: I sustained the objection  
because you are going into the area of violent  
crime in Philadelphia.

MR. MCGILL: Social issues.

MR. JACKSON: What he is going to do,  
he's not asking her opinion. He's going to say  
whatever that opinion is, without telling us

what the opinion is, would that opinion in any way interfere with her ability to decide the facts in this case. That's what it is, so he is not asking her opinion. He's just asking if that opinion of violent crimes is going to interfere. I think that certainly is permissible.

MR. MCGILL: Your Honor, I believe that's covered by other areas.

MR. JACKSON: How?

MR. MCGILL: Certainly her ability to be fair and impartial. Anything she read, heard specifically about this case, anything in her background -- we could go into everything in terms of that.

THE COURT: I'm not concerned about violent crime.

MR. JACKSON: We could go into whether it's violent crime, the criminal justice system. It seems to me he should have an opportunity to find out if she has some fixed opinion about the criminal justice system or about violent crime that's going to

interfere with her ability to fairly decide this case.

We are not asking her what that opinion is. We are saying would that opinion interfere with her ability to decide this case. I think that's fair.

THE COURT: All right, in order to expedite it.

MR. MCGILL: Your Honor, there is an area that I do not proceed on, perhaps the Court would want to. Normally I don't think it should be covered, but I had forgotten to ask her. She indicated that she has three small children, one 3 months. I think she should be asked.

THE COURT: But she didn't say she has a hardship.

MR. MCGILL: This kind of situation makes me wonder if she knows about sequestration. I think that's an area that should be covered.

THE COURT: We will find that out when the Crier asks her when she goes outside.

MR. MCGILL: If people do not have

small children like that, normally I would agree with Your Honor. But in this situation it kind of sticks out that she may not be aware of the sequestration aspect of it. I was going to ask if you wanted to go through it.

THE COURT: I don't care.

MR. MCGILL: Or I would ask that one question on my own if he doesn't go through it. I think we should find out about that.

Let's say she walks out and says, "What do you mean?"

THE COURT: Then we can bring her back.

MR. MCGILL: Maybe we can do it now.

THE COURT: Let's ask it.

(End of side-bar conference.)

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Mrs. Keenan, you are familiar, I am sure, about reports of violent crime in Philadelphia and across

the nation.

A Yes.

Q I am sure you have an opinion, but without expressing your opinion on that, do you think your feeling on that issue would interfere with your ability to fairly judge the facts in this case?

A It's hard to say. I imagine somewhere in the back of my mind it would affect me, whether I am conscious of it or not.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Do you think it might, even though it's in the back of your mind as you said, do you think it might affect your decision-making ability?

A Well, if I am supposed to base my decision on the facts that are given here, then I have to base them on those facts. If they coincide with my opinion, so be it. But otherwise I would have to put my opinions in the background. Whatever conscious opinions come to my mind, if they do not coincide with the facts that have been presented, then

I would have to put my opinions aside, those that I am very conscious of that are present.

Q Even though those feelings are in the back of your mind, again they are still there.

A Certainly.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Do you think it's possible to disregard them during the course of this trial?

A Those that showed, you know, that I -- I don't know how to put it.

Q Take your time.

A If something that's in the back of my mind that is not coming to my consciousness, I can't put it in the back of my mind because it's already back there. If my opinion comes to mind and it's against what I have heard in facts, then I would have to put it in the back of my mind. Unless I felt that what I felt was given to me as the law and was given to me as facts was the truth, then I would have to go with whatever the truth says. And if my opinion agrees with the truth, then I would judge by my

feelings of what is true.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q Mrs. Keenan, you said you have three boys,  
the youngest of which is 16 months old.

A Uh-huh.

Q You understand that for the duration of this  
trial, which might be one week, two weeks, three  
weeks or longer, you might have to be separated from  
your family? Do you understand that?

A That might pose some difficulty. I have a  
mother-in-law who would mind my children at some  
times, but she also has responsibilities to the  
closing of school, because she is the treasurer of the  
Home and School Association of her particular school.

But other than that, when my husband  
isn't working, he would take the responsibility of  
the children and divide the time with my mother-in-law.  
But regarding her responsibilities and her obligations,  
that might pose a problem until the school year is  
finished.

Q When is the school year finished?



A        June 30 is the last day of school. I have not personally talked to her, but this was my husband's opinion, that I should take her responsibilities into consideration.

(Mr. Jackson and the defendant confer.)

MR. MCGILL: Your Honor, I have no objection to that. I think that would be a significant problem.

THE DEFENDANT: Okay, Judge.

THE COURT: What is your opinion? You have to put it on the record.

THE DEFENDANT: It's clear that this trial may begin before the 30th.

THE COURT: Are you agreeing to excuse her because of a hardship?

THE DEFENDANT: I agree.

THE COURT: You are excused.

COURT OFFICER: 279, Robert Peterson.

...ROBERT PETERSON...

THE COURT: Defense.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Mr. Peterson, during questioning you said that you know someone or are closely related to someone who is in law enforcement.

A Yes. My brother is a policeman.

Q He's a police officer?

A Yes.

Q Do you think that relationship would in any way hamper your ability to make a fair and impartial decision based on the facts presented to you in this case?

A No, I don't.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q How long has your brother been a police officer?

A About seven or eight years now.

Q Do you know where he is assigned?

A Yes, sir. He's a detective in Southwest Philly.

Q Do you talk to him often?

A No, not really.

Q What area of the City or neighborhood do you live in?

A I live in Feltonville, right near Olney.

Q How long have you lived at your present address?

A At my present address only since last September.

Q Before that?

A In Olney. I lived in Olney all my life.

Q How far did you go in school?

A I graduated from Cardinal Dougherty High School.

Q What kind of work do you do, Mr. Peterson?

A I'm an assembler at Kelsey Hayes. I make aircraft parts. It's a factory.

Q You say assembler?

A Yes.

Q Can I ask what kind of work -- are you married?

A Yes, sir, I am. She's a waitress.

Q Have you ever served in the military?

A No, I haven't.

Q Do you have any children?

A Yes, I do. I have two boys.

Q What are their ages?

A My son Timothy is 2-1/2 and my son Justin is 5 months.

Q Mr. Peterson, do you understand that if you are acceptable as a juror that you may have to be sequestered for several weeks?

A Yes, I do.

Q Separated from your family?

A Yes.

Q Would that create a problem for you?

A Not really.

Q Have you ever served on a jury before?

A Yes, I have.

Q Criminal or civil case?

A Civil case.

Q Without telling us the verdict, was one reached?

A The case was settled out of court.

Q What civic, social, or professional clubs or groups do you belong to?

A None.

Q You are familiar with crime in Philadelphia

and across the country I am sure. You have probably developed an opinion. We are not going to ask you what that opinion is. But would that opinion tend to interfere with your ability to decide the facts in this case?

A No, I'm sure it wouldn't.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q You are aware, I am sure, that the victim in this case was a police officer?

A Yes, I am.

Q Would your relationship with your brother tend to cloud your ability to look at facts clearly, fairly, impartially?

A No, I'm positive.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Mr. Peterson, does my appearance offend you in any way?

A No, it doesn't.

Q Does it suggest a certain lifestyle to you?

MR. MCGILL: Objection.

THE COURT: Sustained.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q Does my appearance suggest a lifestyle that  
offends you?

A No.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q Is there a crime prevention group from your  
neighborhood?

MR. MCGILL: Objection, Your Honor.

THE COURT: Sustained.

(Mr. Jackson and the defendant  
confer.)

THE DEFENDANT: Judge, can we see  
you at side-bar?

(Side-bar conference in the presence  
of the Court, Mr. McGill, Mr. Jackson and the  
Defendant reported as follows:

MR. JACKSON: Judge, I was just going to say that's one of the questions we asked in conference and it was approved.

MR. MCGILL: I don't think it was approved.

MR. JACKSON: Yes.

THE COURT: I don't have my sheet with me.

MR. JACKSON: Because I marked off all of those.

THE COURT: Do you have your sheet with you?

MR. MCGILL: Yes.

THE COURT: Look at your sheet, because I don't have mine with me.

MR. MCGILL: All this tells me, that's a circle, which I had objected to. That's what that means.

Judge, that's not relevant.

MR. JACKSON: I can go through the argument again that I made before.

THE COURT: I think all of these I had denied.

MR. JACKSON: No, not on 12.

All of those afterwards you did.

THE COURT: No, because it relates to this thing too. It relates to 13.

MR. JACKSON: That's what you said we couldn't get in.

THE COURT: Even 11, a brief description of your neighborhood.

MR. JACKSON: Yes, I know we left that out.

THE COURT: Do you think the Courts are too soft on crimes? -- all of that is left out.

MR. JACKSON: But, Judge, the reason with regard to them participating in crime prevent programs was to find out what relationship, if any, they had with the police and that would suggest a fixed attitude.

THE COURT: Why don't you ask him if he has a fixed relationship with the police?

MR. JACKSON: I think we can, but it would seem to me it would be more probative to find out --



THE COURT: What difference does it make if he belongs to a crime prevention group?

MR. JACKSON: I think it makes all the difference in the world. It's almost like being a police officer, but you are just a civilian.

THE COURT: That doesn't mean that.

Why don't you just ask him if he belongs to any group that brings him in contact with the police, if that's what you are worried about.

MR. JACKSON: That's why I thought that this question was less harmful than the one you are suggesting.

THE COURT: I think that one we had deleted.

MR. JACKSON: If you want to ask him.

THE COURT: Do you have any suggestion about what he is trying to do?

MR. MCGILL: I think that they have explored the police area pretty well, Your

Honor.

THE COURT: That's what I thought.

MR. MCGILL: But his relationship, how it will affect him, the fact that a police officer was the victim.

THE COURT: He already testified to that. He said it wouldn't affect him in any way. He said definitely it wouldn't affect him.

MR. MCGILL: So to that extent I think the question has been answered. That area has been covered is what I am saying.

MR. JACKSON: Judge, you are saying now that rather than ask him if he's a member of a neighborhood crime organization, does he participate, to ask him if he's a member of a group that comes in contact with the police. Frankly, I don't know that there's that much difference, but if Your Honor feels that question is more acceptable.

MR. MCGILL: I think it's been

exhausted, Your Honor. There has been no indication by his testimony that he's in any way influenced by that relationship to follow it up.

THE COURT: You asked him whether or not the fact that his brother is a police officer, whether it would affect him and he said definitely it would not.

MR. JACKSON: Your Honor, as far as I'm concerned, that makes it all the more valuable to find out.

THE COURT: I think the area has been covered. Go on to some other area if you want.

(End of side-bar conference.)

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Mr. Peterson, if selected, do you have any moral or religious opinions or beliefs that would prevent you from inflicting the death penalty?

A Yes, I do.

Q Could you explain?

A I can't see how to me I have a right to put somebody to death to avenge another death. I don't see where that makes any sense.

MR. MCGILL: Challenge for cause, Your Honor.

(Mr. Jackson and the defendant confer.)

THE DEFENDANT: No objection.

THE COURT: You are excused.

COURT OFFICER: 109, Stanley Evans.

...STANLEY A. EVANS...

(Mr. Jackson and the defendant confer.)

BY MR. MCGILL:

Q Good morning, Mr. Evans.

A Good morning.

Q I'm going to be asking you some questions, and then Mr. Jamal over there will be asking you some questions. - Okay?

A All right.

Q What section of the City are you from, sir?

A South Philly.

Q What zip code is that, '48?

A 48.

Q Have you ever been a juror before?

A Yes.

Q How long ago?

A Maybe 10, 12 years.

Q Was it a criminal jury, sir?

A Yes, Federal.

Q Federal?

A Right.

Q Without telling us what the result was, did your jury reach a verdict?

A Yes.

Q So you are then familiar with what a juror is supposed to do?

A Yes.

Q Sir, in this case, some 10 or 12 years after you had the prior experience, would you be able to follow the law that the Court would give you as you sat as a juror and listened to all the evidence? Even though you may not agree with the law, would you still follow the law and apply it to the facts in this case?

A I believe I could, yes.

Q Now, Mr. Evans, do you have any kind of conscientious, religious, or philosophical opinions or beliefs that would prevent you in the proper case in imposing the death penalty?

A No.

Q Do you have any kind of philosophical beliefs or social feelings that would prevent you in the proper case from returning the first degree murder verdict along with the death penalty if appropriate?

A No.

Q Now, Mr. Jamal is the defendant in this case and he may well ask you questions. In fact, he will ask you questions now. He will be asking questions to jurors and summarizing to you as you sit over here, Mr. Evans, if you are selected as a juror.

Would the fact that he himself is involved in participating in this in any way either create in you a feeling of either sympathy or intimidation that would prevent you from being fair to the Commonwealth in this case?

A No.

Q Are you married, sir?

A Yes.

Q Have you or anyone close to you ever had an unpleasant experience with the Philadelphia Police or the police from any county that would in any way prevent you from being fair and listening to police testimony in this case?

A No.

Q You have indicated, I think, by your actually standing up to the Court's question that you know or heard something about this case; is that correct, sir?

A I have, yes.

Q Is there anything that you had heard or read about this case that would in any way prevent you from being fair to both sides of this case?

A No.

Q You will hear a number of witnesses if you are selected as a juror in this case, sir. While you are seated and listening to the witnesses, would you be able to listen fairly and impartially to all of the witnesses despite their age, their race, their background, their history, their appearance or their habits? Would you still listen to all of the

witnesses fairly and impartially?

A Yes, I would.

Q Specifically, let's assume that there be an individual that would testify that would have a criminal record. Would you still, even though they may have a criminal record, listen to their testimony and use your own common sense and be fair and impartial in judging their evidence and their testimony?

A Yes, I would.

Q Is there any reason that you can think of that would prevent you from being fair to either the Commonwealth or the defendant in this case?

A None that I can think of, no.

Q What line of work are you in?

A U.S. Postal Service.

Q How long have you been involved in that particular business?

A 17 years.

Q That's with the Federal Government, of course?

A Right.

Q Before then, sir, where were you employed?

A Westcott & Thompson. That was a printing outfit on 10th and Arch. It made printing.



Q Is your wife employed?

A No.

Q Do you have children?

A Three.

Q What is the oldest's age?

A 26.

Q And the youngest?

A 22.

Q Have they gone to the public or private school system in Philadelphia?

A The parochial schools.

MR. MCGILL: Mr. Jamal will ask you some questions. Thank you, sir.

BY THE DEFENDANT:

Q Mr. Evans, what civic, social, or professional clubs or groups do you belong to?

A None.

Q I may have forgotten. Mr. McGill may have asked you this. How far did you go in school?

A High school, graduated high school.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q I'm sure you, like most of the potential jurors, have heard something about the case, read something about the case.

A In the paper.

Q Pardon me, sir?

A In the papers is all I know about it.

Q Are there any facts or recollections that you presently remember as a result of what you have read in the press about this case?

MR. MCGILL: Objection, Your Honor.  
If anything is read.

THE COURT: Are you asking him what he remembers? I couldn't hear you. You speak so low.

THE DEFENDANT: You couldn't hear me, Judge?

THE COURT: I didn't the last time.  
Will you repeat?

THE DEFENDANT: Okay.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Is there anything that you presently recall based on what you have read about this case?

A I recall --

MR. MCGILL: Your Honor, same objection. I think if anything he read.

THE COURT: In the interest of expediting I will let it in. Go ahead.

THE VENIREPERSON: Yes, I recall some of the facts in the case.

BY THE DEFENDANT:

Q Can you tell us what facts you recall?

A Well, I better not say. I don't want to say.

Q Mr. Evans, we are not trying to get whether you are right or wrong. We are just interested in finding out what, if anything, you do recall about the case based on what you have read.

A Well, the way I understand it, you were sitting in a car or stopped and this police officer came over and was -- I don't know whether he was trying to question you or what, but an argument developed and you were allegedly supposed to shoot him with a gun.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q Did you read this in the Daily News?

MR. MCGILL: I object, Your Honor.  
I think it can be asked whether anything  
would affect him in being fair and impartial,  
that's it.

THE DEFENDANT: Can I ask the  
question, Your Honor?

MR. MCGILL: I object. Is there a  
ruling on the objection?

THE VENIREPERSON: I don't recall  
what paper. It was probably --

MR. MCGILL: Judge, there was an  
objection.

THE COURT: He doesn't recall which  
paper.

Come on.

THE VENIREPERSON: Probably the  
Inquirer.

BY THE DEFENDANT:

Q As a result of what you have read, do you

believe that that's true?

MR. MCGILL: Objection.

THE COURT: I will sustain that objection.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q As a result of what you have read and remembered, do you think that what you have read might interfere with your ability to decide the facts based purely on what comes from that witness stand that you are sitting in?

A No. What I read in the newspaper and what I hear in actual fact, the people were there, the individuals involved might be entirely different.

Q Mr. Evans, does my appearance offend you in any way?

A No.

Q Do you believe that my appearance will influence you in any way negatively or positively?

A No.

Q Mr. Evans, I'm sure you are familiar with crime in Philadelphia and across the nation. You

probably developed an opinion. Without telling us what the opinion is, would that opinion tend to interfere with your ability to decide the facts in this case?

A What was the first part of the question again?

Q I'm sure you have heard there's a lot of crime in Philadelphia.

A Right.

Q And crime across the country and stuff. Everyone has developed their own opinions, but we are not asking you your opinion here and now. But whatever that opinion is, would it tend to interfere with your ability to decide the facts in this case?

A No.

THE DEFENDANT: No further questions, Judge.

THE COURT: Commonwealth is first.

MR. MCGILL: Your Honor, Mr. Evans is acceptable to the Commonwealth as Juror No. 2.

(Mr. Jackson and the defendant confer.)

THE DEFENDANT: Peremptory, Judge.

THE COURT: You are excused. Thank

you very much.

COURT OFFICER: 09, Alma Lee Austin.

...ALMA LEE AUSTIN...

BY THE DEFENDANT:

Q Ms. Austin, is that Miss or Mrs.?

A Mrs., divorced.

Q Mrs. Austin, can you tell us what part of town you live in?

A West Philadelphia.

Q How long have you lived where you live presently?

A The present address I've lived there since March 1st at the present address, but I have been in West Philadelphia since 1968.

Q How far did you go in school, Mrs. Austin?

A Excuse me?

Q How far did you go in school?

A I graduated 12th grade.

Q Can you tell us what kind of work you do for a living?

A Yes. I'm a freight rate specialist at the Philadelphia Naval Shipyard in the traffic branch.

Do you want me to repeat that?

Freight rate specialist.

Q At the Navy Yard?

A At the Philadelphia Naval Shipyard.

Q Do you have any children, Mrs. Austin?

A Yes, I do.

Q Can you give me their ages, please?

A Yes. My oldest is 33. I have a daughter that is 31. I have a daughter -- I'll do better giving the years that they were born. I have nine children.

Q Mrs. Austin, maybe if you can just give the youngest one.

A The youngest one is 18.

Q Thank you, ma'am.

What civic, social, or professional clubs or groups do you belong to, Mrs. Austin?

A I'm not a club member, only a church member.

Q Have you ever served on a jury before?

A No, I haven't.

Q Who lives in your household with you, Mrs. Austin?

A One other person, a gentleman.

Q Did your children go to public or private school?



A They all went to public school.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q Does my appearance in any way offend you?

A No.

Q Does it suggest a lifestyle that might be  
offensive to you?

A No.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q Mrs. Austin, can you think of any reason why  
you couldn't be fair to both the defense and the  
prosecution in this case and base your decision  
purely on the evidence that comes from the witness  
stand?

A I see no reason why -- repeat the last  
part, I'm sorry.

Q Do you think that you could be fair and  
impartial to both the defense and the Commonwealth  
and base your decisions purely on the testimony  
coming from the witness stand?

A Sure, I'm sure that I can.

THE DEFENDANT: No further questions.

BY MR. MCGILL:

Q Good morning, Mrs. Austin.

A Good morning.

Q It's my turn to ask you some questions now.

A Sure.

Q Mrs. Austin, if you were selected as a juror in this case, it would be your function to actually sit in one of those chairs there, listen to the evidence from the same stand that you are in now, actually the witness will be there, find facts and then accept and apply the law that the Court will give you as to what the law is in this case. Would you be able to do that?

A I'm sure that I could.

Q Now, Mrs. Austin, you indicated that you are a church member.

A Yes.

Q Now, I have to ask you this question. I ask most people this question.

A Yes.

Q Do you have any kind of religious or social or personal, ethical, philosophical, or any kind of feelings or opinions that would prevent you in the proper case from imposing the death penalty?

A That's a hard question to answer, because I can only think of that in a very extreme case, you know, an extreme case. I can't give you an honest answer at this moment, because I have never been faced with it before.

Q Okay.

Now, understand that the question that I am asking you is not to sort of find out what you are going to do down the road. I am just trying to find out whether you have any religious belief opposed to it so that you would be unable to do so.

A My religion doesn't teach me anything, you know, of that sort. I am just a Baptist person, that's all, that's it.

Q Fine. Whatever it may be, your own personal feeling then.

A My personal feeling, like I said, I can't --

I haven't been faced with that before. I cannot tell you what I would do. I cannot at this moment, I can't. I'm being honest.

Q I'm not again asking you what you will do. I am just asking whether your present feelings are such that you would be unable to do it.

A No, my feelings are not that way, that I couldn't, no.

Q In other words, are you saying then that even though you would -- let me put it this way: If you believe after considering all of the evidence, if you feel in accordance with the law the Commonwealth has proved the defendant guilty of first degree murder, would you be able to return that verdict, first, if you felt it?

A If I felt that way, yes, I could return that verdict if I felt that way. I am giving you an honest answer at this moment.

Q That's sure what we want.

A Okay.

Q The next question would be that once you would do that, the question would be after hearing

the evidence if you felt again that the case was appropriate for the imposition of the death penalty, would you even though you felt that way, would you hesitate in imposing the death penalty?

A I would hesitate, because I would have to think. I would hesitate, and I am being honest there, I would.

Q Okay.

Now, after, however, you thought and you listened to the evidence and listened to the instructions that the Court would give you and you felt that it was appropriate, would you then under those circumstances be able to or is your feeling such that you would still have difficulty and not be able to do it? We're just asking you to be frank.

A I'm being frank, but like I said it's a thing that I would have to give a lot of thought to before I could do it. I can't tell you that at this moment. I can't tell you that I would just sit here and say without any thought whatsoever, say yes to that. I can't say that now. You know, I don't know what else I can do. I don't know how much more I can say.

Q I think you have generally explained it to me, your position.

Do you feel that the fact that the death penalty is a possible penalty in this case, would that in any way interfere with your ability to listen to all of the evidence and weigh it?

A No.

Q Have you or anyone close to you ever had any kind of unpleasant experience with the Philadelphia Police --

A No.

Q -- that would in any way prevent you from being fair and listening to their testimony?

A No.

Q Have you or any friend, any close friend or any relative, ever been a witness in a criminal proceeding?

A No.

Q Have you or anyone close to you ever had any kind of contact with the criminal justice system *other than what the contact is that you have right now?* By that I mean, you were never a juror before, but did you ever watch a trial? Did you ever have a

complaint against anybody? Did you ever have a complaint against you or someone close to you, anything like that?

A No. The only time I have ever watched a trial, I came in for a class in business law. That's the only time I have ever watched a trial.

Q Have you had some legal training of sorts besides the business law course?

A No.

Q The defendant, Mr. Jamal, has already asked you some questions. Would the fact that he would be actively participating in the trial when you were sitting as a juror and that he would be asking questions to witnesses and cross-examining witnesses and also addressing the jury and so forth, would that in any way make you feel uncomfortable, either sympathy for or intimidating to you, would that prevent you from being fair to the Commonwealth in this case?

A No, no.

Q Is there anything at all about the facts of this particular case that would prevent you from being fair to either side?

A I'm not too familiar with the facts of this case, but, no, I don't believe it would bother me.

Q If you were selected as a juror and if after hearing all of the evidence and you had reached a verdict, would you be able to recite that verdict in open court?

A You mean read it to you?

Q Just say what it was.

A Yes, sure.

MR. MCGILL: Thank you very much, ma'am.

THE DEFENDANT: Judge, the defense finds Mrs. Austin acceptable.

MR. MCGILL: Peremptory, Your Honor.

COURT OFFICER: 62, Katharine Chilinskas.

...KATHARINE A. CHILINSKAS...

BY MR. MCGILL:

Q Is that Mrs. Chilinskas?

A Yes.

Q Mrs. Chilinskas, what section of the City do you reside in?

A Bridesburg.



Q How long have you lived there?

A About 40 years.

Q What is the zip code there. 24?

A 37.

Q Are you presently employed, ma'am?

A No.

Q Have you been employed at a prior time?

A No.

Q Is your husband employed?

A He's retired.

Q What did he do when he was working?

A He was a foreman in Philadelphia Coke.

Q Philadelphia Coke?

A Uh-huh.

Q Coca-Cola?

A No.

Q Coke?

A Chemical plant.

Q Do you have any children?

A Four.

Q Are they in the area?

A Just one, one son.

Q What is the nature of their employment?

A           My son is a salesman for aluminum windows in Bridesburg.

Q           Have you ever been a juror before?

A           No.

Q           Have you ever been a witness or any friends of yours been a witness in a criminal proceeding?

A           Not that I know of, no.

Q           Mrs. Chilinskis, if you were selected as a juror in this case, it would be your function to sit in one of those chairs, listen to the evidence, and reach a verdict solely based on the evidence. Would you be able to do that?

A           I think so.

Q           After you would hear the evidence, the Court, Judge Sabo, would instruct you on what the law is. He would tell you the definition of murder and so forth and go all the way down. It would be your obligation as a juror to accept and apply the law that he gave to the facts, the evidence that you found. Would you be able to do that?

A           Yes.

Q           Do you have any kind of conscientious or religious or philosophical opinions or beliefs that

would prevent you in the proper case from returning the death penalty?

A No, I don't believe in the death penalty, no.

Q You don't believe in the death penalty?

A No.

Q Is this a religious belief or a personal belief?

A Personal.

Q Have you held that for a long time?

A Yes.

Q Many years?

A Well, yes.

Q Is it that you don't believe that people have the right to do that?

A Well, I believe there can be a mistake, you know.

Q And under no circumstances would you impose then the death penalty?

A No.

Q That's what you are saying?

A Yes.

Q Okay. And you sure of that?

A Yes.

MR. MCGILL: Challenge for cause,  
Your Honor.

(Mr. Jackson and the defendant  
confer.)

THE DEFENDANT: No objection, Judge.

THE COURT: You are excused.

COURT OFFICER: 179, Emogene Johnson.

...EMOGENE H. JOHNSON...

BY THE DEFENDANT:

Q Mrs. Johnson, yesterday you informed all of  
us that a close relative or close friend is a member  
of a law enforcement agency.

A Yes, sir.

Q Could you tell us what that is about?

A A very close friend is a part of the -- is a  
detective in the police force.

Q Could you identify him, please?

MR. MCGILL: I would object to that,  
Your Honor. She doesn't need to identify him.  
The division would be fine.

THE COURT: Sustained.

BY THE DEFENDANT:

Q What unit is he assigned to?

A I didn't hear the question.

Q What unit does he work with?

A The number I'm not sure.

Q Do you know what part?

A I do know he's a detective.

Q Do you know what part of town he's assigned to?

A Downtown here, I think in Center City.

Q How often do you see him and talk to him about his work?

A Not too often.

Q Does he discuss his work with you?

A It just depends upon the time when you see him, you know, what the subject is. There are times when I see him that his work does not come up at all.

Q So sometimes he discusses it with you?

A Yes.

Q Mrs. Johnson, what neighborhood or part of town do you live in?

A In West Philadelphia.

Q How long have you lived at your present address?

A 23 years.

Q For the record, what is your race?

A Beg your pardon?

Q For the record, what is your race?

A I'm of the black race.

Q How far did you go in school, Mrs. Johnson?

A High school and one year of college.

Q What kind of work do you do, Mrs. Johnson?

A Presently I'm laid off. My job is relocating.

Q Before you were laid off, would you tell us what kind of work you did?

A I was a manager of a copying service in the University of Pennsylvania area.

Q Are you married, Mrs. Johnson?

A Just widowed. My husband just died.

Q What kind of work did he do, your husband?

A My husband was a retired City fireman.

Q Do you have children, Mrs. Johnson?

A I have three sons.

Q Give me their ages, please.

A 21, 25, and 28.

Q 21, 25, and 28?

A Yes.

Q Could you list their occupations?

A Let's see. The eldest, he's in sales.  
He works in sales.

The 25-year-old works in advertising  
in Vermont.

The youngest is in an insurance  
agency.

Q Have you ever served on a jury before, Mrs.  
Johnson?

A No, I have not.

Q Can you tell us who lives with you at home?

A Presently no one. My sons have moved away  
from home.

Q What civic, social, or professional groups  
or clubs or organizations do you belong to?

A Civic would be the NAACP, I guess. The social  
organizations are those that are connected with my  
church.

Q Is there anything about my appearance that you  
would find objectionable or offensive?

A No.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q Does my appearance suggest a lifestyle which you might find offensive?

MR. MCGILL: Objection, Your Honor.

It has already been answered here. His appearance does not offend her.

THE COURT: I will let her answer.

THE VENIREPERSON: Will you repeat the question?

BY THE DEFENDANT:

Q Does my appearance suggest a lifestyle that you might find offensive?

A It suggests -- let me see how to put it in the right words.

It does not suggest a lifestyle that I find offensive, but it does suggest a lifestyle that I don't understand. I will put it that way. But I personally don't. That's the clearest way real fast that I can give you an honest answer.

Q I understand what you say. Would that interfere with your ability in any way to pay attention to the facts in this case and render a decision based only on the facts that come from the witness stand?



A I really don't know.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q You said you don't know.

Now, do you think my appearance  
or the lifestyle that it suggests to you could tend  
to interfere with your ability to fairly judge the  
facts that you hear from this witness stand?

A I still would have to say I don't know at  
this point.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q You said you have a close friend that is a  
detective; correct?

A Yes.

Q Do you think that fact might, because the  
victim in this case was a police officer as well,  
do you think that fact might tend to interfere with  
your ability to be fair and impartial to both the  
defense and the prosecution?

A The fact that I have a friend that's on the

force?

Q Yes, ma'am.

A No, I don't think that.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q Mrs. Johnson, I am sure that like most of  
the potential jurors you have read about this case,  
somehow heard about it.

A Yes.

Q Are there any facts or recollections that  
you presently hold as a result of that press coverage?

MR. MCGILL: Objection, Your Honor.

THE COURT: I will let it in.

THE VENIREPERSON: Are there any  
facts that I presently hold, you say?

BY THE DEFENDANT:

Q Yes, ma'am.

A When you say "hold," see, naturally anything  
that I have read or heard, of course, you know, I have  
retained all of.

Q Can you tell us what you have read or heard?

MR. MCGILL: Judge, I object to this.

May we see Your Honor at side-bar  
if you are going to permit it?

THE COURT: I will let it.

BY THE DEFENDANT:

Q Tell us what you read or heard.

A Well, of course, I read that it was, of course,  
that it was alleged that you were the one that  
actually shot the policeman in question and, of course,  
the involvement, the accounting rather, of course,  
your brother first, the brother first and then --  
but that you were in fact the one that was to have  
shot the policeman.

Just stating it, you know,  
verbatim in the order and all like that just on the  
spur of the moment, I'm not doing a good job of that.  
But I did read the news accounting and, of course,  
the television accounting at that time as well.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q It's a hard question, but could you disregard  
what you have read in the papers and so forth and  
determine the facts purely as they come from the witness

stand if you are selected as a juror?

A I don't know whether I could or not for the simple reason that that still is in my mind and I couldn't honestly just, in other words, disregard that. It's there.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Would you say that based on what you have read you formed an opinion?

MR. MCGILL: Objection, Your Honor.

The standard is not opinion, but fixed opinion.

BY THE DEFENDANT:

Q Fixed opinion?

A Well, honestly I would have to say the opinion, of course, is fixed until something else naturally comes about that would change it. Of course, the opinion is fixed based on what I have read or seen, you know, by television.

(Mr. Jackson and the defendant confer.).

BY THE DEFENDANT:

Q Mrs. Johnson, can you think of any honest reason why you couldn't be a fair and impartial juror and be fair both to the defense and the prosecution in this case?

A Do I think I could be fair?

Q And impartial to both sides.

A I really don't think I could right at this moment. The answer is no.

(Mr. Jackson and the defendant confer.)

THE DEFENDANT: Challenge for cause, Judge.

THE COURT: Any objection?

MR. MCGILL: Just a few questions.

THE COURT: On that point.

BY MR. MCGILL:

Q When you say that you don't think you can be fair now at this moment -- that's the question that I am directing you to. Of course, we want to find out if you can't be fair. That's fine and I appreciate your candor.

But the reason why you feel you

can't be fair is because all you have heard about this case is what has been on the radio and the television and not what you have heard in court; is that why you find it difficult being fair?

A        That's part of it. Then the other part is just even since I have been sitting here and looking at the young man, I'm a mother and I have sons and there is even -- that is part of the answer is what I am saying.

Q        In other words, you think in a sense that you might not even be fair because the defendant may be the same age as your son or in terms of the fact that someone has lost someone who is young?

A        Well, from both angles.

Q        I understand.

A        From being a mother with sons.

MR. MCGILL:    Absolutely. Thank you, Mrs. Johnson, for your candor.

Your Honor, I have no objection. This juror may be excused.

THE COURT:    You are excused. Thank you very much.

(Brief recess.)

COURT OFFICER: 369, Catherine Tatem.

...CATHERINE M. TATEM...

MR. MCGILL: Is that me, Your Honor?

THE COURT: Yes.

BY MR. MCGILL:

Q Is that Mrs. Tatem?

A Miss.

Q Miss Tatem, I'm the prosecutor and I will be asking you some questions and Mr. Jamal will follow up with some questions.

Now, Miss Tatem, what section of the City are you from?

A South Philly.

Q Would that be 48?

A 47.

Q How long have you lived there?

A 36 years.

Q Are you presently employed?

A No, I am not. I am a student.

Q Student?

A A nursing student.

Q Well, were you employed before you were a nursing student?

A Yes, sir, I was.

Q What was the nature of your work?

A I was a manager for ARA payroll department.

Q How long were you there?

A Two years.

Q Have you ever been a juror before?

A Yes, I have.

Q How long ago?

A Last July.

Q Now, was it a criminal or civil jury?

A It was criminal.

Q Without telling us the result, did you reach a verdict?

A I was dismissed.

Q You were dismissed?

A I was dismissed.

Q Now, is there anything about the criminal justice system in your experience as a juror that would in any way prevent you from being fair and impartial in this case?

A No, my own beliefs as far as anything that I have done before as a juror.

Q Let me ask you this: Do you have any kind of



conscientious, religious, or philosophical opinions or beliefs that would prevent you in the proper case from returning the death penalty?

A Yes. I think there would be -- as far as I am a nursing student, I would like to save lives. I do not want to take them away.

Q Has this been a feeling that you have had for a long time?

A Yes, a long time.

Q Would you say it's a fixed opinion and feeling in your mind and heart?

A I think so, yes.

Q And there really wouldn't be anything that I or the Judge or anybody could say that would change that?

A No.

MR. MCGILL: Thank you for your candor.

Challenge for cause, Your Honor.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Miss Tatem, just a few questions.

Could you think of any circumstances,

grim circumstances, barbaric circumstances, any circumstances that would convince you the death penalty would be necessary?

MR. MCGILL: Objection, Your Honor.

THE COURT: I will let her answer it.

MR. MCGILL: Not the death penalty would be necessary, but that she would consider imposing it. That's the issue.

THE COURT: Rephrase it.

BY THE DEFENDANT:

Q Could you think of any circumstances, however grim or vulgar, where you could consider returning a verdict of guilty and imposing the death penalty?

A I would have to oppose the death penalty.

BY MR. MCGILL:

Q You say oppose?

A Yes. I couldn't give the death penalty.

THE DEFENDANT: No objection to the Commonwealth's challenge.

THE COURT: You are excused.

COURT OFFICER: 290, Candace Putter.

...CANDACE A. PUTTER...

BY THE DEFENDANT:

Q Miss Putter, could you tell us what area of the City, what neighborhood you presently live in?

A Southwest Philadelphia.

Q How long have you lived in that neighborhood?

A About seven years, eight years.

Q Prior to that what neighborhood did you live in?

A I lived in Powelton Village.

Q How far did you go in school, Miss Putter?

A I graduated from college.

Q What was your major incidentally?

A I'm sorry, I couldn't hear.

Q Your major?

A French and English Literature.

Q Incidentally, what college was that?

A Swarthmore College.

Q What kind of work do you do?

A I'm a paralegal in a Community Legal Service.

Q Do you have any children?

A I have two.

Q Can you give me their ages, please?

A 5 and 3.

Q Are you married, Miss Putter?

A I am separated.

Q I know these questions seem very personal.

A That's all right, I understand.

Q Do you understand that in the event that you are accepted as a juror this case may take several weeks and during that time you may have to be sequestered, separated from your family?

A Well, actually one of the things yesterday when it was asked if it was a hardship, I do have one problem. It depends on what time it happens, because right now I have a shared custody arrangement with my ex-husband and I'm also in the process of a protracted custody case which may come up at the end of June. So that could present a real hardship.

Q If it occurs in the next two or three weeks, that would be a problem for you? Do you know now?

A I'm not sure. I will be getting my dates for going back to court. It's probably the end of June. It depends on how long it could last. It could be a real problem in terms of taking care of my children. They are with me every other week.

(Mr. Jackson and the defendant confer.)

MR. MCGILL: I have no objection that she be excused. There's no assurance.

THE COURT: Any objection, Mr. Jamal?

THE DEFENDANT: No objection, Judge.

THE COURT: You are excused.

COURT OFFICER: 432, Victor Brody.

THE COURT: There is a hardship.

MR. MCGILL: Yes, sir.

...VICTOR BRODY...

BY MR. MCGILL:

Q Mr. Brody, good morning, sir.

A Good morning.

Q You had indicated, sir, that you had a hardship if you were to serve on the jury. Would you tell His Honor what that is?

A Your Honor, I have business in Mexico next week and at the end of the month in Alaska. It's important to my work, and I feel that if I am disappointed in that way it may cloud my judgment. It may cause some negative results to my business.

MR. MCGILL: Your Honor, I have no

objection if the juror, Mr. Brody, is excused on that basis.

THE DEFENDANT: No objection, Judge.

THE COURT: You are excused.

COURT OFFICER: 42, Verna Brown.

...VERNA L. BROWN...

BY THE DEFENDANT:

Q Miss Brown, could you tell us what area of the City or neighborhood you live in?

A What area of the City I live in?

Q Yes, ma'am.

A North Philly.

Q How long have you lived where you presently live?

A About 13 years.

Q Are you married?

A No, I am not.

Q For the record, could you state your race?

A Black.

Q How far did you go in school?

A 12 years, high school. 12 years of school.

Q Did you graduate?

A Yes.

Q What kind of work do you do?

A I don't.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q Have you been employed in the last three  
years?

A No.

Q Have you ever served on a jury before?

A No, I haven't.

Q Can you tell us who lives with you?

A Beg your pardon?

Q Can you tell us who lives with you?

A I live with my mother and my son.

I have a son.

Q Your mother and your son?

A Uh-huh.

Q Is your mother employed?

A No, she is not.

Q Could you tell us the age of your son?

A Yes. He'll be 6 in August.

Q 6 years?

A Yes.

Q Is there anything about my appearance that offends you?

A No.

Q Is there any reason that you can give this Court that my appearance would influence your judgment?

A No.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q I'm sure you read about this case.

A I don't read the news that much and I don't listen to the news that much.

Q Do you watch television?

A Maybe like shows, but I don't watch the news that much.

Q But you have read something about this case, haven't you?

A No, not read anything in the paper. I heard it on the news about it when it first happened, but that's about all. I never followed it up.

Q Is that radio news?

A I'm not sure. I think I heard it on the radio,



but I believe it was more people talking about it.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q Is there anything based on what you have heard on the radio or on TV or anything that would give you a fixed opinion about what you know about this case?

A No.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q I am sure you are familiar with crime in Philadelphia and across the nation and you probably developed an opinion. We are not going to ask you what your opinion is, but would that opinion tend to interfere with your ability to decide the facts in this case?

A No.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q Do you know any reason why you couldn't be fair and impartial to both the defense and the

Commonwealth?

A No.

THE DEFENDANT: No further questions.

BY MR. MCGILL:

Q Good afternoon, Miss Brown.

A Good afternoon.

Q Do you prefer Miss, Ms. or Mrs.?

A Miss.

Q Miss Brown, do you know the defendant?

A Do I know him?

Q Yes.

A Personally?

Q Well, radio or television or something like  
that.

A Yes, I have heard, yes.

Q Excuse me?

A Yes, from, you know, hearing about the  
crime. That's about it.

Q That's all you know?

A Yes.

Q You don't know him from his reports as a  
newscaster or anything like that?

A No. I heard he was a newscaster.

Q You had indicated that you have a 6-year-old child; is that correct?

A Yes.

Q Would the fact that you would be sequestered, which means you would be held in a hotel overnight away from your family for about two weeks, maybe three, would that cause any hardship to you?

A No.

Q Miss Brown, do you have any kind of conscientious or religious or philosophical opinions or beliefs that would prevent you in the proper case from imposing the death penalty?

A No.

You mean do I? Am I for the death penalty?

Q Well, are you for or against the death penalty?

A I never really thought about it.

Q Okay, fine.

The real question I am asking, and I may have phrased it in a way that's hard to understand, is: No matter what you feel about it, are you able if the facts were such as to show that the death penalty would be appropriate under the circumstances

would you be able to consider returning the death penalty?

A Yes.

Q May I ask how old you are?

A 22.

Q Now, Miss Brown, the fact that the defendant, who had just been asking you various questions, would be asking witnesses questions and addressing you as a juror and also summing up the evidence, would be doing everything that I will be doing and he would be the individual who you would be judging, would that in any way interfere with your ability to be fair and impartial to the Commonwealth in this case?

A No.

Q In other words, would you feel a certain sympathy or for that matter intimidation that you would be unable to reach a fair verdict based on the evidence?

A No.

Q The Judge will tell you what the law is at the end of the case. If after considering all of the evidence and listening to the law that the Court

would give you, you have reached a particular verdict, would you be able to recite that verdict in open court?

A Yes.

Q Would you follow the Court's instructions as to what the law is whether or not you agreed that the law should be that way?

A Yes, I would.

Q What high school did you go to?

A Simon Gratz.

Q Have you or anyone close to you ever been a witness in a criminal proceeding?

A No.

Q Have you or anyone close to you ever had an unpleasant experience with the Philadelphia Police that may in some way prevent you from being fair in this case?

A No.

MR. MCGILL: Thank you very much.

(Mr. Jackson and the defendant confer.)

THE COURT: Defense.

THE DEFENDANT: Acceptable to the defense.

MR. MCGILL: Peremptory, Your Honor.

COURT OFFICER: 144, Myless

Griffin.

...MYLEES GRIFFIN...

BY MR. MCGILL:

Q Is that Miss or Mrs.?

A Mrs.

Q Mrs. Griffin, good afternoon. I will ask you some questions, and then Mr. Jamal will ask you some questions. All right?

A Yes.

Q Mrs. Griffin, you answered no questions; is that correct?

A Correct.

Q What section of the City do you presently reside in?

A North Philly.

Q What is your zip code there?

A 19121.

Q How long have you lived there?

A About 20 years.

Q 20 years?

A About 20 years.

Q Where did you live before then?

A 11th and Susquehanna Avenue.

Q Have you ever been a juror before, Mrs. Griffin?

A No.

Q Have you or anyone close to you been a witness in a criminal proceeding?

A Yes. My daughter, she was on jury duty.

Q What was that?

A My daughter, she was on jury duty.

Q As a result of what your daughter has experienced, did she tell you anything about it?

A No.

Q Did you develop any impressions at all from when you spoke to her concerning that particular area?

A No. I said no, it wasn't discussed.

Q Mrs. Griffin, do you have any conscientious or religious opinions or beliefs that would prevent you in the proper case from returning the death penalty?

A I don't believe in the death penalty.

Q Is that a religious belief or social belief?

A Social, I guess.

Q Is it one that you have held for a long time?

A Yes.

Q Would you say that is a firm, fixed opinion in your mind?

A Yes, it is.

Q No matter what myself or anybody would say to you, you can't change that opinion; is that what you are saying?

A No.

MR. MCGILL: Thank you for your candor.

Challenge, Your Honor.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Mrs. Griffin, just a few questions about your position on the death penalty. Could you imagine a circumstance that was so grim, so brutal, so barbaric, that you could in that instance impose a decision of the death penalty?

MR. MCGILL: Your Honor, I would object to that as worded.

THE COURT: You will have to speak up



louder. I can't hear you.

THE DEFENDANT: Okay.

BY THE DEFENDANT:

Q My question to you, Mrs. Griffin: Could you imagine a situation where a crime was so barbaric, so bloodthirsty, so grim that you could in that instance return a verdict of the death penalty?

MR. MCGILL: Objection, Your Honor.

I think that's highly speculative as worded.

THE VENIREPERSON: I heard what he

said, but --

BY THE DEFENDANT:

Q You don't understand?

A I understand what you said, but it's gruesome. I don't know how to really answer that just the way it was said truthfully. To give you a truthful answer, the way it was asked, barbaric, I don't know. I couldn't answer that truthfully, I don't know.

MR. MCGILL: Challenge, Your Honor.

Let's move on.

THE DEFENDANT: Let me just rephrase that.

BY THE DEFENDANT:

Q Is there one case where if you were convinced --

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q If there was one case where you were, number one, convinced of guilt beyond a reasonable doubt, could you return the verdict of the death penalty?

A I don't know.

(Mr. Jackson and the defendant confer.)

THE COURT: I didn't hear the answer.

MR. MCGILL: She said, "I don't know," Your Honor.

I renew the challenge again.

BY THE DEFENDANT:

Q So that there is a possibility that given the facts of a certain case you could be moved to --

MR. MCGILL: Objection, Your Honor.  
That's not what she said.

THE COURT: Let me hear his whole question. Let me hear his question.

BY THE DEFENDANT:

Q        So that there is a possibility that given the facts of a certain case you could return, you could impose the death penalty if you are a juror?

MR. MCGILL:  Objection.  That is not what she said.

THE COURT:  I want to see whether you can impose the death penalty.

THE VENIREPERSON:  The way he asked the question, it's a possibility. The way he asked the question, it's a possibility.  Maybe I could, I don't know.

BY THE COURT:

Q        You had indicated that you were opposed to the death penalty.

A        I am opposed to the death penalty, yes.  But the way he put it to me, the way -- truthfully, I am already upset and too I don't think I would make a good juror, because I'm not thinking properly and I'm not hearing things.  But I am against the death penalty. But this is something that I don't think I would be good at, because the way they are asking the questions I'm already upset and confused.  So I wouldn't be a

good juror, I don't believe.

MR. MCGILL: Challenge, Your Honor.

THE COURT: You are excused. Thank  
you very much.

COURT OFFICER: 538, Emily Ruff.

...EMILY RUFF...

BY THE DEFENDANT:

Q Miss Ruff, is that Miss or Mrs. Ruff?

A Mrs., yes.

Q Mrs. Ruff, could you tell us what part of  
town, what area of the City do you live in?

A Tell you what?

Q What part of town, what area of the City you  
live in, what neighborhood?

A I live in North Philly at 2446 North 17th  
Street.

THE COURT: Don't give us your  
address.

MR. MCGILL: Objection.

THE COURT: Just the area.

THE VENIREPERSON: North Philly.

BY THE DEFENDANT:

Q How long have you lived in North Philly, Mrs.  
Ruff?

A Since 1949.

Q For the record, Mrs. Ruff, what is your race?

A What is my what?

Q Race.

A Race?

Q What race do you belong to?

A Oh, the black race.

Q How far did you go in school, Mrs. Ruff?

A 8th grade.

Q Are you employed, Mrs. Ruff?

A No, I am not.

Q When you were last working, what did you do?

A I was a factory worker, but now I'm on disability.

Q Do you have any children?

A Yes, I do.

Q Can you give me their ages, ma'am?

A 40 and 42.

Q What do they do for a living?

A What does they do?

Q Yes, ma'am.

A They work.

Q What kind of jobs do they hold?

A One does factory work and one works in the school system.

Q Is your husband employed, Mrs. Ruff?

A I don't have a husband.

Q Who lives with you at home, ma'am?

A My daughter and one granddaughter.

Q Is there any reason why you couldn't be fair to both sides, the prosecution and the defense?

A Is there any reason?

Q Yes, ma'am.

A No, there's not.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q You indicated by not standing yesterday that you have read or heard or seen something on TV about this case; right?

A Yes, I have read about it.

Q Can you tell us what those facts that you presently hold are as a result of what you have read?

A Well, not definitely, because I haven't read up on it lately. So, you know, I didn't, you know,

I just didn't keep up with it.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q Based on what you recall, what is it that  
you recall?

A Huh?

Q Based on what you do recall, what do you  
remember?

A Well, when I was reading, what I could  
understand about it from the press was it was, you  
know, debatable. I couldn't understand why something  
like this could have happened. And I seems to  
think that maybe it was the wrong man that they had  
said that pulled the trigger.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q Would the things that you remember, the  
facts that you remember based on what you have read,  
interfere with your ability to fairly judge the  
facts in this case that you hear coming from that  
witness stand that you are sitting in right now?

A           What I have read, would it?

Q           Would it interfere with your ability to judge, based not on what you have read, but on what comes from that witness stand?

A           No, I don't think it would.

MR. MCGILL: I would object.

I want to hear what she said. I didn't understand the question and answer.

THE COURT: Will you read back the question and answer?

(The court reporter read the question and answer.)

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q           So that you can disregard what you have heard or read and rely purely on the facts as they were presented to you from this witness stand?

A           Yes.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q           Is there anything about my personal appearance



that offends you?

A No.

Q Is there anything about my appearance that suggests a lifestyle that you may find offensive?

A About your lifestyle?

Q Yes, ma'am.

A I don't know about your lifestyle.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q What civic, social, or professional clubs or organizations do you belong to?

A I belong to the church, no other club.

Q Have you ever served on a jury before, Mrs. Ruff?

A No, I haven't.

Q Have you ever filed a complaint with the police against anyone?

A No, I haven't.

THE DEFENDANT: No further questions, Judge.

BY MR. MCGILL:

Q Good afternoon, Mrs. Ruff. I have some questions

for you.

Did you know Mr. Jamal before you came into this courtroom or did you know of him?

A No, no more than what I read, and not him personally, I never seen him before.

Q And you said something about you had an impression or a feeling or something about the facts being undebatable that the wrong man did it. Is that what you said? What did you mean by that?

A What I really meant was that I didn't understand how he could have pulled the trigger that shot the officer.

Q Is that because you knew of him before?

A No, I didn't know, just from what I was reading in the paper. I didn't know nothing about him before.

Q Now, do you feel that if you were selected as a juror in this case that you might still have a tendency to feel that way throughout the entire trial?

A Oh, well, that I couldn't say because I haven't -- maybe what was in the paper won't even be.

Q Sure.

You mentioned you were a church member; is that correct?

A Yes.

Q Is that a church in Philadelphia?

A Yes, it is.

Q Have you been a church member for a long time?

A Yes, I have.

Q Do you have any kind of religious or social or philosophical or personal opinions or beliefs that would prevent you from imposing the death penalty in the appropriate case?

A Do I have?

Q Do you understand what I said?

A Say that to me again.

Q Okay.

Mrs. Ruff, do you oppose capital punishment?

A Do I oppose it?

Q Yes. Are you against capital punishment?

A I believe in capital punishment.

Q Now, therefore, if you after listening to all of the evidence and only the evidence that you hear from that particular witness stand, if after hearing the evidence you were convinced in accordance with the law that the Court will give you that the appropriate

penalty in this case would be death, would you be able to impose it?

A I guess I would.

Q Now, if you were selected as a juror in this case, it would be your function to listen to all of the witnesses. Would you be able to listen to those witnesses fairly and impartially despite their age, race, makeup, habits, background or whatever?

A As long as I can understand what they are saying.

Q Would the fact that a witness may have a criminal record in any way prevent you from listening fairly and impartially to their testimony?

A Because they have a criminal record?

Q Yes. Would you be able to be fair in listening to their testimony even though they may have a criminal record?

A That wouldn't bother me from listening to their statements and saying how I feel about it, speaking my opinion about it.

Q You indicated that you had been a factory worker for a while and then you are disabled.

A Yes. I have arthritis.

Q Well, if the trial should go for a period of say two, two and a half weeks, perhaps three, do you feel that you would have any difficulty physically from sitting as a juror in this case and listening to the testimony?

A Yes, I do.

Q And this is because of your condition?

A Condition.

Q I should be fair in mentioning to you that the trial would at least last two weeks, possibly three. Now, you would have to come in here every day and this would be from 9:00 to until the Judge would end the day, which would mean probably 4 o'clock, sometimes maybe even later.

What is it about your condition that would make you unable to physically sit for a length of time and listen to evidence?

A Sitting long, getting stiff, aching in the knees and the air conditioning.

Q You have had this arthritis for what length of time?

A I have had it years, but I have been on disability since '78.

Q But you had the condition even before then?

A Yes.

Q Have you experienced in the past those feelings if you sit for any length of time, such physical discomforts?

A Yes, stiffness of the knees and the air conditioning is really rough.

Q Because of that particular discomfort, that physical discomfort that you have mentioned, do you feel that particularly if there would be air conditioning, that if you sat as a juror that discomfort may well interfere a little bit in your perhaps ability to listen and pay attention to the evidence in this case?

A Well, it could have. You know, it don't bother the ears, but if you are paining you think about your pain sometimes. I will put it like that.

Q Well, what is it about sitting for a length of time that would affect you or make you unable to sit as a juror in this case?

A Well, you get stiff. And the stiffness and soreness, if it would be where you can get up and walk around and move around, it keep you going, keep you

moving.

Q How often must you do that?

A I wouldn't say that limit of time, but I would say that I wouldn't be able to sit no four and five hours at a time without moving around.

Q Of course, you might have to sit for perhaps an hour, maybe an hour and 15 minutes, something like that. It wouldn't be four hours.

But I was going to ask you this, Mrs.

Ruff: Do you believe that because of your condition, which you have experienced over a number of years, that it may well be that during the course of a trial of this importance that you may well miss a portion of the evidence or not pay attention to a portion of the evidence because of your condition? Do you think that that is a possibility?

A I don't feel like --

Q You don't feel like that?

A Like it would cause me to not listen, you know, from the ailment.

Q Do you believe then that you would be able to pay attention despite your condition throughout the entire trial and not be able to miss anything?

I'm only talking about your condition now, nothing else.

A I would be afraid to say, because one morning I might just get up and can't even make it down, according to how it's going to be. And that's something you don't know and I don't know.

Q You mean there are certain mornings that you may actually have extreme difficulty moving?

A Pain, yes. A lot of mornings I have to get up and get into a hot tub of water before I can get to moving, you know.

Q In that situation -- and that has occurred in the past?

A Oh, yes. That occurs quite frequently. This morning was one of the mornings.

Q This morning is one of the mornings.

If it were possible then over a period of time, if you did feel like that, would you find some very serious difficulty in sitting as a juror if that occurred on that particular day?

A Yes, I would say yes.

MR. MCGILL: Thank you.



Your Honor, on those answers I would challenge for cause.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Mrs. Ruff, you said that you had some pains and difficulty this morning.

A Had some what?

Q Some pain and difficulty, stiffness this morning.

A Yes, because yesterday I got real cold and I took my medication last night, but this morning my joints were sore and stiff. But I usually get in the bath tub and whirlpool and stay for a while and it puts it right back.

Q How do you feel now?

A I feel fine. A little nervous, but I feel fine.

Q I understand.

That difficulty and discomfort and pain that you had this morning didn't stop you from coming down here today, did it?

A It didn't, but some mornings I do have pains

and it really does stop me. But you don't never know how it's going to be. Sometimes I go for a long time and, you know, do good. Then again I just can't hardly make it, and I do use a cane when I walk.

Q Do you sometimes go more than a month without that pain and discomfort that you have talked about?

A Oh, no, I never go more than a month.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Let's say within a month's period of time, would that pain and discomfort be so severe that you couldn't leave your house?

A Well, that's a hard question to answer because it's a condition that you really -- I can't tell you that, because sometimes it's due to how you eat, how you take your medicine, as I said, air conditioning. You don't know what it's going to do and what it's not going to do.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Mrs. Ruff, do you think that your condition would cause a problem for you to sit as a juror in this trial, say, if you had to sit for two hours at a stretch?

A Two hours at a time?

Q Yes, ma'am, no more.

A Well, I always like to think positively and I feel like maybe I can handle it. Then again I couldn't guarantee you that, because like I feel now, I don't know how I be feeling the next hour from now.

MR. MCGILL: Your Honor, I would challenge for cause on this point. It's been gone over and over. She has made herself clear about this conflict.

THE COURT: You are excused.  
Thank you very much.

THE DEFENDANT: Judge, can we see you at side-bar?

(Side-bar conference in the presence of the Court, Mr. McGill, Mr. Jackson and the defendant reported as follows:

MR. MCGILL: Before we start, for the

record, I just want to make sure it's on the record -- some stenographers do, some don't. Throughout all the questions in the jury selection which has been done both today and yesterday, which is perfectly appropriate in compliance with the Court's order, Mr. Jackson has been continually advising Mr. Jamal to questions and phrasing of questions and the nature of questions to ask.

THE COURT: All right.

MR. MCGILL: You have seen that too, Your Honor.

THE DEFENDANT: Judge, specifically, with this last witness, Mrs. Ruff, it's very clear that she does have some physical discomfort, disability. It's also clear, even though she said it was severe this morning, that she got herself down here because she felt it was important enough. She said she could sit through steps of time to several hours. That is the basis of the point. I just think that instead of supporting the prosecution's challenge for cause, you should

have allowed us to question her.

THE COURT: You did ask her several questions. She seems to me that she does have a problem. She's evidently --

MR. MCGILL: Arthritic.

THE COURT: Arthritic. But she must have a disability through Social Security or somebody, because she worked at one time.

MR. MCGILL: Factory work.

THE COURT: In factory work. And she is honest enough to admit that she can't predict when she is going to be uncomfortable. She talks about air conditioning. Well, this room is air conditioned. If it gets warmer and the air conditioner goes on, it's going to be really cold in here. You know there were some days it was pretty cold. She said she has to walk with a cane. She has to take medication. All of these.

MR. MCGILL: She said some days she can't get out of the house. She doesn't know when they are going to come.

THE COURT: It could present a problem,

and I don't think we should be looking forwards.

MR. MCGILL: That's all you need,  
a physical problem.

THE COURT: The problem we have  
now is in two areas. We have to worry about,  
one, is how much they know about the case and  
how it affects him and capital punishment.  
I think you should delve into those areas  
first before you even get into the other  
areas, except for people who have indicated  
that they may have either a physical problem  
or a hardship of some sort. You know that  
may work into excusing them by agreement or  
otherwise. I think if you delve into those  
areas fast enough we might be able to move  
along, because I think you have enough trouble  
getting somebody to sit on this jury from this  
County to be honest with you.

MR. MCGILL: Thank you, sir.

THE DEFENDANT: Thanks, Judge.

(End of side-bar conference.)

(Luncheon recess.)

AFTERNOON SESSION

COURT OFFICER: 342, Barbara  
Spaeth.

...BARBARA A. SPAETH...

MR. MCGILL: Is it me, Your Honor?

THE COURT: Yes.

BY MR. MCGILL:

Q Is that Mrs. Spaeth?

A Miss.

Q Miss Spaeth, I'll be asking you some questions,  
and then Mr. Jamal will ask you some questions.

What section of the City do you  
reside in?

A Northeast Philadelphia.

Q What zip code?

A 11.

Q How long have you lived there?

A Since 1952, 30 years.

Q Are you presently employed?

A Yes.

Q What is the nature of your occupation?

A I'm a secretary.

Q How long have you been so affiliated?

A 23 years.

Q Center City or Northeast also?

A No, North Philadelphia, 9th and Montgomery.

Q Have you ever been a juror before?

A Yes.

Q How long ago was that?

A In 1966, for the City.

Q Is that criminal jury?

A Yes. It was for three weeks. Two weeks for criminal and one week was a civil.

Q Did you get on any juries in order to decide something?

A Yes.

Q Without telling us what it was, did you reach a verdict?

A Yes.

Q Now, Miss Spaeth, you indicated that you knew Anthony Colletta or you think you know him.

A Yes.

Q You know the doctor from Jefferson Hospital?

A Yes.

Q The fact he will testify, if he will testify -- I don't know whether he will -- would be obviously



concerning the matters at Jefferson Hospital, injuries and so forth. Would the fact that you know a witness who may testify in this particular case in any way prevent you from being fair and impartial to the Commonwealth or the defense?

A           It could.

Q           It could?

A           I don't know.

(Mr. Jackson and the defendant  
confer.)

BY MR. MCGILL:

Q           Do you have any conscientious, philosophical, or religious beliefs that would prevent you in the proper case from imposing the death penalty?

A           I don't believe anybody has the right to take a life.

Q           I see.

How long have you felt that way?

A           For a long time.

Q           Is that a fixed opinion?

A           Yes.

Q           No one can change that, whether it be the Judge, the defense, or anybody?

A No, sir.

MR. MCGILL: Thank you.

Challenge for cause.

(Mr. Jackson and the defendant  
confer.)

THE DEFENDANT: I have no objection,  
Judge.

THE COURT: You are excused.

COURT OFFICER: 260, Jeannette  
Nocito.

...JEANNETTE NOCITO...

THE COURT: Defense.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q Miss Nocito, what area, what part of town do  
you live in?

A I live in Roxborough.

Q How long have you lived in Roxborough?

A 25 years.

Q For the record, could you state your race?

A Pardon me?

Q For the record, could you state your race?

A State my what, sir?

Q Your race.

A Race?

Q Yes, just for the record.

MR. MCGILL: White race, Your Honor.

I will stipulate to that.

THE COURT: All right.

BY THE DEFENDANT:

Q Almost all of the jurors, the potential jurors who were in the courtroom yesterday said that they have heard something or read something about this case.

A Yes.

Q Are there facts or recollections that you presently hold as a result of that press coverage?

A No.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Can you tell us what you have read or heard about the case?

MR. MCGILL: Objection, Judge.

THE COURT: I will overrule it.

(Mr. Jackson and the defendant

confer.)

BY THE DEFENDANT:

Q Miss Nocito, can you tell us what you have read or heard?

A I read it yesterday. I really couldn't tell you anything about it.

Q You read it yesterday?

A In the paper, yes. I bought a paper yesterday morning when I came here.

Q Before yesterday?

A No.

Q You haven't read anything about the case?

A No, I haven't.

(Mr. Jackson and the defendant

confer.)

BY THE DEFENDANT:

Q Is there anything about my appearance that may offend you?

A No. Why should it?

Q Good question.

Is there anything about my appearance

that may suggest a lifestyle that you may be opposed to or offended by?

A Do you really want me to say?

Q I really do.

A I don't like your hair.

Q Could you tell me why?

A No reason.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Would the fact that you dislike my hair interfere in any way with your judgment in the case?

A I really don't know truthfully. I really cannot say.

Q Do you think it might?

A I don't know, I'll be very honest with you.

Q What information would you need in order to decide whether it would interfere with your judgment?

MR. MCGILL: I object.

THE COURT: Sustained.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Miss Nocito, would your feelings about my hair interfere in any way with --

A I really don't know, I can't say. I don't know why the hair should be so important anyway.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Could you disregard those feelings?

A In what way? I don't know what you are trying to tell me.

Q You said you don't like my hair. That's your opinion. I have no problem with that. But could you disregard those feelings when it comes to deciding evidence that comes from the witness stand?

A I really don't know, I can't say. I really can't answer that.

(Mr. Jackson and the defendant confer.)

THE DEFENDANT: Challenge for cause.

BY MR. MCGILL:

Q Is it Mrs.?

A Yes.

Q Mrs. Nocito, would you convict this defendant merely because his hair you don't like?

A No.

Q Would you base your verdict if you were selected as a juror on the evidence that you hear in the courtroom no matter what it would be?

A Of course.

Q Would you follow the law that the Court would give and apply that law to the facts that you find?

A I would have to, yes.

Q And under that basis would you then be able to give both the defendant and the Commonwealth a fair trial by basing your verdict solely on the evidence?

A I guess so, yes.

MR. MCGILL: I would object to the challenge, Your Honor.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Mrs. Nocito, what civic, social, or professional groups, clubs or organizations do you belong to presently?

A I don't belong to any. Why?

Q I just want to know.

A I belonged to the English Club when I first came from England, but that's all.

Q How far did you go in school, Mrs. Nocito?

A I was educated in England. It's an entirely different system than what it is here.

Q Mrs. Nocito, what kind of work do you do?

A I'm a seamstress.

Q For how long?

A 20 years. I work at home.

Q Who lives with you at home, Mrs. Nocito?

A My husband and my son.

Q How old is your son?

A 19.

Q Is he employed at this time or in school?

A He was employed.

Q Pardon?

A He was employed as an apprentice.

Q What kind of work does your husband do?

A He's a supervisor at Container Corporation of America.

Q I didn't hear that after you said supervisor.



I didn't hear.

A Container Corporation of America.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q You are familiar with crime in Philadelphia  
and across the country. I am sure you probably  
developed an opinion. Now, without telling us what  
that opinion is, would that opinion tend to interfere  
with your ability to decide the facts in this case?

MR. MCGILL: Objection, Your Honor.

THE COURT: I will allow that.

MR. MCGILL: You may answer.

THE VENIREPERSON: I really don't  
know what you are getting at, sir, to be  
honest with you. Opinion about what?

BY THE DEFENDANT:

Q Crime.

A In general?

Q In general in Philadelphia and across America.

A I really don't know. I have never had any  
feelings about it to be very honest with you.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q Do you think your opinions or feelings about crime will interfere with your decision-making ability in this case?

MR. MCGILL: Objection, Your Honor. There has been no feelings expressed in order to reach --

THE COURT: I will have to sustain the objection.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Do you think your opinion about crime would interfere in any way with your judgments in this case?

A I really don't know what you mean by my opinion about crime. Explain it to me, then maybe I can answer you.

Q Do you have an opinion about crime?

A It's wrong. Anybody who does anything wrong, it's against the law. That's all I can tell you.

Q Because you think crime is wrong, would it interfere with your judgment in this case as a juror?

MR. MCGILL: Your Honor, I would

object.

THE VENIREPERSON: I really don't know what you are getting at to be very honest with you, sir, I don't.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q If you were selected as a member of this panel and the verdict of guilty of first degree murder was rendered, could you come back with a decision of the death penalty against me?

MR. MCGILL: Objection, Your Honor.

THE COURT: Sustained.

THE VENIREPERSON: I don't think I can answer that.

THE COURT: Sustained.

MR. JACKSON: I didn't hear her response.

THE COURT: He objected to the way the question was phrased. I sustained it.

BY THE DEFENDANT:

Q If you were selected as a member of the

jury panel and a guilty verdict of murder first degree is rendered, could you impose the death penalty?

MR. MCGILL: Again, objection.

THE COURT: Sustained.

Rephrase the way the question is phrased.

THE VENIREPERSON: I really don't know.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Mrs. Nocito, in a proper case where a jury has found guilt of first degree murder could you return a penalty of death?

MR. MCGILL: Your Honor, I would object.

THE VENIREPERSON: I can't answer that.

You are making me very nervous, I will be very honest with you.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Mrs. Nocito, I apologize for your nervousness,

but what we are trying to get from you obviously are some of your views on capital punishment, because that is an issue in this case.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Is there some reason why you can't answer the question in reference to the death penalty?

MR. MCGILL: I would object, Your Honor, not properly phrased.

THE COURT: Sustained.

If you ask the question properly, then she will be able to answer it.

Mr. Jackson, will you please tell him how to ask the question.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Mrs. Nocito, do you have any religious, philosophical or moral principles that would prevent you from imposing a death penalty?

A I don't think anybody should take anybody's life.

I'm very sorry. Please, Your Honor,  
may I be excused?

MR. MCGILL: Yes, Your Honor, I believe  
that under the circumstances the nervousness  
of the juror is pretty clear. I challenge for  
cause.

THE COURT: You are excused.

COURT OFFICER: 35, Edna Bradley.

...EDNA M. BRADLEY...

BY MR. MCGILL:

Q Is that Mrs. Bradley?

A Yes.

Q Good afternoon, Mrs. Bradley. I'm going to  
be asking you some questions, and then Mr. Jamal will  
be asking you some questions. Okay?

A Yes.

Q Now, what section of the City do you live in?

A North Philadelphia.

Q How long have you lived there?

A Since '75.

Q What is the zip code there?

A 19121.

Q Now, Mrs. Bradley, have you ever been a juror

before?

A No.

Q Are you presently employed?

A Yes, I am.

Q What is the nature of your occupation?

A I work in a ladies' garment factory.

Q How long have you worked there?

A For five years now.

Q Are you married?

A Yes, I am.

Q Is your husband employed?

A No. My husband is on disability.

Q Before he went on disability, what was the nature of his work?

A He worked in a mattress factory.

Q Do you have children?

A Yes, I have a daughter.

Q Is she in the City?

A No.

Q Does she work?

A No, she is not working now.

Q Now, Mrs. Bradley, have you or anyone close to you ever had any kind of unpleasant experience with

the Philadelphia Police that may in any way prevent you from being fair and impartial in this case?

A No.

Q Do you have any kind of conscientious, religious, personal, or social opinions or beliefs that would prevent you in the proper case from imposing the death penalty?

A Yes.

Q Is it a religious belief?

A It's my belief.

Q Your own personal belief?

A Yes.

Q Is it one you have held for a long time?

A All my life.

Q Is it a firm and fixed opinion that you will always hold?

A Yes. I don't believe in giving judgment on a party.

Q No matter what the Judge or anyone else says, you will still hold to that opinion; is that correct?

A Yes.

MR. MCGILL: Thank you very much for your candor.



Challenge for cause, Your Honor.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q Mrs. Bradley, could you think of any  
incident that could justify in your belief or your  
opinion the imposition of the death penalty?

A Beg your pardon?

Q Could you think of any incident, any incident  
that could justify the imposition of the death penalty?

A No, I don't.

MR. MCGILL: Challenge for cause,  
Your Honor.

Let's move on if we can.

THE COURT: You are excused.

Thank you.

COURT OFFICER: 360, Ruth Swenk.

...RUTH SWENK...

BY THE DEFENDANT:

Q Miss Swenk, is that Mrs. or Miss?

A It's Mrs.

Q What area of the City or neighborhood do you  
presently live in?

A I beg your pardon?

A What are of the City or neighborhood do you presently live in?

A Roxborough.

Q Roxborough?

A Yes.

Q How long have you lived in Roxborough?

A All my life.

Q How far did you go in school, Mrs. Swenk?

A How far did I go?

Q Yes, ma'am.

A About two miles to grammar school.

How far? I'm sorry. I graduated from high school and I took business courses at night.

Q What kind of work do you do, Mrs. Swenk?

A I work in an office.

Q What kind of work, secretary?

A I'm a payroll supervisor in accounting.

Q What kind of work does your husband do?

A My husband is deceased.

Q Do you have children, Mrs. Swenk?

A No.

Q           You said you took some business courses.  
Would that include any legal training or school?

A           No.

Q           Who lives in the household with you, Mrs.  
Swenk?

A           I would rather not answer that.

                 MR. MCGILL:  I would object then,  
Your Honor.  I think it's appropriate.

BY THE DEFENDANT:

Q           Could you tell us the occupation of the person  
or persons who live with you?

                 MR. MCGILL:  I would object, Your  
Honor.

                 THE COURT:  Sustained.

                 THE DEFENDANT:  Can we see you at  
side-bar, Judge?  We would like to discuss  
this.

                 (Mr. Jackson and the defendant  
confer.)

                 (Side-bar conference in the  
presence of the Court, Mr. McGill, Mr.  
Jackson and the defendant reported as  
follows:

MR. MCGILL: I object to it as being irrelevant, Your Honor.

THE DEFENDANT: Your Honor, it obviously has relevancy.

MR. MCGILL: It has no relevancy.

THE DEFENDANT: You don't know who lives there, what the occupations are or the inferences of it.

THE COURT: She may be there living alone and she may not want to go into detail.

THE DEFENDANT: She said she didn't want to identify who.

MR. MCGILL: It's not really relevant.

THE DEFENDANT: What if it's a police officer?

THE COURT: She would have answered that question.

THE DEFENDANT: She did not want to give any information. We don't know that.

THE COURT: I don't really care who lives in that house.

MR. JACKSON: Judge, it just seems to

me that without us being able to inquire -- first of all, you have already approved us asking who lives with someone. That was one of the questions we previously asked. Now I suppose you are saying that you are going to overrule it?

THE COURT: She said her husband is dead.

MR. MCGILL: Judge, I object to this.

THE COURT: Then she doesn't want to go further into it.

MR. MCGILL: It's not relevant. It's not necessary.

MR. JACKSON: That's what he says, it's irrelevant. We haven't --

MR. MCGILL: The Judge made a decision.

THE DEFENDANT: Let the man finish.

MR. MCGILL: You don't have to know who lives in the house.

MR. JACKSON: We don't need to know what influences she is under?

THE COURT: I am saying if she doesn't

want to say who lives in the house, as far as I'm concerned it's irrelevant.

MR. JACKSON: Even though you said it's a question we could ask?

THE COURT: What relevance is it if she's living with a man? What difference does it make?

MR. JACKSON: You made a ruling before we started this proceeding.

THE COURT: I have to take each one individually. I can't make a general ruling for everybody.

MR. MCGILL: It's obvious what with this reaction of jurors to the asking of these questions, there may well be a motion. I will have to review all of this whole procedure.

Judge, it's clear to me that I think the situation is becoming obviously difficult for these jurors.

THE COURT: I overrule the objection.

(End of side-bar conference.)

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q Mrs. Swenk, you have indicated you read or  
heard something about this case; right?

A Yes, I have.

Q Could you tell us what you have read or heard?

MR. MCGILL: Objection.

THE COURT: No, I will let him go  
into that.

MR. MCGILL: If she can remember.

THE VENIREPERSON: I have read  
a great deal about it.

BY THE DEFENDANT:

Q I couldn't hear.

A I have a read a great deal about it.

Q Could you tell us what you have read or heard  
based on your memory?

A I just can't tell you, but I read a great  
deal. There was even an article in this morning's  
paper.

(Mr. Jackson and the defendant  
confer.)

BY THE DEFENDANT:

Q You have said you read a great deal; right?

A Yes.

Q As a result of what you have read, can you disregard all of what you have read in order to make a judgment in this case based on information coming from the witness stand?

A I can't honestly tell you that, I don't know.

THE DEFENDANT: Challenge for cause.

BY MR. MCGILL:

Q Mrs. Swenk, if you were selected as a juror, it would be your job to listen to the evidence, reach a verdict based on the evidence. Do you understand that would be your role?

A Yes, I know that.

Q The Judge would say to you and instruct you that anything you read, whether this case or any other case at all, must just be put aside and you base your verdict on the evidence no matter what it would be. You base it on the evidence. Could you follow that instruction?

A I guess so.

Q And to that extent you would certainly not



convict someone merely because you have read something about him, would you?

A I hope not.

Q Or for that matter acquit somebody because you have read something?

A No.

Q Would you then follow the law that the Court would give you, which would state if you were selected as a juror to simply follow the evidence and the instructions of the Court, reach a verdict based on the evidence alone? Would you be able to do that?

A Yes.

MR. MCGILL: Thank you.

THE VENIREPERSON: Can I say something?

THE COURT: You can say anything you want to.

THE VENIREPERSON: For one thing, I don't think I would be a fair witness.

THE COURT: Are you nervous?

THE VENIREPERSON: I'm very nervous, but that's not why.

BY MR. MCGILL:

Q Let me ask you a question.

I am not going to challenge the challenge for cause.

Before you answered these questions here and having Mr. Jamal ask you questions, that makes you feel very, very unsettled, doesn't it?

A Yes, it does.

Q As a matter of fact, it scares you, doesn't it?

THE DEFENDANT: Objection.

THE VENIREPERSON: Yes. It scares me to death.

MR. MCGILL: Your Honor, I think we better have a motion about this whole procedure.

(Side-bar conference in the presence of the Court, Mr. McGill, Mr. Jackson and the defendant reported as follows:

MR. MCGILL: Your Honor, in my opinion this juror, along with a number of other jurors, have shown me this procedure just cannot prevail.

Your Honor, it is my suggestion -- and I will provide case law for it -- that

insofar as Mr. Jamal was charged with an extremely serious crime in this particular case, is himself asking direct questions to jurors, that it is to such degree unsettling to many of the jurors that I have seen that the answers cannot be clear, are in some cases confusing and providing a certain fear as indicated by this last juror.

Because of this, Your Honor, I would ask that Your Honor consider at this early time -- if Your Honor wishes to continue as far as the rest of today is concerned, that is fine, because I do have a deferred later, as I mentioned I think yesterday morning.

I am going to provide case law tomorrow morning, and particularly with reference to this juror as others as I have seen, I will petition this Court to handle all questions to all venirepersons. I will ask this Court to require questions from the Commonwealth as well as the defense, and that from that we can go over the questions that Your Honor feels would be relevant to the issues

in this case since we are going far afield and becoming quite personal.

So my petition and my motion to this Court is to cease this particular procedure at this point. Having an opportunity of two days of this procedure, it is clear to me that a juror -- these jurors are extremely unsettled during the course of this questioning, and who wouldn't be?

Mr. Jackson apparently thinks this is amusing.

Who wouldn't be when you have someone convicted of a crime of this nature asking you questions?

THE DEFENDANT: I haven't been convicted of any crime.

MR. MCGILL: Excuse me, accused of a crime. That was said in error, Mr. Jamal.

THE DEFENDANT: It wasn't the first.

MR. MCGILL: He was accused.

I will say this, Your Honor, that anymore of this procedure is just in my opinion too difficult to obtain a fair and impartial

juror. Now, we can do one of two things: If you want to go out of the County and get a jury, that's one thing. Secondly, it will be more important -- and I think this is one which is more practical -- Your Honor should ask the questions.

MR. JACKSON: Are you finished, sir?

MR. MCGILL: Yes, sir.

MR. JACKSON: Your Honor, on behalf of Mr. Jamal, Your Honor has certainly sat on a number of homicide cases. I don't know one homicide yet where I have selected a jury where most of the jurors are not nervous. To interject that nervousness in this case by Mr. Jamal I think is fallacious. Mr. McGill has tried a number of homicide cases and Your Honor well knows all jurors are nervous when they come in for the first time. They are being asked a lot of questions, which seemingly are personal.

To suggest that Mr. Jamal is in any way causing any disruption to this Court I think is unfounded. He is representing himself.

I don't see that in any way this proceeding is in any way being disrupted. Perhaps Mr. Jamal is not asking the questions as fast as Mr. McGill would like, but Mr. McGill doesn't ask questions as fast as Mr. Jamal would like. So I don't think that in and of itself is any reason to suggest or threaten to us that he is going to file some motion that would take out of Mr. Jamal's control the opportunity to question the jurors as he has.

I think those jurors who have indicated that they are nervous or for some reason don't want to serve, they have so stated. That's the way it is always done, whether there is counsel asking the question or Mr. Jamal. I don't think counsel has said anything at all that would suggest that Mr. Jamal is in any way causing any fear in anyone any more than asking, if I was conducting the voir dire, "Does this man sitting next to me cause you some fear?"

THE COURT: But this last juror definitely said that, this last prospective

juror had said that.

Let me say this to you: Look up the law and I will act accordingly.

I can see that this is going to be a long drawn-out procedure and it may very well be that the Court will have to take over the questioning.

THE DEFENDANT: Judge, can I say something?

MR. MCGILL: Judge, I have not responded to Mr. Jackson.

I am not now saying that Mr. Jamal is being disruptive. That is not the issue. The issue, as I have expressed to the Court, is very clear in terms of the length of time, but more important than that, the obvious, unsettled state by each venireperson in looking at an individual charged with this crime who is asking them their opinions literally. These questions can be asked, these same rights can be held, those same rights can be safeguarded by these questions that Your Honor feels are appropriate to be

asked by this Court.

I have been in a number of courtrooms, including Judge Ribner's courtroom, where the individual judge will ask the questions to the jurors. Usually it is done to expedite matters. In this case it would be done for two reasons: expedite matters and also to provide a measure of balance in a rather difficult, unique situation.

THE DEFENDANT: Can I comment, Judge, only that theoretically this process, the voir dire, is supposed to provide me with a jury of my peers.

I find that, except for the last juror who said that she was not intimidated, not in fear, but merely unsettled, I think by the nature --

THE COURT: She didn't say unsettled. She said she was scared.

THE DEFENDANT: She said she was unsettled. Those words he suggested to her.

THE COURT: I could very well see that this juror was frightened. She was



looking to me.

MR. MCGILL: If you follow back, Judge, just listen to what she said. If you look at the record, you will see.

THE DEFENDANT: Can I finish, Judge?

THE COURT: Better look up the law, because it is a long drawn-out procedure. Mr. Jamal is asking questions, and if he objects to it, I sustain it. Then I tell him to rephrase it. He's conferring with you. It is becoming a really lengthy procedure to that extent. We haven't gone really anywhere. We have spent two days, and in the two days we only have one juror.

MR. JACKSON: Judge, I have gone this long --

THE COURT: And that was an accident really that we were lucky enough to get that one.

THE DEFENDANT: Judge, can I interject a point?

MR. MCGILL: Let the Judge finish.

THE DEFENDANT: Only that this is

obviously not the first time that a person charged with crime has conducted a voir dire.

THE COURT: I have already conducted a voir dire myself in homicide cases, so that's nothing new. It can be done. I have done it. No defendant has ever done it in any case in which I presided. I have done it myself in a case.

THE DEFENDANT: The point I am saying --

THE COURT: I did in a case where there were seven defendants and it was more expedient for me to do it than to have seven attorneys ask questions and then the DA ask questions. It would have been almost impossible.

Obviously, this is becoming the same thing here. It's becoming a long drawn-out affair here, and I think we will be months before we get a jury at the rate we are going.

MR. MCGILL: I strongly object to this continuing in the way it is.

MR. JACKSON: Mr. McGill, you asked Mr. Jamal to wait until the Judge finished. As soon as the Judge took a breath, then you interjected. I think Mr. Jamal ought to have an opportunity to finish his point with the Judge.

MR. MCGILL: Sometimes I get confused about who is representing who.

THE DEFENDANT: I don't think you are ever confused about that.

MR. MCGILL: I keep hearing two voices over there.

THE DEFENDANT: If you listen hard enough.

I think the point is that -- I don't know about your history in terms of how you have handled voir dieres, but the individual voir dire has been done in several Federal cases. I think Russell Means vs. State of South Dakota vs. U.S. Government. Obviously, the process is to determine a fair and impartial juror. I don't think any of my questions have been improper. If they have,

you have ruled on them, it's sustained.

I think except for this last juror who said she was unsettled, none of them have been intimidated. I think the inference --

THE COURT: The one before her wasn't too anxious to serve either.

THE DEFENDANT: Judge, there's a lot of people who are not anxious.

THE COURT: She stated she was scared.

THE DEFENDANT: This is an intimidating courtroom.

THE COURT: Let me say this: You look over the law. You cite me some cases tomorrow, and I may very well have to make a decision.

MR. MCGILL: I will tell you this, Judge: If I were in their position, I would be scared.

THE DEFENDANT: You are pretty prejudiced.

MR. MCGILL: I would be scared, that's what I would be.

THE DEFENDANT: I think you are scared of something else.

MR. JACKSON: The point is, Judge, jurors come into homicide cases where capital punishment is sought and I would say virtually all of them are scared.

Now, Mr. McGill is an experienced homicide attorney and, Judge, you hear homicides and you know that's true. Now to say that it's only because of Mr. Jamal is unfair, because I know most of the jurors who come in to capital cases are scared. Now to say that it's because of him and because of the nature and the publicity of this case --

THE COURT: I will give you a chance to look up the law. That's the problem, the publicity and everything. That's why I told you you are going to have difficulty getting a jury in the first place. I don't want to make it that much more difficult with the way we are going. Look up the law and I will make a decision.

(End of side-bar conference.)

(Mr. Jackson and the defendant confer.)

THE COURT: Gentlemen, can I interrupt you for a minute? I have gotten a note from the court crier that No. 48, Louis Buongiorno, has indicated that if he's not called today he's not going to come back tomorrow. I notice that he has indicated he has a hardship. It seems to me that there is at least one other one.

MR. MCGILL: Your Honor, if it please the Court, I would have no objection if we take out of order the hardships. I normally would object to this, but under the present circumstances where Your Honor will be considering a motion certainly by tomorrow morning, that if we take the hardships out of order, Your Honor, perhaps we could find out whether there is any substance to that statement by them and we can have them dismissed, if it is so ordered by this Court.

THE COURT: Well, I see two hardships that we have left, that we haven't

considered. That's No. 48 and No. 529,  
Benjamin Cohen.

Is there anyone else on your list  
that you see we have missed?

MR. JACKSON: Dorothy Snyder.

THE COURT: We already excused her.

I am talking about the ones that  
are still waiting. I only have two.

Do you want to take those two out  
of order so we can see what their problems  
are and maybe get rid of them, rather than  
have them hang around?

Is it by agreement, gentlemen?

THE DEFENDANT: Yes, Judge.

MR. MCGILL: Yes, Your Honor.

THE COURT: Let's take 48 and 529  
next and let's see what their problem is.

We will take a five-minute recess  
while he is getting them.

(Brief recess.)

COURT OFFICER: 48, Louis Buongiorno.

...LOUIS J. BUONGIORNO...

THE COURT: Commonwealth.

BY MR. MCGILL:

Q        Mr. Buongiorno, I think you indicated that you had a hardship if you were selected as a juror in this case. Is that true?

A        That's right.

Q        Would you tell us what the hardship is?

A        Well, I've been out of work for four years, laid off. I worked in construction. I just got back to work. All of my savings are gone. I live from week to week with my paycheck. There's no way I can be tied up for any length of time.

MR. MCGILL: I have no objection  
that Mr. Buongiorno be excused.

THE DEFENDANT: I have no objection,  
Judge.

THE COURT: You are excused.

COURT OFFICER: 529, Benjamin  
Cohen.

...BENJAMIN E. COHEN...

BY THE DEFENDANT:

Q        Mr. Cohen, what area of the City or neighborhood do you live in?

A        Northeast Philadelphia.



THE COURT: It's a hardship.

BY THE DEFENDANT:

Q You indicated that you have a hardship that would prevent you from serving on this jury. Could you tell us what that is, sir?

A Yes, sir. I'm self-employed. I manage an apartment complex and I'm there to try to quell a problem the tenants are having. There is an uprising, a tenant rebellion, you might say, and we have had to change the superintendents. We have the security guards there. We have detectives. It's quite a tense situation there.

MR. MCGILL: I have no objection that Mr. Cohen be excused, Your Honor.

THE DEFENDANT: I have no objection, Judge.

THE COURT: You are excused.

MR. MCGILL: Your Honor, may I also make the suggestion out of order that No. 197 be called, Leroy Kleinguenther. He indicated that I don't think he can follow the law and he may have a fixed opinion of the guilt of Mr. Jamal. I think we can take him out of order.

THE COURT: He answered the question, does he believe the defendant guilty merely because he is here?

MR. MCGILL: Yes.

THE COURT: Let's take 197.

COURT OFFICER: 197, Leroy Kleinguenther.

...LEROY KLEINGUENTHER...

BY MR. MCGILL:

Q Good afternoon, Mr. Kleinguenther. How are you today?

A Fine.

Q- I'm going to ask you directly about a question that you responded to. Remember you stood up to a question?

A That's right.

Q Now, as I recall the question, I think the Judge had asked you something like whether or not you would be, you feel that the defendant was guilty merely because he was here. In other words, he was standing trial, therefore he was guilty.

Did you stand for that question?

A That's right.

Q What did you mean by that?

A Well, I meant if I didn't think he was -- if he wasn't guilty of something, he wouldn't be here at this length of time being held for the length of time that he has been.

Q Now, Mr. Kleinguenther, in a very brief fashion, the defendant has been held because the nature of the charges were such that no bail was set. Do you understand that now that I tell you?

A Yes, I understand that.

Q That is legally why he was held. Do you understand that?

A Yes, I understand that.

Q Keeping that in mind, the Court would instruct you that no matter how you feel, whether you have a fixed opinion of guilt or whatever, an opinion of guilt or innocence, you must set this aside and base a verdict solely on the evidence. Do you understand that is what the Court would ask you to do?

A I understand that, yes.

Q Also, the Court would say, much like yourself, myself, anybody who stands trial, the purpose for a

trial is to determine guilt or innocence. Do you understand that?

A That's true.

Q Now, do you accept both of those principles?

A Well, yes, to a point.

Q Would you explain what point?

A Well, up to this time, what I have read and heard on radio and television and all it would be pretty hard for somebody to change the opinion that I have.

THE DEFENDANT: Challenge for cause.

BY MR. MCGILL:

Q You would say that you really have a fixed opinion of the guilt, defendant's guilt? Is that what you are saying?

A I would say that.

MR. MCGILL: Thank you.

The Commonwealth would challenge for cause on that point.

THE COURT: You are excused.

THE DEFENDANT: Judge, can I continue the individual voir dire as we have done before?

MR. MCGILL: Judge, I will object to the continuance. I think this motion is important. I also have a deferred myself that I think Your Honor is aware of.

I will have law tomorrow morning and I will be prepared to offer this Court a list of the questions which I believe to be appropriate, relevant, and that would safeguard both the interests of the Commonwealth as well as the defendant. I have no objection also if Mr. Jamal would submit questions.

THE COURT: We will adjourn until tomorrow to give you an opportunity to look up the law on this point which you raise, which is for me to conduct voir dire.

Of course, I know you have some of the questions here that you want, but you might want to redo them and fashion them with respect to the factual situation of this case. I think your big problem with this last juror who has read and seen and heard so much about the case, that may be the central point for you to concentrate on. Of course,

the District Attorney is going to concentrate on the death penalty.

THE DEFENDANT: May I be heard, Judge?

THE COURT: What's that?

THE DEFENDANT: I understand Mr. Jackson is going to be doing legal research.

THE COURT: You can do it too. I don't know if you have the facilities at the prison. Mr. Jackson will. I will make my decision tomorrow.

THE DEFENDANT: Judge, am I going to be allowed to represent myself in this matter? Will I be able to represent myself?

THE COURT: You are representing yourself. It's just a question of who should conduct the voir dire, whether the Court should do it or whether the attorneys should do it.

THE DEFENDANT: Are you supporting my right to a jury of my peers, Judge?

THE COURT: Certainly, but conducting the voir dire has nothing to do with a jury

of your peers.

THE DEFENDANT: I disagree.

THE COURT: Your attorney will  
look up the law.

THE DEFENDANT: I understand that,  
Judge.

THE COURT: And I will make my  
decision tomorrow.

THE DEFENDANT: I think your decision  
has already been made.

THE COURT: No, it hasn't. Give  
me an opportunity. I told you before I have  
conducted voir dires and other judges have.  
So it's not that it's a novel issue, but I  
want you to look up the law.

We will adjourn to tomorrow morning,  
9:30.

- - -

(Adjourned.)

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I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the trial of the above cause, and that this copy is a correct transcript of the same.

  
\_\_\_\_\_  
Official Stenographer

The foregoing record of the proceedings upon the trial of the above cause is hereby approved and directed to be filed.

\_\_\_\_\_  
Judge