

1 VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

2
3 COMMONWEALTH OF VIRGINIA

4 v.

5 STEPHEN MATTESON EPPERLY,
6 Defendant

7
8 Stenographic report of voir dire of prospective jurors in
9 trial of case of Commonwealth of Virginia v. Stephen Matteson E
10 Epperly, Defendant, tried at Pulaski, Virginia, on December 8 and
11 9, 1980, before the Honorable R. William Arthur in the Circuit
12 Court of Pulaski County, Virginia.

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15 APPEARANCES:

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17 Francis C. Terwilliger, Esq.,
attorneys for the Commonwealth

18 R. David Warburton, Esq. and
19 R. Glennwood Lookabill, Esq.,
attorneys for the defendant

20 Stephen Matteson Epperly, in
person and by counsel

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23
24 Reported by:
Miss Elinor E. Williams
25 Court Reporter
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26 Wytheville, Virginia 24382

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December 8, 1980
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THE COURT: --case of Commonwealth v. Stephen Matteson Epperly. Are you ready for the Commonwealth?

MR. SHOCKLEY: Yes, sir, we are.

THE COURT: Are you ready for the defense, gentlemen?

MR. WARBURTON: We are, Your Honor.

MR. LOOKABILL: Yes, Your Honor.

THE COURT: All right, Mr. Clerk, have you taken the record of the jurors and are ready to proceed?

THE CLERK: Yes, sir.

THE COURT: All right. Mr. Epperly come around just a minute, please.

(The defendant comes before the bar of the Court.)

THE CLERK: Mr. Epperly, you have previously been arraigned on the charge of murder and pled not guilty. Do you wish to be tried by the Court or by a jury?

MR. EPPERLY: By a jury please.

THE CLERK: A jury now to be called will pass between you and the Commonwealth and if you have a mind to challenge any of them, you must do so as they come to be sworn and you shall be heard. You may be seated.

THE COURT: All right, gentlemen, we shall call the veniremen by lot and examine them one at a time.

All right the first number is No. 4.

1 THE CLERK: Burton D. Davis.

2 THE COURT: No. 11.

3 THE CLERK: Wilbur Hunter.

4 THE COURT: No. 12.

5 THE CLERK: Danny Branch

6 THE COURT: No. 8.

7 THE CLERK: Elizabeth Ratcliff.

8 THE COURT: No. 17.

9 THE CLERK: Erma Albert.

10 THE COURT: No. 48.

11 THE CLERK: William Litton.

12 THE COURT: All right, bring those six up please. Bring
13 them all in the courtroom first.

14 (The first panel of six jurors were sworn on voir dire.)

15 THE COURT: Now ladies and gentlemen we are going to let all
16 of your retire and we are going to call you in one at a time and
17 ask you some questions to see whether or not you are qualified to
18 serve on this jury. After you have been in the courtroom and go
19 back do not discuss the case with anyone or tell anyone what
20 questions have been asked or what answers you gave. All right,
21 let's just arbitrarily take the lady, you may remain in here ma'am.
22 You'll have the honor of being No. 1. No ma'am the larger chair.

23 ELIZABETH RATCLIFF,

24 a juror, after being first duly sworn, being examined on voir dire:
25 BY THE COURT:

26 Q Would you tell us your name, please?

1 A Elizabeth Ratcliff.

2 Q Elizabeth Ratcliffe?

3 A Uh huh.

4 Q Mrs. Ratcliffe, were you on the Grand Jury, by any
5 chance that returned the indictment in this Epperly case?

6 A No, sir.

7 Q The case of Commonwealth v.--I forget his full name--
8 Stephen Matteson Epperly?

9 A No, sir.

10 Q Did you happen to be in the courtroom when that grand Jury
11 reported the indictment?

12 A No, sir.

13 Q Are you related by blood or marriage to the defendant,
14 Stephen Matteson Epperly?

15 A No, sir.

16 Q Are you related by blood or marriage to Gina Renee
17 Hall?

18 A No, sir.

19 Q Do you have any interests in the trial or outcome of
20 this case?

21 A Yes.

22 Q What do you mean by that? What I'm really getting at
23 is do you have a preconceived notion? Would you want one side or
24 the other to prevail?

25 A No, sir.

26 Q Of course, we all have an interest in the case. We want

1 a fair trial and that's what we are trying to accomplish here,
2 but my question was in light of the way I've just explained it,
3 do you have any interest in the final outcome of the case?

4 A No, sir.

5 Q Other than to see that justice is done on each side?

6 A Right.

7 Q Now I know you've read about the case or heard about it
8 through the news media, maybe heard people talking about it. I
9 imagine most of the people in Pulaski County have, but would this
10 information affect your impartiality, your fairness in any way,
11 should you be selected as a juror?

12 A No, sir.

13 Q You haven't made up your mind one way or the other?

14 A No, sir.

15 Q Considering what you've heard or read about the case,
16 do you believe you could enter the jury box with an open mind
17 and wait until the entire case is presented and then make up your
18 mind as to the guilt or innocence of the accused?

19 A (Silence).

20 Q The witness indicated by nod of her head that she could
21 do.

22 A Are you aware of any feeling of bias or prejudice for or
23 against the Commonwealth or for or against the defendant for any
24 reason whether I've touched upon it or not?

25 A No, sir.

26 Q Do you know of any reason why you cannot give the

1 Commonwealth and the defendant a fair and impartial trial based
2 solely upon the law and the evidence that you would hear in this
3 courtroom?

4 A No, sir.

5 Q You know of no reason why you could not do that?

6 A No, sir.

7 Q All right now the Commonwealth's Attorney and the defense
8 lawyers will have some additional questions they would like to
9 ask you. Thank you, ma'am.

10 BY MR. SHOCKLEY:

11 Q Hi, Mrs. Ratcliff.

12 A How are you.

13 Q You live in Dublin, is that correct?

14 A Uh hum.

15 Q Are you familiar with the Claytor Lake Dam area?

16 A Yes, I was raised there.

17 Q You were. Where exactly were you raised, ma'am?

18 A What they call Ingles Ferry.

19 Q You were raised at Ingles Ferry?

20 A Yes, sir.

21 Q Did you live in the home there at Ingles Ferry or some--

22 A The home that was burnt down.

23 Q The home that was burnt down?

24 A Uh hum, the ferry house.

25 Q Are you familiar then with the Hazel Hollow Road area?

26 A Oh yes.

1 Q And are you familiar with the railroad trestle that
2 goes across from Hazel Hollow Road in Pulaski County into Radford?
3 A Yes, sir.
4 Q Have you ever walked across that railroad trestle?
5 A Yes, sir.
6 Q You have?
7 A Yes, sir.
8 Q Are you familiar with the west end of Radford?
9 A Yes, sir.
10 Q Have you ever lived in the west end of Radford?
11 A We lived straight across the river from it.
12 Q From it, you never lived in Radford itself?
13 A No.
14 Q Do you have any grandchildren?
15 A Yes.
16 Q Do you, are they granddaughters or grandsons?
17 A Granddaughter.
18 Q And how old are they?
19 A She's only ten months.
20 Q You have one granddaughter?
21 A Right.
22 Q Do you believe that dogs, scenting dogs, dogs that are
23 trained, you know, to scent, do you believe that they have a
24 superior smelling ability?
25 A Oh, yes.
26 Q To that of human beings?

1 A Oh, yes.

2 Q Mrs. Ratcliffe, do you believe that it's possible for
3 one person to murder another person and then dispose of the body
4 in such a fashion that the body is never found?

5 A Yes, sir.

6 MR. LOOKABILL: Your Honor, I would object to that question,
7 as well as the following question.

8 THE COURT: All right, sir.

9 Q Do you feel that a person who kills such a person, kills
10 another person and, you know, successfully hides the body, do you
11 feel that that person should go unpunished?

12 A No, sir.

13 Q If the Court were to instruct you that any fact that the
14 Commonwealth had to prove could be proved by circumstantial evidence,
15 that is facts and circumstances proved to exist that, you know,
16 cumulate and prove another fact, and particularly that a death has
17 occurred, could you convict someone, find that a death had in
18 fact occurred through circumstantial evidence even though the
19 body was never found?

20 A Yes, sir.

21 Q How do you feel about the punishment, assuming that a
22 person were to be found guilty of murder, how do you feel, what
23 type of punishment do you think should be meted out to such person?

24 A Well, I believe in punishment.

25 Q You believe in punishment?

26 A Yes.

1 Q That's all we have, Your Honor. Thank you, ma'am.

2 THE COURT: All right, gentlemen of the defense you may
3 inquire.

4 BY MR. LOOKABILL:

5 Q Mrs. Ratcliff.

6 A Yes, sir.

7 Q My name is Glennwood Lookabill. This is David Warburton,
8 my law partner, and this is the defendant, Stephen Epperly. Now
9 I'm going to ask you some questions. Some of them you might
10 think are a little bit prying, a little bit personal. I want you
11 to know from the outset we don't ask to try to be personal or try
12 to probe into your personal life or anything. The reason we do it
13 is we have a solemn obligation to this man to represent him the
14 best way we know how. We want to be sure when a jury is impanelled
15 that we have a fair minded, unbiased jury. You understand that?

16 A I do.

17 Q How long have you lived in Pulaski County, Mrs. Ratcliffe?

18 A 58 years.

19 Q All your life. Have you lived over in that area of
20 Pulaski County?

21 A Yes.

22 Q Do you work or are you a housewife?

23 A Yes, sir, I work.

24 Q Where do you work?

25 A I work at Dublin Garment.

26 Q What do you do there?

1 A I'm a presser.

2 Q Have you done that for quite a while?

3 A No, not really. I change jobs real often.

4 Q But you have worked for the garment place for a long
5 time?

6 A Yes, seven years.

7 Q What's your educational background?

8 A Well, just grammar school and one year of high school.

9 Q I'm not going to ask you how long ago that's been 'cause
10 that's none of my business, ok.

11 A That's o.k.

12 Q Have you or any of your family been associated with the
13 State Police or county police, town police officer or department?

14 A What do you mean on "associated"?

15 Q Have you ever had a relative that's a police officer,
16 or son, daughter?

17 A No, sir.

18 Q Do you have any relatives who are presently in the military?

19 A I had a son that was in military but not now.

20 Q He's not now. He's been out for quite sometime?

21 A About ten years.

22 Q Now as I said, this is our client, Stephen Epperly, whom
23 I assume this is the first time you have ever seen?

24 A That's right.

25 Q Just looking at him now, do you have any opinion about
26 the case, right now at all about guilt or innocence?

1 A Not really.

2 Q You say, "not really", do you--

3 A I mean I couldn't judge--excuse me(cough).

4 Q You say you do not have any feelings whatsoever of
5 guilt or innocence, right now at this point in time, do you feel
6 that this man is guilty or do you feel that this man is innocent
7 or do you have an opinion about his guilt or innocence?

8 A I don't have an opinion right now.

9 Q And you have already indicated that you've heard about
10 the case?

11 A Oh, yes.

12 Q How have you heard about it?

13 A I've read in the paper.

14 Q What newspapers do you get?

15 A Southwest Times and the Roanoke.

16 Q And the Roanoke?

17 A Uh hum.

18 Q Have you read most of the articles that have been written
19 about the case?

20 A Yes, same thing.

21 Q Have you read the articles closely or have you just
22 scanned, have you had any unusual interest in them?

23 A No, just see if there was anything new.

24 Q Do you remember anything specifically that you've read
25 about the case?

26 A No, not really.

1 Q Do you know any of the, do you recall any of the alleged
2 facts in the case that the newspaper or the television has re-
3 counted?

4 A No, I don't watch no television.

5 Q You don't watch, do you listen to the radio?

6 A Yes.

7 Q Have you heard about it on the radio?

8 A No, I haven't. Only thing I've heard is just read in
9 the paper. I don't pay any attention to the news on TV or radio.

10 Q Could you relate to us any specific things that you've
11 ready about in the case?

12 A Just what it's all about.

13 Q O.k., what do you think it's all about?

14 A Well, I feel there was a murder committed and--

15 Q You feel that there has been a murder committed?

16 A Uh huh.

17 Q What else do you feel and what else do you know about
18 it?

19 A I don't know that I know anything. I would have to wait
20 for evidence.

21 Q Is there any specific thing that you know about and who
22 was supposed to have been killed?

23 A Yeah, the Hall girl.

24 Q Do you know where this was supposed to have occurred?

25 A Yes, one of the cabins there at Claytor Lake.

26 Q Do you know anything about what the Commonwealth's

1 evidence is regarding this alleged murder?

2 A No.

3 Q Do you remember reading anything about what they intend
4 to prove?

5 A Yes.

6 Q Just tell us briefly if you would?

7 A O.k., where they, in this last thing that I read, I read
8 where they had different evidence and that's just it.

9 Q Have you talked to anyone about the case?

10 A Yes.

11 Q Who have you talked to about it?

12 A Everybody that wants to talk.

13 Q And of the people that you've talked to, have people
14 generally said, "I think Mr. Epperly is guilty," or "I think he's
15 innocent"?

16 A They're concerned with the body everybody that I've talked
17 to.

18 Q Have they said anything about guilt or innocence?

19 A No.

20 Q When people talked about the case, how did you respond,
21 how did you react to what they said?

22 A I just listened.

23 Q Did you ever agree like saying, "Yes, I think he's guilty,"
24 or, "yes, I think he's innocent"?

25 A I have said, "I wonder why he could have been arrested
26 if there wasn't some evidence?"

1 Q Because he was arrested, did that make you feel that
2 perhaps he was guilty?

3 A Not really guilty, but I knew there had to be something
4 there to arrest him.

5 Q The people that you talked about the case to, would you
6 say that most of them were on the side of, if you can use that
7 expression, the side of the police or the side of the defendant?

8 A Neither one because most of my coworkers just, you know
9 a bunch that just set around and talk about something whatever
10 they read different in the paper, discuss it.

11 Q Do you understand that the law says that just because
12 a person's charged or indicted for a crime that that's no evidence
13 whatsoever of guilt?

14 A That's right.

15 Q Do you understand that?

16 A I do.

17 Q And would you be willing to apply that, that principle
18 to a case of this nature?

19 A Yes, innocent until proven guilty.

20 Q Let me ask you a question that's related to that, if
21 you were here today sitting between us, the defendant in a murder
22 case or any type of serious felony case, would you want a person
23 with your frame of mind on the jury? Or would you be--

24 A Maybe not.

25 Q Why would you say you wouldn't?

26 A Well, I mean if he thought I was prejudiced or something,

1 I would know that feeling.

2 Q What I'm saying is, if you were the defendant, knowing your
3 feeling about the case, would you want a person with exactly the
4 same feelings you have to sit as a juror in this case?

5 A Maybe not.

6 Q You don't think you would?

7 A No.

8 MR. LOOKABILL: Your Honor, could we speak out the--

9 THE COURT: Just a moment, please.

10 BY THE COURT:

11 Q Mrs. Ratcliff, I know some of these questions are broad
12 and general and difficult to answer and I'm not trying to suggest
13 to you what your reply should be, but the last question that was
14 put to you was if you were a defendant in a criminal case which is
15 hard to imagine, but that's the hypothesis, would you want someone
16 with your present frame of mind to sit as a juror on your case,
17 now, of course, the thrust of that question is are you so prejudiced,
18 have you made up your mind against this defendant that you shouldn't
19 sit on the jury, that's what we are getting at?

20 A No, I haven't made up my mind.

21 Q Well, have you made it up partly. Why did you answer
22 that you would not want a person such as yourself to sit on a
23 jury if you were the defendant?

24 A I really don't know what they think my frame of mind
25 was in answering the question, did they think I was prejudiced.

26 Q Did you mean that you'd rather, if you were the defendant

1 that you'd rather have twelve people who had already made up their
2 minds you were innocent, is that what you are talking about?

3 A No, maybe--

4 Q Well, I'm going to stay away from hypothetical questions
5 and just stick right to the issues in this case and what I really
6 want to know and I want you to be just as frank as you know how
7 to be because this is important business. The critical questions
8 that we want, the answer that we want from each juror, prospective
9 juror, is whether or not you know of any reason whether we've
10 touched on it thus far or not, any reason why you could not give
11 a fair and impartial trial to the Commonwealth on the one hand
12 and to the defendant on the other hand based solely upon the law
13 and the evidence that you would hear in this courtroom, do you
14 know of any reason why you could not give each side a fair and
15 impartial trial should you be selected as a juror?

16 A Well, I can speak frankly?

17 Q Yes, ma'am.

18 A O.k. by me being raised at Claytor Lake and I'm familiar
19 with the places, I really maybe, I feel that body can be hid over
20 there and they haven't found it.

21 Q Well, that may be but that doesn't mean that this de-
22 fendant is--

23 A Well, I mean that's my feeling.

24 Q I understand, but see what we need to decide in this
25 case is whether or not this defendant is guilty of doing anything
26 of a criminal nature as far as the murder charge is concerned.

1 Now do you think you can give him a fair and impartial trial
2 based only on what you will hear in here, not based on anything
3 that you might know outside the courtroom?

4 A No.

5 Q You don't think you can give him a fair and impartial
6 trial?

7 A No.

8 Q All right, well, I thank you very much for your candor
9 and we will excuse you.

10 (The juror is discharged.)

11 THE COURT: All right, call one of the others please.

12 BURTON DALTON DAVIS,

13 a juror, after being first duly sworn, being examined on voir
14 dire:

15 BY THE COURT:

16 Q Ma'am, would you tell us your name, please.

17 A Burton Dalton Davis.

18 Q Mrs. Davis, as you know we are asking questions of the
19 prospective jurors at this stage to determine whether or not any
20 of them are disqualified to serve as a juror in the case of Common-
21 wealth v. Stephen Matteson Epperly. Mr. Epperly is seated here
22 to your left with his attorneys, Messrs. Lookabill and Warburton.
23 These gentlemen on this side, Mr. Shockley and Mr. Terwilliger
24 represent the Commonwealth.

25 Were you on the Grand Jury or were you in the courtroom when
26 the Grand Jury returned its indictment in this case?

1 A No, sir.

2 Q Are you related by blood or marriage to Stephen Matteson
3 Epperly?

4 A No, sir.

5 Q Are you related by Blood or marriage to Gina Renee
6 Hall?

7 A No, sir.

8 Q Do you have any interests in the outcome of this case
9 should you be selected as a juror other than to do justice to each
10 side?

11 A Would you repeat the question.

12 Q Do you have any interest in the outcome of the case,
13 other than to do justice to both sides should you be selected as
14 a juror?

15 A No, sir.

16 Q Have you acquired any information about the alleged offense
17 or the accused from the news media or from any other source?

18 A I have read the papers is all.

19 Q Yes ma'am, I'd be surprised if you hadn't. Well, would
20 what you have read affect your impartiality, your sense of fairness
21 in any way should you be selected as a juror?

22 A No, sir.

23 Q You haven't made up your mind about the case?

24 A No, sir.

25 Q Considering what you have heard or read about the case,
26 do you believe that you could enter this jury box and hear all of

1 the evidence from each side and the law of the case as given to
2 you by the Court and wait until the entire case is concluded
3 before you made up your mind about the case?

4 A Yes, sir.

5 Q Are you sensible of any feeling of bias or prejudice
6 for or against the Commonwealth or for or against the accused?

7 A No, sir.

8 Q Do you know of any reason why you could not give a fair
9 and impartial trial to the Commonwealth and to the accused?

10 A No, sir.

11 Q All right, Mr. Shockley.

12 BY MR. SHOCKLEY:

13 Q Good morning, Mrs. Davis. How are you today.

14 A Hello.

15 Q I just want to ask you a few questions, first of all,
16 you live on Alum Spring Road, is that correct?

17 A Yes, sir.

18 Q Are you familiar at all with the Claytor Lake Dam area
19 and around that?

20 A No, not really. I've been fishing over but I don't, I
21 didn't really know where I was at.

22 Q You have been fishing on the dam?

23 A Down below it.

24 Q Down below the dam. Have you ever been picnicing over
25 at their picnic grounds?

26 A No, sir.

1 Q Are you familiar with Hazel Hollow Road at all?

2 A Yes, I've passed through there.

3 Q Recently, how many times, do you know?

4 A No, it's been a good while since I've been through
5 there, maybe last year.

6 Q Are you familiar with that road though that goes off of
7 Route 11 and ~~back~~ into the county along the river?

8 A I've been all, turned off at Radford and been all the
9 way through there and come out down at the other end and through.

10 Q Right, o.k. Do you know where the railroad trestle is
11 that crosses from Pulaski County over into Radford as you would be
12 going down Route 11 into Memorial Bridge, the railroad trestle would
13 be off to your right, are you familiar with that?

14 A I've seen it.

15 Q Have you ever walked across it?

16 A No, sir.

17 Q Are you familiar at all with the west end of Radford?

18 A No, sir.

19 Q Do you have any children, Mrs. Davis?

20 A Yes, sir.

21 Q Are they boys or girls?

22 A Two girls and a boy.

23 Q And what are their ages?

24 A 21, 23 and 26.

25 Q You say you have two boys?

26 A One boy and two girls.

1 Q I'm sorry.

2 A And how old is the boy?

3 A 21.

4 Q And your girls are how old?

5 A 23 and the girl that will be 26 in January.

6 Q Do you believe that dogs that are trained to track and
7 scent have a superior smelling ability to that of human beings?

8 A Yes, sir.

9 Q Are you confident of that?

10 A Yes, sir.

11 Q Do you believe that one person can murder another person
12 and then dispose of the body in such a fashion that it is never found?

13 MR. LOOKABILL: Your Honor again I object to that.

14 THE COURT: Yes, we'll let the record show that you object
15 throughout the voir dire to that question and to the following
16 question.

17 Q In other words is it possible for one person to kill
18 and murder another person and then through whatever means dispose
19 of the body, hide the body so that it's never found?

20 A Yes, sir, I believe he could.

21 Q Do you believe that a person who kills another person
22 and then disposes of the body so that it is never found, do you
23 believe that person should go unpunished?

24 A No, sir.

25 Q If the Court instructs you that any fact that the Common-
26 wealth must prove in this case, including the death of Gina Hall,

1 can be proved by circumstantial evidence, that is other facts and
2 other circumstances, which when accumulated, prove another fact,
3 can you follow those principles of the Court, those guidelines?

4 A Yes, sir.

5 Q I take it then from those answers to the two or three
6 questions I've just asked you, that from circumstantial evidence
7 you would be able to conclude that someone had died by criminal
8 means, even though the body was never found?

9 A I believe I could.

10 Q Obviously the corpse, skelton, body, whatever, you know,
11 you may find, that would be direct evidence. The medical examiner
12 examines it and says, you know, this is such and such a person
13 and the person is deceased, that would be direct evidence. Other
14 facts and circumstances, you would be, have no problem in finding
15 that a death occurred even though a body was never able to be
16 found, do you understand what I'm saying?

17 A No, repeat that again.

18 Q O.k., what I'm saying is through other facts and cir-
19 cumstances that can be proved, the police find certain evidence,
20 statements of other people. Could you conclude that someone had
21 died by criminal means through other facts and circumstances even
22 though the body was never ever found?

23 A Yes, sir.

24 Q What type of punishment do you feel a convicted murderer
25 should receive?

26 THE COURT: I don't know that that's a fair question. There

1 are all kinds of murder cases. I'm going to exclude that
2 question.

3 Q All right, that's all I have, Mrs. Davis. Thank you.

4 THE COURT: Now these gentlemen will have a few questions.

5 BY MR. LOOKABILL:

6 Q Mrs. Davis, I'm Glennwood Lookabill and this is Mr.
7 Warburton over here and this is Mr. Epperly, the defendant. I
8 have a few more questions to ask you beyond what the Court and
9 Mr. Shockley has asked you. If some of the questions seem a
10 little bit personal and a little bit prying, we don't mean to be.
11 It's just that we are trying to obtain the best we can a fair and
12 impartial jury to try this case, and I hope you understand that
13 and won't get mad at us, o.k.

14 A No.

15 Q How long have you been a resident of Pulaski County?

16 A All my life.

17 Q Have you lived where you live now all your life?

18 A No, sir, I lived--I was born in Draper's Valley.

19 Q What's your present address?

20 A Route 1, Alum Spring Road.

21 Q Are you, do you work?

22 A Yes, sir.

23 Q Where do you work, ma'am?

24 A Lowe's Foods.

25 Q And what do you do at Lowe's?

26 A I'm a wrap woman in the meat department.

1 Q Have you worked out there since they opened or a good
2 while?

3 A Yes, sir.

4 Q What's your educational background?

5 A Just the ninth grade.

6 Q You attended Pulaski County schools?

7 A No, sir, Draper.

8 Q Draper?

9 A High School.

10 Q In the County, but what used to be Draper High School,
11 I guess.

12 A Yes, sir.

13 Q Is any member of your family or close relative a member
14 of the police department or county sheriff's department or State
15 Police?

16 A No, sir.

17 Q Do you have anybody in your family presently in the
18 military or been in the military recently?

19 A No, sir.

20 Q Of course, this is Mr. Epperly here and you've seen him
21 sitting here before. Right now, based on what you might know
22 about the case, do you have any feeling as to whether he's guilty or
23 innocent?

24 A No, sir.

25 Q You don't have any feeling one way or the other?

26 A No, sir.

1 Q Do you think that if you sit as a juror in this case
2 that there is a probability of a guilty verdict rather than an
3 innocent verdict in this case?

4 A Not until I hear both sides I couldn't decide.

5 Q Have you formed any opinions at all about the case?

6 A No, sir.

7 Q Have you, you've heard about this case before coming
8 here today?

9 A I've read it in the paper.

10 Q Have you seen it on TV?

11 A No, I haven't seen it on TV.

12 Q Have you heard anything about it on the radio?

13 A No, sir.

14 Q What papers, newspapers do you read?

15 A Southwest Times.

16 Q Do you get it daily?

17 A Yes, sir.

18 Q That's the only newspaper that you get?

19 A Yes, sir.

20 Q You don't get the Roanoke Times?

21 A No, sir.

22 Q Can you recall any specific things that you have learned
23 from reading the newspapers in this case? What do you know about the
24 case, what you think the Commonwealth's evidence is at this
25 point?

26 A Well, I just read what they found and--

1 Q What is that to the best of your knowledge?

2 A Well, I just couldn't say because, you know, I just read
3 it and put the paper down and I don't--

4 Q Do you know of anything else that you've read, that
5 you can recall. As far as you know, what's the case about?

6 A Well, it's about this girl that was murdered and they've
7 never found her.

8 Q Do you think she was murdered, do you think she's dead?

9 A Yes, I believe she's dead. In my opinion, I think she
10 is.

11 Q Did you obtain that opinion that she was dead from
12 what you have read in the newspaper?

13 A Yes, sir.

14 Q Do you think she was murdered?

15 A Yes, sir.

16 Q Do you think our client murdered her?

17 A No, sir. I hadn't, you know, set any opinion to who
18 coulda done it.

19 Q Have you discussed this case with anybody in your family
20 or friends?

21 A No, sir.

22 Q You haven't discussed it at all?

23 A Well, when we got the paper at home, we all just read it.

24 Q Did you all talk about it?

25 A We felt bad about it.

26 Q I assume you discussed this within your family?

1 A Yes.

2 Q Do you remember discussing it with anybody outside your
3 family?

4 A No, sir.

5 Q O.k., just within your family as you discussed this case,
6 was the feeling generally that this man's guilty or this man's
7 innocent?

8 A No, they didn't know really what happened.

9 Q Was any opinion voiced one way or the other?

10 A No, sir.

11 Q Within your family, the people you've talked with, is the
12 general feeling that, of the people you've talked with in your
13 family that they're on the side of the police or they're on the
14 side of the defendant?

15 A Well, they didn't make any opinion.

16 Q If you were, if you were the defendant in this case--I
17 know that's a situation that you probably won't have to put your-
18 self in, but if you were the defendant in this case, sitting be-
19 tween Mr. Warburton and myself and you know right now in your own
20 mind how you feel about the case--

21 MR. SHOCKLEY: We'd object to this question. We've hit this
22 once before. I think it's most difficult for this witness to answer
23 that question and I think it's too speculative and hypothetical.

24 Q Your Honor, I think this is the key question that discloses
25 the mental attitude toward trying this case. I think it's quite
26 relevant.

1 THE COURT: One problem I have with the question is that a
2 person who may be, may not want to say, "Yes, I would like for me
3 to be on the jury," in fear that people would construe that as
4 braggadocio and they might be shy about answering it. I don't
5 know. I'll permit you to ask the question. We'll see how it
6 develops.

7 Q What I was getting to, Ms. Davis, is if you were sitting
8 on, knowing your present opinions and feelings about the case,
9 would you want yourself to be on a jury trying yourself? That's a
10 tough question I know, but I think it's--

11 A No.

12 Q You would not want yourself on the jury?

13 A No, sir.

14 Q Are you saying that because you feel that you, that there
15 may be some bias _____ (inaudible, cough) important case?

16 A No, sir, I'm saying that just because I'm nervous.

17 Q Do you want to be on the jury?

18 A No, not really.

19 Q Can I ask why?

20 A Well, I'm just nervous that's all. I just don't like to--
21 I feel that it's everybody's duty to do this and I know somebody
22 has to do it, but I'm just real nervous about it.

23 Q You do feel that it's your civic obligation to do so?

24 A Yes, sir.

25 Q Everything else being equal, you'd rather be at home?

26 A Yes, sir.

1 Q Do you think the fact that you don't want to be on this
2 jury will make you want to get the thing over with quickly?

3 A No, sir.

4 Q Do you realize it's the Commonwealth's obligation to
5 prove their case beyond a reasonable doubt, every element of the
6 case, including the death of Gina Hall?

7 A Yes, sir.

8 Q And do you think that, do you realize that the Common-
9 wealth, I mean the defense, Mr. Warburton and I, don't have to put
10 on any evidence if we don't want to. It's the Commonwealth's
11 burden to prove every element beyond a reasonable doubt, that it's
12 their job and their function, do you understand that?

13 A Yes, sir.

14 Q Have you ever been a juror before?

15 A No, sir.

16 Q In either a criminal or a civil case?

17 A No, sir.

18 Q Have you ever appeared as a witness in a civil or criminal
19 case?

20 A No, sir.

21 Q Have either you or any member of your close family ever
22 been involved in a criminal action?

23 A No, sir.

24 Q As a witness or as a party. Has any member of your,
25 close member of your family ever been a victim of murder?

26 A No, sir.

1 Q Or any other serious crime. Do you understand what an
2 indictment is?

3 A No, sir, not really.

4 Q Do you understand the Grand Jury meets and they present
5 a piece of paper to the Court and that this brings the defendant
6 before the Court to be tried, is that your understanding of an
7 indictment?

8 A Uh-huh.

9 Q Do you understand that a warrant or indictment either
10 is not evidence against the defendant?

11 A Yes, sir.

12 Q It is nothing more then gives the Commonwealth the
13 privilege to try him, do you understand that?

14 A Yes, sir.

15 Q Do you understand that a man is presumed innocent until
16 proven guilty beyond a reasonable doubt?

17 A Yes, sir.

18 Q Do you understand that this presumption goes with him
19 from the day the trial begins until the very, well from the time
20 he was born until the time the trial is over with?

21 A Yes, sir.

22 Q Do you understand that the Commonwealth has to prove
23 every element, not just a couple of the elements of the crime?

24 A Yes, sir.

25 Q Do you understand what I mean when I say elements?

26 A Yes, sir.

1 Q Do you understand that the Commonwealth in order to get
2 a conviction must prove that Gina Renee Hall was in fact murdered?

3 A Yes, sir.

4 Q And that this man was the criminal agent. Do you also
5 understand that this has to be proved by a moral certainty, that
6 this is the highest standard of proof in American law?

7 A Yes.

8 Q If you are called as a juror or if you are called as one
9 of the jurors in this case, do I have your promise that he gets
10 the _____ (inaudible, cough) of innocence throughout the trial?

11 THE COURT: What was that you want her to promise?

12 Q That she will guarantee that the presumption of innocence
13 will be in her mind throughout the trial.

14 THE COURT: She doesn't have to promise anything but she can
15 answer the question. The question is will you obey the instruc-
16 tions of the Court and one of the instructions of the Court will be
17 that the defendant is presumed to be innocent and that this pre-
18 sumption of innocence goes with him through the entire case and
19 the question is would you honor that instruction of the Court,
20 would you give him the benefit of the doubt that he's innocent
21 all the way through the case until--

22 A Unless he's proven guilty.

23 THE COURT: Until he's proven guilty--

24 A Yes, sir.

25 THE COURT: Beyond a reasonable doubt?

26 A Yes, sir.

1 THE COURT: All right.

2 Q Do you think the burden of reasonable doubt is too great
3 a burden for the Commonwealth?

4 MR. SHOCKLEY: Your Honor, we'd object to that. It's again
5 conjectural and it is the standard of proof.

6 THE COURT: That's the law whether she agrees with it or
7 not. I sustain that objection.

8 Q Do you feel that your function as a juror is to solve
9 this crime?

10 MR. SHOCKLEY: Your Honor, I'd object to that. Again we're
11 getting far astray I think. Obviously, she's--

12 THE COURT: The function of the juror is to solve the crime?

13 MR. LOOKABILL: Yes, sir, Your Honor, or just to deal with
14 this man, innocence or guilt. I think it's a proper question,
15 Your Honor.

16 THE COURT: I'm not sure that she'll understand it but she
17 can try to answer it if she can.

18 Q Let me ask you this, do you feel like, if you are a
19 juror, by the time this case is concluded, do you feel that there
20 should be someone found as the culprit, if in fact there was a
21 crime?

22 A No, sir.

23 Q Do you understand that it's just a question of this
24 man's guilt or innocence purely?

25 THE COURT: Let the record show that the witness nodded her
26 head in the affirmative.

1 Q Do you understand that the comments of either the Common-
2 wealth's Attorney or us or the defense attorney is not evidence
3 in the case?

4 A Repeat the question.

5 Q Do you understand that any statements that Mr. Shockley
6 or Mr. Warburton or I make to the jury, that this is not evidence
7 in the case?

8 A Yes, sir.

9 Q That it's argument purely, do you understand that?

10 A Yes, sir.

11 Q If you were a juror, would you judge this case solely
12 on the evidence before you and not allow the fear of later criticism
13 affect your judgment in obtaining a verdict?

14 A Yes, sir.

15 Q Would you give Mr. Epperly the benefit of your individual
16 judgment in this case?

17 A Well, I would have to wait until I heard both sides of
18 it.

19 Q What I'm saying is if you felt a certain way about the
20 case, would you stick by your guns, would you use your own judgment?

21 A Yes, sir.

22 Q To determine guilt or innocence?

23 A Yes, sir.

24 Q If Mr. Epperly chooses to take the stand to testify,
25 would you discount or discredit his testimony simply because he is
26 the accused in this case?

1 A No, sir.

2 Q Do you understand that in a circumstantial evidence case,
3 Mr. Shockley mentioned something about circumstantial evidence,
4 do you understand that in a circumstantial evidence case, you as a
5 juror must treat the evidence with great care and caution?

6 A Yes, sir.

7 Q Listen very carefully. Do you understand that in a case,
8 a circumstantial evidence case is like a chain and it's got to
9 bind the defendant to the crime, it's got to be a strong chain and
10 that the evidence of the Commonwealth is only as good as that
11 weakest link in that chain, do you understand that?

12 A Yes, sir.

13 Q Knowing as you do, I'm sure, the charge against the
14 defendant is one of murder in the first degree, would you, could
15 you give him the same fair trial that you would if he were charged
16 with a much lesser offense?

17 A Yes, sir.

18 Q Have you ever been affiliated with any organizations
19 which the Commonwealth's Attorney or defense counsel or the Judge
20 or any other court official is a member of, to your knowledge?

21 A No, sir.

22 Q Do you have any affiliation whatsoever with Radford
23 College?

24 A No, sir.

25 Q You don't have anyone in your family who works there or
26 has any connection with it?

1 A No, sir.

2 Q Did you ever have any children who went there?

3 A No, sir.

4 Q You indicated, I believe, through Mr. Shockley, that
5 you felt that dogs had a much keener sense of smell than humans.
6 Do you have any reason for believing that? Are you a hunter?

7 A No, I'm not but my daughter goes with a boy that works
8 at the correction farm and I've heard him talk about the dogs that
9 they, you know, they trained over there.

10 Q Are you familiar with any kind of dog that was used or--

11 A No, sir.

12 Q Or any successes or failures that they had with the use
13 of such dogs?

14 A No, sir.

15 Q Do your, any of your friends or associates know that you
16 are here today, family?

17 A Well, everybody at work knows I'm here and my family
18 knows I'm here.

19 Q Would it be in any way embarrassing for you or your
20 family in a case such as this to be on a jury that found the jury
21 not guilty?

22 A No, sir.

23 Q Would it be any embarrassment to be on a jury that, if
24 you found him guilty?

25 A No, sir.

26 Q Would it affect your job in any way?

1 A No, sir.

2 Q You understand that if you are called as a juror, that
3 you are a judge of the facts of the case and not the law, that
4 the Judge instructs you on the law, do you understand that?

5 A Yes, sir.

6 Q That you as the juror will be the sole finder of fact,
7 do you understand that. You determine the facts of the case,
8 based upon the evidence.

9 A (Silence).

10 Q Do you understand that you must reserve an opinion or a
11 decision in the case until all the evidence is presented and
12 the Judge has instructed you as to the law?

13 A Yes, sir.

14 Q Those are all the questions I have to ask you ma'am,
15 but I do want you to understand I wasn't intending to be personal
16 in these questions.

17 A That's all right.

18 Q It was just questions that needed to be asked and I
19 appreciate your candor in answering them. Is there any you would
20 like to ask me?

21 A No, sir.

22 THE COURT: All right, gentlemen, Mrs. Davis is accepted as
23 a member of this panel and she has done so well, I'm going to ask
24 you to take her back here and give her a cup of coffee.

25 All right, let's bring the next person in please.

26 MR. LOOKABILL: Your Honor, before--

1 THE COURT: Hold up just a minute. All right, let's have
2 order in the courtroom.

3 All right, Mr. Lookabill.

4 MR. LOOKABILL: Your Honor, as you know in a case such as this,
5 one of the elements to be proved is that there was in fact a death
6 by criminal means. The lady testified or stated early in voir
7 dire that she felt that there was definitely a murder in the
8 case. That already takes away one of the elements the Commonwealth
9 is required to prove and for that reason I would object to her as
10 a juror.

11 MR. SHOCKLEY: Your Honor, I would respond to that and state
12 that there are many times that we try a case and the jury knows
13 that a certain crime has been committed. The only issue is whether
14 or not the accused is the perpetrator. Robberies, there is no
15 question sometime that someone was robbed and someone's house was
16 burglarized, etc. and we many times bring juries in and it's a
17 given, that a certain crime has taken place and it's solely the
18 question of who did it and I don't think that her predisposition
19 from newspaper accounts or whatever press source that Gina Hall
20 is deceased, I don't think that that would affect this case inas-
21 much as she specifically stated that Mr. Epperly here, or she has
22 formed no opinion about his guilt or innocence.

23 THE COURT: Counsel used the word "murder" as I recall the
24 question. I'm not sure that she did. Let's call her back in and
25 inquire further.

26 The juror, Burton Dalton Davis, being recalled on voir dire:

1 THE COURT: Mrs. Davis, we need to ask you one or two more
2 questions, please.

3 Now Mr. Lookabill, would you restate the question that we are
4 talking about.

5 BY MR. LOOKABILL:

6 Q Ms. Davis, do you feel that there has been a murder in
7 this case?

8 A Yes, sir.

9 Q And what do you understand by the term "murder"?

10 A Well, that they found blood in the cabin and I have heard
11 that they was enough blood that determined that somebody was dead.

12 Q Now for there to be a murder there has to be some elements
13 involved in that crime. Do you understand what the elements are
14 in a murder case?

15 THE COURT: Of course, she doesn't. Tell her.

16 Q Don't you have to have premeditation, you have to have
17 malice, that you have to have a homicide, death, and you have to
18 have a criminal agent, someone who did this with these, with this
19 mental state. Now do you feel that that's what happened?

20 A Yes, sir.

21 BY THE COURT:

22 Q Well, I'm going to ask you one or two further questions
23 on that point Mrs. Davis. Murder in the legal sense, technical
24 sense involves these various elements that the Commonwealth's,
25 attorney, that the defense attorney just mentioned. Now in order
26 to convict anybody of murder, it's incumbent upon the Commonwealth

1 to prove beyond a reasonable doubt that the defendant killed a
2 person with malice or forethought and if it's first degree murder
3 with premeditation. There are certain things that the Common-
4 wealth has to prove to prove a murder. Now every time a person
5 is killed there is a homicide. It could have been accidental.
6 In some cases it's suicide, but in order to be murder the Common-
7 wealth has to prove that a defendant in whatever case we are
8 trying did the various things that I just mentioned and they'd
9 have to prove this beyond a reasonable doubt. Now what we are
10 really trying to get at, are you using the word "murder" in the
11 technical legal sense that you've already made up your mind that
12 this girl was murdered or are you really talking about something
13 else as a layman some other interpretation of the term "murder".
14 I guess you and only you can tell us that. What did you really
15 mean when you used the term "murder"?

16 A That the girl was dead and that she had been killed by
17 someone.

18 Q Killed by someone?

19 A Yes, sir.

20 Q All right, thank you, ma'am. You may--

21 MR. LOOKABILL: May I ask her one, just one follow-up question
22 on that.

23 BY MR. LOOKABILL:

24 Q If the Commonwealth didn't put on any evidence at this
25 point, are you convinced right now, convinced that she was murdered?

26 A Yes, sir.

1 Q Giving the definition that the Judge gave of murder,
2 you feel that she was murdered?

3 A Yes, sir.

4 Q Thank you.

5 MR. SHOCKLEY: May I ask.

6 BY MR. SHOCKLEY:

7 Q What if the Commonwealth's evidence failed, the evidence
8 what is presented in the Courtroom in the next day or days, what
9 if it fails to prove a death in your mind, is that a possibility?

10 MR. LOOKABILL: Your Honor, it's a predisposition we are
11 talking about. I think that's my point.

12 THE COURT: Well, you've definitely made up your mind that
13 this young girl is dead, haven't you?

14 A Yes, sir, I believe she is.

15 THE COURT: And whether the state can prove that or not, you
16 have already made up your mind on that?

17 A Yes, sir.

18 THE COURT: All right, I hate to have to do it, but I'm
19 going to excuse you, too. Thank you ma'am and you are free to go.

20 (The juror is discharged.)

21 WILBUR HUNTER,

22 a juror, after being first duly sworn, being examined on voir
23 dire:

24 BY THE COURT:

25 Q All right have a seat please, sir, and tell us your
26 name.

A Wilbur Hunter.

1 Q Wilbur?

2 A Hunter.

3 Q Hunter?

4 A Yes, sir.

5 Q All right, now Mr. Hunter, we need to ask you a few
6 questions to see whether or not there is any reason that you
7 should not serve on this jury. Where do you live?

8 A What?

9 Q Where do you live?

10 A Thaxton Road, Pulaski.

11 Q What part of the county is that in?

12 A It's up north of Pulaski.

13 Q North of Pulaski?

14 A That's right.

15 Q Were you on the Grand Jury that returned the indictment
16 in the case of Commonwealth v. Stephen Matteson Epperly? Have
17 you been on a Grand Jury?

18 A No.

19 Q Ever in your life?

20 A No, sir.

21 Q Were you in the courtroom when that Grand Jury returned
22 its indictment?

23 A No, sir.

24 Q Are you related by blood or marriage to Stephen Matteson
25 Epperly or to Gina Renee Hall?

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A No.

Q Do you have any interests in this trial or the outcome thereof except to do justice to each side should you be selected as a juror?

A No.

Q You have no preconceived notion, no interest in the outcome of the case one way or the other, is that correct?

A That's correct.

Q Have you acquired any information about the case from news media or from any other source?

A Well, what I read and heard on the news.

Q Right. Would whatever information you have acquired affect your fairness, your impartiality in the case one way or the other?

A Yes, sir.

Q In other words, would what you have read, cause you to already make up your mind about the case?

A Yes, it has.

Q It has?

A Yes, sir.

Q And what have you made up your mind concerning?

A Well, I just read quite a bit about it and I just formed my own opinion.

Q So you've decided whether the defenmant is guilty or not guilty already, is that right?

A Yes, sir.

1 Q All right, I thank you for your attendance here today
2 and you are now excused.

3 (The juror is discharged.)

4 DANNY BRANCH,

5 a juror, after being first duly sworn, being examined on voir
6 dire:

7 BY THE COURT:

8 Q What's your name, please, sir.

9 A Danny Branch.

10 Q Brown?

11 A Branch.

12 Q Branch?

13 A Yes, sir.

14 Q Where do you live, Mr. Branch?

15 A In Dublin.

16 Q Were you on the Grand Jury that returned the indictment
17 in the case of Commonwealth v. Stephen Matteson Epperly?

18 A No, sir.

19 Q Were you in the courtroom when the grand Jury reported
20 its indictment?

21 A No, sir.

22 Q Are you related to Mr. Epperly?

23 A No, sir.

24 Q Are you related to Gina Marie Hall, Gina Renee Hall?

25 A No, sir.

26 Q Do you have any interests in this trial or its outcome?

1 A No, sir.

2 Q Have you acquired any information about the alleged
3 offense through any of the news media or any other source?

4 A Just what I've heard on the news.

5 Q Would what you have heard affect your impartiality in
6 any way?

7 A No, sir.

8 Q Regarding the case?

9 A No, sir.

10 Q You haven't made up your mind about the guilt or innocence
11 of the accused?

12 A No, sir.

13 Q Have you formed or expressed any opinion as to the guilt
14 or innocence of the accused?

15 A No, sir.

16 Q Concerning what you've read or heard about the case, do
17 you believe that you could enter the jury box with an open mind
18 and wait until the entire case is presented before reaching a
19 fixed opinion concerning the defendant's guilt or innocence?

20 A Yes, sir.

21 Q Are you sensible of any feeling of bias or prejudice for
22 or against the Commonwealth or the defendant for any reason?

23 A No, sir.

24 Q Do you know of any reason why you cannot give the Common-
25 wealth on the one hand and the defendant on the other a fair and
26 impartial trial based solely upon the law and the evidence that

you would hear in this courtroom?

1 A No, sir.

2 Q All right, let's see if these gentlemen don't have some
3 additional questions.

4 BY MR. SHOCKLEY:

5 Q Good morning, Mr. Branch, how are you today. I just
6 have a few questions I would like to ask of you. You live over in
7 Dublin, is that correct?

8 A Yes, sir.

9 Q Are you familiar with the Claytor Lake Dam area?

10 A Yes, sir, I fish it often.

11 Q You do?

12 A Uh huh.

13 Q Are you familiar then with Hazel Hollow Road?

14 A Yes, sir, I know where it is.

15 Q Are you familiar with how long it is and the surroundings
16 of Hazel Hollow Road?

17 A I don't know how long it is. I'm just familiar with where
18 it is.

19 Q Do you ever travel off Route 11 near Radford and down
20 Hazel Hollow Road to get to the dam?

21 A Yes, sir.

22 Q Or do you go by way of Newbern?

23 A When I go fishing, I usually just go out and go down 81,
24 but I have traveled the road before.

25 Q All right, sir. Are you familiar with the railroad
26

1 trestle that crosses from Hazel Hollow Road into the City of
2 Radford?

3 A Yes, sir, I know where it is.

4 Q Have you ever walked across it?

5 A No, sir.

6 Q Do you have any sisters?

7 A Yes, sir.

8 Q How old are they, sir?

9 A I got one that's 25.

10 Q Do you have any daughters?

11 A Yes, sir.

12 Q And how many, sir?

13 A Two.

14 Q And what are their ages?

15 A 14 and 13.

16 Q Do you hunt at all?

17 A Yes, sir.

18 Q Do you use a dog when you hunt?

19 A Sometimes.

20 Q What game do you normally hunt?

21 A I hunt everything but I use dogs for rabbits.

22 Q All right, sir, do you believe that tracking dogs have
23 a superior scenting ability to that of human beings?

24 A I don't know.

25 Q Do you have some doubt about that?

26 A Well, I don't know. I've never been involved with it

1 and all I know is I use them for you know rabbit hunting is all.

2 Q Are you confident of your dog in smelling out rabbits?

3 A Yes, sir.

4 Q Have you ever read accounts of blood hounds or other
5 type of dogs that have tracked various people that are lost or
6 escape or something of that nature?

7 A Yes, sir.

8 Q Do you have confidence that those dogs can be trained
9 to follow the scent of a human being?

10 A Yes, sir, I do.

11 Q So then you do have a belief in the dogs and that they
12 have a scenting ability that we don't have?

13 A Yes, sir, if the dog is trained for it, I believe it.

14 Q Now do you believe that it's possible for one person to
15 murder another person and then dispose of the body in such a
16 fashion that the body is never found?

17 A Yes, sir, it's probably possible.

18 Q You think it's possible?

19 A I'd say it's possible.

20 Q Do you have some reservations about that; do you think
21 it's highly unlikely?

22 A Well, I've never heard of it but I'd say it's possible.

23 Q Do you think in a large rural area with a lot of trees
24 and so forth that it would be possible to dispose of a body with
25 burial or otherwise so that nobody ever stumbles on it?

26 A Yes, sir, I'd say for a certain amount of time, but I,

1 you know--

2 Q Do you think that if someone had the time to work with
3 it, they could do it?

4 A Well, I don't know.

5 Q Assuming that someone would be able to hide the body so
6 that it is not found, do you think that that person should go un-
7 punished?

8 A No, sir, if he's found guilty.

9 Q Well, I understand, but assuming that the person com-
10 mitted a homicide and assuming that, you know, he is guilty of it,
11 do you think he should go unpunished?

12 A No, sir.

13 Q Do you, if the Court instructs you on circumstantial
14 evidence and instructs you that any fact that the Commonwealth must
15 prove can be proved by circumstantial evidence, that is other
16 facts and circumstances which when accumulated, prove another
17 fact, and, of course, here I'm talking about the death of Gina
18 Hall, can you abide by that instruction?

19 A Yes, sir.

20 Q What I'm asking you is could an accumulation of facts
21 and circumstances prove to you beyond a reasonable doubt that a
22 person was killed and is dead even though the body cannot be found
23 and cannot be produced.

24 A I don't know.

25 Q Can you describe your feelings for me, please?

26 A Well, I don't know the facts or the evidence, you know.

1 Q I understand that, but take those facts--

2 A I can't sit and say, you know, somebody's dead, you
3 know unless I've seen proof or whatever, you know.

4 Q In other words you are saying that you would have to
5 have a corpse and somebody to testify that this is the corpse of
6 the victim and that the victim is obviously dead, you would have
7 to have that before you could come to the conclusion that the
8 person is deceased and dead?

9 A No, sir, I'm not saying that at all; I'm saying the
10 facts is going to have to show me that.

11 Q The facts would have to be pretty strong?

12 A Yes, sir.

13 Q You would not lock you mind or close your mind to the
14 possibility of a death or a homicide simply because the body was
15 never found?

16 A No, sir.

17 Q You would be open minded about it?

18 A Yes, sir.

19 Q You would promise to be open minded?

20 A Yes, sir.

21 Q And if the circumstantial evidence that the Commonwealth
22 produces, convinces you beyond a reasonable doubt that Gina Hall
23 is dead, even though the body has never been found, would you feel
24 comfortable in returning or at least coming to the conclusion that
25 she is deceased?

26 A Yes, sir.

1 Q You wouldn't have any problem with that?

2 A No, sir.

3 Q As long as the evidence warrants that conclusion?

4 A Yes, sir.

5 Q I believe that's all. Thank you.

6 BY MR. LOOKABILL:

7 Q All right, Mr. Branch, I'm Glennwood Lookabill and this
8 is David Warburton, cocounsel and this is Mr. Epperly, the de-
9 fendant. I'll ask you a few more questions and I don't want you
10 to get mad at me if I ask you a few things that might be kind of
11 personal. I don't do it to embarrass you or put you on the spot.
12 I do it simply because we need to get as good a view as we can
13 of all the possible jurors. Do you understand that?

14 A Yes.

15 Q You promise not to get mad at me.

16 A I'll try not to.

17 Q O.k., that's all I can ask. Thank you.

18 Have you been a resident of Pulaski County for a long time,
19 Mr. Branch?

20 A Yes, sir, about ten or twelve years.

21 Q I believe you live in Dublin. Have you lived in Dublin
22 all that time?

23 A Yes, sir.

24 Q Where do you work?

25 A I work for Lester Janitorial Service.

26 Q What's the name of it?

1 A Lester's Janitorial Service.

2 Q Is that here in Pualski County?

3 A It's in Dublin.

4 Q And have you been working there quite some time?

5 A Two years.

6 Q Have you ever been associated with the State Police or
7 local police officers, departments in any way?

8 A No, sir.

9 Q Have you been in the military?

10 A No, sir.

11 Q Is anybody in your family a member of the police force
12 or presently in the military?

13 A No, sir.

14 Q You don't have any good friends on the police department
15 or anything like that?

16 A No, sir.

17 Q Looking at Mr. Epperly here now, I guess this is the
18 first time you have ever seen him?

19 A Yes, sir, it sure is.

20 Q Do you have any feeling right now of guilt or innocence,
21 whether he's guilty or innocent of what he's charged with?

22 A No, sir.

23 Q Do you have any opinions about the case, personal
24 opinions that you've developed after reading the paper?

25 A No, sir, I don't read the paper that often. Just what
26 I've heard and on the news.

1 Q Heard mostly on TV or radio?

2 A TV mostly.

3 Q What have you heard on the TV about the case?

4 A Well, nothing in particular, just that he was arraigned
5 and the Grand Jury indicted him, that's just about it.

6 Q What do you know about the charge, about the case it-
7 self?

8 A I don't know that much because I work nights and sleep
9 days and fish in between so I haven't heard that much at all.

10 Q What do you know of yourself right now about the case
11 as you sit here before any evidence is put on?

12 A The only thing I really know is that the girl's missing
13 and he was charged, that's just about it.

14 Q Do you know anything about what the Commonwealth intends
15 to prove in the case?

16 A No, sir, I sure don't.

17 Q You don't know anything else about the case at all?

18 A No, sir.

19 Q At this point in time as you sit here before the case
20 even begins, do you have any feeling about which way the case
21 would go, either a guilty or not guilty verdict?

22 A No, sir, I don't.

23 Q Do you have any speculation?

24 A No, sir, I sure don't.

25 Q Have you discussed this case with anybody in your family
26 or friends?

A No, sir.

1 Q No one, at all to your knowledge?

2 A No, sir.

3 Q I guess the guys you fish with would just rather talk
4 about fishing then they had--

5 A Yeah, we fish.

6 Q It's serious fishing?

7 A Yes.

8 Q Except for what you have already told me, are there any
9 facts in the case that you know about prior to being here today?

10 A No, sir.

11 Q If you were the defendant in the case instead of Mr.
12 Epperly or a defendant, a murder defendant, a defendant in a
13 murder case, would you have any objections to your being on the
14 jury?

15 A No, sir, I don't think so.

16 Q O.k., you feel that the fairness of your state of mind
17 is such that you wouldn't object to having a person just like you
18 on the jury trying the case?

19 A No, sir, I don't think so.

20 Q As far as you are concerned at this point, does Mr.
21 Epperly, does he stand innocent of this charge?

22 A Yes, sir.

23 Q Do you also understand that the burden in this case is
24 totally on the Commonwealth, that we don't have to put on any
25 evidence, we don't have to do anything but sit here. Do you
26

1 understand that?

2 A Yes, sir.

3 Q Do you understand that the Commonwealth's burden is to
4 prove guilt, every element of the case beyond a reasonable doubt?

5 A Yes, sir.

6 Q Do you feel that Gina Renee Hall is dead?

7 A I don't know whether she is or not.

8 Q Do you think it is more probable then not that she is
9 dead?

10 A I don't know.

11 Q You just don't really know one way or the other whether--

12 A I just don't know.

13 Q Have you ever been a juror before?

14 A No, sir, not til this term. I was up here last week.

15 Q You have been?

16 A Yeah I was down here last Wednesday.

17 Q Was that a civil or criminal case?

18 A It was a criminal case.

19 Q A criminal case so I guess you are familiar with burden
20 of proof beyond a reasonable doubt, presumption of innocence?

21 A Yes, sir.

22 Q Have you ever appeared before as a witness in a civil
23 or a criminal case?

24 A No, sir.

25 Q Have either you or anyone in your family or close friends
26 been a party in a criminal action?

1 A No, sir.

2 Q Have you or has a close member of your family or friends
3 ever been a victim of murder?

4 A No, sir.

5 Q Or any other serious crime that you know of?

6 A No, sir.

7 Q Do you understand what an indictment is?

8 A I think so.

9 Q Do you understand that it's just a piece of paper that
10 brings, that allows the Commonwealth to try this man for the
11 charge, that it is no evidence in itself?

12 A I don't understand.

13 Q Do you understand that an indictment itself is not
14 evidence in anything, just a piece of paper that starts the
15 trial?

16 A I know that they have to show proof to get an indictment.

17 Q Do you know what the standard is that the Grand Jury
18 uses to indict?

19 A No, sir, I sure don't.

20 Q Have you heard the expression "probable cause", are you
21 familiar with that?

22 A Yes, sir, I'm familiar with that, yeah.

23 Q Do you know how much evidence probable cause is?

24 A No, sir, I don't.

25 Q Are you, you are not aware that it's just enough evidence,
26 something more than a strong suspicion but just enough to allow a

1 trier of fact to determine the case?

2 A Yes, sir.

3 Q Would it, does the fact that this man has been indicted,
4 does that in any way affect your judgment as to whether he's guilty
5 or innocent?

6 A No, sir.

7 Q Do you understand that as it stands right now, Mr. Epperly
8 is presumed innocent until proven guilty beyond a reasonable doubt?

9 A Yes, sir.

10 Q Do you understand that this legal presumption of
11 innocence goes with him throughout the proceedings?

12 A Yes, sir.

13 Q From now all the way through. Do you also understand that
14 the Commonwealth has to prove every element of the crime, the
15 alleged crime beyond a reasonable doubt?

16 A Yes, sir.

17 Q Or to a moral certainty, what I mean every element, including
18 the death of Gina Renee Hall, do you understand they have to prove
19 that to a moral certainty?

20 A Yes, sir.

21 Q Do you understand that this reasonable doubt on moral
22 certainty is the highest standard in American law?

23 A I don't know about that.

24 Q Do you have any problem as a juror if you are called as
25 a juror to give this man a presumption of innocence until the
26 trial with all the evidence has been put on?

1 A Yes, sir.

2 Q The trial is concluded. Do you think that anything that
3 I say or that Mr. Shockley says or that Mr. Warburton says is
4 evidence in the case?

5 A What you say, no.

6 Q You understand that's just argument, it's not evidence.
7 Would the fact that you are a minority on a jury, even a
8 minority of one, influence your vote on a jury?

9 A Yes, sir.

10 Q If you were the only standout, in other words if every-
11 body wanted to vote for an acquittal or a conviction and you were
12 the only standout, would that affect you?

13 A Yes, sir, it would.

14 Q How would it affect you?

15 A Well, I just go with my feelings and the proof.

16 Q What I'm saying is if everybody else wanted to vote
17 guilty and you wanted to vote innocent, would you vote innocent?

18 A Yes, sir.

19 Q Would pressure from other members of the jury affect
20 you in any way?

21 A I don't think so.

22 Q You say you've been on a jury before?

23 A Just one time, yes, sir.

24 Q Would you tell me whether that case involved an acquittal
25 or a conviction?

26 A It was a mistrial.

1 Q You say you don't think you would be influenced by other
2 members, if you firmly felt one way, would it or would it not,
3 would it affect you think so that you would vote with them or
4 would you say, "No, I disagree?"

5 A I don't think it would affect me at all.

6 Q A related question, I believe, is would, would criticism
7 whether you voted guilty or innocent, on a jury, with a jury, or
8 perhaps disagreeing with the jury, would this affect you, the crit-
9 icism affect you, both from where you work, from your family?

10 A No, sir, I don't think so.

11 Q Do you feel that you could give Mr. Epperly your, the
12 benefit of your individual judgment?

13 A Yes, sir.

14 Q Do you understand that in a circumstantial evidence case,
15 which Mr. Shockley has defined for you, do you understand that
16 evidence in a circumstantial evidence case must be taken with
17 great care and caution?

18 A Yes, sir.

19 Q Do you understand that the evidence in a circumstantial
20 case is like a chain and that the chain is only as strong as the
21 weakest link in a circumstantial evidence case?

22 A Yes, sir.

23 Q In other words there has to be one piece of evidence
24 on top of another that creates a strong _____ (inaudible, cough)
25 of evidence connecting the defendant with the crime, the alleged
26 crime, do you understand that?

1 A Yes, sir.

2 Q Do you understand that this presumption of innocence is
3 the same thing, it's actual proof of innocence of the defenant
4 until he is proven guilty beyond a reasonable doubt?

5 A Yes, sir.

6 Q Do you think that throughout this proceeding you can give
7 him the benefit of the presumption of innocence?

8 A Yes, sir.

9 Q Knowing you know what the charge is in this case, murder
10 in the first degree?

11 A Yes, sir.

12 Q Knowing that, do you feel that you can give this man just
13 as fair a trial as if he were charged with shoplifting or some
14 relatively minor offense?

15 A Yes, sir.

16 Q Do you have any **connection or** affiliation whatsoever with Radford
17 College?

18 A No, sir.

19 Q Do you have any relatives who go there?

20 A No, sir.

21 Q Or friends, or work there or anything?

22 A No, sir.

23 Q Do you understand that if you are called as a juror that
24 you are the trier of fact. In other words you find what happened
25 based upon the facts of the case?

26 A Yes, sir.

1 Q And that you would allow the Judge to instruct you on
2 the law of the case?

3 A Yes, sir.

4 Q Do you understand the function of a juror?

5 A Yes, sir.

6 Q I've asked quite a few questions and I know some of them
7 have been kind of personal and you did promise not to get angry at
8 me and I hope I haven't pried too much, but you understand the
9 necessity for this and I appreciate it.

10 A Yes, sir.

11 Q Thank you.

12 THE COURT: All right, Mr. Branch, you can retire to this room,
13 please.

14 (The juror leaves the courtroom.)

15 THE COURT: Now gentlemen, are there any objections to this
16 venireman, any objection for the Commonwealth?

17 MR. SHOCKLEY: No, sir.

18 THE COURT: Any objection for the defense?

19 MR. WARBURTON: No, sir.

20 THE COURT: All right, Mr. Branch is accepted as a juror.
21 Let's take a 10 minute recess at this point, gentlemen.

22 (Thereupon a recess was had and after a time all interested
23 parties, including the Court, counsel and the defendant returned
24 into the courtroom.)

25 THE COURT: Oh, yes, all right. Are these your witnesses
26 here? Let me just say to everybody who is subpoenaed here as a

1 witness on either side, for your benefit, I want to make this
2 announcement. It's obvious we will not get into the merits of
3 this case today so you are excused until tomorrow morning at 9:30,
4 if you wish to be excused. If you wish to stay, of course, you
5 are welcome to do so, but they're--I don't believe it's necessary
6 to recognize them back. They are subpoenaed here. You are under
7 subpoena, all of you. And I don't even know who the witnesses
8 are and who are spectators, but whoever is a witness on either
9 side, you are under subpoena and you are now under the direction
10 of the Court to return tomorrow morning at 9:30 and with that
11 understanding you are excused if you wish to be excused.

12 ERMA ALBERT,

13 a juror, after being first duly sworn, being examined on voir
14 dire:

15 BY THE COURT:

16 Q Now madam, would you give us your name and address,
17 please.

18 A Irma Albert, Parrott, Virginia.

19 Q Mrs. Albert?

20 A Yes, sir.

21 Q A-l-b-e-r-t, all right. Mrs. Albert, we need to ask
22 you some questions at this point. Let's have order in the court-
23 room. Sir, Court's in session; have a seat, please, and I'll ask
24 the Sheriff to maintain order in the courtroom at all times.

25 I need to, the lawyers and I need to ask you a few questions
26 to determine whether or not there is any reason why you could not

1 serve on this jury if you are chosen as a juror. So first let me
2 ask you if you were on the Grand Jury that returned the indictment
3 in this case?

4 A No, sir.

5 Q I assume you know the case we are talking about, Stephen
6 Matteson Epperly, who is charged with murder. You were not?

7 A No, sir.

8 Q Were you in the courtroom when the Grand Jury returned
9 its indictment?

10 A No, sir.

11 Q Are you related by blood or marriage to the accused,
12 Mr. Epperly?

13 A No, sir.

14 Q Are you related by blood or marriage to Gina Renee Hall?

15 A No, sir.

16 Q Do you have any interests in this trial or the outcome of
17 the case?

18 A No, sir.

19 Q Have you acquired any information about the alleged
20 offense or about the accused from the news media or from any
21 other source?

22 A I just heard about it on the news and about it in the
23 newspaper.

24 Q I'm sure you've read about it and heard about it. That
25 being the case, would such information that you have received
26 affect your fairness, your impartiality in any way, should you be

1 selected as a juror?

2 A No, sir.

3 Q Have you expressed or formed any opinion as to the guilt
4 or innocence of the accused?

5 A No, sir.

6 Q Considering what you've heard or read about the case,
7 do you believe you could enter the jury box and hear the entire
8 case and not make up your mind until you retire after the case is
9 concluded?

10 A Yes, sir.

11 Q You think you could do that? Are you sensible of any
12 feeling of bias or prejudice for or against the Commonwealth or
13 for or against the defendant?

14 A No, sir.

15 Q And one last critical question, do you know of any
16 reason, whether I've touched upon it or not, why you could not
17 give the Commonwealth on the one hand and the defendant, Stephen
18 Matteson Epperly, on the other, a fair and impartial trial based
19 solely upon the law and the evidence?

20 A No, sir.

21 Q All right, now let's let the lawyers ask you some addi-
22 tional questions and let me say this, some of these questions they
23 may pry into your most secret affairs. For instance, how old are
24 you and it's really none of their business, but they'll ask you
25 those questions, but don't feel offended by it.

26 A All right.

1 BY MR. SHOCKLEY:

2 Q Good morning, Mrs. Albert. Is it Albert or Allbert
3 (spelling by enunciation)?

4 A Albert.

5 Q Albert. You live in Parrott, I believe?

6 A That's right.

7 Q That's, of course, over near the Radford area. You
8 have to come out to get on the main highway, 114. Are you familiar
9 at all with the Claytor Lake Dam area?

10 A Yes, sir.

11 Q Have you or any of your family members ever gone hunting
12 or fishing over that way?

13 A No, sir.

14 Q Do you ever go over there for any type of recreational
15 activity?

16 A Very seldom.

17 Q Have you ever been to the picnic grounds?

18 A Yes, I have.

19 Q When is the last time you were there?

20 A I would say probably a year ago.

21 Q Are you familiar with the Hazel Hollow Road that leads
22 from Route 11 over to the dam?

23 A Yes, sir.

24 Q Have you traveled over that road several times?

25 A Yes, sir.

26 Q Are you familiar with the railroad trestle that crosses

1 New River from Hazel Hollow Road over into Radford?

2 A Yes, sir.

3 Q Have you ever walked across that yourself?

4 A No.

5 Q Do you have any children, Mrs. Albert?

6 A Yes, I do.

7 Q And how many, please.

8 A I have one.

9 Q And is that a boy or a girl?

10 A I have a daughter.

11 Q And how old is she?

12 A She's 14.

13 Q Do you believe that a dog that is trained to scent people
14 or to track people, do you believe that those type of dogs have
15 a smelling or scenting ability that is superior to that of human
16 beings?

17 A Yes, sir, I do.

18 Q Mrs. Albert, do you think that it is possible for one
19 person to kill or murder another person and then dispose of the
20 body in such a form or fashion that the body is never found?

21 A Yes, sir.

22 Q Do you think that someone who does such an act should
23 go unpunished simply because the body is never found?

24 A No, sir.

25 Q If the Judge were to instruct you that any element that
26 the Commonwealth must prove, any fact or element of the crime can

1 be proved by circumstantial evidence, that is an accumulation of
2 other facts and circumstances that prove the issue in question,
3 could you abide by that instruction? Do you--have I lost you?

4 A I don't believe I follow you.

5 Q O.k. With reference to death, obviously in any type of
6 homicide prosecution the state must prove that such and such
7 person was killed and is dead. Direct evidence of death obviously
8 would be to have the corpse; possibly a medical examiner to testify
9 that this is the body of the person who is alleged to have been
10 killed or murdered. That would be direct evidence. Circumstantial
11 evidence would be other facts and circumstances that would tend
12 to prove that that person had in fact died. Now if the Court were
13 to instruct you that circumstantial evidence was competent evidence
14 and could prove an issue in question beyond a reasonable doubt,
15 would you abide by that instruction?

16 A Yes, sir.

17 Q Could you, therefore, conclude that Gina Renee Hall is
18 in fact dead by circumstantial evidence even though her body was
19 never found and could not be found, could you do so?

20 A Yes, sir.

21 Q I believe that's all, thank you.

22 BY MR. LOOKABILL:

23 Q Mrs. Albert, my name is Glennwood Lookabill. This is
24 David Warburton, cocounsel and this is the defendant, Stephen
25 Epperly. As the Judge said, we'll ask you a few personal questions.
26 I'll try not to be too personal and I hope you won't get angry at

1 me, or cross over that line, o.k.

2 A O.k.

3 Q You say you live in Parrott. Have you lived there all
4 your life?

5 A No, sir, since 1969.

6 Q Where did you live prior to that?

7 A I lived in Radford.

8 Q What part of Radford?

9 A I lived at 1102 Third Street.

10 Q Is that the west end of Radford?

11 A Uh huh.

12 Q Do you know the Epperly family?

13 A I know Charles Epperly.

14 Q The brother of the defendant?

15 A I understand he is.

16 Q How do you know Charles?

17 A We were in school together.

18 Q Have you seen him in recent years?

19 A No, not that I am aware of.

20 Q You do not know Steve?

21 A No, I don't believe I've ever seen him before.

22 Q Do you work, Mrs. Albert?

23 A Yes, I do.

24 Q Where do you work?

25 A Radford Community Hospital.

26 Q What is your function there?

1 A Secretary.

2 Q How long have you been employed there?

3 A 6 and a half years.

4 Q What part of the hospital are you secretary in?

5 A Nursing, nursing office.

6 Q Nursing office?

7 A Uh hum.

8 Q What's your education background?

9 A I graduated from Radford High School.

10 Q I'm not going to ask you your age and I'm not going to
11 ask you what year it was, o.k.

12 A That's all right. I don't mind.

13 Q Have either you or anyone in your family been associated
14 with the police department in Radford or county officer or state
15 police?

16 A What do you mean associated?

17 Q Have been a member of it, a member of the police depart-
18 ment?

19 A No, sir.

20 Q How about the military? Do you have anyone in your
21 family that's in the military or has any connection with military?

22 A My husband's in the Reserves.

23 Q Is this the first time to your knowledge that you have
24 ever seen the defendant, Stephen Epperly?

25 A Yes, sir.

26 Q As you sit here right now, do you have any opinions,

1 just opinions of your own as to guilt or innocence of the defendant?

2 A Yes, sir.

3 Q What do you feel?

4 A (Pause).

5 Q Do you have a feeling that he's either guilty or he's
6 innocent at this point?

7 A I can't say that I really have any feeling that he's either
8 innocent or guilty. I just--maybe I'm just being led by the way,
9 by things that I've heard or read.

10 Q What have you heard or read that would give you a feeling
11 one way or the other?

12 THE COURT: What was the last question?

13 Q I asked her what she has heard or read that would give
14 her an opinion in the case.

15 A I can't actually say, you know, how I feel or why I
16 feel the way I do right this minute.

17 Q Right at this minute you do have some feeling or impression
18 about the case as to whether he's guilty or innocent?

19 A Yes, I do.

20 Q And even before the Commonwealth would put on any evidence,
21 you would automatically feel a certain way right now. Do you feel
22 that he would have to prove his innocence in your mind?

23 A No, I don't. I don't think he would have to prove his
24 innocence.

25 Q What specifically have you read or heard about the case?
26 What do you know about the case that you have read, what do you

1 know, what the charge is and what he had to do with the case, if
2 anything?

3 A I haven't really, I've read a little but not very much,
4 but I just, maybe I'm just thinking back, not about him but about
5 one of his relatives.

6 Q One of his relatives?

7 A Maybe I'm thinking about more the way his brother was.

8 Q You feel that you know at least a member of his family
9 enough that this would shade your thinking in the case?

10 A Right now I don't feel like I would really be able to,
11 after just talking to both of you that I don't feel like that I,
12 that I could be fair.

13 Q You don't feel that you could be fair?

14 A No, I don't think I could be.

15 Q Well, that's what we, we want you to be honest.

16 A O.k.

17 Q That's the purpose of asking these questions. We want
18 you to be honest about it.

19 BY THE COURT:

20 Q What do you mean, Mrs. Albert, when you say you don't
21 think you could be fair? Well, let me put it another way, have
22 you made up your mind in whole or in part about the case already?

23 A No, I haven't made up my mind. No, sir, I haven't done
24 that, but I just--

25 Q Well, you remember now I asked you a question a few
26 moments ago of whether you had any feeling of bias or prejudice

1 for or against either side and at that stage before the lawyers
2 got hold of you, you just said, "No," I don't have any such feeling
3 at all." Now what, have you changed your mind on that; do you
4 have any built in feeling for or against either side?

5 A I think maybe I do.

6 Q You think maybe you do?

7 A Yes, sir.

8 Q Well, do you think you could give each side a fair and
9 impartial trial or do you think you would be biased for or against
10 one side?

11 A Sir, just a few minutes ago I thought I could, but right
12 now I don't think I can.

13 Q Well, is that based on what you've read in the papers
14 or your knowledge of the defendant's family or what?

15 A I think maybe that's what it is.

16 Q What, the latter?

17 A Yes, sir.

18 Q So you don't think or you're not sure that you could sit
19 here and hear the evidence with an open mind and wait until the
20 entire case is presented before you made up your mind as to guilt
21 or innocence, you don't think you could do that?

22 A Yes, sir, I think I could do that.

23 Q You know, I guess everyone in this room has preconceived
24 notions about a lot of things, most things, about big corporations,
25 labor unions, just to give an illustration and if one of them came
26 into Court you might have a feeling for or against one of them.

1 That's human but that's not the critical question. The critical
2 question is whether you can put all that aside and sit here in
3 this jury box and listen to the evidence carefully, observe the
4 witnesses, consider the law that the Court gives you at a later
5 stage in the trial and then go into that jury room with your
6 eleven fellows and carefully consider the case and decide it solely
7 on the law and the evidence that you've heard in the courtroom.
8 Now that's the thing. I want to know if you think you can do
9 that?

10 A Yes, sir, I think I can do that.

11 Q You think you can. And so regardless of any kind of
12 feeling that you may have now, for or against either side, you
13 are convinced that that would not affect your ultimate judgment
14 I take it and that you would give, consider all of the evidence
15 and decide the case solely on the law and the evidence and give
16 each side a fair and objective trial, is that correct?

17 A Yes, sir, I would.

18 Q All right, thank you, ma'am.

19 BY MR. LOOKABILL:

20 Q You indicated a few moments ago that because of some feel-
21 ings you had about the family, I assume it's Steve's brother or may-
22 be someone else in the family, that you had some reservations.
23 Could you tell us a little bit about that?

24 A This all seems, you know, small I guess right now, but
25 I can remember just as a little girl walking home from school,
26 like he would throw rocks and I guess it was just a--

1 THE COURT: That was the defendant's brother?

2 A Yes, sir.

3 THE COURT: Did you throw them back?

4 A No, sir.

5 THE COURT: Well, that's--

6 Q Would that affect your judgment in this case?

7 A No, sir, no, sir.

8 Q Are you aware of the publicity in this case, Mrs. Albert?

9 A Yes, sir.

10 Q What have you read about the case, what do you know
11 about the cases, what you've read?

12 A Well, I just read in July that the girl disappeared
13 and that she had called her sister and that she was supposedly at
14 Claytor Lake with someone, and then that they hadn't heard from
15 her since that time.

16 Q What else have you heard?

17 A That's all I've heard. That's all--

18 Q Have you heard anything about the evidence at all?

19 A No, sir, I haven't.

20 Q Sitting here right now before any evidence is put on or
21 before anything else is said, do you think that Gina Renee Hall is
22 dead?

23 A I'm not sure that she is.

24 Q Do you think that there's a greater likelihood that she's
25 dead then she's not dead, then she isn't dead?

26 A I'm not sure of that either.

1 Q What papers do you get, newspapers?

2 A The Roanoke Times.

3 Q Do you get the Southwest Times?

4 A No, sir, I do not.

5 Q Did you read about it in the Roanoke Times?

6 A I haven't read any articles recently, no, sir.

7 Q Have you heard, do you watch TV or listen to the radio?

8 A Yes, I do.

9 Q Have you heard anything, either on the radio or TV
10 regarding this case?

11 A Yes, sir.

12 Q What have you heard on this?

13 A Just that the trial date had been set for December the
14 8th.

15 Q Have you discussed the case with anyone, your family or
16 friends?

17 A We've talked about it.

18 Q And as you talked to your family and friends, did some
19 people say, "I think he's guilty," some people say, "I think he's
20 not guilty"?

21 A No, I haven't heard anyone say that either way.

22 Q What is the main opinion that you get from talking to
23 people, what do most people that you talk to feel about the case?

24 A I think it's just an uncertain feeling because I can't
25 say that anyone's given me any really feelings of how they feel.

26 Q If you were a defendant today on trial, knowing how you

1 feel about the case right now, whether it be good, bad or neutral,
2 would you have any problems with having you on the jury?

3 MR. SHOCKLEY: Your Honor, again I would object to that
4 particular question.

5 THE COURT: Well, I have misgivings about it, but I've let it
6 in before and I'm going to give these gentlemen a wide latitude.
7 on voir dire.

8 A Would you repeat it, please.

9 Q If you were a defendant today or any time, knowing your
10 present frame of mind about the case, would you find yourself
11 acceptable as a jury, juror?

12 A Yes, I would.

13 Q Do you understand that this man sits here innocent here
14 today and that it's the Commonwealth's burden to prove that he's
15 guilty beyond a reasonable doubt?

16 A Would you repeat the question again.

17 Q Do you understand that there's a presumption of innocence,
18 that he's innocent, sits here innocent and that it's the Common-
19 wealth's burden to prove his guilt beyond a reasonable doubt to a
20 moral certainty, do you understand that?

21 A Yes, sir, I do.

22 Q Have you ever served on a jury before?

23 A No, sir.

24 Q Either criminal or civil?

25 A No, sir.

26 Q Have you ever been a witness in a case?

1 A No, sir.

2 Q Have either you or any member of your family ever been
3 involved in any type of criminal action as a witness or a de-
4 fendant or anything?

5 A No, sir.

6 Q Have you, or has a close member of your family ever been
7 a victim of murder?

8 A No, sir.

9 Q A murder victim?

10 A No, sir.

11 Q Or any other serious crime?

12 A No, sir.

13 Q Do you understand what an indictment is?

14 A I'm not certain that I do.

15 Q Do you understand that it's something that a Grand Jury
16 returns; it's a piece of paper that allows the Commonwealth to try
17 the case. Do you understand that it's not evidence in itself or
18 anything?

19 A Yes, sir.

20 Q You understand that?

21 A Yes, sir.

22 Q Do you understand that the Commonwealth must prove
23 every element beyond a reasonable doubt; not just one or two
24 elements of a crime?

25 A Yes, sir.

26 Q Must prove everything beyond a reasonable doubt?

1 A Yes, sir.

2 Q Including that there has been a death or a murder or
3 any item of the case, every element of the case has to be proved,
4 every single element, you understand that?

5 A Yes, sir.

6 Q Do you understand that nothing that Mr. Shockley might
7 say in this case is evidence, anything the Commonwealth Attorney
8 says, any statement he makes, is not evidence in the case?

9 A I don't, I'm not sure I understand what you are saying.

10 Q Do you understand the difference between arguments of
11 the attorneys and evidence?

12 A I believe so.

13 Q Do you understand that what he says and what we say is
14 not evidence?

15 A Yes, sir.

16 Q Just argument, legal argument, do you understand that?

17 A (Silence).

18 Q If you were a minority on the jury, a minority of one,
19 would that influence your vote?

20 A No, sir.

21 Q If everybody, eleven people say one thing and you said
22 another, would you stick by your guns?

23 A Yes, sir.

24 Q Would you allow any type of later criticism of your being
25 on the jury affect your determination, your decision in the jury
26 room?

1 A No, sir.

2 Q If Mr. Epperly were to testify, would you discredit or
3 disallow his testimony simply because he's the defendant?

4 A No, sir.

5 Q Would you listen to it like you would any other witness,
6 fully and open?

7 A Yes, sir.

8 Q Do you understand that in a case such as this which is
9 a circumstantial evidence case that the evidence must be taken,
10 must be taken by the jurors, which would possibly be you, with
11 great care and caution because it is just circumstantial evidence,
12 do you understand that?

13 A Yes, sir.

14 Q Of course, you know what Mr. Epperly is charged with,
15 murder in the first degree?

16 A Yes, sir.

17 Q Do you feel that you could give him just as fair and
18 impartial a trial as you would give him if he were charged with a
19 minor offense?

20 A Yes, sir.

21 Q Do you have any affiliation with Radford College?

22 A No, sir.

23 Q Do you have any child that's ever attended or any con-
24 nections whatsoever?

25 A No, sir.

26 Q No one in your family works there or is associated with

1 the College or Radford University I guess it is now? I don't want
to make anybody mad.

2 A No, sir.

3 Q Mr. Shockley asked you about the superior abilities of
4 a hunting dog to smell. Are you a hunter or do you go with your
5 husband or do you hunt?

6 A No, sir, we don't.

7 Q What do you know about dogs, hunting dogs and their
8 ability to smell. Do you have any knowledge of your own or is
9 that just an opinion that you have about them?

10 A It's just an opinion I have.

11 Q You don't know anything personally?

12 A No, sir, I don't.

13 Q You've never trained or raised dogs?

14 A No, sir.

15 Q Do you understand that as a juror it would be your job
16 to listen to the evidence and decide what the facts of the case
17 are?

18 A Yes, sir.

19 Q And that the jury instructs you as to the law of the
20 case?

21 A Yes, sir.

22 Q You understand that's your sole function to determine the
23 facts about what happened?

24 A Yes, sir.

25 Q Do you feel that it's your function of a jury to solve
26 this alleged crime?

1 A No, sir.

2 Q What do you think the function is of the jury?

3 A I think you listen to what's said from both sides.

4 Q In other words it doesn't, you don't feel that someone
5 has to, that the Commonwealth has to show that someone committed
6 the crime. You feel in other words, if Mr. Epperly, you decided
7 that he was not guilty, do you feel the Commonwealth should have
8 somebody in here that says, "I confess, I did it"?

9 A Well, it would be good.

10 Q But you don't feel that's your function as a juror?

11 A No, sir.

12 Q Well, I know that some of the questions I've asked have
13 been a bit personal and I apologize if I've gone over that line
14 that I promised I wouldn't. I thank you.

15 BY MR. SHOCKLEY:

16 Q Your Honor, I have just a couple more if I might, please.
17 Mrs. Albert, you said that Charles Epperly, it's been some number
18 of years since you've seen him?

19 A Yes, sir.

20 Q How many, approximately?

21 A As far as I would know, I guess it would have been when
22 we were in school, in high school.

23 Q Several years ago, not to insult you please.

24 A Twenty to be exact.

25 Q Twenty, o.k. so it's been that long since you've seen
26 Charles Epperly?

1 A To my knowledge, yes, sir.

2 Q And you understand that it's Stephen Epperly who is on
3 trial and not Charles Epperly?

4 A Yes, sir, so then I knew that wasn't fair.

5 Q So anything that Charles may have done, throw a pebble
6 at you or something like that, you wouldn't let that stand in
7 your way of trying the facts and circumstances that would be
8 introduced for and against Mr. Epperly?

9 A No, sir.

10 Q Could you in your state of mind now and whatever facts
11 you may have heard about or learned about, could you acquite as
12 well as convict?

13 A Yes, sir.

14 Q And do you understand that the Commonwealth must prove
15 its case beyond a reasonable doubt?

16 A Yes, sir.

17 Q Thank you.

18 THE COURT: Thank you, ma'am. You may come to this room
19 please. Right arond here, please. Oh, all right.

20 (The juror leaves the courtroom.)

21 MR. WARBURTON: If it please the Court, we object to the
22 seating of Mrs. Albert. I don't believe first of all that a
23 witness--pardon me, a potential juror can be rehabilitated either
24 by the Court or by the Commonwealth Attorney once they've stated
25 their feelings in a case despite whether she may have answered
26 the questions appropriately later from the stand. I don't think

1 that _____ (unintelligible), in the case of Commonwealth v.
 2 Justus, whether she should or should not have a seat on this
 3 jury in this case. Your Honor, if I wrote down correctly, at one
 4 point, Mrs. Albert said, "I can't be fair. I think maybe I do
 5 have bias. I don't think I can be fair." She was very nervous
 6 at the time and it turns out that her recollections of an incident
 7 that may have happened years ago will be the one that affects her.
 8 The reason for her not being able to be fair is irrelevant to this
 9 case. The issue when we try to impanel a juror or an entire jury
 10 panel is whether these particular persons, and Mrs. Albert in more
 11 particularity, can be fair. She has reservations about whether or
 12 not she can be fair. I think the Commonwealth would agree that
 13 we shouldn't have her on the jury panel. We want persons who
 14 feel they can be fair, feel that they will receive the evidence,
 15 in the spirit in which it is given, that is to attempt to convince
 16 jurors at a later time that perhaps one side should prevail over
 17 the other, but a witness, a potential juror who comes in and says
 18 they feel they cannot be fair, I don't believe can be rehabilitated
 19 and should not have a seat on the jury. Thank you.

20 MR. SHOCFLEY: Your Honor, as was said in the Justus case,
 21 I believe the initial response of the prospective juror is that
 22 which should weigh most heavily on the Court's determination of
 23 whether or not they are free from bias and prejudice. She answered
 24 your questions very favorably that she could sit here fairly and
 25 impartially. It was only after Mr. Lookabill started asking her
 26 a series of detailed questions about her past relationships with

1 the defendant's family members that it brought into focus how she
2 knew his brother and it was twenty some odd years ago that she
3 said that he threw a rock or a pebble at her and she was, as Mr.
4 Warburton said, extremely nervous. It took her several seconds
5 between their question and the time that she would respond to it.
6 She was visibly nervous on the stand and after you questioned her,
7 she seemed to calm down and then when I asked her some further
8 questions, she did realize and acknowledge it was twenty years
9 ago; it was a childlike incident committed by the defendant's
10 brother. She realizes that it's the defendant on trial and not
11 his brother and that that would not enter into any decision that
12 she may make and she, in response to my question, said that she
13 could acquit as well as convict and that she would be bound by the
14 Court's instructions and she acknowledged that the defendant is
15 presumed to be innocent and I submit--

16 THE COURT: Well, are we agreed that the reason for her state-
17 ment that she might have trouble being fair was this incident
18 with the defendant's brother that occurred in her childhood, is
19 that--

20 MR. SHOCKLEY: That's my recollection.

21 THE COURT: Are we in agreement on that?

22 MR. WARBURTON: We may be in agreement on the reason. I would
23 assert, however, that the reason is irrelevant, Your Honor. The
24 question is whether she can fairly try the case. It doesn't matter--

25 THE COURT: Well, that's true, but I'm just asking. I want
26 to be sure I haven't overlooked something. As far as the facts,

1 the alleged facts of this case are concerned, her answers were
2 unobjectionable, were they not. I mean by that, what she's read
3 and what she's heard and that she has no bias, she has no pre-
4 conceived notions about the case. She can find the defendant
5 innocent as well as guilty and so on. Is that correct?

6 MR. WARBURTON: Yes, sir. The defense's position on challenging
7 this juror has nothing to do with _____ (unintelligible) or any
8 preconceived idea she may have about the case. The defense's
9 objection to seating this juror is solely that she has stated
10 under oath that she cannot be fair. She said it several times
11 _____ (unintelligible) her first answers and first impressions
12 under the Justus rule.

13 THE COURT: All right, I think I shall accept Mrs. Albert.
14 Would you advise her please that she has been accepted as a juror.

15 MR. LOOKABILL: Your Honor, in order to preserve this question
16 for the record I would like to note our objection.

17 THE COURT: Yes, sir. As a matter of fact I don't think
18 you have to make exceptions, but exception is duly noted.

19 WILLIAM LITTON,
20 a juror, after being first duly sworn, being examined on voir
21 dire:

22 BY THE COURT:

23 Q Just take a seat there, please, sir, and tell us your
24 name if you will.

25 A William Litton.

26 Q William Litton. And Mr. Litton, where do you live?

1 A I live in Dublin.

2 Q All right, sir. Now the Court and the lawyers will
3 ask you a few questions at this point to determine whether or not
4 you are qualified to serve as a juror in this case. This case
5 being the case of Commonwealth v. Stephen Matteson Epperly who is
6 charged with the murder of Gina Renee Hall on or about June 29,
7 1980. Let me ask you preliminarily whether or not you were on
8 the Grand Jury that returned the indictment in this case?

9 A No, sir.

10 Q Were you in the courtroom here when the Grand Jury
11 reported the case?

12 A No, sir.

13 Q Are you related by blood or marriage to the defendant,
14 Mr. Epperly?

15 A No, sir.

16 Q Are you related by blood or marriage to Gina Renee Hall?

17 A No, sir.

18 Q Do you have any interest in this trial or in its out-
19 come?

20 A I'm not sure what you mean.

21 Q If you were a family member, obviously you would have
22 an interest in it.

23 A Oh.

24 Q You would want this man convicted. If you were his
25 family, you would want him acquitted.

26 A Oh, no, sir.

1 Q Any kind of interest of that kind?

2 A No, sir.

3 Q Or any other kind for any other reason.

4 A No.

5 Q Business association or--

6 A No.

7 Q Or whatever. Have you acquired any information about
8 the alleged offense or the accused from the news media or from
9 any other source.

10 A Well, I read the newspapers, listen to the news.

11 Q All right, I'm sure you do and I'm sure you've read about
12 the case. What I really want to know is whether or not, what
13 you've read or heard would affect your impartiality, your fairness,
14 your objectivity in any way in the case, or could you decide the
15 case on the basis of what you hear here in the courtroom?

16 A I don't think anything I've heard in the news would
17 affect my judgment.

18 Q Have you expressed or formed any opinion as to the
19 guilt or innocence of the accused?

20 A I haven't expressed any opinion because I knew that I
21 had been summoned--

22 Q Have you formed any opinion in your own mind?

23 A Not a definite opinion, no, sir.

24 Q Well, have you formed such an opinion that it would
25 take evidence to remove that opinion from your mind or could you--

26 A I think I would have to say, "Yes, I have."

1 Q You have tentatively formed an opinion already?

2 A Yes, sir.

3 Q Based on what you have read in the newspaper?

4 A No, sir, not based on what I've read in the newspapers.

5 Q What's it based on?

6 A I'm employed near Radford in Fairlawn and I work with a
7 good many people from the City of Radford who have known Mr.
8 Epperly and--

9 Q You've heard a lot of talk

10 A Yes, sir.

11 Q About this case and about him?

12 A Concerning his alleged incidents that have occurred in
13 his past.

14 Q All right, and so you tell me that you have reached at
15 least a tentative decision?

16 A I don't feel I'm completely impartial.

17 Q You could not be impartial?

18 A I don't feel I am at this point.

19 Q All right, the Court excuses you, Mr. Litton, with
20 thanks for your attendance here today and you are free to go.

(The juror is discharged.)

21 THE COURT: All right, gentlemen the next six panelists are
22 No. 13.

23 THE CLERK: Patricia Garnand.

24 THE COURT: No. 22.

25 THE CLERK: Barbara Martin.

26 THE COURT: No. 32.

1 A VOICE: What was that number, please.

2 THE COURT: 32.

3 THE CLERK: Priscilla Holmes.

4 THE COURT: 42.

5 THE CLERK: Frank Huddleston.

6 THE COURT: 43.

7 THE CLERK: Harvey Brooks.

8 THE COURT: And No. 5.

9 THE CLERK: Carl O. Farmer.

10 MR. WARBURTON: Your Honor, if it please the Court, Pat
11 Garnand has been represented by myself and Mr. Lookabill.

12 THE COURT: How's that?

13 MR. WARBURTON: Mrs. Garnand is a potential juror and we've
14 represented her in the past. I believe _____ (unintelligible)
15 also her relationship with the Jaycettes, which is an organization
16 here in town. I thought I'd bring that to the Court's attention
17 before she gets in here.

18 THE COURT: Well, I don't think that's an automatic ground
19 for--

20 MR. WARBURTON: I'm not suggesting that it is. I'm just bring-
21 ing it to the Court's attention.

22 THE COURT: We'll go over that.

23 MR. TERWILLIGER: Your Honor, I'd also like to bring to the
24 Court's attention that I've been representing some people in a suit
25 in which she's involved on the opposite side in a civil matter.

26 THE COURT: This same juror?

1 MR. TERWILLIGER: Same juror, yes, Your Honor.

2 MR. LOOKABILL: And I also know her husband very well, Your
3 Honor.

4 THE COURT: Well, we can find something wrong with everybody
5 in the County. There's not a person in this room that's qualified
6 according to your all's standards. We've got to get a jury here
7 somehow and we've got to get a fair and objective jury and so
8 let's be reasonable about our questioning.

9 (Thereupon the second panel of six jurors were sworn on voir
10 dire.)

11 THE COURT: Members of the jury we are examining the pro-
12 spective jurors at this stage, one at a time and that's why it's
13 taking a little longer than it ordinarily would. I'll ask the
14 gentlemen here on the end to remain in the courtroom and start
15 with him. The other five may retire with the Sheriff to a room
16 out here. Just one minute, please. We'll call you in as we need
17 you and in the meantime do not discuss the case with anyone nor
18 permit anyone to talk to you about it. After you have been in
19 here and have been questioned, do not divulge to anyone what
20 questions have been asked or what your answers were. All right,
21 thank you.

22 HARVEY A. BROOKS,
23 a juror, after being first duly sworn, being examined on voir
24 dire:

25 BY THE COURT:

26 Q Sir, you may take this chair there, right behind you,

1 the larger chair. Would you state your name and place of residence,
2 please.

3 A Harvey A. Brooks.

4 Q Mr. Brooks?

5 A Yes, sir; 41 Collins Street, Dublin.

6 Q Mr. Brooks, were you by any chance on the Grand Jury
7 that returned the indictment in the case of Commonwealth v.
8 Stephen Matteson Epperly who is charged with murder?

9 A No, sir.

10 Q Were you in the, did you happen to be here in the court-
11 room when the Grand Jury reported that indictment?

12 A No, sir.

13 Q Mr. Epperly is charged with the murder of Gina Renee
14 Hall on or about June 29th, 1980. Are you related by blood or
15 marriage to the accused, Mr. Epperly?

16 A No, sir.

17 Q Are you related by blood or marriage to Gina Renee
18 Hall?

19 A No, sir.

20 Q Do you have any interests in this trial or the outcome
21 of the case?

22 A No, sir.

23 Q Have you acquired any information about the alleged
24 offense through any news media, medium or through any other means?

25 A No, sir.

26 Q You haven't read anything about it in the newspaper?

1 A No, sir.

2 Q Have you heard it discussed?

3 A Occasionally.

4 Q Considering what you've heard, have you expressed or
5 formed any opinion concerning the guilt or innocence of the
6 accused?

7 A No, I have no definite.

8 Q You have not formed any opinion?

9 A No, sir.

10 Q Are you sensible of any feeling of bias or prejudice for
11 or against either side?

12 A No, sir.

13 Q Do you know of any reason why you cannot give the
14 Commonwealth and the defendant, Stephen Matteson Epperly, a fair
15 and impartial trial based solely upon the law and the evidence
16 that you would hear in this courtroom?

17 A No, sir.

18 Q All right, Mr. Shockley.

19 BY MR. SHOCKLEY:

20 Q Mr. Brooks, how are you today?

21 A Fine, thank you.

22 Q I have a few questions I'd like to ask of you. Are you
23 still employed at the Radford Arsenal?

24 A Yes, sir.

25 Q Do you know the defendant's father, _____ (unintelligible)
26 Epperly?

1 A No, sir.

2 Q He, I believe, was employed there at one time.

3 A No.

4 Q Did you not know him?

5 A No, sir.

6 Q Are you familiar with the Claytor Lake Dam area?

7 A Some.

8 Q Have you ever been over there fishing or hunting?

9 A Yes.

10 Q Which or both?

11 A Fishing.

12 Q Fishing. Have you ever fished right near the dam?

13 A Yeah.

14 Q Have you ever had a picnic there at the AEPCO picnic
15 grounds?

16 A (Inaudible).

17 Q Are you familiar with the Hazel Hollow Road that leads
18 from Route 11 outside of Radford over towards the dam?

19 A Some, I've been through there.

20 Q Have you, are you familiar with the railroad trestle
21 that crosses New River from Hazel Hollow Road into Radford?

22 A (Inaudible, cough).

23 Q You are not familiar with where that's located?

24 A Well, I've seen it, yes, sir, but I never did pay enough
25 attention to it to even--

26 Q All you familiar at all--excuse me.

1 A I say I never did pay enough attention to it to even be
2 concerned about it.

3 Q All right, sir. Are you familiar with the west end of
4 Radford?

5 A Yes.

6 Q Did you ever used to live over there?

7 A No.

8 Q Do you have any children or grandchildren, Mr. Brooks?

9 A Yes, sir.

10 Q Do you have any children?

11 A I have children and two grandchildren.

12 Q And how old are your grandchildren?

13 A Four and two.

14 Q And their ages, sex--excuse me--boys or girls?

15 A Two girls.

16 Q Two girls, two and four you say?

17 A Yes, sir.

18 Q How old are your children?

19 A Let's see, 27, 25--

20 THE COURT: Speak a little louder, please.

21 A 27, 25 and 11 and 9.

22 Q So you have four children and two grandchildren?

23 A Right.

24 Q And of your children, are they boys and girls?

25 A Yeah.

26 Q Are you a hunter at all, Mr. Brooks?

1 A Yes, yes.

2 Q Do you use a dog when you go hunting?

3 A No.

4 Q Have you ever used a dog in hunting?

5 A Well, several years ago.

6 Q Do you believe that certain types of dogs have a scenting
7 or smelling ability that is superior to that of human beings?

8 A Yes, I do.

9 Q Do you believe that certain types of dogs can be trained
10 to track human beings, whether they are escapees or someone lost
11 in the woods or whatever?

12 A Yes, sir.

13 Q Do you believe that it is possible that one person can
14 murder another person and hide or dispose of the body in such a
15 form or fashion that the body is never recovered, never found?

16 A Yes, I do.

17 Q Do you feel that a person who would do that should go
18 unpunished simply because the body is never able to be found?

19 A No.

20 Q If the Court instructs you on circumstantial evidence
21 and instructs you that circumstantial evidence is competent
22 evidence and is adequate to prove a necessary fact that must be
23 proved by the Commonwealth, can you abide by that instruction?

24 What I am getting at, Mr. Brooks, is that obviously in any homicide
25 prosecution the state must prove that a death has in fact occurred.

26 A Right.

1 Q Now there is several ways that you could do that.
2 Obviously if you have someone's body or corpse, you could put a
3 medical examiner on to say that they have examined the body. It
4 is deceased and that it is the body of the alleged victim. That
5 would be direct evidence. By circumstantial evidence I mean an-
6 other set of facts and circumstances that would be proved, to
7 prove that a death has occurred. My question to you, I guess, is
8 would circumstantial evidence, strong circumstantial evidence,
9 be adequate or could it convince you beyond a reasonable doubt
10 that a death had occurred even though the alleged victim's body
11 was never found?

12 A My opinion about it would be, it would have to be 100
13 per cent.

14 Q 100 per cent?

15 A Right. Sure, what I'm saying is the evidence would have
16 to be 100 percent sure to prove the fact.

17 Q In other words, you are talking about having a actual
18 body produced?

19 A No, in this case you don't. You don't have a body,
20 what I'm saying is evidence has got to be 100 per cent, just the
21 same as if there were a body.

22 Q How could you prove to a 100 per cent certainty if
23 there was no body?

24 A Well, I don't know. I'd have to hear it first.

25 Q But you would have some grave reservations about that?

26 A Right. I'd have to, that's what I'm assuming that'll

1 have to be proven.

2 Q If there was no body produced into evidence, and no
3 evidence of a deceased person, no body found, would you automatically
4 be inclined to vote for an acquittal, no matter what the other
5 evidence produced?

6 A No, no, no.

7 Q May I ask you sir, what type of evidence would satisfy
8 you, what type of circumstantial evidence would satisfy you that
9 a death had occurred, what would prove to you that a death had
10 occurred?

11 A Well, like I say, it'd have to be concrete evidence,
12 say for instance, well, I'd know have I'd heard, like you say,
13 set on the jury.

14 Q Sir? I can't hear you; speak up.

15 A I say I can't answer that until after the evidence is
16 presented, whether it would be concrete enough to _____
17 (inaudible).

18 Q You are saying that in certain circumstances or in
19 certain situations, evidence could convince you of a death even
20 though no body was ever found?

21 A It could, yes.

22 Q But it would have to be very strong evidence?

23 A Very strong.

24 Q But again would you abide by the Court's instruction--

25 A Yes, I would

26 Q --that circumstantial evidence is adequate to prove

1 any fact, even death if the evidence, circumstantial evidence
2 proves it beyond a reasonable doubt, would you abide by that in-
3 struction?

4 A Yeah.

5 Q And if you came to a conclusion in your own mind that
6 to a moral certainty that Gina Hall was dead, would you so find?

7 A If it could be proven, right.

8 Q Would the fact of a lengthy disappearance, the fact of
9 clothing the alleged victim was wearing that night--

10 MR. LOOKABILL: Your Honor, I'd have to object to this.

11 THE COURT: I think we are getting into the details of the
12 evidence and I really don't think that's proper. The law is Mr.
13 Brooks that in a murder prosecution, the Commonwealth must prove
14 three things, first, we call it the corpus delicti; they got to
15 prove first that a person was killed. Secondly, that the person
16 was killed by criminal act, not accidentally or suicide. Thirdly,
17 the defendant, the jury must be persuaded that the defendant is
18 the person who did the killing. Now this question of death and
19 criminal agency must be proved beyond a reasonable doubt to a moral
20 certainty. That's very strong evidence and that's just about
21 what you just said.

22 A Yes, sir.

23 THE COURT: Would you have any trouble following such an
24 instruction by the Court?

25 A No, sir.

26 THE COURT: All right. Any further questions, Mr. Shockley.

1 MR. SHOCKLEY: No, sir. That's all, Mr. Brooks, thank you.

2 THE COURT: Now just a minute these gentlemen will ask you
3 some questions.

4 A All right.

5 BY MR. LOOKABILL:

6 Q Mr. Brooks, I'm Glennwood Lookabill and this is David
7 Warburton, my cocounsel. This is Stephen, the defendant. I assume
8 that this is the first time that you've ever seen Mr. Epperly is
9 today, is that right?

10 A Yes, sir.

11 Q I'm going to ask you a few questions. Some of them might
12 appear a little bit personal and the reason I ask them is not to
13 pry into your personal life or anything like that, but I just
14 want to, I have to ask you some questions in order for us to
15 establish that we are going to get an impartial jury. I assume
16 you understand the system?

17 A Right.

18 Q You won't get mad at me?

19 A Oh, no, sir, nothing at all.

20 Q You say you live on Collins Street in Dublin now?

21 A Yes.

22 Q How long have you lived there?

23 A Five years.

24 Q Where did you live prior to that?

25 A I lived at Dublin.

26 Q You've lived in Dublin for how many years?

1 A I'd say about, about eight years.

2 Q Where did you live prior to that?

3 A Walnut Subdivision.

4 Q How long have you lived in the cDublin area?

5 A About 8 years.

6 Q Where did you live prior to that?

7 A River Bend Subdivision, Radford.

8 Q Radford ?

9 A Right.

10 Q How long had you lived there?

11 A About two years.

12 Q Have you always lived in Pulaski County?

13 A No; no, sir, I lived in Montgomery County.

14 Q In Montgomery County. How long did you live there?

15 A About 10 or 12 years.

16 Q You've never lived in the City of Radford?

17 A Yeah.

18 Q Is River BEnd in Radford?

19 A Yes; no, that'd be in Pulaski County, but I also lived

20 in the City of Radford.

21 Q How long?

22 A Less than a year.

23 Q Less then a year?

24 A Right.

25 Q How long ago was that?

26 A That's been about five, eight, about nine years ago.

1 Q Did you live in the west end of Radford or--

2 A East end.

3 Q East end?

4 A Right.

5 Q Do you have any connection with Radford College in any
6 way?

7 A No.

8 Q You don't have any kids who have attended there?

9 A No, no, sir.

10 Q Where do you work now?

11 A Radford Arsenal.

12 Q _____ (Unintelligible).

13 A Yes, sir.

14 Q How long have you worked there?

15 A 29 year.

16 Q Have you ever been associated with the police force in
17 any way, an employee, a deputy or--

18 A No, sir.

19 Q Do you have any relatives or children who have ever
20 been police officers in any capacity?

21 A No, sir.

22 Q Have you been in the military?

23 A Yes.

24 Q I assume it's been a few years. Are you in the Reserves
25 now?

26 A No, sir.

1 Q Of course, as you said, today's the first day you have
2 ever seen Stephen Epperly. Do you have any opinion today as to
3 his guilt or innocence of the charge?

4 A No, sir.

5 Q Have you formed any opinions at all about the case?

6 A No, no.

7 Q And I assume from what you said earlier that you have
8 heard about it or you haven't read a lot or you've heard some--

9 A I haven't read anything about it. I've just heard talk,
10 just opinions.

11 Q What kind of opinions have you heard?

12 A Well, I've heard some say that it would be hard to con-
13 vict him without a body and just, you know, you know how people
14 talk, just opinions; and I've heard some say different, visa
15 versa.

16 Q Have more people you've talked to said, "Yeah, I think
17 he's guilty," or, "Yeah, I think he's innocent."

18 MR. SHOCKLEY: Your Honor, we would object to that question.
19 I think it's--

20 THE COURT: I'm inclined to agree. I don't believe it's a
21 question of public opinion that we are concerned with here today.
22 We are concerned with what this gentleman knows about the case
23 and what, if any, effect it has upon him.

24 MR. LOOKABILL: Your Honor, since he indicated he had read
25 or heard a lot about it, I was just trying to find out exactly
26 what the opinions of the matter have been that he has in fact

1 heard.

2 THE COURT: Well, rephrase your question.

3 Q When you talked with various people about it, those
4 people you worked with?

5 A I've really never discussed it with many people. I've
6 just heard people talking back and forth among themselves and,
7 of course, practically everybody that I'd see, you'd hear about
8 it everywhere you'd go.

9 Q Pardon?

10 A I heard about it just about everywhere I go, but I've
11 never read anything about it in the paper, just, you know, people
12 talking.

13 Q How did you react when you heard people talking?

14 A I didn't because I wasn't that much concerned about it.
15 It didn't make any difference to me.

16 Q Have most of the people you talked with been more or
17 less on the police side or on the defendant's side?

18 A Neither, neither. This was just talk.

19 Q Knowing how you feel about the case at this point and
20 if you were on trial for this same offense or a serious offense,
21 would you have any objections to having yourself on the jury?

22 A I don't know. I don't think so.

23 Q You feel that you could be unbiased and open minded about
24 it?

25 A Why sure.

26 Q Do you understand that in a criminal case it's the burden

1 of the Commonwealth to prove every element of a criminal offense
2 such as this beyond a reasonable doubt. Do you understand that
3 we don't, the defendant nor his attorneys have to do anything, the
4 burden rests solely upon the Commonwealth. Do you understand that?

5 A _____ (inaudible).

6 Q Do you understand that this man is presumed innocent.
7 He doesn't have to prove his innocence to you or to anybody else,
8 that he stands innocent before you today. Do you understand that?

9 THE COURT: Speak up please.

10 A Yes, sir, yes, yes, sir, I sure do.

11 Q Have you ever served on a jury before?

12 A No, sir.

13 Q Have you ever been a witness?

14 A Years ago when I was a kid, just a little petty, petty
15 things, you know, that didn't amount to anything.

16 Q Just a little misdemeanor case?

17 A Right.

18 Q Of some kind?

19 A Right, sir, yeah.

20 Q Do you know how many years ago that was?

21 A Oh, it's been probably 35 or 40 years ago.

22 Q Were you a victim in that situation or just--

23 A Oh no; no, sir.

24 Q What was the case about?

25 A Oh it was about a trade deal that this guy made. It
26 concerned livestock.

1 Q Was it a civil case?

2 A Oh no, no.

3 Q Was it a civil case dealing with somebody writing money
4 from someone else?

5 A No, just a case involving livestock. What it was, a guy
6 took this other man with a warrant. At that time I was with him,
7 just happened to be along, you know, and he had me summonsed for
8 a witness over a cow.

9 Q You were with the man who got the warrant?

10 A Right, right I was with the defendant, right.

11 Q Were you with the defendant or the man that was complaining?

12 A The defendant, the one he got the warrant for.

13 Q Have either you or any member of your family been a
14 victim of a crime?

15 A No.

16 Q Has anyone in your close friends or family ever been
17 murdered?

18 A No.

19 Q Killed?

20 A No, sir.

21 Q Do you understand what an indictment is in a criminal
22 case?

23 A I think so.

24 Q Do you understand that it's just a piece of paper that's
25 used to get a criminal defendant before the Court for trial?

26 A Yes, sir.

1 Q Do you understand that it's not evidence of any kind?

2 A Right, sir.

3 Q Do you understand that among other things the Common-
4 wealth's Attorney must prove to a moral certainty that Gina Renee
5 Hall is in fact dead?

6 A Yes, sir.

7 Q Do you have any feelings at this time as to whether she
8 is dead or alive?

9 A No, sir, I don't know.

10 Q You don't know?

11 A I can't say, I don't know.

12 Q Do you think one is more probable than the other?

13 A No, sir.

14 Q Do you understand that anything that Mr. Shockley says
15 or that we say is not evidence in the case?

16 A Yes, sir.

17 Q You understand the evidence would come from that witness
18 stand?

19 A Right, sir.

20 Q And other physical evidence, whatever they might have?

21 A Right, sir.

22 Q Would the fact that you were on the jury and you were
23 a minority of one person. In other words everybody disagreed with
24 you about a verdict except you, would that in any way influence
25 you?

26 A No, sir.

1 Q Do you feel that you could stick with your guns regardless
2 of what other people's opinion was, if you felt strongly about the
3 issues?

4 A Yes, sir.

5 Q Do you feel that by being on a jury in this case that you
6 would have any type of criticism or embarrassment among your friends
7 or the people you work with or anything?

8 A No, sir.

9 Q If Mr. Epperly chose to testify, would you accept his
10 testimony like that of any other witness?

11 A Yes, sir.

12 Q You wouldn't discredit him simply because he's the man
13 charged?

14 A No, sir.

15 Q Do you understand that in a case such as this which is
16 a circumstantial evidence case, do you understand that all of the
17 evidence must be taken with great care and caution by the jury?

18 A Yes, sir.

19 Q Do you see a circumstantial evidence case being like a
20 chain and the Commonwealth's evidence has to be a group of links
21 to this chain and their case is only as strong as the weakest
22 link in that chain. Do you understand that?

23 A Yes, sir.

24 Q That it has to connect the crime if there is one with the
25 defendant, do you understand that?

26 A Yes, sir.

1 Q Do you feel that you can give the defendant the benefit
2 of a presumption of innocence without any type of mental reservation
3 whatsoever?

4 A Yes, sir.

5 Q If the defendant were charged with a lesser crime such
6 as stealing a cow or something like that, which he's not. You know
7 what he's charged, murder in the first degree. Do you feel that
8 you could give him as fair a trial being charged with this charge
9 as you would with a minor or lesser charge?

10 A Yes, sir.

11 Q You say you've used dogs to some extent over the years
12 hunting?

13 A Yes, sir.

14 Q Have you ever trained dogs or had any extensive experience
15 with the use of dogs?

16 A Yes, sir.

17 Q You have trained dogs?

18 A Yes, sir.

19 Q What kind of dogs have you trained?

20 A Bird dogs, rabbit beagles.

21 Q Do you understand that if you are a juror it would be
22 your function as well as that of the rest of the jury to determine
23 what the facts are in the case and that the Judge would instruct
24 you as to the law. You apply the law to the facts. Do you under-
25 stand that?

26 A Yes, sir.

1 Q All right, I hope my questions haven't been too personal.

2 A Oh, no, sir.

3 Q I haven't meant for them to be.

4 A No, sir.

5 BY MR. SHOCKLEY:

6 Q Your Honor, I have just a couple more if I could. Mr.
7 Brooks in response to one of Mr. Lookabill's questions you stated
8 that a few of your friends or people whom you overheard talking
9 said that it would be hard to convict someone without a body.
10 Have those statements given you any sort of notion that a body
11 has to be produced before conviction can be--

12 A No, no, sir.

13 Q Do you understand that the law does not require the pro-
14 duction of a body but that the death can be proved by other cir-
15 cumstantial evidence?

16 A Yes, sir; yes, sir. Cause a lot of people would be,
17 a lot more crimes I mean going unsolved if it had to be that way,
18 what I'm saying is if you had to present a body.

19 Q Uh hum.

20 A They would be alot of crimes that would go unsolved.

21 Q All right, sir, thank you, Mr. Brooks.

22 THE COURT: All right, Mr. Brooks; if you will come right over
23 here, please.

24 (The juror leaves the courtroom.)

25 THE COURT: Any objection, gentlemen?

26 MR. LOOKABILL: No, sir, Your Honor.

1 THE COURT: All right, Mr. Books is accepted as a juror.
2 Now have the three of them step in here please.

3 All right, Mrs. Albert, Mr. Branch and Mr. Brooks we are
4 going to take our luncheon recess at this time and return at
5 1:30 so you are free to go and have your lunch. I want to admonish
6 you, however, not to discuss the case with anyone during this or
7 any other recess. Do not permit anyone to undertake to talk to
8 you about it nor in your presence and if anybody tries to ask you
9 about what's gone on here, what questions you were asked, of
10 course, you will not answer those questions. Just don't discuss the
11 case at all with anyone.

12 All right, now Sheriff you will notify the people back here
13 please to return at 1:30 and the ones down in the hall you can excuse
14 them until 1:30. Sheriff, you may recess.

15 (Thereupon Court was recessed for lunch and after a time
16 all interested parties, including the Court, counsel and the
17 defendant returned into the courtroom.)

18 PATRICIA GARNAND,
19 a juror, after being first duly sworn, being examined on voir
20 dire:

21 THE COURT:

22 Q Now just relax Mrs. Garnand. We need to ask you a few
23 questions and decide whether or not you are a qualified juror in
24 this case. Your name is Patricia Garnand?

25 A Yes, sir.

26 Q And where do you live, Mrs. Garnand?

1 A I live in the Town of Dublin.

2 Q In the Town of Dublin. All right, the case we are to try
3 today is styled Commonwealth of Virginia v. Stephen Matteson
4 Epperly. Mr. Epperly is charged with the murder of Gina Renee Hall
5 on or about June 29, 1980. Are you related by blood or marriage
6 to the defendant, Stephen Epperly?

7 A No, sir.

8 Q Are you related by blood or marriage to Gina Renee Hall?

9 A No, sir.

10 Q Were you on the Grand Jury that returned the indictment
11 in this case?

12 A No, sir.

13 Q Were you in the courtroom when the Grand Jury reported?

14 A No, sir.

15 Q Do you have any interest in the outcome of this case?

16 A No, sir.

17 Q Have you expressed or formed any opinion as to the guilt
18 or innocence of the accused?

19 A No, sir.

20 Q Have you acquired any information about the case from
21 any of the news media or from any other source?

22 A Not really. I don't even take the local papers.

23 Q You don't take the local paper?

24 A No, sir.

25 Q Do you take the Roanoke Times?

26 A No, sir.

1 Q You read a paper just occasionally I take it, is that
2 right?

3 A Occasionally. I usually read News Week or something
4 like that.

5 Q News Week?

6 A Uh huh.

7 Q Well, have you read or heard anything about this case
8 at all on radio, maybe, or TV or heard people talking about it or
9 anything of that nature.

10 A Very little. I heard, you know, a few TV programs but
11 very little, just--

12 Q I'm sorry, I didn't catch what you said?

13 A I have heard some things on TV but very little.

14 Q Very little. Well, have you heard enough about the
15 case to have formed any opinion about it or have any, even tentative
16 thoughts about the guilt or innocence of the accused?

17 A No, sir, I really don't think so.

18 Q Do you think you could enter the jury box here with an
19 open mind and hear all of the evidence and the argument of counsel
20 and the law of the case given to you by the Court and then decide
21 the case at that time?

22 A Yes, sir.

23 Q Rather than prejudging it?

24 A Yes, sir.

25 Q Do you think you could do that?

26 A (Silence).

1 Q Are you sensible of any feeling of bias or prejudice
2 for or against the Commonwealth or the defendant in this case?

3 A No, sir.

4 Q Do you know of any reason why you cannot give each side
5 a fair and impartial trial based solely upon the law and the
6 evidence?

7 A No, sir.

8 Q All right, Mr. Shockley.

9 BY MR. SHOCKLEY:

10 Q Good afternoon, Mrs. Garnand. How are you today?

11 A I'm fine.

12 Q Mrs. Garnand, are you familiar with the Claytor Lake
13 Dam area?

14 A Yes, sir.

15 Q Do you go over there frequently?

16 A Maybe once a year.

17 Q Do you ever go to the picnic grounds there?

18 A Yes, sir, that's usually where we go.

19 Q Does either you or your husband fish over there?

20 A No, sir.

21 Q Are you familiar with the Hazel Hollow Road that you
22 turn off of Route 11 near Radford before you get to Memorial
23 Bridge and that goes on back parallel on the river and into the
24 County, are you familiar with that road?

25 A I know where it is, but I don't really go up that way.

26 Q Are you familiar with the railroad trestle that crosses

1 New River from Hazel Hollow Road over into Radford?

2 A Yes, sir, I know where it is.

3 Q Have you ever walked across it?

4 A No, sir.

5 Q Are you familiar with the west end of Radford?

6 A Yes, sir, I'm originally from Radford.

7 Q You are? Where did you used to live in Radford?

8 A On Second Street in the west end near the Church of
9 God.

10 Q Now Mr. Epperly has or did live on 2nd Street in
11 Radford. Were you ever an acquaintance of his when you lived on
12 2nd Street yourself?

13 A No, sir.

14 Q Do you know the defendant?

15 A No, sir.

16 Q Have you had any kind of dealings with him at all?

17 A No, sir.

18 Q Do you know his parents?

19 A Not that I know of.

20 Q Cupid Epperly and Esther Epperly?

21 A No, sir.

22 Q Do you have any children yourself, Mrs. Garnand?

23 A Yes, I have one daughter.

24 Q How old is she?

25 A She's 15.

26 Q Do you believe that certain dogs that are trained to

1 track human scent have a smelling ability or scenting ability
2 that is superior to that that we have as human beings?

3 A I would say so, yes.

4 Q Have you heard of blood hounds or other type of tracking
5 dogs being used to try to locate missing persons or escapees from
6 correctional facilities and things of this nature?

7 A Yes, sir.

8 Q Do you believe that those dogs if properly trained,
9 can do such things?

10 A Yes, sir.

11 Q Mrs. Garnand, do you think that it's possible for one
12 person to kill or murder another person and then dispose of the
13 body in such a fashion that the body is never found or recovered?

14 A Yes, I would say so.

15 Q Do you think that a person who does that, who kills
16 another person, who hides the body successfully so that it is
17 never found, do you think that that person should go unpunished
18 for their crime?

19 A No, sir.

20 Q If the Court instructs you as a member of the jury that
21 any fact that the Commonwealth must prove, namely, death, one of
22 those facts, can be proved by circumstantial evidence, that is
23 other facts and circumstances that would indicate death, could you
24 abide by that instruction?

25 A Yes, sir.

26 Q My point is Mrs. Garnand, as you may or may not know,

1 Gina Hall's body has never been found. My question, if the Common-
2 wealth produces certain other facts and circumstances in evidence,
3 that convinces you beyond a reasonable doubt that she is in fact
4 dead, could you come to the conclusion that she is dead even
5 though no body was ever found?

6 A Yes, sir.

7 Q Would you be reluctant to do so or can you describe
8 to me your feelings a little more on that type subject?

9 A Well, I would not be reluctant. I assume you are talking
10 about the evidence being weighed enough to.

11 Q Yes, obviously, the Commonwealth would have to prove
12 death beyond a reasonable doubt as one of the elements of homicide
13 as they would in any homicide, but in the absence of a body,
14 could there be other facts and circumstances produced that would
15 convince you as a member of the jury that Gina Hall was in fact
16 dead and that she died of a criminal means?

17 A Yes.

18 Q I believe that's all the questions I have.

19 BY MR. WARBURTON:

20 Q Mrs. Garnand, I'm David Warburton. I believe you know
21 my law partner, Glennwood Lookabill?

22 A Yes.

23 Q This is Steve Epperly here, the defendant in this case.
24 I'm going to ask you a few questions as Mr. Shockley has and as
25 the Judge has and I hope that you won't think that we are prying?

26 A That's all right.

1 Q We are trying to do our best to protect our client's
2 interest and I hope you understand. First of all I want to know
3 how long you've been in Pulaski County, Radford area?

4 A The entire area since I was approximately four years
5 old. I've been in Pulaski County for the past five years.

6 Q And where are you employed?

7 A The Pulaski County Department of Social Services.

8 Q How long have you had that position down there?

9 A I've been down there almost two years.

10 Q And what is it that you do down there, Mrs. Garnand?

11 A I am a ADC eligibility worker.

12 Q What is your educational background?

13 A I graduated from Radford High School. I'm about 50
14 per cent through accounting course at New River Community College.
15 Other than that.

16 Q Is there anyone in your family or perhaps you, yourself,
17 affiliated with the police in any way, county sheriff's department,
18 State Police, local police?

19 A You mean as actual officers or anything, no.

20 Q Well, do you have a close friend that's on the force?

21 A No, I mean I know some of the officers, but I'm not that
22 close friends I don't guess.

23 Q Is there anyone in your family, perhaps yourself or
24 your husband who's been in the military?

25 A No.

26 Q I want you to look at this man right here, Mr. Epperly.

1 I want you to tell me whether or not, you've got any opinion what-

2 soever whether he's guilty or whether he's innocent?

3 A No, sir, I do not.

4 Q You have formed no opinion in this case whatsoever?

5 A Not really. As I said, I haven't, you know, I don't

6 take the local paper and what I have heard is very minute.

7 Q You indicated that you might have heard something on

8 the television. Can you tell me what that was?

9 A Well, I think I heard the first report about the fact

10 that she was missing and the stages of the investigation after

11 that for the first little while, you know, like the investigation

12 was still going on but I didn't even hear that anyone had been

13 been arrested. I usually watch Channel 17 out of Atlanta so--

14 Q In your job, of course, you work down here at the County

15 Building?

16 A Yes.

17 Q There's maybe a couple of hundred people maybe that work

18 down there. Have you heard this case discussed among your co-

19 workers?

20 A Not really.

21 Q Have you discussed this case with your family, your

22 daughter and your husband?

23 A No, sir.

24 Q You have not. Have you heard any opinions one way or

25 another expressed at all by anyone?

26 A I don't think so. I really can't remember but I

1 don't think so.

2 Q You've had an opportunity to access how you feel about
3 this case and how you come in as a potential juror. If you were
4 on trial, would you want someone like yourself on that jury. In
5 other words could you be your own judge?

6 A Can I be my own judge?

7 Q Uh hum.

8 MR. SHOCKLEY: Your Honor, I don't think that's the question
9 and I would object to it.

10 THE COURT: Well, isn't this the same question--

11 MR. SHOCKLEY: Well, he's forming it, phrasing it in a
12 different fashion now. He's asking if she could be her own judge.
13 That's not the gist of what Mr. Lookabill was asking before.

14 THE COURT: Be her own judge. I don't understand. Suppose
15 you rephrase the question. Use it the way you've got it in the
16 form that we've been using.

17 Q Mrs. Garnand, if it were you today on trial for murder
18 in first degree instead of Mr. Epperly, would you be satisfied
19 with a juror or jurors who come into the case the way you are
20 coming into the case today?

21 A Yes, sir, I think so.

22 Q As far as you are concerned, of course, Mr. Epperly
23 is innocent at this time, am I right?

24 A Yes, sir.

25 Q You understand, of course, that presumption of innocence
26 goes all the way throughout the trial?

1 A Yes, sir.

2 Q Until everyone in this room has done talking and until,
3 if you are chosen as the jury, you would go in the jury room?

4 A Yes, sir.

5 Q Do you understand about presumption of innocence
6 _____ (unintelligible) of his innocence until you are convinced
7 otherwise beyond a reasonable doubt?

8 A Yes, sir.

9 Q Have you ever served as a juror before?

10 A No, sir.

11 Q Either civil or criminal case?

12 A No, sir.

13 Q Have you ever been a witness in a case before?

14 A No, sir.

15 Q Has anyone close to you ever been a victim of a crime,
16 serious crime, such as murder or any other crime?

17 A No, sir.

18 Q Do you realize or do you? Do you know what an indict-
19 ment is?

20 A Yes, I used to work for attorneys.

21 Q You used to work for attorneys so you understand what
22 an indictment is?

23 A Yes, sir.

24 Q Can you explain that to me?

25 A I think so. There is a Grand Jury that hears the
26 evidence and if they feel like there is enough evidence to issue

1 an indictment for what charges whatever they may be, then the
2 person is indicted and the trial goes on from there, I think.

3 Q _____ (Unintelligible) Does that serve as evidence in
4 the case?

5 A The indictment?

6 Q Uh hum.

7 A Well, I've never seen an indictment. I really don't
8 know.

9 Q Does the fact that someone's been indicted indicate
10 anything to you about whether they're guilty or innocent?

11 A Well, no, I just--I assume an indictment is the Grand
12 Jury has assumed, it's taking the evidence and saying, "Yes, I
13 believe there is enough evidence to bring this person to trial."
14 But there's still the innocence, you know, until actually proven
15 guilty.

16 Q You understand, of course, that the Commonwealth has
17 to prove each element of an alleged crime beyond a reasonable
18 doubt, not just some of them or most of them?

19 A Yes, sir.

20 Q You understand in a circumstantial evidence case that
21 the jury is to receive that evidence with great care and caution?

22 A Yes.

23 Q Perhaps as a chain of evidence, if you saw a literal
24 chain, you understand that the evidence the Commonwealth would
25 present would only be as strong as the weakest link in that chain?
26 I'll be glad to start over.

1 A Would you, please.

2 Q Sure.

3 A O.k.

4 Q In a circumstantial case, a case in which there are
5 no eye witnesses to anything.

6 A O.k.

7 Q If the Commonwealth presents a chain of circumstantial
8 evidence, you understand that the whole of that evidence is only
9 as good as the weakest link in that chain?

10 A Well, every point has to be proven beyond a reasonable
11 doubt, right?

12 Q Uh hum.

13 A I'm not really sure I understand your question, but--

14 Q Well, I'll go on. I think you understand that each
15 element must be proven beyond a reasonable doubt?

16 A Right.

17 Q And if there's one that comes up short, that's it for the
18 whole case you understand that?

19 A Right, ok.

20 Q Now, you understand, of course, the comments that Mr.
21 Shockley makes or that I or Glennwood make are not evidence in
22 the case, do you not?

23 A Right.

24 Q If you were in a minority, even a minority of one, and
25 you have strong feelings, would you _____ (unintelligible) them,
26 stick to them?

1 A If I personally felt my opinion was right, I would
2 stick with it.

3 Q Regardless of how many persons agreed with your or dis-
4 agreed with you?

5 A Probably so.

6 Q You are not sure, are you?

7 A About 95 per cent sure.

8 Q You would judge this case solely on the evidence pre-
9 sented to you and keep an open mind before you retire to the jury
10 room?

11 A Yes, sir.

12 Q Have you ever heard the name, Stephen Epperly, before
13 today?

14 THE COURT: Would you speak a little louder, please.

15 Q I'm sorry, sir. Have you ever heard the name, Stephen
16 Epperly, before today?

17 A Oh, yes.

18 Q And that would be in connection with this particular
19 case?

20 A Well, with the news, you know, the news, TV that I
21 have heard.

22 Q I asked you before if you had formed any opinions as to
23 the elements of the crime. Do you have any opinion as to Mr.
24 Epperly one way or another?

25 A No, sir, I don't know enough about him to have an
26 opinion.

1 Q Do you have any connection with Radford College?

2 A No.

3 Q With the alleged facts that you may or may not know,
4 whatever you have come in here today with, do you have any inclina-
5 tion or any speculation or opinion on whether or not Gina Hall
6 is dead?

7 A Do I personally feel that she is?

8 Q Do you think that she is dead, is not dead?

9 A Well, just from what I have heard, I would assume that
10 she is though, you know, I don't know for sure.

11 Q I'll try to be careful in saying what you said.

12 A O.k.

13 Q You feel that she is probably dead, is that correct?

14 A (Nods head).

15 Q Would it take evidence of some kind produced here in
16 Court from that witness stand to change that opinion?

17 A It would have, yeah, well, yes.

18 Q What I'm basically asking, Mrs. Garnand is if you would
19 go in the case, as you've said, assuming that she is dead until
20 shown otherwise or whether you would come in assuming that she's
21 alive until shown otherwise, which would be a more fair--

22 Q Oh, I'm--o.k., I see what you are saying. In order to be
23 fair about it, I would have to say that I would assume she was
24 alive until proven different.

25 Q But until a few minutes ago you said that you assumed
26 she was dead. Have you changed your mind about it or what?

1 A Well, I think maybe I may have misunderstood what you
2 said. I feel like that I would assume that she was alive until
3 proven differently.

4 Q Now you mentioned before that you had worked in a law
5 office?

6 A Yes.

7 Q Which office was that, ma'am?

8 A Gilmer Sadler here in Pulaski.

9 Q When did you work there?

10 A It's been about 3 and 1/2 years ago.

11 Q And for what period of time did you work there?

12 A Approximately three years.

13 Q Now none of the persons here in the courtroom today
14 have ever worked down there so far as I know. Were you familiar
15 with some of the attorneys involved in this case because of your
16 employment down there?

17 A Well, I know who, you know, each of the attorneys in
18 here is just because I know them.

19 Q Do you have any personal reaction to any one of the four
20 of us?

21 A Personal reaction?

22 Q Yes, ma'am, positive or negative. I want you to be
23 frank.

24 A O.k. Well, Woody, I know him, like through the Jaycees.
25 The others, including yourself, I don't really know that well.
26 I just know who you are.

1 Q How long has your relationship been with Mr. Lookabill
2 in the past, two years five years or what?

3 A The last three, I guess.

4 Q And that includes your husband, I believe.

5 A Yes.

6 Q Mr. Terwilliger advised the Court a while ago that he
7 was on the opposite side of a law suit in which you are involved,
8 is that correct?

9 A Yes, I didn't realize that that's who that was, I'm
10 sorry.

11 Q This is a law suit of a civil nature, I assume?

12 A Yes, sir.

13 Q Are you a party to the law suit?

14 A Am I a party?

15 Q Are you suing someone or are you being sued?

16 A My husband and I are suing someone else, yes.

17 Q Mr. Terwilliger is defending these other people?

18 A He is defending one section.

19 Q Have you ever dealt with Mr. Terwilliger involving
20 this case or has your attorney done it for you or what?

21 A My attorney has done it all.

22 Q Are you sensible of any prejudice for or against Mr.
23 Terwilliger because of this law suit?

24 A No, sir.

25 Q When you worked at the Sadler law firm, were you in-
26 volved in criminal litigation, civil litigation? Did you merely

1 What did you do?

2 A Well, I was Mr. Shankman's secretary and then I did all
3 of the loan closings for the area banks around here, Farmers Home
4 VNB Mortgage.

5 Q While you were working for Mr. Shankman, were you in-
6 volved in criminal trials?

7 A No, the only criminal trial off the top of my head was
8 the two gentlemen that were killed behind Barrett's, that was be-
9 fore I actually went to work for Mr. Shankman and everything else
10 was either bankruptcy, divorce or of that nature. I really didn't
11 have time for anything else but the loan closings.

12 Q Do you remember working on that murder case at all?

13 A No, I did not work on it.

14 THE COURT: All right, gentlemen, is that all?

15 BY MR. SHOCKLEY:

16 Q I have just a couple more questions, please. Mrs. Gar-
17 nand, you know and like Woody because of his involvement in the
18 Jaycees with your husband and everything.

19 A Right.

20 Q Has Mr. Lookabill ever represented you on any type of
21 legal matter?

22 A No, sir.

23 Q Has Mr. Warburton?

24 A No, sir.

25 Q Would the fact that your maybe involvement in the Jaycettes
26 and your husband in the Jaycees along with Mr. Lookabill and

1 possibly his wife, would that cause you to lean in his direction
2 as an attorney. In other words if he were arguing the case before
3 you, would you give him greater weight and support than you would
4 me arguing the case before you?

5 A No, sir. Woody has been in the Jaycees and us, too,
6 but as far as us crossing paths it's not been a lot except for,
7 you know, specific projects, like the shopping tour or something like
8 that.

9 Q Assuming that you were on the jury and assuming that
10 you felt in your mind that the Commonwealth had made out its case
11 beyond a reasonable doubt, would you have some reservations about
12 returning a verdict of guilty, knowing that Mr. Lookabill was in
13 the Jaycees with you and your husband?

14 A No, sir.

15 Q Now Mr. Terwilliger here, you said you didn't know him.
16 I believe he was involved for a short while in a civil suit you
17 and your husband are complainants?

18 A Right.

19 Q And he was hired to represent one of the defendants.
20 Now if I recall--

21 MR. TERWILLIGER: They are no longer defendants are they,
22 ma'am.

23 A No.

24 MR. TERWILLIGER: All right, they're out of it now.

25 A We didn't really want them to be in the first place.

26 Q All right, Mr. Shankman, I believe, is your attorney in

1 that suit?

2 A Yes.

3 Q And it's still pending against other defendants?

4 A Correct, one I believe.

5 Q Mr. Shankman joined in a defendant who was represented
6 by Mr. Terwilliger and you say that you were not particularly
7 interested in collecting your money from them?

8 A No, sir, the way Mr. Shankman explained it to us, we had
9 to go the whole route because of the suit and involve everyone
10 until we could eliminate.

11 Q The fact that Mr. Terwilliger did represent that defendant,
12 if he would be sitting here throughout the course of the trial,
13 would that cause you to have any prejudice against the Common-
14 wealth?

15 A No, sir.

16 Q I believe that;s all, thank you.

17 THE COURT: All right, you may retire to this room, please.

18 (The juror leaves the courtroom.)

19 THE COURT: Any objections to this--

20 MR. SHOCKLEY: Not by the Commonwealth, Your Honor.

21 MR. WARBURTON: We have none, Your Honor.

22 THE COURT: No objections?

23 MR. WARBURTON: No, sir.

24 THE COURT: All right, Mrs. Garnand is accepted. Bring in
25 the next venireman.

26 BARBARA MARTIN,

1 a juror, after being first duly sworn, being examined on voir dire:
2 BY THE COURT:

3 Q This is Mrs. Martin?

4 A Uh hum.

5 Q Mrs. Martin, where do you live?

6 A In Pulaski.

7 Q Here in the town?

8 A Uh hum.

9 Q Were you, did you happen to be on the Grand Jury that
10 returned the indictment in the case of Commonwealth v. Stephen
11 Matteson Epperly?

12 A Was that Wednesday that we, is that what you are talking
13 about?

14 Q Ma'am?

15 A Wednesday, is that what you are talking about?

16 Q No, Grand Jury on the opening day of the term of Court?

17 A Oh, huh uh.

18 Q Not a trial jury that sits here but a Grand Jury.
19 Did you happen to be in the courtroom when that Grand Jury returned
20 the indictment in this case?

21 A Huh uh.

22 Q Mr. Epperly is charged with the murder of Gina Renee
23 Hall on or about June 29, 1930. Let me ask you if you are related
24 by blood or marriage to Stephen Matteson Epperly?

25 A Huh uh.

26 Q Are you related by blood or marriage to Gina Renee Hall?

1 A Huh uh.

2 Q Do you have any interests in the outcome of this case one
3 way or the other?

4 A (Silence).

5 Q Have you acquired any information concerning the matter,
6 through any news media or from any other source. I'd be surprised
7 if you hadn't. Now let me ask you this, would such information
8 as you have received affect your impartiality, could you be fair
9 and open minded toward each side if you were selected as a juror?

10 A I think so.

11 Q You think you could. Have you formed or expressed any
12 opinion concerning the innocence or guilt of the defenbant?

13 A (Silence).

14 Q You have. What is it. You've already--

15 A Before, but, you know, before I was brought in here,
16 you know, with friends and all that we have talked to. We'd try
17 to figure it out and stuff and we would all sit around and think
18 he was guilty and everything, so that was what I had though before.

19 Q And that's what you still think, maybe?

20 A Possibly.

21 Q All right, I thank you for your attendance here today
22 and you are excused.

23 (The witness is discharged.)

24 PRISCILLA HOLMES,

25 a juror, after being first duly sworn, being examined on voir dire:

26 BY THE COURT:

1 Q Good afternoon, Mrs. Holmes.

2 A Hi.

3 Q Will you state your name, please and your residence?

4 A Priscilla Holmes. I live in Pulaski, Virginia.

5 Q You live here in town?

6 A Uh hum.

7 Q Mrs. Holmes, did you happen to be on the Grand Jury that
8 returned the indictment against Stephen Epperly?

9 A Huh uh.

10 Q Have you ever been on a Grand Jury?

11 A Huh uh.

12 Q Were you in the room here when the Grand Jury returned
13 its indictment?

14 A In the beginning of this?

15 Q Were you, did you just happen, on the opening day of this
16 term of Court, were you here when the Grand Jury reported?

17 A No.

18 Q You were not. Are you related by blood or marriage to
19 Stephen Matteson Epperly?

20 A No.

21 Q Are you related by blood or marriage to Gina Renee Hall?

22 A No.

23 Q Do you have any interests in the outcome of this case?

24 A No.

25 Q I mean, we are all interested as citizens. I don't mean
26 that. I mean do you have any real concern, you hope one side or

1 the other wins, do you have any such feeling as that?

2 A Huh uh.

3 Q Have you acquired any information concerning the case
4 from the news media or from any other source?

5 A Just from the paper.

6 Q Just what you've read in the paper?

7 A Uh hum.

8 Q Maybe have heard something on the radio?

9 A Huh uh.

10 Q You haven't. Television?

11 A Huh uh.

12 Q You have not. All right, considering what you've read
13 in the paper, would that affect your judgment, your fairness, your
14 impartiality in any way?

15 A No.

16 Q Have you formed or expressed any opinion concerning the
17 innocence or guilt of the accused?

18 A No.

19 Q Do you think you could sit here in the jury box and hear
20 all of the evidence, the law of the case, the argument of counsel
21 and everything with an open mind until you retire to the jury room
22 to consider the defendant's guilt or innocence?

23 A Uh hum.

24 Q You think you could do that, all right. Are you sensible
25 of any feeling of bias or prejudice for or against either side?

26 A No.

1 Q Because of the nature of the offense or any other reason?

2 A Huh uh.

3 Q Do you know of any reason why you cannot give the Common-
4 wealth on the one hand and the defendant on the other a fair and
5 impartial trial based solely upon the law and the evidence?

6 A No.

7 Q All right, Mr. Shockley.

8 BY MR. SHOCKLEY:

9 Q Mrs. Holmes, how are you today?

10 A Fine.

11 Q You say you live in Pulaski?

12 A Uh hum.

13 Q Where exactly do you live?

14 A On Thaxton Road.

15 Q All right. Are you familiar at all with the Claytor
16 Lake Dam area?

17 A No, I'm not.

18 Q Are you familiar with Hazel Hollow Road?

19 A No, I'm not.

20 Q Do you know where I'm talking about over on the east end
21 of the--

22 A Yeah, I know where you talking about, Claytor Lake.

23 Q Do you know as you go into Radford on Route 11, just
24 before you get to the bridge there is a right hand turn that you
25 can take that sort of runs down by the river's edge and into the
26 county. Have you ever taken that road?

1 A No.

2 Q You have not?

3 A Huh uh.

4 Q Do you have any children, Mrs. Holmes?

5 A Uh huh.

6 Q Boys or girls?

7 A A little boy..

8 Q A boy and how old is he?

9 A Four months.

10 Q Does your husband do any hunting?

11 A No.

12 Q Do you believe that certain dogs can be trained to track
13 human scents and do you believe that dogs that are properly
14 trained have superior scenting ability to what we have as human
15 beings?

16 A Uh hum.

17 Q You've heard of their use before have you?

18 A Yeah in books and on TV stories.

19 Q TV, things of that nature?

20 A Uh hum.

21 Q Do you believe that dogs can track people?

22 A Uh hum.

23 Q Do you believe that it's possible for one person to
24 kill another person and then hide or dispose of the body in such
25 a fashion that it's never found or takes it many, many months or
26 years to be found?

1 A It's possible.

2 Q Do you feel that a person who does that, who kills some-
3 body and hides the body, do you feel that they should go unpunished
4 simply because the body was never found?

5 A Whether they should go unpunished because the body
6 wasn't found?

7 Q Right.

8 A Can't find the body. _____ (inaudible).

9 Q Pardon?

10 A Repeat your question, please.

11 Q O.k., my question is assuming that one person kills
12 another person and is able to hide the body so successfully that
13 it is never found or dispose of it in some fashion so that it is
14 never found, do you feel that that person should go unpunished
15 simply because he is able to hide the body successfully?

16 A If they have enough evidence.

17 THE COURT: Speak a little louder, please, Mrs. Holmes.
18 You say if, what about the evidence?

19 A If they have enough evidence.

20 THE COURT: If they have enough evidence?

21 A Yeah.

22 THE COURT: All right.

23 A That's all I can say--

24 Q Now if the Court instructs you that there are certain
25 elements that the Commonwealth must prove in this case, one of
26 which is death. Obviously in any homicide case, you would have to

1 prove a death. And the Court further instructs you that circum-
2 stantial evidence is competent evidence and is sufficient to prove
3 a fact if it proves it beyond a reasonable doubt, would you abide
4 by those instructions?

5 A Uh hum.

6 Q Do you understand the difference between direct evidence
7 and circumstantial evidence, do you know the difference?

8 A Uh hum.

9 Q Would you tell me what your understanding of the dif-
10 ference is?

11 A O.k., direct evidence, that's facts right? Am I right?

12 Q Well, you tell me if you can.

13 A I'm not sure; I'm not sure.

14 THE COURT: Well, do you think she can. How many people in
15 here could explain to you the difference between circumstantial
16 evidence and direct evidence. Well, let me explain this, let me
17 put it to you this way, I'll tell you about circumstantial evidence
18 when I instruct the jury as to the law and once I do that, would
19 you follow that instruction?

20 A Uh hum.

21 THE COURT: All right.

22 Q Now direct evidence as to death would be a body, and
23 you've got a doctor or medical examiner, who says, you know, this
24 body is dead and it is the body of such and such a person, that
25 would be direct evidence and prove death. If the Commonwealth
26 were to prove other facts and circumstances that proved in your

mind beyond a reasonable doubt that death had occurred, could you
1 so find even though that person's body was never found?

2 A I'd say no.

3 Q You say, "No"?

4 A Yes.

5 Q In other words you are saying that in a homicide pro-
6 secution, if the Commonwealth does not have a body there is no
7 way that you could return a verdict of guilty?

8 A I told you if there was enough evidence. That's all
9 I can say.

10 Q That's what I'm trying to get at and I'm not trying to
11 give you a hard time or anything, but we need to know how you
12 feel on this matter. Obviously when there is no body, there would
13 have to be strong circumstances--

14 A Uh hum.

15 Q To indicate that a death had occurred?

16 A Uh hum.

17 Q If those circumstances were there, other facts at hand
18 to indicate to you that a death had occurred, could you conclude
19 that a death had occurred even though there was no body?

20 A _____ (Inaudible).

21 Q I want you to say, "yes" or "no", or--

22 A Yes.

23 Q You could. Would you have some reservations about doing
24 so; in other words would you be extremely reluctant to conclude
25 that a death had occurred with just circumstantial evidence?

26

1 A _____ (Inaudible).

2 Q You are going to have to speak up.

3 A Yes.

4 Q Would it be safe to say that in your opinion you would
5 almost have to have the body before you could conclude that a
6 death had occurred?

7 A If there is enough evidence, _____ (Inaudible).

8 THE COURT: Can you hear the witness?

9 MR. SHOCKLEY: I cannot hear her.

10 THE COURT: Can you hear the witness.

11 A If you have enough evidence--

12 THE COURT: Speak to me, Mrs. Holmes, talk to me, and if I
13 can hear her, everybody can here you.

14 A O.k.

15 THE COURT: Thank you.

16 Q Would you just, tell me your feelings on it. Maybe if
17 you are allowed to put it in your own words,--

18 A O.k., if it wasn't a body?

19 Q Yes.

20 A Then how, if you--

21 Q Obviously in a homicide prosecution, the Commonwealth,
22 the State, must prove a death.

23 A Uh hum.

24 Q Now in this particular case there is no body. And the
25 Commonwealth will produce to you certain other circumstantial
26 evidence in the absence of that body, knowing that there is no

1 body and will not be any body introduced into evidence, could you
2 still conclude that a death had occurred based upon other facts
3 and circumstances that the state may prove to you?

4 A Yes.

5 Q You could?

6 A Uh hum.

7 Q I believe that's all, thank you.

8 BY MR. LOOKABILL:

9 Q All right, Mrs. Holmes, I'll ask you a few more
10 questions. My name is Glennwood Lookabill and this is David
11 Warburton right here.

12 A Uh huh.

13 Q My partner and cocounsel and this is Mr. Epperly, the
14 defendant. Have you ever seen Mr. Epperly before today?

15 A No, I haven't.

16 Q Now, I'm going to ask you a few questions. You may con-
17 sider some of them as kind of prying questions and I'm not trying
18 to be personal, but I'm asking these because we need to be satis-
19 fied that we have a jury without bias or any feeling about the
20 case. So just promise you won't get mad at me and I'll ask you
21 a few questions, o.k.

22 How long have you resided in Pulaski County?

23 A Eleven years.

24 Q Where do you live in Pulaski County; you said Thaxton
25 Road in Pulaski?

26 A Uh huh, Thaxton Road in Pulaski County.

1 Q In Pulaski County, you live just outside the corporate
2 limits?

3 A Uh huh.

4 Q And you've lived there for eleven years?

5 A Uh huh.

6 Q Where did you live prior to that?

7 A In Connecticut.

8 Q You've never lived in the City of Radford?

9 A No.

10 Q You're not that familiar, if I understood what you said
11 a moment ago about the west end of Radford or the river or the
12 trestle?

13 A Huh uh.

14 Q Is that correct?

15 A Uh huh.

16 Q What's your occupation?

17 A I work at Sidney's.

18 Q Sidney's?

19 A Yes, cashier, and sales person.

20 Q How long have you worked there for Sidney's?

21 A Three months.

22 Q Three months?

23 A Uh huh.

24 Q What did you do prior to that?

25 A Before then?

26 Q Uh huh.

1 A I went to school. I married and had a baby, too.

2 Q What's your education background. How far did you go
3 in school?

4 A I had one year in College.

5 Q Where did you go to school?

6 A Ferrum.

7 Q And then after one year, you got married and had a family,
8 is that right?

9 A Yeah.

10 Q Have you or your husband or any close relative or friend
11 of yours ever been a member of the local police department or
12 Sheriff's Department or State Police?

13 A Huh uh.

14 Q O.k., now you indicated you had never seen Mr. Epperly
15 before today?

16 A Uh huh.

17 Q Do you have any opinion one way or another in this case,
18 from what you've heard or read?

19 A Huh uh.

20 Q Do you have any feeling at this point whether he's
21 guilty or innocent of the charges against him?

22 A No.

23 Q Have you heard, what have you heard in the way of
24 publicity regarding this case?

25 A Just in the newspaper last Friday and that's all.

26 Q Newspaper last Friday?

1 A Yeah, that's the first time I had heard anything about
2 it.

3 Q The first time, did you even know anything about it
4 at all?

5 A Huh uh.

6 Q An alleged crime or had you ever heard Mr. Epperly's
7 name before last Friday?

8 A Not before last Friday.

9 Q O.k., what did you read in the paper last Friday?

10 A First I read about the jury thing and then the thing
11 about the evidence, or something they'd found.

12 Q Can you recall what it was, this article said?

13 A Not all of it, just something about a shovel.

14 Q Is that all you recall about it. Do you know anything
15 else about any other evidence the Commonwealth had?

16 A None.

17 Q Do you know anything about hound dogs or tracking dogs?
18 Do you remember reading anything about that?

19 A Huh uh.

20 Q As you sit there today do you think the outcome of this
21 case, one outcome is more probable than another, more probably that
22 this man would be convicted, then he would be acquitted?

23 A Uh hum.

24 Q What's your feeling on that?

25 A It all depends on what the evidence is.

26 Q Do you have an opinion right now about it?

1 A No.

2 Q Do you feel that he's guilty or do you feel that he's
3 innocent as you sit there right now?

4 A I don't have none at all. I don't know.

5 Q What newspaper did you read?

6 A The Southwest Times.

7 Q Is that the only paper you get?

8 A Uh huh.

9 Q And last Friday is the first time that you read an
10 article?

11 A Uh huh.

12 Q Involving this case?

13 A Yeah.

14 Q Have you heard anything on radio or TV?

15 A Huh uh.

16 Q Have you talked with any friends about the case since
17 you read it last Friday?

18 A No.

19 Q O.k., now taking your present state of mind, the way
20 you feel about the case here today, and you were on trial rather
21 than Mr. Epperly, would you have any objections to your being on
22 the jury?

23 A No.

24 Q Would you feel that you can render a fair and impartial
25 judgment in this case?

26 A Uh hum.

1 Q As far as you are concerned, and it is the law, in our
2 nation, does this man stand innocent today as far as you are con-
3 cerned?

4 A Uh hum, until he's proven guilty.

5 Q Do you understand that the burden of proving every element
6 of the crime as charged has to be borne by the Commonwealth, that
7 they have to prove every element beyond a reasonable doubt to a
8 moral certainty, do you understand that?

9 A Uh huh.

10 Q Do you realize that we don't have to do anything, are
11 you aware of that?

12 A Uh huh.

13 Q That the Commonwealth has to make its case out beyond a
14 reasonable doubt?

15 A Uh huh.

16 Q You realize that it's not our responsibility to prove
17 him innocent?

18 A Uh huh. (Inaudible)

19 Q Pardon me?

20 A I say you his attorneys. You are supposed to do something.

21 Q You think that we are required to do something?

22 A Yeah. You his attorney.

23 Q I know, but what, as far as trying the case is concerned,
24 when the evidence is put on, do you feel that we have to put on
25 evidence?

26 A To prove him not guilty, uh hum.

1 Q You feel like we have to prove him not guilty?

2 A Ain't that what you all do; isn't that what you all do?

3 THE COURT: Speak a little louder, please, ma'am.

4 A I asked him wasn't that what they do.

5 THE COURT: You what? Just speak right up. This is serious.

6 A I said I asked him if that is wat he do, you know, he's
7 his attorney so he's supposed to prove him not guilty.

8 Q O.k., so you're saying that a man is guilty until we
9 prove he's innocent?

10 A Yeah, no, I say he's not guilty until he's proven guilty,
11 that's what I'm saying.

12 Q O.k., now whose responsibility is it, our responsibility
13 or the Commonwealth Attorney's responsibility to prove that he's
14 guilty?

15 A Theirs, right.

16 Q Do you understand that we don't have to prove anything?

17 A I do now since you said it. I thought you all did.

18 Q Do you understand, I want you to understand it, do you
19 understand the Commonwealth has to prove this case beyond every
20 reasonable doubt?

21 A O.k.

22 Q Have you ever served as a juror before?

23 A No.

24 Q Have you ever appeared as a witness in any type of case?

25 A No.

26 Q Have either your or any member of your family ever been

1 involved in a criminal trial of any kind?

2 A Huh uh.

3 Q Any civil case?

4 A Huh uh.

5 Q Do you know what I mean by civil, somebody suing for
6 damages for something?

7 A Uh huh.

8 Q Has any member of your family or close friend ever
9 been a victim in a murder case?

10 A No.

11 Q Any other serious crime?

12 A Huh uh.

13 Q Do you understand that an indictment or a charge against
14 this man is merely a piece of paper that allows the Commonwealth
15 to bring this case to Court?

16 A Uh huh.

17 Q Do you know whether or not an indictment is evidence
18 itself?

19 THE COURT: Now, gentlemen, this question, of course, is asked
20 of a prospective juror. Well, how can they know if you haven't
21 been to law school whether an indictment is evidence or not. I
22 just don't quite understand the depth of some of these questions.
23 You can inform her and then get her comments on whether or not she
24 thinks that's right, but I would be surprised if she would know
25 what a bill of indictment is.

26 Q Do you believe that it is the law that an indictment is

1 merely a piece of paper that allows the Commonwealth to try the
2 case?

3 A Is a indictment a what?

4 Q Is merely a document that allows the Commonwealth to
5 come in and try this man on a charge, do you understand that?

6 A Uh hum.

7 Q Do you understand, we discussed the presumption of
8 innocence, this man is presumed to be innocent until the Common-
9 wealth proves beyond a reasonable doubt that he's guilty. Do you
10 understand that this presumption goes with him throughout this
11 trial?

12 A Uh hum.

13 Q Until all the evidence is in?

14 A Uh hum.

15 Q Do you understand that the Commonwealth has to prove to
16 a moral certainty or beyond a reasonable doubt that Gina Hall is
17 in fact dead?

18 A Uh huh.

19 Q Do you understand that, that that's just one element of
20 the crime that the Commonwealth has to prove, they have to prove
21 that she's dead, do you understand that?

22 A Uh hum.

23 Q Do you understand that nothing that I say or nothing
24 Mr. Warburton says or Mr. Shodley says is evidence in the case?

25 A That it's not?

26 Q That it is not, do you understand that?

Do you understand that?

1 A Yeah.

2 Q O.k, if you were on the jury and everyone disagreed
3 with you about the guilt or innocence, 11 people said, "I think
4 he's guilty" or "I think he's innocent," either way. If you were
5 a minority of one person on that jury, would that affect your
6 decision in any way in coming to a verdict?

7 A No.

8 Q Would you open yourself up to any criticism by your
9 family or friends by serving on this jury?

10 A Uh hum.

11 Q Who would criticize you?

12 A Nobody but--

13 Q Do you feel that you would be embarrassed?

14 A No.

15 Q Do you feel like that your family would put pressure on
16 you because you served on this jury?

17 A No.

18 Q Do you think there would be any pressure on you if you
19 returned a verdict of not guilty?

20 A No.

21 Q If you were a juror, would you give Mr. Epperly and the
22 Commonwealth the benefit of your individual judgment in every issue
23 that comes before you?

24 A Uh hum.

25 Q I mean individually you, and no one else?
26

1 A Uh hum.

2 Q If Mr. Epperly were to take the stand to testify would
3 you disregard his testimony just because he's the accused?

4 A No.

5 Q Mr. Shockley has indicated to you that this is a cir-
6 cumstantial evidence case, meaning there are no eye witnesses or
7 no direct evidence in that nature to prove the case. Do you under-
8 stand that in a circumstantial case, you as a juror would have to
9 take this evidence and listen to it with great care and caution?

10 A Uh hum.

11 Q Can you give this man the presumption of innocence with-
12 out any reservation whatsoever in your mind?

13 A Right now?

14 Q At anytime during the proceedings, now or anytime?

15 A Yeah until he's proven guilty.

16 Q O.k., do you know what the charge is against the de-
17 fendant?

18 A Uh huh.

19 Q It's first degree murder?

20 A Uh hum.

21 Q Murder in the first degree, if you were sitting on a jury
22 where the charge was something like petit larceny, could you give
23 him just as fair a trial with what he's charged with as you could
24 if he was charged with a minor offense?

25 A Uh huh.

26 Q Do you have any affiliation with Radford College, Mrs.

1 Holmes?

2 A No.

3 Q You said you attended Ferrum and didn't Radford?

4 A Yeah, Ferrum College.

5 Q Do you have any friends or relatives who attended
6 Radford?

7 A (Inaudible, cough).

8 Q Anybody that works there to your knowledge?

9 A Huh uh.

10 Q You indicated a moment ago that you felt that dogs
11 have superior smelling capabilities than humans do. Have you
12 ever raised dogs or trained them or anything?

13 A No, I haven't.

14 Q Is that just an opinion you have, just from what you
15 have heard or read about dogs?

16 A Yeah.

17 Q You don't have any personal experience?

18 A _____ (Inaudible, cough).

19 Q If you were a juror, would you be able to reserve a
20 decision in the case until all the evidence is heard?

21 A Uh huh.

22 Q Until all the evidence has been put to you and the Judge
23 has instructed you as to the law and you are directed to reach a
24 verdict?

25 A Uh huh.

26 Q Do you understand that if you were a juror, you wouldn't

1 be determining the law of the case, that you would be listening
2 to the facts and try to determine what happened, is that correct?

3 A Yes, sir.

4 Q Do you have, right now as you sit here today, without
5 having heard any of the evidence, do you think that Gina Renee
6 Hall is dead?

7 A I don't know.

8 Q Do you have any opinion one way or the other?

9 A No.

10 Q Have you heard any opinions from friends that make you
11 think one way or the other?

12 A No.

13 Q I hope I didn't ask too many personal questions. I
14 appreciate your attention.

15 A No.

16 BY MR. SHOCKLEY:

17 Q Mrs. Holmes, I have just a couple more, please. Do you
18 understand that in Virginia if you were on the jury, and assuming
19 that the jury concludes beyond a reasonable doubt that the defendant
20 is guilty of the crime for which he's charged, do you realize that
21 the, it's the obligation of the jury not only to determine guilt
22 or innocence but that if you decide he's guilty, you also assess
23 the punishment within the range established by the law?

24 A I didn't know that.

25 Q Would you have any type of reservations, being on a jury,
26 not only in determining whether or not a person is guilty or

1 innocent but if the jury concludes that a person is guilty in
2 setting his punishment, would you have any reservation about that?

3 A Huh uh, no.

4 Q You could do that?

5 A Not really.

6 Q Well, now you say that you could not do that?

7 A Uh hum.

8 Q You could not assess someone's punishment. Do I take
9 it then to mean that if you were on the jury and that you felt in
10 your heart beyond a reasonable doubt that the defendant was guilty,
11 you would vote not guilty simply to avoid setting the punishment?

12 A No.

13 Q Well, if the jury votes to convict him of some form of
14 homicide, then the jury would be in the position of having to
15 set the punishment within the range provided by law. Could you
16 do so?

17 A If I have to, yes.

18 Q If you have to?

19 A Uh hum. I--

20 Q Would the fact--excuse me.

21 A I didn't know they did that, too.

22 Q Would the fact that you have that obligation if you
23 convict, cause you to lean towards an acquittal just to avoid
24 having to pass judgment on somebody?

25 A No.

26 Q It would not?

1 A No.

2 Q If the Commonwealth's evidence proved to you beyond a
3 reasonable doubt that Gina Hall is dead and that she was in fact
4 murdered by the accused, could you return a verdict of guilty and
5 set the punishment along with the other members of the jury?

6 A (Nods head).

7 Q You could do that?

8 A Uh huh.

9 Q O.k., thank you.

10 THE COURT: All right, thank you ma'am, come around to this
11 room, please.

12 (The juror leaves the courtroom.)

13 THE COURT: Any objections, gentlemen.

14 MR. LOOKABILL: Yes, sir, Your Honor. I think this lady has
15 some real problems that I'm not sure are correctable in terms of
16 the function of the defense in a case of this nature. I think
17 she really believes that we must prove this man innocent and I
18 think there is too much equivocation. She answered at my count
19 approximately five questions one way and then she changed her
20 view on it. I think there is entirely too much equivocation and
21 it concerns me very much about her basic understanding of the pre-
22 cept of law and I think if she thinks we have to prove a man
23 guilty, that that's, that's a very basic and fundamental flaw
24 in her being a juror in this case.

25 THE COURT: Well, of course, if she thinks that I'd reject
26 her in a minute. I didn't get the impression she--you see you gentlemen

1 ask legal questions of these lay witnesses, lay jurors. They
2 don't know--you say for instance, "Do you know that we don't have
3 to put on any evidence at all?" Well, of course, she doesn't know.
4 She hasn't the slightest idea. She may think, "Yeah, you've got to
5 put on evidence," but that doesn't mean she's prejudiced against
6 the defense. It means she just doesn't know. Now when you started
7 quizzing her on the point about whether you had any obligation to
8 do anything or not, her answers may have been equivocal, but I
9 recall that she ended up by saying, "Oh, well, I didn't understand,
10 I meant--" She got the word "innocent" and "not guilty" confused
11 or something and she ended up by saying, "Under those circumstances
12 if the Commonwealth didn't bear their burden, I would find the de-
13 fendant not guilty." If you could be a little more specific and
14 point out precisely what she said that concerns you, I'll consider
15 it further.

16 MR. WARBURTON: If it please the Court, if my recollection
17 is correct, Mrs. Holmes was asked if she felt that the defense had
18 to do anything in this case after Mr. Lookabill had finished the
19 preceding question which was, "Do you understand that the Common-
20 wealth bears the entire burden in the case?" Her response--and
21 I think all of us have some trouble hearing her--her response was,
22 "I thought that's what you guys did," meaning defense counsel,
23 Mr. Lookabill and myself. We had to have some part in this case
24 in the question of proof. Mr. Lookabill followed that up by asking
25 if she thought it was our duty as defense attorneys to help dispel
26 proof and to prove our man innocent and she replied in the affirmative.

1 Despite, I will reiterate what I said before on another potential
2 juror, despite where she ended up, it's the question of equivoca-
3 tion and confusion while she's getting there that bothers me on
4 whether this person can sit as a fair and impartial juror. In
5 addition she finished her answers on the issue of punishment, said
6 unequivocally, no, she couldn't do it and ended up saying unequiv-
7 ocaly that yes she could indeed pass judgment on someone. It
8 would appear to me that she still does not at least in two area
9 and maybe in other areas, does not understand the function of a
10 juror or the function of the Commonwealth or the function of de-
11 fense attorneys in a criminal law case. For those reasons I think
12 she ought to be excused as a juror.

13 MR. SHOCKLEY: Your Honor, she said without equivocation
14 that she knew that it was the Commonwealth's burden to prove the
15 case beyond a reasonable doubt and that this defendant is presumed
16 innocent until that had been done and they asked her who has the
17 burden of proof and she turned around and pointed to our table
18 and when she was asked about their responsibility, I think she
19 was thinking in terms of their responsibility as counsel and she
20 was under the impression that they weren't going to sit there like
21 bumps on a log and do nothing, that they were going to try to do what
22 they could for their client. I think that's what she was talking
23 about, not taking affirmative action to prove his innocence.

24 MR. LOOKABILL: Your Honor, I'll just make one more statement
25 and that is that she also answered my question as to what we have
26 to prove and she said, "Yes, you have to prove him innocent," said

1 that twice.

2 MR. SHOCKLEY: I take exception with that. She said it once
3 as I recall and then she came right back and said, "No, no, the
4 Commonwealth has to prove it." I forget her exact words but she
5 was obviously turned around and I recall her one time saying that
6 and then she immediately recognized that she had misinterpreted
7 the question.

8 THE COURT: Well, these lay veniremen who have never been on
9 a jury before cannot be expected to know much about the rules of
10 law and procedure, burden of proof and who has to prove this and
11 who has to prove that and the mere fact that she makes a statement
12 that's erroneous in law, doesn't indicate to me that she has a
13 bad heart. It indicates to me, she just doesn't understand certain
14 aspects of a criminal trial and that's understandable. I doubt
15 if she's ever been in a courtroom before. She's a young lady,
16 inexperienced in this sort of thing. It's true that she at one
17 stage said in effect that she thought the burden was on, that you
18 all had to prove the defendant innocent. If she really believes
19 that, of course, common sense and the rule in the case of Common-
20 wealth v. Justus would mandate that she be excluded, but con-
21 sidering everything that she said, I didn't get that feeling or im-
22 pression about her. I thought she was trying to be fair and honest
23 and that she was open minded about it, that, if anything, she was
24 a little leaning toward the defense in that she, if she voted to
25 find the defendant guilty, she would be a little reluctant in im-
26 posing very great punishment, not only in this case but in any

1 case. I got that impression. I'm going to accept Mrs. Holmes.

2 MR. WARBURTON: Please note our exceptions for the record,
3 Your Honor.

4 FRANK KENNETH HUDDLESTON,
5 a juror, after being first duly sworn, being examined on voir
6 dire:

7 BY THE COURT:

8 Q Would you state your name, please, sir, and your place
9 of residence.

10 A Frank Kenneth Huddleston. I live in Dublin at 420
11 Powell Avenue.

12 Q All right, thank you sir. Mr. Huddleston, we need to
13 ask you a few questions to determine your qualifications to sit
14 on the jury in this case of Commonwealth v. Stephen Matteson
15 Epperly. This is a murder case in which the defendant, Mr.
16 Epperly, is charged with the murder of Gina Renee Hall on or about
17 June 29, 1980, in Pulaski County. Were you on the Grand Jury by
18 any chance that returned the indictment in this case?

19 A No, sir.

20 Q Were you in the courtroom when the Grand Jury reported?

21 A No, sir.

22 Q Are you related by blood or marriage to Stephen Matteson
23 Epperly?

24 A No, sir.

25 Q Are you related by blood or marriage to Gina Renee Hall?

26 A No, sir.

1 Q Do you have any interest in the outcome of the case?

2 A No, sir.

3 Q Have you acquired any information concerning the case from
4 the news media or from any other source?

5 A Nothing except what I've read in the paper.

6 Q Yes, sir, I'm sure you've read in the paper about the
7 case and maybe you've heard something about it on radio or TV.
8 Would the information that you have acquired concerning the case
9 affect your impartiality in any way should you be selected as a
10 juror?

11 A No, sir.

12 Q Have you expressed or formed any opinion as to the guilt
13 or innocence of the accused?

14 A No, sir.

15 Q Considering what you've heard or read about the case,
16 do you believe that you could enter the jury box with an open mind
17 and wait until the entire case is presented before reaching a fixed
18 opinion or conclusion as to the guilt or innocence of the defendant?

19 A Yes, sir.

20 Q Are you sensible of any feeling of bias or prejudice for
21 or against the Commonwealth or for or against the accused?

22 A No, sir.

23 Q Do you know of any reason why you cannot give the Common-
24 wealth and the accused a fair and impartial trial based solely upon
25 the law and the evidence that you will hear in this courtroom?

26 A No, sir, I don't.

1 Q All right, Mr. Commonwealth's Attorney.

2 BY MR. SHOCKLEY:

3 Q Good afternoon, Mr. Huddleston.

4 A How are you.

5 Q I want to ask you just a few questions, too, if I might,
6 please. First of all, are you familiar with the Claytor Lake Dam
7 area?

8 A Not too familiar, because I've never been there but once
9 or twice in my life.

10 Q Do you fish any at all on New River, Claytor Lake, any-
11 thing like that?

12 A Used to fish above Allisonia, is the only place I've
13 ever fished.

14 Q Are you familiar with the Hazel Hollow Road area?

15 A Never been over there.

16 Q You know as you are going into Radford on Route 11, just
17 before you get to the bridge you take a right hand turn and that's
18 Hazel Hollow Road that parallels the river and goes on back into
19 the County. Have you traveled that very much.

20 A Never have been on it.

21 Q Never have been on it?

22 A No, sir.

23 Q Are you familiar at all with the railroad trestle that
24 crosses New River from Pulaski County on Hazel Hollow Road into
25 Radford, do you know that as you are going across Memorial Bridge
26 into Radford if you look off to your right, that there's another

1 structure down the road some piece.

2 A You can see the railroad bridge--

3 Q Sir?

4 A You can see the railroad bridge. I guess that's what
5 it is, I don't know. I've never been over there.

6 Q Are you familiar at all with the west end of Radford?

7 A _____ (Unintelligible).

8 Q Do you hunt any at all, Mr. Huddleston?

9 A I used to. I haven't for the last five or six years.
10 I'm not able to walk much.

11 Q Have you ever used dogs when you were hunting?

12 A Never since I left Bedford County. _____

13 (Unintelligible).

14 Q Do you believe that certain dogs can be trained to track
15 human beings and that certain dogs have certain scenting or
16 smelling abilities that are superior to that which we have as human
17 beings?

18 A I think so.

19 Q You've read about tracking dogs and their use and so
20 forth, heard about them on the news?

21 A Uh huh.

22 Q Mr. Huddleston, do you think that it's possible for one
23 person to kill another person and then hide or dispose of the body
24 in such a fashion that the body is never found or it takes years
25 to find it?

26 A I just wouldn't know.

1 Q Well,--

2 A I guess it is; I guess it's possible.

3 Q You think it's possible that somebody could have a body
4 on their hands, could have killed somebody and then through what-
5 ever means, whether by water, land or whatever, could somehow hide
6 the body so that law enforcement authorities could never find it,
7 do you think that's possible?

8 A Yeah, it could be, most anything is possible in this day
9 and time.

10 Q So you would say that that's a possibility?

11 A Could be possible, yeah.

12 Q Assuming that that happened and that that's the case,
13 do you think that a person who does that should go unpunished for
14 the crime simply because the body was never found?

15 A I think they ought to be punished.

16 Q Now if the Court instructs you on circumstantial evidence
17 and instructs you that any fact that the Commonwealth must prove,
18 one of which, of course, is death, the Court instructs you that
19 circumstantial evidence is competent evidence and that it is
20 adequate and sufficient to prove all the elements that must be
21 proven, including the element of death, could you abide by that
22 instruction?

23 A Yes, sir.

24 Q I take it from your answers, Mr. Huddleston, that there
25 are facts and circumstances at hand that could prove to you that
26 death has occurred by criminal means even though a body was not

1 found?

2 A Yeah, something's happened somewhere.

3 Q Well, my point is if from the Commonwealth's evidence
4 -arious facts and circumstances, which when all lumped together
5 proved in your mind that this person was dead and that she died
6 by criminal means, could you conclude that a death had occurred,
7 even though no body was ever found?

8 A Yeah.

9 Q And if in addition to that, you felt from facts and cir-
10 cumstances that Gina Hall was dead, had been killed, and that the
11 defendant is the one who did so, could you return a verdict of
12 guilty?

13 A Yes, sir.

14 Q Even without the body?

15 A Yes, sir.

16 Q Thank you Mr. Huddleston.

17 BY MR. LOOKABILL:

18 Q Mr. Huddleston, my name is Glennwood Lookabill. This is
19 David Warburton, my cocounsel and partner, and this is the defendant,
20 Stephen Epperly. To the best of your knowledge, is this the first
21 time you have ever seen Mr. Epperly here today?

22 A The first time I've ever seen him.

23 Q Now I'm going to ask you a few more questions and I hope
24 I don't get too personal. I don't mean to. It's just simply
25 some questions that we have to ask. I hope you won't get angry
26 with us, o.k. How long have you lived in Pulaski County, Mr.

1 Huddleston?

2 A Since 1936, no, yeah, 1936.

3 Q And I believe you say you live in Dublin?

4 A I been there 20 years today.

5 Q You indicated that before that time, I believe you were
6 from Bedford?

7 A Uh huh, I lived in Allisonia for about 27 years.

8 Q Twenty-seven years in Allisonia?

9 A Uh huh.

10 Q How long have you been in Dublin?

11 A Twenty years today.

12 Q Pardon?

13 A Twenty years today.

14 Q Twenty. So you are familiar but not down along the
15 Radford area?

16 A No, not along Radford.

17 Q Are you retired?

18 A Yes, sir.

19 Q Can I ask you your age, sir?

20 A Sixty-eight.

21 Q And where were you employed before you retired?

22 A Hiwassee with American Pigment, Hercules and _____

23 (Unintelligible).

24 Q And did you last work there at Hoover Color before you
25 retired?

26 A Uh huh.

- 1 Q How long did you work at Hoover?
- 2 A About three years.
- 3 Q And prior to that?
- 4 A Ten years with Hercules. I worked 42 years altogether.
- 5 Q What did you do with Hoover Color?
- 6 A I was in charge of the laboratory.
- 7 Q You were in charge of the laboratory?
- 8 A Uh huh.
- 9 Q What's your educational background, Mr. Huddleston?
- 10 A About two years of high school is all I ever had, grade
- 11 school.
- 12 Q Did you go to school in Pulaski County?
- 13 A Huh uh.
- 14 Q That was in Bedford?
- 15 A Bedford.
- 16 Q Do you have any children?
- 17 A One, daughter.
- 18 Q Do you have any grandchildren?
- 19 A Two.
- 20 Q How old are they?
- 21 A Twenty and twenty-one.
- 22 Q Boys or girls?
- 23 A Both girls.
- 24 Q Both girls. Have you ever been in the military?
- 25 A Huh uh.
- 26 Q Have you ever been, you or any close member of your

1 family ever been connected with the State Police or local police?

2 A No, sir.

3 Q Sheriff's Department?

4 A No, sir.

5 Q All right, now you see our client, Mr. Epperly seated
6 here today. Do you have any opinion as you sit here today, with-
7 out any evidence coming forth, whether or not he's guilty or
8 innocent?

9 A Not _____ (inaudible).

10 Q Do you have any feeling one way or the other?

11 A No.

12 Q Have you formed any opinions in the past about the case
13 or--

14 A No, sir.

15 Q What have you heard about the case through the--

16 A I haven't heard anything except what I read in the
17 paper. I never read too much of that.

18 Q What did you read that you recall?

19 A I don't know exactly what it was now.

20 Q Can you tell us anything you remember about what you
21 read about what the case is about?

22 A I don't remember anything about it. I don't read too
23 much in the papers to tell you the truth.

24 Q Do you understand this was a murder charge?

25 A Yes, I understood it was a murder charge.

26 Q Do you know who it was that was supposed to have been

1 murdered?

2 A Yeah, by the papers.

3 Q Who was that?

4 A Dana Renee Hall and the only reason I remember that,
5 my granddaughter's name is Renee.

6 Q Is there anything else you recall reading about the
7 Commonwealth's evidence or anything about the case. Where did
8 you hear most of this, on TV or--

9 A In the newspaper.

10 Q In the newspaper?

11 A Uh hum.

12 Q What paper do you subscribe to?

13 A Get the Southwest and the Roanoke.

14 Q As you sit here today, do you feel that one outcome is
15 more probable than another in this case, like an outcome of a
16 guilty verdict rather than an innocent verdict or an innocent
17 verdict rather than a guilty verdict?

18 A (Silence).

19 Q Have you talked to anybody about the case, nobody in
20 your family or friends?

21 A I don't have nobody but my wife and she won't talk to me.

22 Q She won't talk to you?

23 A No.

24 Q Well, your being here today is help for her then?

25 A Yeah.

26 Q If you were the defendant, rather than Mr. Epperly,

1 would you be satisfied with yourself being on the jury?

2 A Yes.

3 Q You don't feel that there is any prejudice one way or
4 the other?

5 A Huh uh.

6 Q Do you understand that it's the Commonwealth's burden to
7 prove every element of an offense beyond a reasonable doubt.
8 When I say every element, I'm including the fact that they have
9 to prove that Gina Hall is dead beyond a reasonable doubt or to
10 a moral certainty, you understand that?

11 A Uh huh.

12 Q Have you ever been a juror before, Mr. Huddleston?

13 A Oh, yes.

14 Q Civil or criminal cases?

15 A Both.

16 Q Both, do you understand the difference between burden
17 of proof, preponderance of the evidence in a civil case, and a
18 reasonable doubt in a criminal case?

19 A I think so.

20 Q What in your mind is the difference as far as the proof?

21 A You mean in a criminal case?

22 Q Yes, sir.

23 A Well, that's somebody's done something that's real bad
24 and the other's just a civil suit against him, you know, a traffic
25 case.

26 Q Does the evidence have to be as strong in a civil case

1 as it does in a criminal case, to your opinion?

2 A Be stronger in a criminal case.

3 Q Have you ever been on a jury in a murder case?

4 A One time and the man shot himself before the trial was
5 over.

6 Q The defendant did?

7 A Uh hum.

8 Q Do you recall whether or not you may have been foreman
9 of the jury?

10 A Never had finished, had only a little bit of the trial.

11 Q Didn't have to make that decision?

12 A Didn't have to make that decision, and that's been a
13 long time ago.

14 Q Have you ever appeared as a witness in a case?

15 A No, sir.

16 Q Have you or any member of your family ever been involved
17 in a criminal prosecution, as a witness or a victim or anything
18 of that nature?

19 A Huh uh.

20 Q Has any member of your family or close friend ever been
21 a victim in a murder case?

22 A Not that I know of.

23 Q You understand--have you ever been on a grand Jury before?

24 A Oh, yes.

25 Q Do you understand what an indictment is?

26 A Uh huh.

1 Q And I assume you also understand that an indictment, it-
2 self, is not evidence?

3 A Uh huh.

4 Q Do you understand that whatever Mr. Shockley may say
5 or whatever we may say is not evidence in the case?

6 A (Silence).

7 Q Would the fact that you were on a jury and everybody on
8 that jury disagreed with you, would that make any difference to you,
9 would you want to vote with them because you were the only one,
10 if you felt strongly enough--

11 A If I felt strong enough I wouldn't.

12 Q You would stick by your guns?

13 A Yes, sir.

14 Q And you understand, I'm sure, having been on a jury before
15 in a circumstantial evidence case that a juror must consider that
16 evidence with great care and caution?

17 A Yes, sir.

18 Q And you are willing to, as you are today, you are willing,
19 if you are a juror, to allow this man to be presumed innocent
20 throughout the proceeding until a final decision could be reached
21 in the case?

22 A (Nods head).

23 Q Do you have any affiliation with Radford College in any
24 way, Mr. Huddleston?

25 A No, sir.

26 Q Nobody else in your family works there or is in any way

1 connected with the College?

2 A No, sir.

3 Q I hope I haven't gotten too personal in my questioning.
4 That's all I have, thank you, sir.

5 THE COURT: All right, Mr. Huddleston. Do you gentlemen have
6 any further questions?

7 MR. SHOCKLEY: No, I don't.

8 THE COURT: You may retire over here, Mr. Huddleston, please.
9 (The juror leaves the courtroom.)

10 THE COURT: Gentlemen, are there any objections, to, Mr.
11 Lookabill, do you have any objections?

12 MR. LOOKABILL: No, sir, Your Honor.

13 THE COURT: All right, Mr. Huddleston is accepted.

14 CARL O. FARMER,
15 a juror, after being first duly sworn, being examined on voir dire:

16 BY THE COURT:

17 Q Just have a seat there, please, sir.

18 A All right, sir.

19 Q And tell us for the record, if you will,--just have a
20 seat. Tell us your name and where you live, please.

21 A Carl Olton Farmer, and I live in Lake Land at Claytor
22 Lake.

23 Q All right, Mr. Farmer, did you happen to be on the Grand
24 Jury that returned the indictment against Stephen Matteson Epperly?

25 A No, sir.

26 Q Were you in the courtroom when that grand Jury reported?

1 A No, sir.

2 Q The charge here is that the defendant, Mr. Epperly,
3 murdered Gina Renee Hall on or about June 29, 1980. Let me ask
4 you first if you are related by blood or marriage to the defendant,
5 Stephen Matteson Epperly, who is seated here in the middle with
6 his two attorneys?

7 A No, sir.

8 Q Are you related by blood or marriage to Gina Renee Hall?

9 A No, sir.

10 Q Do you have any interests in the outcome of this case?

11 A No, sir, nothing except the papers.

12 Q What you've read in the paper?

13 A Read in the paper, that's all I have.

14 Q All right, I'm coming to that right now. I assume that
15 you have read about the case. Would the information that you read
16 about or heard from any source affect your impartiality, your
17 fairness in the case, should you be selected as a juror?

18 A No, sir.

19 Q Have you formed or expressed any opinion as to the
20 guilt or innocence of the accused because of what you read or
21 heard?

22 A I have not.

23 Q You have not. Do you think you could sit in the jury
24 box with an open mind and hear all the evidence and the instructions
25 of the Court and then retire to the jury room and consider the
26 case fairly and impartially?

1 A Yes, sir.

2 Q All right, sir. Are you sensible of any feeling of
3 bias or prejudice against the Commonwealth or the accused?

4 A No, sir.

5 Q For any reason, whether I've touched upon it or not.
6 Do you know of any reason why you cannot give the Commonwealth on
7 the one hand and the accused, Mr. Epperly, on the other, a fair
8 and impartial trial based solely upon the law and the evidence?

9 A I do not.

10 Q All right, now the Commonwealth's Attorney will ask you
11 a few questions and then the defense attorney will ask you some
12 questions.

13 BY MR. SHOCKLEY:

14 Q Good afternoon, Mr. Farmer. I have just a couple of
15 questions I want to ask of you, please.

16 A All right, sir.

17 Q You say you live on Claytor Lake?

18 A Claytor Lake, Lake Land Estates; Lake Land is the name
19 of the place where I live, Lake Land area.

20 Q I take it then that you are real familiar with the lake
21 and the dam structure and everything?

22 A Yes, sir.

23 Q You go out there fishing, do you?

24 A Some, yes, sir.

25 Q Do you have a boat to go fishing?

26 A Yes, I do. I haven't fished any this summer. I haven't

1 had much time.

2 Q How far do you live from the Claytor Lake Dam?

3 A Oh, it's about, I live in above the dam over on this
4 side of the lake. I'd say it's a mile or maybe two miles down
5 there to it.

6 Q Can you see the dam from where you live?

7 A Yes, sir, you can.

8 Q Are you familiar with Hazel Hollow Road?

9 A Not too familiar. I know where the road is though.

10 Q You know the road?

11 A Yeah.

12 Q Have you traveled over it in the past?

13 A Not recently, I haven't.

14 Q Are you familiar with the railroad trestle that crosses
15 New River on Hazel Hollow Road and goes over into Radford?

16 A I know where it is.

17 Q Have you ever walked across it yourself?

18 A No, sir, I never walked across it.

19 Q Are you familiar at all with the west end of Radford?

20 A A little, not too much.

21 Q Do you have any children or grandchildren, Mr. Farmer?

22 A Yes, sir, I have one boy, and I have three grandchildren.

23 Q And what are they, boys or girls on the grandchildren?

24 A Their names.

25 Q No, how many boys and how many girls?

26 A Oh, two boys and one girl., two grandsons and a granddaughter.

1 Q How old is your granddaughter, sir?

2 A She's about 18.

3 Q And your grand--

4 A My grandson's, he's about 20, 21.

5 Q You have two of those?

6 A Oh, two grandsons and the other one's about 15.

7 Q Are you a hunter?

8 A I turkey hunt some.

9 Q Turkey hunt some?

10 A Yes, sir, I like to turkey hunt.

11 Q In any of the hunting that you've done over the years,
12 have you ever had occasion to use a dog?

13 A No, sir, no way.

14 Q You say, no way, do you have something against using
15 dogs when hunting?

16 A No, I'm not; just never did use dogs.

17 Q Do you believe that certain dogs can be trained to track
18 human scent and try to locate human beings?

19 A I do.

20 Q Do you believe that these type of dogs have a scenting
21 or smelling power that is superior to that which we have as human
22 beings?

23 A Yes, sir, I do.

24 Q Mr. Farmer, do you believe that it's possible for one
25 person to kill another person and then dispose of the body in such
26 a form or fashion that the body is never found or at least not

1 found for a number of years?

2 A I don't believe it's possible.

3 Q You don't think that's possible?

4 A No, I don't.

5 Q Do you think it's possible for a body to stay hidden
6 for two or three years, maybe buried or in a body of water, or
7 wherever so that it's not discovered for a long period of time?

8 A I don't believe you'd ever recognize it, if it was that
9 long.

10 Q O.k., do you not think it's possible for let's say some-
11 one to kill another person and then if it was the right time of
12 day or night in the right circumstances and so forth, don't you
13 think it would be possible for a person to maybe go out in the
14 woods and bury the body and cover it up with leaves and that it
15 would, you know, never be found?

16 A Yeah, I think so. They could go out and dispose of the
17 body and probably bury it or put it somewhere like that and never
18 find it.

19 Q Maybe it'll be found ten years from now, two years, or
20 never found?

21 A That's right, never found, yes, sir.

22 Q Do you feel that if a person does that, if a person kills
23 another person and then is successful in hiding the body, do you
24 feel that just because they are able to hide the body, so successfully
25 that they should go unpunished? Do you understand my question,
26 Mr. Farmer?

1 A No, I don't. I don't understand your question, exactly.

2 Q Well, let me ask you another question. If the Court
3 instructs you that certain elements have to be proved by the
4 Commonwealth, by the State, in this prosecution, and, of course,
5 one of those elements would be death. Obviously there can't be a
6 homicide without death. If the Court instructs you further that
7 circumstantial evidence is sufficient to prove any element of the
8 crime, that it's competent evidence and it's adequate if it con-
9 vinces you and the rest of the jury members beyond a reasonable
10 doubt, would you have any problem abiding by that instruction?

11 A I don't think so.

12 Q All right, now my question is--Death is an element of
13 homicide prosecution and the state must prove that a death occurred.
14 The Court instructs you as it will that circumstantial evidence
15 can prove that, can prove a death. If you in your mind believe
16 that Gina Hall was, is dead, was murdered and was killed by the
17 defendant, would you be able to return a verdict of guilty even
18 though the state and its law enforcement agencies and so forth
19 had not been able to uncover the body, if you felt in your mind
20 that she was dead beyond a reasonable doubt from other facts and
21 circumstances that are proved to you?

22 A Yes.

23 Q Did you understand my question?

24 A Yes, sir; I understood it, yes, sir.

25 Q Of course, what I'm asking you, I'm telling you now that
26

1 in the prosecution that is to take place in this case, the State
2 does not have the body of Gina Renee Hall?

3 A I know it.

4 Q But if the State is able from other facts and circum-
5 stances to convince you beyond a reasonable doubt that she is
6 dead, can you take those circumstances and that circumstantial
7 evidence and conclude that she is dead and if you further believe
8 that this defendant killed her, murdered her, could you return a
9 verdict of guilty?

10 A I could.

11 Q Thank you very much. They may have some questions for
12 you.

13 A Yes, sir.

14 BY MR. LOOKABILL:

15 Q O.k., Mr. Farmer, as you know, I'm Glennwood Lookabill.

16 A Yes, sir, it's nice to meet you.

17 Q And this is my partner, David Warburton, and this is the
18 defendant, Stephen Epperly?

19 A Yes, sir.

20 Q I assume this is the first time you have ever seen Mr.
21 Epperly?

22 A That's right, the first time.

23 Q Now I'm going to ask a few questions. I'll try not to
24 get too personal and I just hope you don't get mad at me if I get
25 too personal.

26 A O.k.

1 Q O.k.?

2 A All right.

3 Q What's your age, Mr. Farmer?

4 A My age is 73.

5 Q 73?

6 A Yes, s ir.

7 Q And how long have you been a resident of Pulaski County?

8 A All my life.

9 Q Have you lived down on the lake most of your life or
10 did you live--

11 A I've lived there about 25 or 30 years, since the dam was
12 built.

13 Q Where did you live prior to that?

14 A Lived here in Pulaski.

15 Q In the town?

16 A In the town, yes, sir.

17 Q What was your occupation?

18 A My occupation was laundry work, run a laundry.

19 Q And that was in the Town of Pulaski?

20 A Well, at the time I was operating a laundry, it was in
21 Giles County. I'm operating a laundrette now in Pulaski.

22 Q You lived in Pulaski but had the laundromat in Giles
23 County?

24 A Lived over there.

25 Q When did you live in, what years did you live in Giles?

26 A That's been about 20 years ago.

1 Q What is your educational background, please, sir.

2 A I was in up to about the ninth grade.

3 Q Did you attend school in Pulaski County?

4 A Yes, sir.

5 Q Pulaski?

6 A No, sir, Dublin.

7 Q Dublin?

8 A Yes, sir.

9 Q Have you or any of your family ever been a police Officer?

10 A No, sir.

11 Q Do you have any close friends who are on the police force?

12 A No, sir.

13 Q State, county or local?

14 A I do not.

15 Q Now as Mr. Epperly sits here before you today, do you
16 have any opinion whatsoever as to whether he's guilty or innocent
17 of the charge? Do you have an opinion?

18 THE COURT: Restate your question. I don't think he under-
19 stands.

20 Q I asked him, sitting here right now, whether he has an
21 opinion of the guilt or innocence--

22 THE COURT: Direct it to him. I don't believe he understood.
23 Just restate your question.

24 Q Do you understand the question, Mr. Farmer?

25 A Yes.

26 Q What would your answer be to that, sir?

1 A Well, if he did the thing, I'd say he's guilty.

2 Q Do you feel right now whether he is, that he is guilty?

3 A If he did that, he's guilty.

4 Q We know, of course, if he did it, that would be something
5 that the Commonwealth could prove, but as you sit here today, do
6 you feel that he may be guilty of the crime?

7 A I do.

8 Q Do you feel that, because of the way you feel right now
9 do you feel that we would have to prove that he was innocent?

10 A Yeah.

11 Q Thank you, sir.

12 A Yes, sir.

13 THE COURT: All right, thank you, Mr. Farmer.

14 A Yes, sir.

15 THE COURT: You are excused with the thanks of the Court.
16 You are free to go.

17 A Free to go?

18 THE COURT: Yes, sir.

19 (The juror is discharged.)

20 THE COURT: All right, No. 14.

21 THE CLERK: Rodney H. Carter.

22 THE COURT: No. 33.

23 THE CLERK: Betty M. Allen.

24 THE COURT: 37.

25 THE CLERK: Rebecca H. Jackson.

26 THE COURT: 34.

1 THE CLERK: Patricia A. McGrady.

2 THE COURT: 58.

3 THE CLERK: Theodore Page.

4 THE COURT: And No. 2.

5 THE CLERK: James M. Brown.

6 (Thereupon the third panel of six jurors were sworn on voir
7 dire.)

8 THE COURT: Now ladies and gentlemen, what we are doing is
9 call in, we are bringing up panels of six each time from downstairs
10 and then we'll make you comfortable as we can and we are calling
11 one of your number in at a time and we are asking some questions
12 to determine your qualification or disqualifications for service
13 on this jury. The case that we are trying to impanel a jury in
14 is Commonwealth v. Stephen Matteson Epperly. Mr. Epperly stands
15 charged of the murder of Gina Renee Hall on or about June 29, 1980.
16 Now I'll ask this gentleman to remain and the five of you will
17 retire. We'll call you in singly and as quickly as we can.
18 Thank you.

19 JAMES M. BROWN,
20 a juror, after being first duly sworn, being examined on voir dire:

21 BY THE COURT:

22 Q Just take the witness chair, please, sir. State your
23 name and your place of residence. You may be seated.

24 A James M. Brown, Pulaski, 624 Cardinal Drive.

25 Q Mr. Brown, were you per chance on the Grand Jury that
26 returned the indictment in this case?

1 A No, sir.

2 Q Were you in the courtroom when the indictment was
3 returned?

4 A No, sir.

5 Q Are you related by blood or marriage to the defendant,
6 Stephen Matteson Epperly, who is seated here between the attorneys?

7 A No, sir.

8 Q Are you related by blood or marriage to Gina Renee
9 Hall?

10 A No, sir.

11 Q Do you have any interests in the outcome of this case?

12 A No.

13 Q Have you acquired any information concerning the case
14 through any of the news media or through any other source?

15 A I read the paper, but very little.

16 Q All right, considering what you have read and what you do
17 know about the case, would that information affect your impartiality
18 in any way should you be selected as a juror?

19 A No, sir.

20 Q You think you could be fair to each side?

21 A Yes, sir.

22 Q You think you could be open minded?

23 A Yes, sir.

24 Q Have you formed or expressed any opinion as to the guilt
25 or innocence of the accused?

26 A No, I haven't.

1 Q Do you think you could become a member of the panel and
2 sit here in the jury box with an open mind and wait until the
3 entire case is presented before reaching a fixed opinion or con-
4 clusion concerning the guilt or innocence of the accused?

5 A Would you repeat that, please.

6 Q Do you think you could become a member of the jury and
7 sit here in the jury box and keep an open mind and not form any
8 opinion concerning the case until you have heard all of the case
9 and then when you retire to the jury room and then, and only then,
10 decide on the innocence or guilt of the accused?

11 A I could.

12 Q You think you could do that. Are you sensible of any
13 feeling of bias or prejudice for or against the Commonwealth or
14 the accused?

15 A No, sir.

16 Q Do you know of any reason, then why you cannot give the
17 Commonwealth on the one hand and the defendant, Mr. Epperly, on the
18 other hand a fair and impartial trial, based solely upon the law
19 and the evidence?

20 A No, sir.

21 Q Now the lawyers will have some additional questions for
22 you Mr. Brown.

23 BY MR. SHOCKLEY:

24 Q Mr. Brown, how are you today?

25 A All right.

26 Q I'm Everett Shockley, the Commonwealth Attorney in

1 Pulaski County. I'd like to ask you just a few questions. Are
2 you familiar first of all with the Claytor Lake Dam area?

3 A No, not too familiar, no, sir.

4 Q Are you familiar with Hazel Hollow Road that as you go
5 into Radford, just before you get to Memorial Bridge, you take a
6 right hand turn?

7 A I've been down that road, yes, sir.

8 Q Are you familiar with it very much?

9 A No, sir.

10 Q Are you familiar with the railroad trestle that crosses
11 New River from Hazel Hollow Road over into Radford?

12 A No, sir.

13 Q Are you familiar with the west end of Radford?

14 A No.

15 Q Do you have any children or grandchildren?

16 A I have four children.

17 Q And what are their ages, or first of all, boys or girls?

18 A Three boys and one girl.

19 Q And what are the ages of your children, please, the
20 boys?

21 A 40, and the next one is a girl. She's 37, and 33 and
22 30.

23 Q Do you have any grandchildren?

24 A I have five.

25 Q And what are their ages, please.

26 A Fifteen and twelve, eleven, seven and four.

1 Q Any of them girls?

2 A One girl.

3 Q And which one is she, sir?

4 A She's the eleven year old.

5 Q Do you hunt at all, Mr. Brown?

6 A Occasionally.

7 Q When you are hunting or in the past, when you have
8 hunted have you ever used a dog to help you?

9 A A dog; well I used to bird hunt, but I haven't in about
10 30 years.

11 Q Did you use a dog when you bird hunt?

12 A Yes.

13 Q Do you believe that certain dogs can be trained to track
14 a human scent?

15 A Well, I think so.

16 Q Have you read about cases--

17 A Blood hounds is the only thing I've read about.

18 Q You've read about blood hounds where they have been used
19 to try to track somebody?

20 A Yeah.

21 Q Do you believe that that type of animal and other dogs
22 that are properly trained can have a scenting ability and tracking
23 ability that would be superior to that of a human being?

24 A Well, I just don't know.

25 Q Do you believe that a blood hound, for instance has a
26 smelling ability or a sensitivity to odor that would be greater

1 then the sensitivity to odor that you would have as a human?

2 A Yeah.

3 Q Do you think that that sensitivity can be utilized
4 through training to make that type of animal track?

5 A Well, I'm sure it can.

6 Q Mr. Brown, do you believe that its possible for one
7 person to kill or murder another person and then hide or dispose
8 of the body in such a fashion that it's never found?

9 A Well, that's possible, yeah.

10 Q You believe it's possible that at least a body could be
11 hidden so that it is not found for a number of months or years?

12 A Oh, yes.

13 Q Even though it may be stumbled upon later?

14 A Yes, sir.

15 Q Do you feel that a person who would do that, would kill
16 somebody and then hide or dispose of the body so that it's not
17 capable of being found, do you feel that such person should go
18 unpunished simply because they were good enough to hide the body
19 without detection?

20 A Well, if you had enough proof that they killed them.

21 Q Well, that's what I'm coming to, Mr. Brown. If the Court
22 instructs you that any element that the Commonwealth must prove,
23 one of which in a homicide case, of course, is death, the Court
24 instructs you that circumstantial evidence is competent evidence
25 and that it is sufficient to prove that a death has occurred if
26 it proves to you beyond a reasonable doubt that a death has

1 occurred, would you have any problem with that?

2 A No, sir.

3 Q Can facts and circumstances be produced to you as a member
4 of the jury that would convince you beyond a reasonable doubt that
5 a death has occurred even though no body has been able to be found,
6 would you say, "Yes" or "no". Are you indicating "yes" or are
7 you thinking?

8 A Repeat that.

9 Q All right, is it possible for the Commonwealth through
10 circumstantial evidence or other facts and circumstances that they
11 have to prove to you that a person was in fact killed even though
12 no body was ever found?

13 A Yes.

14 Q It would be possible. If you were on the jury and this
15 circumstantial evidence that the state produces convinces you
16 beyond a reasonable doubt that this person was killed and that
17 obviously the body has been hidden in some fashion and further
18 convinces you that the defendant is the one who killed that person,
19 murdered that person, could you return a verdict of guilty?

20 A Yes, sir.

21 Q O.k., I thank you Mr. Brown. That's all the questions
22 I have.

23 BY MR. LOOKABILL:

24 Q Mr. Brown, you know me.

25 A Yes, sir.

26 Q And this is David Warburton, my partner, and this is the

1 defendant, Stephen Epperly. I want to ask you a couple of
2 questions I haven't asked anybody else. I happen to know personally
3 that you had a heart attack recently and that the doctor has ordered
4 you only to work parttime. Is that still the case?

5 A No, I work about 35 hours a week.

6 Q You don't work a full day?

7 A Yeah, four days a week.

8 Q Do you feel that being on a jury in a trial that may
9 last perhaps a week, perhaps even longer, would be more than you
10 should do because of your health?

11 A Well, I don't know. It's been six years since I had
12 the heart attack.

13 Q But you had some problems recently, a recurrence?

14 A No, that was just an operation.

15 Q But you don't feel like that would be any problem?

16 A I don't think so.

17 Q I just wanted to bring that up first, to make sure that
18 you didn't have any feelings about that.

19 How long have you been in Pulaski County, Mr. Brown?

20 A Thirty-three years.

21 Q And, of course, I know where you have been employed but
22 you might tell.

23 A Blue Ridge Supply Company.

24 Q You've been employed for that full 33 years that you've been
25 up here?

26 A Yes, sir.

1 Q And what is your position?

2 A I'm a partner and manager.

3 Q O.k., as you sit here today and look at our client,
4 Mr. Epperly, do you have an opinion one way or the other whether
5 he's guilty or innocent of this charge?

6 A No, sir.

7 Q Have you formed either prior to this date or at any
8 time have you formed an opinion about the case?

9 A No, sir.

10 Q You indicated that you have read some in the newspaper?

11 A Newspaper, yes.

12 Q What have you actually read concerning this case?

13 A Well, I read about the girl missing and I read where
14 they had arrested Mr. Epperly and that's about the extent of it.

15 Q You know nothing else about the evidence or anything that
16 was talked about?

17 A No, sir.

18 Q What paper was that you get?

19 A Roanoke paper. I don't take the Pulaski paper.

20 Q You just get the Roanoke. Have you discussed this case
21 with Mrs. Brown or with any one?

22 A Well, I don't recall if I have.

23 Q You don't remember talking at work or any place about the
24 case?

25 A No.

26 Q Have you heard any opinions by anyone about the case?

1 A Well, I don't recall that.

2 Q If you were the defendant today instead of Mr. Epperly,
3 which I'm sure you wouldn't want to be sitting here, but if you
4 were, would you feel confident about having yourself as a juror in
5 the case, would you feel o.k. about that. I mean as far as your
6 impartiality is concerned, do you feel that you--

7 A Well, I'd give him a fair trial as I could.

8 Q Have you been on a jury before?

9 A No, sir.

10 Q Have you ever been a witness in a case?

11 A Yeah.

12 Q What was that regarding?

13 A Over just a civil suit is the only thing I've ever been
14 a witness in.

15 Q Are you aware of the difference in the standard of
16 proof in a criminal case as compared with a civil case?

17 A What is it?

18 Q Do you understand how, do you know whether more evidence
19 is needed in a criminal case or more evidence in a civil case for
20 the moving party to win?

21 A I didn't know there'd be any difference.

22 Q I wanted you to be aware that in a criminal case the
23 standard is of reasonable doubt, beyond a reasonable doubt, or
24 to a moral certainty. In a civil case it's preponderance of the
25 evidence such that one outcome is more probable than another. It's
26 a very high standard of proof in a criminal case, moral certainty

1 is the standard that's used. Do you understand that it's the
2 Commonwealth's burden to prove beyond a reasonable doubt every
3 element of the offense that's charged?

4 A I beg your pardon.

5 Q Do you understand that it's the burden of the Common-
6 wealth to prove every element of a crime beyond a reasonable
7 doubt and this includes the fact they must prove beyond a reasonable
8 doubt that Gina Renee Hall is in fact dead. Do you understand
9 that?

10 A Yes, sir. No, I have been a witness, too. I was over
11 in the General Court. A boy stole a battery.

12 Q You were the complaining witness in that case?

13 A Yeah, uh hum.

14 Q Do you have any leaning as far as feelings about the
15 Commonwealth versus the defendant. Do you feel like you have
16 a preference one way or the other as a matter of feeling?

17 A No, sir.

18 Q Has any close member of your family or friends, close
19 friends ever been a victim of a serious crime?

20 A No, sir.

21 Q Do you understand that an indictment is nothing more
22 than a piece of paper that brings the case before the Court to be
23 tried. It is not proof or evidence itself?

24 A Yes, sir.

25 Q Have you ever been on a jury before?

26 A No, sir.

1 Q At no time. Do you understand that from now until the
2 trial is completed this man sits here presumed innocent?

3 A Yes, sir.

4 Q In essence, there is proof of his innocence until the
5 Commonwealth proves beyond a reasonable doubt that he is guilty
6 of any crime. Do you understand that?

7 A Yes, sir.

8 Q And you have no problem with that principle?

9 A No, sir.

10 Q You understand that nothing I say, or my partner says
11 or Mr. Shockley says is evidence in the case or Mr. Terwilliger
12 or any of the attorneys?

13 A Yes, sir.

14 Q If you were on the jury and you were the only one that
15 felt a certain way about the case, would that make any difference to
16 you?

17 A If I was the only one?

18 Q If eleven people thought one way and you disagreed with
19 that eleven, would that affect your judgment in any way?

20 A Well, I'd have to go by the evidence.

21 Q Would you give your individual attention to the case?

22 A Yes, sir.

23 Q Regardless of what everybody else had to say?

24 A Yes, sir, I would.

25 Q In a case like this which is a circumstantial evidence
26 case the Commonwealth will attempt to prove, do you understand

1 that any evidence must be taken by a juror with great care and
2 caution in a circumstantial evidence case?

3 A Yes, sir.

4 Q And you feel that you could give our client, Mr. Epperly,
5 the benefit of the presumption of innocence throughout this pro-
6 ceeding without any reservation whatsoever in your mind about
7 that?

8 A Yes, sir.

9 Q All right, Mr. Brown, I hope I haven't got too personal.
10 and I appreciate it.
11 BY MR. SHOCKLEY:

12 Q Mr. Brown I have just one or two more questions. Mr.
13 Lookabill seems to know you. Do you have any personal connection
14 with Mr. Lookabill?

15 A No, sir.

16 Q Do you know him, are you friends with him?

17 A I know him and we go to the same church.

18 Q Is that how you know Mr. Lookabill?

19 A Yes, sir; well, I been knowing him all his life.

20 Q You have known him all his life?

21 A Yes, sir.

22 Q Would the fact that he is the attorney representing
23 Mr. Epperly, would that cause you to want to listen to him a little
24 more so than me?

25 A No, sir, that wouldn't have any bearing.

26 Q You wouldn't be thinking that if you returned a verdict
of guilty that there may be some difficult feelings between the

1 two of you or anything like that, that wouldn't enter into your
2 mind?

3 A No, sir, that would not, between either one of us.

4 Q O.k., thank you very much, Mr. Brown.

5 THE COURT: Thank you, sir, the Sheriff will take you to
6 the jury room.

7 (The juror leaves the courtroom.)

8 THE COURT: Gentlemen, is there any objection to Mr. Brown?

9 MR. SHOCKLEY: No, sir.

10 MR. LOOKABILL: No, sir, Your Honor.

11 THE COURT: All right, Mr. Brown is accepted.

12 RODNEY H. CARTER,

13 a juror, after being first duly sworn, being examined on voir dire:

14 BY THE COURT:

15 Q All right, sir, just have a seat, and if you will give
16 us your name and address, please, sir.

17 A Rodney H. Carter, Route 1, Dublin.

18 Q Mr. Carter, did you happen to be on the Grand Jury that
19 returned the indictment in the case of Commonwealth v. Stephen
20 Matteson Epperly?

21 A No, sir.

22 Q Were you in the courtroom here when the Grand Jury was
23 charged or when they reported?

24 A No, sir, I wasn't.

25 Q Are you related by blood or marriage to the defendant,
26 Stephen Matteson Epperly?

1 A No, sir.

2 Q Are you related by blood or marriage to Gina Renee Hall?

3 A No, sir.

4 Q Do you have any interests in this trial or in the outcome
5 of the case other than to do justice to each side should you be
6 selected as a juror?

7 A No, sir, I don't.

8 Q Have you acquired any information concerning the matter
9 from the newspaper or any other news media or from any other source?

10 A No, I haven't.

11 Q I assume you've read about it or heard about it have you
12 not?

13 A I read about it at the very first part of it when the
14 girl was missing and I was out of town a great deal since then and
15 that's about the only part I know.

16 Q Do you remember what you read?

17 A Just the fact that they found the car on that, by the
18 river and she was missing and I think her father had offered, was
19 trying to find some information and they'd called some psychics in
20 to try to find out what happened and that's about the extent that
21 I know about it.

22 Q Well, let me ask you this. It would be surprising if
23 a person hadn't heard something about this case in a small community.
24 But that's not the point. The point is would what you have heard
25 or read affect your fairness and impartiality in any way should
26 you be selected as a juror?

1 A No, sir, I don't think so.

2 Q Have you formed or expressed any opinion as to the guilt
3 or innocence of the accused?

4 A None at all.

5 Q Considering what you have heard or read about the case,
6 do you believe that you can enter the jury box with an open mind
7 and wait until the entire case is presented before reaching a
8 fixed opinion or conclusion as to the guilt or innocence of the
9 accused?

10 A Yes, sir, I think so.

11 Q Are you sensible of any feeling of bias or prejudice for
12 or against the Commonwealth or the accused?

13 A No.

14 Q Do you know of any reason why you cannot give the
15 Commonwealth on the one hand and the accused, Mr. Epperly, on the
16 other, a fair and impartial trial based solely upon the law and
17 the evidence?

18 A No, I don't.

19 Q Now the lawyers will have some additional questions,
20 Mr. Carter.

21 BY MR. SHOCKLEY:

22 Q Good afternoon, Mr. Carter, how are you today?

23 A Fine, thank you.

24 Q I'm Everett Shockley, Commonwealth Attorney for Pulaski.
25 I'll just have a few questions for you, please. First of all, are
26 you familiar with the Claytor Lake Dam area?

1 A Yes, I am.

2 Q Have you hunted over there or fished over there?

3 A I have fished below the dam, probably ten years ago.

4 Q Are you familiar with Hazel Hollow Road?

5 A I know the general area but I'm not sure exactly what
6 road is Hazel Hollow Road.

7 Q As you are going into Radford on Route 11, just before
8 you get to Memorial Bridge, you take a right.

9 A O.k.

10 Q That's Hazel Hollow Road, are you familiar with that
11 road area?

12 A Sometimes I cut through there on the way to Radford from
13 my house.

14 Q And where do you live, exactly, Mr. Carter?

15 A I live behind Camper Corral on Claytor Lake Road. You
16 turn right there and it's back in that area.

17 Q Are you familiar with the railroad trestle then that
18 crosses across New River on Hazel Hollow Road over into Radford?

19 A Yes, I am.

20 Q Are you familiar at all with the west end of Radford,
21 the street layout?

22 A Only the, you are talking about back across the river
23 on the Radford side, like you were coming in from the Interstate?

24 Q Right.

25 A Not exactly. I know the main street through there, but
26 I'm really not, not in detail, no, I'm not familiar with it.

1 Q Do you have any children, Mr. Carter?

2 A Yes, I do.

3 Q How many, please?

4 A Two.

5 Q And are they a boy or girl?

6 A A boy five and a girl seven.

7 Q Do you hunt at all, Mr. Carter?

8 A Yes, I do.

9 Q Do you use a dog when you hunt?

10 A No.

11 Q Do you believe that certain types of dogs can be trained
12 to track human scent?

13 A Yes, I do.

14 Q Do you believe that these dogs when properly trained and
15 everything have a sensitivity to odor or have a scenting ability
16 that is superior to what you and I have as human beings?

17 A Oh, yes.

18 Q Mr. Carter, do you believe that it's possible for one
19 person to kill or murder another person and then in some fashion
20 dispose of the body so that it's never found or it takes years
21 to find it?

22 A Yes.

23 Q Do you feel that someone who does that, let's say someone
24 who murders another person and then hides the body, do you feel
25 that simply because they were capable of hiding the body so success-
26 fully that they should go unpunished for their crime?

1 A No.

2 Q Do you feel then that if you were on the jury that the
3 Commonwealth could prove to you a series of facts and circumstances
4 known as circumstantial evidence that could convince you in your
5 mind beyond a reasonable doubt that Gina Renee Hall was dead even
6 though her body was never recovered, never found?

7 A I would say that's possible. I wouldn't say it could
8 definitely be done without hearing, you know, but I--

9 Q Well, I understand you don't maybe know all the evidence
10 or maybe none of the evidence.

11 A None of the evidence, but I guess it's possible.

12 Q Well, my point is the Court will instruct you that death
13 is a necessary element or portion of the crime of homicide, murder
14 and the state has certain elements that it must prove in any
15 homicide prosecution and death obviously is one of those elements
16 and all the elements the state has to prove must be proved by
17 evidence beyond a reasonable doubt, do you understand that?

18 A Yes.

19 Q The Court will further instruct you that as to any element
20 that the state must prove, circumstantial evidence is competent
21 evidence and if it convinces you beyond a reasonable doubt of the
22 existence of that fact that you are allowed to rely on circumstances
23 as much as you are upon direct proof, would you follow such in-
24 structions?

25 A Yes.

26 Q And do you understand when I say circumstantial evidence

1 that I'm talking about a series or group of other facts and circum-
2 stances which when all accumulated tend to prove or do prove another
3 fact?

4 A Right.

5 Q And again my question to you is if the state introduces
6 a variety of facts and circumstances which convince you beyond a
7 reasonable doubt that this girl was dead, is dead, was murdered
8 and was murdered by the defendant, could you return a verdict of
9 guilty?

10 A Yes.

11 Q That's all I have. Thank you Mr. Carter.

12 BY MR. LOOKABILL:

13 Q Mr. Carter, I'm Glennwood Lookabill and this is my
14 partner, David Warburton, and this is the defendant, Stephen
15 Epperly. I assume this is the first time you have seen Mr.
16 Epperly?

17 A Except for this morning when I was sitting, when you all
18 when we first started out, you know where the jurors, we were sitting
19 over there and you all came in.

20 Q O.k., today's the first day then?

21 A Right.

22 Q I'll ask you some questions and try not to be too
23 personal and if you'll just bear with me. This is for a good pur-
24 pose. As you know we are trying to impanel an unbiased jury.

25 A All right.

26 Q Some of the questions are necessary even though you may

1 not appreciate some of them. So just don't get mad at us, o.k.

2 A O.k.

3 Q You are a resident of Pulaski County. Now how long have
4 you been a resident?

5 A Ten years.

6 Q Have you lived at your present address, Route 1, Dublin,
7 for ten years?

8 A No, three years.

9 Q Where did you live prior to that?

10 A Newbern, 1205 Newbern Road, Pulaski; it's in the cor-
11 porate limits.

12 Q You lived there for seven years?

13 A I lived there for six years. The year before that I
14 lived at Mark Allen apartments.

15 Q Where did you live more then ten years ago?

16 A I was in the military three years.

17 Q What were you in, the army?

18 A Yes, army.

19 Q Officer or--

20 A No, I was E-5 when I got out.

21 Q And you were in for three years?

22 A Yes, sir.

23 Q What was your function in the army?

24 A I was a micro wave radio technician.

25 Q Where are you employed presently?

26 A C & P Telephone Company.

1 Q And what's your function with C & P?

2 A Net work switching engineer.

3 Q I'm afraid to ask you what a net work switching engineer

4 does. What is your educational background, sir?

5 A Electronics engineering technology and electronics micro

6 wave radio in service.

7 Q Do you have a degree?

8 A No, I don't.

9 Q Where did you get your training?

10 A I went to Central Technical Institute.

11 Q Where is that located?

12 A Kansas City, Missouri. I went two years there; and I

13 went to school a year in the service.

14 Q That was also this same area of training?

15 A Yes.

16 Q That you are now, you are presently working in?

17 A Right.

18 Q Was that a college extension course in military or was

19 that a technical--

20 A No, it was a, it was additional, military technical.

21 Q What Uncle Sam _____ (inaudible)?

22 A Right.

23 Q Have you, of course, you indicated you were in the mili-

24 tary for three years. Have you ever been a police officer, or

25 anybody in your family, have they been a police officer or associated

26 with the State Police, local police?

1 A No.

2 Q As you look at our client, Mr. Epperly, here today do
3 you have any feeling one way or the other as to his guilt or
4 innocence?

5 A No.

6 Q Have you formed any opinion at any time regarding the
7 case?

8 A No.

9 Q You indicated you had been out of town for a good bit
10 of the time from the time, June or early July, but you heard
11 about the case until now. Were you out for an extended period of
12 time?

13 A No, just certain, a few days a week, that type thing,
14 schools and meetings and out of town.

15 Q So you were on the road a lot in between?

16 A Right.

17 Q And what you indicated, the little you heard at first.
18 Is that all you heard about the case, what you told use a few
19 moments ago?

20 A Right.

21 Q Do I recall that you saw that in the paper or heard it
22 on TV?

23 A Well, the paper.

24 Q What paper was that, sir?

25 A I guess it would have to be the Roanoke Times. That's
26 the only paper we get. We don't get the Pulaski so I'm sure--

1 Q The Roanoke Times is the only paper that you all have?

2 A That's right.

3 Q Have you discussed this case with anyone?

4 A The only part that I have ever discussed with anyone is
5 the fact that psychics were brought in and that type thing, trying
6 to find the body, that's the only, and maybe what they've found,
7 which really--

8 Q Do you remember what they said they found?

9 A Well, really the only thing that I know is what I read
10 in the paper and thinking back on it, I don't remember them finding
11 much of anything, something like one of the psychics could see a
12 lake or dam or something.

13 Q That would be a vision?

14 A Yeah, that type thing. That's really about all I know
15 about it.

16 Q But you haven't heard anybody else, friends or neighbors
17 make any opinions regarding the case?

18 A The only thing I've heard, they found, they said the
19 car, her car was found down on the road next to the river which I
20 understand now to be Hazel Hollow Road next to that trestle and
21 that's--

22 Q As far as guilt or innocence you have--

23 A Oh nothing like that at all as far as--

24 Q O.k., considering the way you feel about the case and
25 what little you know about the case, would you, what little or
26 much, whichever, you know about the case, would you consider, if

1 you were sitting here in Mr. Epperly's place, would you consider
2 yourself to be a person you would want as a juror?

3 A Myself, yeah, I think so.

4 Q You feel completely unbiased about it?

5 A Uh huh.

6 Q As far as you are concerned Mr. Epperly sits here today
7 an innocent man, is that correct?

8 A As far as I know, yes, sir.

9 Q Do you understand that he doesn't have to do anything,
10 that the burden is on the Commonwealth to prove his guilt in every
11 element of the crime beyond a reasonable doubt?

12 A Right.

13 Q Have you ever been on a jury before, sir?

14 A No, I haven't. Only, I served on a jury last Wednesday,
15 which we really didn't, we didn't actually serve on anything.
16 We were called and it was dismissed.

17 Q Did you have to, did the trial start at all or was it--

18 A No, it was dismissed before we got down to _____
19 (inaudible, noise).

20 Q And that's the first time you had ever been called for
21 jury duty?

22 A Yes, with the exception of last, a year ago I was on a
23 Federal Grand Jury in Roanoke.

24 Q Federal Grand Jury?

25 A Uh hum.

26 Q How long did you serve on the Federal Grand Jury?

1 A It was two, to days. The term was for a year, I think,
2 but I was only there, I was only called two days out of that whole
3 year.

4 Q You were only called two days to serve on the Grand Jury?

5 A Right.

6 Q Did you in fact return some indictments in that case?

7 A Yes.

8 Q Were the cases that you all deliberated about, having
9 to do with crimes of violence or were they dealing with some other
10 subject matter?

11 A _____ (Unintelligible).

12 Q Were you ever a foreman of--

13 A Yes, I was.

14 Q You were foreman of the Grand Jury?

15 A Yes.

16 Q How many indictments did you all return?

17 A Two or three. I don't remember. We heard a lot of
18 evidence, but the way that's set up, you know we, I think there
19 ^{only/see} were maybe two or three indictments.

20 Q How many are on a Federal Grand Jury?

21 A I think there were seven. I'm not sure. It's been,
22 it was July, or no it was September a year ago.

23 Q September a year ago?

24 A Seems like, maybe there were eleven. I'm not sure.

25 Q You said you've never been on a petit jury?

26 A No, I haven't.

1 Q A trial jury?

2 A No.

3 Q The Federal Grand Jury system, does it take, how many
4 votes does it take, or what per centage, do you know--

5 MR. SHOCKLEY: Your Honor, I'm going to object to this
6 questioning. It's totally irrelevant.

7 MR. LOOKABILL: Your Honor, I think it's quite relevant in
8 his function as a juror. This man is experienced as a juror.

9 THE COURT: What was the question?

10 MR. LOOKABILL: The question was, "What type of a vote does
11 it take to get an indictment with the Federal Grand Jury?"

12 THE COURT: What kind of what?

13 MR. LOOKABILL: What per centage vote, in other words how many
14 do you have to have to vote for an indictment. I'm not going to--

15 THE COURT: Do you know?

16 MR. LOOKABILL: No, sir, I have to admit I don't.

17 THE COURT: All right, I don't see it'll do any harm. Let him,
18 if he knows, you can answer the question.

19 A I don't remember. It's a majority, I think. We received
20 explicit instructions beforehand and I haven't had anything to do
21 with it since then and I think it was just a majority.

22 Q You voted and whatever went out; o.k., I understand.
23 I wasn't trying to make an issue of that. I just thought the
24 Court, because you understand the function of a jury versus a
25 Grand Jury--

26 A Right, I realize there is a difference.

1 Q Do you understand the presumption of innocence in a
2 criminal case?

3 A Yes, sir.

4 Q You understand every element must be proved beyond a
5 reasonable doubt in a criminal case by the Commonwealth?

6 A Yes, sir.

7 Q And that even the death of the alleged victim must be
8 proved beyond a reasonable doubt to a moral certainty, do you
9 understand that?

10 A Yes, I do.

11 Q Do you feel that in a criminal case, it is the function
12 of a jury to solve a crime or only deal with guilt or innocence
13 of one man?

14 A Only deal with guilt or innocence.

15 Q So whether or not an acquittal was had, it wouldn't matter
16 to you as a juror whether the person who did in fact commit the
17 crime was ever convicted, is that correct, as the jury in this
18 trial?

19 A What now?

20 Q Do you feel that the crime has to be solved in this
21 proceeding, the crime itself; what I'm saying, regardless of who
22 committed the crime, do you feel the proceeding of this trial has
23 to solve the crime?

24 A Oh no, I feel this trial is strictly for the defendant,
25 just to prove his innocence or guilt, or whichever.

26 Q Would being in a minority, even a minority of one, in

1 any way affect the way you would decide as a juror?

2 A No, it wouldn't.

3 Q Do you realize that in a circumstantial evidence case,
4 which is the type of case we are dealing with here, that the evidence
5 is like a chain, that the chain has to strongly link the defendant
6 with the crime and that the chain itself is only as strong as the
7 weakest link, and that's the weakest piece of evidence the Common-
8 wealth can show; do you understand that in a circumstantial evidence
9 case?

10 A Yes.

11 Q In other words that the evidence must be taken with
12 great care and caution in a circumstantial evidence case, you
13 understand that?

14 A Yes, I realize that.

15 Q Do you have any mental reservation whatsoever about
16 giving the defendant the benefit of the presumption of innocence
17 throughout this proceeding?

18 A No, I don't.

19 Q Do you have any connectin, sir, with Radford College?

20 A No, sir.

21 Q No family or friends teach or work there?

22 A No.

23 Q All right, sir, I thank you.

24 THE COURT: Anything further? All right, Mr. Carter, if you
25 will come over here, please.

26 (The juror leaves the courtroom.)

1 THE COURT: Any objections, gentlemen, to Mr. Carter?

2 MR. SHOCKLEY: No, sir.

3 MR. LOOKABILL: No, sir, Your Honor.

4 THE COURT: The Court finds Mr. Carter without exception and
5 he is accepted.

6 BETTY ALLEN,

7 a juror, after being first duly sworn, being examined on voir
8 dire:

9 BY THE COURT:-

10 Q One around, please, ma'am and take the witness chair.

11 Would you state your name and residence, please.

12 A Betty Allen, Route 1, Dublin.

13 Q Mrs. Allen, were you on the Grand Jury that returned
14 the indictment in this case, the case of Commonwealth v. Stephen
15 Matteson Epperly?

16 A Was I on it; no.

17 Q Were you in this courtroom when the Grand Jury was
18 charged or when it made its report?

19 A No.

20 Q Are you related by blood or marriage to the defendant,
21 Stephen Matteson Epperly?

22 A No, sir.

23 Q Are you related by blood or marriage to Gina Renee Hall?

24 A No, sir.

25 Q Do you have any interests in this trial or in its out-
26 come?

1 A No.

2 Q Have you acquired any information concerning the matter
3 through news media or other sources?

4 A Oh, yes.

5 Q All right, considering what information you have con-
6 cerning the matter, would this affect your impartiality in any
7 way?

8 A Well, I think it's all been against him. It would be
9 hard. You wouldn't know until you saw all the evidence, I don't
10 think.

11 Q Well, now let's see, you say you think it's all been
12 against him, are you talking about what's been written up in the
13 paper?

14 A It seems like everything that has been in the paper.

15 Q Uh hum, well, of course, papers don't try cases.

16 A I know.

17 Q What I really want to get at, is whether what you've
18 read has influenced you, subjectively, if you have sort of a built-
19 in bias?

20 A Not really.

21 Q Maybe against the defendant at this point?

22 A No, no.

23 Q You don't think you do?

24 A No.

25 Q Do you have such a feeling about the case that it would
26 take evidence to overcome that and to remove that feeling from.

1 your mind, or could you start right into the case with an open mind
2 and with an objective and inquiring mind?

3 A I think it would take the evidence, before you could
4 really--

5 Q I'm not sure you understand. Of course, you would have
6 to hear the evidence before you could decide. What I really want
7 to know is do you have a feeling that you are sort of against the
8 defendant to start with?

9 A Not really, no.

10 Q Well, it's either yes or no, not really.

11 A No, I'm not.

12 Q You do not have such a feeling?

13 A No, sir.

14 Q And what you have read in the paper doesn't affect you?

15 A No, sir.

16 Q One way or the other. All right, have you formed or
17 expressed any opinion as to the guilt or innocence of the accused?

18 A No.

19 Q Considering what you have heard or read about the case,
20 do you believe that you could enter this jury box with an open
21 mind and wait until the entire case is presented before reaching
22 a fixed opinion or conclusion as to the guilt or innocence of the
23 defendant?

24 A I feel like that, I've never had any dealings with anything
25 like this and I feel like that somebody else could do a better
26 job, is the way I feel about it.

1 Q Yeah, but that's not the answer to my question. My
2 question is, and you may have already answered it, do you think
3 you could sit here and listen to the evidence and decide the case
4 on what you hear in this courtroom, not on what somebody said or
5 what you have read in the paper?

6 A Yes.

7 Q You think you could do that?

8 A Yes, sir.

9 Q All right. Do you have any feeling of bias or prejudice
10 for or against either side?

11 A No, sir.

12 Q And finally, do you know of any reason, whether I've
13 touched on it or not, why you could not give the Commonwealth and
14 the defendant a fair and impartial trial based solely on the law
15 and the evidence that you would hear in this courtroom?

16 A No, just what I said, I think somebody else can do a better
17 job.

18 Q You think somebody else can do a better job?

19 A I do.

20 Q I suspect if I would ask the others, they'd think you could
21 do a better job?

22 A I'm sure they would.

23 Q Well this is just a responsibility of citizenship and
24 I'm sure if you are selected as a juror that you will discharge
25 that responsibility and that's all we can ask of anyone, to be
26 fair and impartial and open minded and not come into the jury box

1 with any biases or prejudices for or against either side and I
2 understand from what you have told me, you think you could do
3 that if you are selected, is that right?

4 A Yes, sir.

5 Q All right, now Mr. Shockley, the Commonwealth Attorney
6 will ask you a few questions and Mr. Lookabill for the defense
7 will ask some questions.

8 BY MR. SHOCKLEY:

9 Q Good afternoon, Mrs. Allen. I have just a few questions.
10 First of all, are you familiar with the Claytor Lake Dam area?

11 A I live down there.

12 Q You do live down there?

13 A I live down toward the State Park.

14 Q You do or did?

15 A I do.

16 Q Where exactly do you live, ma'am?

17 A Out from the Camper Corral.

18 Q Are you familiar then with Hazel Hollow Road?

19 A Yes, I travel that road and that's one reason I don't
20 think, you know, that I should really serve on it.

21 Q Well, of course, your familiarity with Hazel Hollow
22 Road wouldn't mean necessarily that you have any particular feelings
23 against the defendant, for or against the defendant, would it?

24 A No.

25 Q Do you have any children, Mrs. Allen?

26 A Yes, I do.

1 Q How many children do you have?

2 A Four.

3 Q Boys or girls?

4 A Two boys and two girls.

5 Q And what are their ages, please, the boys first of all?

6 A Twenty-two and nine.

7 Q And your girls?

8 A Eighteen and twenty.

9 Q Do you believe that dogs, certain types of dogs, have a
10 scenting ability or sensitivity to odor more so than human beings?

11 A Yes.

12 Q Do you believe that such dogs can be properly trained
13 to follow the scent or track the scent of another human being?

14 A Yes.

15 Q Mrs. Allen, do you think that it's possible for a person
16 to kill or hurt another person and then dispose of the body in
17 such a fashion that it is never found or not found for a number of
18 years later?

19 A Yes, sir.

20 Q Do you feel that a person who does so should escape
21 punishment simply because he was capable of so successfully hiding
22 the body?

23 A No, not if he's proven guilty.

24 Q Well, that brings me to my next question. The state
25 will instruct you in a homicide prosecution, and in this case in
26 particular, that death is a necessary element of homicide.

1 Obviously there is not a murder or other type of homicide without
2 a death. The Court will further instruct you that circumstantial
3 evidence, that is other facts and circumstances all lumped together
4 can prove any one of these facts that the state must prove, includ-
5 ing the element of death. Would you have any problem following
6 that instruction?

7 A I've never had any dealings with it.

8 Q I understand. You've never been on a jury before?

9 A Never. I've never been in a courtroom before.

10 Q I'm sure that you are nervous for that reason but if the
11 Court were to instruct you in that fashion, would you have any
12 problem in following the Court's instruction?

13 A Probably not.

14 Q If the Commonwealth's evidence, which will be circum-
15 stantial because in this case there is no body. There has never
16 been a body found, but if the Commonwealth's evidence, circumstantial
17 evidence, proved to you beyond a reasonable doubt that Gina Hall
18 was killed and murdered by this defendant, would you return a
19 verdict of guilty, even without the body if the other circumstantial
20 evidence was strong enough?

21 A Probably.

22 Q Do you understand that as a member of the jury, the
23 function of the jury is first of all to determine the guilt or
24 innocence of the accused, do you understand that?

25 A Uh hum.

26 Q Do you understand that if you find the defendant guilty,

1 you must find it upon evidence beyond a reasonable doubt?

2 A Uh hum.

3 Q Do you also understand that should the jury come to the
4 conclusion beyond a reasonable doubt that the defendant is guilty
5 of the charge against him, that it would be your responsibility
6 to fix the punishment within the range provided by law, do you
7 know that that's the system in Virginia?

8 A Uh hum.

9 Q Would you have any problem doing that if you were on the
10 jury. Of course all twelve of you would have to be unanimous on
11 it.

12 A Probably.

13 Q You would have some problems?

14 A I think so.

15 Q Well, would the fact--let's suppose you have listened
16 to the evidence and let's suppose that it convinces you along with
17 the other members of the jury of the, you know, the defendant's
18 guilt and then you would have to so say and then fix punishment.
19 Knowing that, would you be inclined to vote for not guilty simply
20 to avoid having to fix someone's punishment that you felt was
21 guilty?

22 A No, I don't think so, no.

23 Q You could then, if you were on the jury, uphold your
24 civic duties and first of all determine guilt or innocence and then
25 if you determine the person was guilty, you could assess the
26 punishment within the range provided by law, knowing that all the

1 other jury members have to do the same thing?

2 A Uh hum.

3 Q O.k., thank you very much.

4 A Uh hum.

5 BY MR. LOOKABILL:

6 Q Mrs. Allen, I'm Glennwood Lookabill.

7 A Hi.

8 Q This is my partner and cocounsel, Mr. David Warburton.

9 A Hi.

10 Q And this is the defendant, Stepehn Epperly. I assume this
11 is the first time today that you have ever seen him?

12 A Uh hum.

13 Q Is that correct?

14 A Yes, sir.

15 Q Today is the first time you have ever seen him?

16 A Yes, sir.

17 Q I'd make a poor English teacher. I want to ask you a few
18 more questions. I don't want to be real personal, but there are
19 some questions I feel like I have to ask in order to get a clear
20 view of your state of mind regarding the case. Do you understand?

21 A Uh huh.

22 Q Promise not to get mad at me.

23 A No.

24 Q O.k. How long have you been a resident of Pulaski
25 County?

26 A All my life. You wanta know how long.

1 Q I won't ask you that. And have you lived over in the
2 Claytor Lake area all your life?

3 A Uh hum.

4 Q Now you stated a moment ago that you think somebody else
5 can be a better juror than you. Do you mean to say that you really
6 don't want to be on this jury?

7 A No, I don't. I don't really.

8 Q Can I ask you why?

9 A Why I just don't like the thought of being the one that
10 makes the decision.

11 Q Do you have some reservations in your mind about being
12 able to return a verdict either way?

13 A Well, I don't know which way I would go yet without the
14 evidence if that's what you mean.

15 Q Even if you had all the evidence before you, would you
16 find it difficult to be able to return a verdict?

17 A Probably so.

18 Q You feel that you would have some problems?

19 A Yes, sir.

20 Q Do you have some mental reservations about being able to
21 be totally fair in this case?

22 A Well, no, I would try to be as fair as I know how but
23 I would really worry and wonder if I was, you know, making the
24 right decision.

25 Q Do you work, Mrs. Allen?

26 A Uh huh.

1 Q Where do you work?

2 A St. Alban's Hospital.

3 Q How long have you been there?

4 A About seven months.

5 Q What's your job there?

6 A Housekeeping.

7 Q Are you in the new part or the old one?

8 A New one.

9 Q New part?

10 A Uh huh.

11 Q What did you, did you work prior to that?

12 A Pulaski County High School.

13 Q And what did you do at the high school?

14 A Cashier at lunch. I worked parttime.

15 Q Were--did you work there at anytime that Mr. Epperly
16 substitute taught at the high school?

17 A Yes, but I don't remember him. I don't remember ever
18 seeing him.

19 Q Is any member of your close family a police officer or
20 a member of any police department?

21 A No, sir.

22 Q Has any of your family ever been in the military?

23 A My husband was in service.

24 Q Was that some years ago?

25 A Yeah.

26 Q Nobody in at present?

1 A No.

2 Q O.k., our client, Mr. Epperly sits here today. Right
3 now as you sit there without any evidence being presented, do
4 you have a feeling or a predisposition or opinion about whether
5 he's guilty or innocent?

6 A No..

7 Q Do you have any, you don't feel one way or the other?

8 A Huh uh.

9 Q Do you have any gut reactions about it, any gut feelings?

10 A I just, I don't see how he could have done it. I mean
11 by looking at him, you would never think it, but I just, it would
12 be hard to make a decision right now.

13 Q What have you heard or read about the case on TV or in
14 newspapers?

15 A Well, it's like I say, I've read what's been in the
16 papers and it's mostly been against him, you know.

17 Q How has that affected your opinion of the case?

18 A Well, I just wonder you know. You don't know really what
19 to believe.

20 Q Which newspapers do you all get?

21 A Southwest Times mostly.

22 Q Do you get the Roanoke also?

23 A Uh hum.

24 Q Have you read it in both papers?

25 A Uh huh.

26 Q Read about it?

1 A Uh huh.

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

3 A Well, I've read most of what's been in there about,
4 you know, what they have found and about the, you know, finding
5 the car and everything.

6 Q So far as you know you've read about all the articles?

7 A Most of it, I think.

8 Q --published about it?

9 A Uh huh.

10 Q Did you reach any conclusions after you had read those
11 numerous articles?

12 A No.

13 Q Have you been influenced any by the TV that you have
14 seen regarding the case?

15 A No, not really.

16 Q Have you seen it on TV?

17 A Not as much.

18 Q Have you talked to people about the case?

19 A Yes, I think everybody has talked about it, you know,
20 discussed it.

21 Q Do you talk to people and have a strong opinion one way
22 or the other as far as guilt or innocence is concerned?

23 A Well, I think you hear it both ways.

24 Q How did you respond when people talked about it, how
25 did you react to what they had to say; did you voice an opinion?

26 A Well, you know, you think everything, you wonder about,

1 you know, if she's really dead and different things, you know.

2 Q But you have not formed an opinion, one way or the
3 other?

4 A No.

5 Q As far as your feeling of bias or lack of bias in this
6 case, if you were the defendant rather than Mr. Epperly, would you
7 have any reservations about your being a juror?

8 A I don't think they would want me.

9 Q If you were the defendant would you want you?

10 A No.

11 Q Why?

12 A I just don't feel like I'm as capable as some that, you
13 know, you could choose. I think it should be fair and I just
14 don't think--I think I could be fair about it but I don't think
15 I, you know, have as much dealings in Court as some people do,
16 with anything like this.

17 Q As far as you are concerned at this point Mr. Epperly
18 is innocent of any wrong doing?

19 A I didn't say that either. I don't--

20 Q As far as you are concerned right now, is he innocent?

21 THE COURT: Well, now just a minute, that's a misleading
22 question. The question is, the point is in law he's presumed to
23 be innocent at the moment and would you honor that presumption.
24 Unless the state can overcome that presumption by evidence beyond
25 a reasonable doubt then his presumption would prevail and he should
26 be acquitted. Could you follow that rule of law, that's really what

1 we're trying--

2 A Not right now.

3 THE COURT: I beg your pardon.

4 A Not now.

5 THE COURT: Of course, you couldn't now. I mean if you sit
6 here and hear the evidence and the case was all over.

7 A Oh, if I heard the evidence and I thought he was.

8 THE COURT: Yeah. All right.

9 Q Do you feel that we as his attorneys have to prove
10 anything, have to prove him innocent?

11 A Sure, as well as the ones will have to prove him guilty.

12 Q Do you understand that he doesn't have to put on any
13 evidence at all, did you know that?

14 A To prove hisself innocent?

15 Q Yes, ma'am, you don't realize that the burden is on the
16 Commonwealth?

17 A No.

18 Q You did not know that that was the law?

19 A Huh uh.

20 Q That the burden is on the Commonwealth to prove every
21 element of the crime beyond a reasonable doubt and that she doesn't
22 have to do anything at all except sit here, are you aware of that
23 now?

24 A I am now, but I wasn't.

25 Q Does that rouble you in any way?

26 A No, not really.

1 Q Do you understand that's the way our system works?

2 A Yeah I do now.

3 Q That the state has to prove you're innocent, anyone is
4 innocent until a reasonable doubt standard has been achieved,
5 until the case has been proved beyond, to a moral certainty.

6 A Uh hum.

7 Q Do you understand that?

8 A Uh hum.

9 Q Of course, you indicated you had never been a juror
10 before?

11 A No.

12 Q Have you ever been a witness?

13 A No, I've never been in a courtroom I don't think before.

14 Q You've never been in a courtroom.

15 A I don't like it.

16 Q Has anybody in your family ever been a victim of a
17 serious crime?

18 A Huh uh.

19 Q Anybody, any close friends?

20 A No.

21 Q We were talking about this presumption of innocence, do
22 you understand, now that you understand what the presumption is,
23 do you understand that it goes with him all through the trial until
24 the Commonwealth and unless the Commonwealth proves his guilt beyond
25 a reasonable doubt?

26 A Uh hum.

1 Q Do you understand that neither anything Mr. Shockley
2 says or Mr. Terwilliger or either of us say is evidence in the
3 case?

4 A Uh hum.

5 Q It's just argument of counsel and it's not evidence,
6 do you understand that?

7 A Uh hum.

8 Q If you were on the jury and you felt very strongly
9 about your position and everyone, eleven people disagreed with you,
10 _____ (unintelligible) would you continue to stick with your
11 guns and maintain your position?

12 A I think so.

13 Q Are you pretty confident that you would?

14 A Uh hum.

15 Q If you felt that you were right?

16 A Uh hum.

17 Q As I have indicated, of course, Mr. Epperly, does not
18 necessarily have to take the stand at all. It's the Commonwealth's
19 burden to prove the case, but if he did choose to testify, would
20 you accept his testimony like you would that of any witness?

21 A Surely.

22 Q Would you listen to it and give it the same weight that
23 you would any other witness?

24 A Uh hum.

25 Q Now the Commonwealth has indicated, Mr. Shockley has in-
26 dicated that their case is a circumstantial evidence case where

1 there is no body and that they will attempt to prove certain things
2 by other evidence. Now do you understand that in a circumstantial
3 evidence case, you must treat such evidence with great care and
4 caution because it is circumstantial evidence. Do you further
5 understand that such evidence is like a chain. It has to be a
6 strong chain connecting the defendant with the crime and that any
7 piece of evidence that's the weakest point in the chain, that the
8 chain's no stronger than that weak link. Do you understand that?

9 A Uh hum.

10 Q In other words the evidence has to be in a logical
11 fashion such as to point to this man and no one else as the criminal
12 agent, do you understand that?

13 A Uh hum.

14 Q Do you feel right now that you could, without any mental
15 reservations whatsoever, that you could give this man the presumption
16 of innocence throughout this proceeding?

17 A It would be hard.

18 Q It would be difficult to look at him as an innocent man
19 until the case was over with?

20 A With all the evidence, you know, if they have all the
21 evidence.

22 Q O.k., I'm not saying if they have it, until such time
23 as you all deliberate and make a decision, can you give him the
24 benefit of a presumption of innocence until that time?

25 A I think so.

26 Q Do you feel strongly that you can or weakly?

1 A Weakly.

2 THE COURT: I'm sure she doesn't understand what you mean.
3 This is the difficulty, points up the difficulty in getting into
4 legal questions with lay witnesses. Mrs. Allen, when we talk
5 about presumption of innocence, I think I touched on this a
6 moment ago, it's a device of the law. It's a integral part of
7 our jurisprudence that every person charged with a crime is pre-
8 sumed in law to be innocent until the state upon whom the burden
9 rests proves his or her guilt beyond a reasonable doubt. Now
10 when the scales tip and they've borne their burden, then the pre-
11 sumption of innocence in the discretion of the jury can disappear
12 and the Commonwealth has borne hits burden and then you would be
13 justified in returning a verdict of guilt.

14 A Uh huh.

15 THE COURT: But if the state does not bear its burden and
16 the scales are still in equal poise when you retire back there
17 and it just looks like you are not really sure whether a person
18 is guilty or not, then this burden, this presumption of innocence
19 brings the scales down on the defendant's side and its your duty
20 then to acquit in a case of that kind.

21 Now with this rather inartistic explanation of what we are
22 talking about here, maybe if Mr. Lookabill would restate his
23 question and you think about it in light of what I have just
24 said and then answer it please ma'am.

25 Q O.k., if you were on a jury, Mrs. Allen, until all the
26 evidence is heard, had been put on, would you consider this man

1 innocent until all the evidence is put on before you would con-
2 sider it?

3 A Yes, you would have to wait to make your decision I
4 think.

5 Q Could you give Mr. Epperly the same fair trial that
6 you could give him if he were charged with petit larceny or some
7 minor crime, knowing he was charged with murder?

8 A I think so.

9 Q Do you have any affiliation with Radford College?

10 A No.

11 Q No children that go there or--

12 A Huh uh.

13 Q Or family or friends that work there. If you were a
14 juror would you understand that no decision could be made until
15 all the evidence was presented that you would be considering?

16 A Uh hum.

17 Q As you sit here today, do you have an opinion as to
18 whether or not Gina Renee Hall is dead?

19 A I wonder if she is.

20 Q You don't have one strong opinion one way or the other?

21 A No.

22 BY MR. SHOCKLEY:

23 Q Mrs. Allen, just a couple of last questions, please.
24 You stated to Mr. Lookabill something to the effect--I don't mean
25 to misquote you here,--"but I don't know how he could have done
26 it, you know, just looking at him."

1 A He doesn't look like the type person that would do
2 something like that.

3 Q Right, you are looking at a man in a three piece suit,
4 well groomed and so forth.

5 A Yeah.

6 Q Would that fact alone keep you from returning a verdict
7 of guilty if the evidence proved beyond a reasonable doubt that
8 he done the crime, Mrs. Allen?

9 A No.

10 Q O.k., thank you.

11 BY MR. LOOKABILL:

12 Q Let me ask one other question if I may, Your Honor. If
13 you were, if you sit on the jury and a not guilty verdict was
14 returned, would that in any way embarrass you as far as your
15 friends or neighbors or your employment?

16 A I don't think so.

17 Q If there was a guilty verdict returned, would that in
18 any way create an embarrassment?

19 A (Silence.)

20 Q Thank you.

21 THE COURT: All right, thank you, ma'am; you may step down
22 over here, please.

23 (The juror leaves the courtroom.)

24 THE COURT: All right, gentlemen, are there any objections
25 to Mrs. Allen?

26 MR. LOOKABILL: Yes, sir, Your Honor, I think I would object

1 to this potential juror because again of equivocations and the
2 fact that she does not want to be a juror. She stated very
3 emphatically that she didn't want to be a juror. She, in answer
4 to certain questions about could you return such a verdict, would
5 you in circumstances and all she would say, "I think I could" or
6 "I feel I probably could." She used the word "probably" several
7 times. I just feel that because of her desire not to be there
8 and her equivocations that she would not make a proper juror in
9 this case.

10 THE COURT: Would you rather have somebody who is very
11 anxious to be on the jury? I believe if I were trying the case,
12 I would prefer somebody who didn't want to be on the jury. I'm
13 just curious what's in the back of your mind when you state that.

14 MR. LOOKABILL: I'd rather not answer that question, Your
15 Honor, but I just, I just really feel that her not wanting to be
16 there and her indefiniteness about her opinions or feelings
17 would be detrimental as a juror.

18 THE COURT: All right, I think I'll accept Mrs. Allen.

19 Now gentlemen, let's take a five minute recess and get a
20 drink of water at this point.

21 (Thereupon a recess was had and after a time all interested
22 parties, including the court, counsel and defendant, returned
23 into the courtroom.)

24 REBECCA JACKSON,
25 a juror, after being first duly sworn, being examined on voir dire:
26 BY THE COURT:

1 Q Would you state your name, please, ma'am.

2 A Rebecca Jackson.

3 Q Thank you and where do you live, Mrs. Jackson?

4 A Black Hollow Road, Dublin.

5 Q Mrs. Jackson, were you by any chance on the Grand Jury
6 that returned the indictment in the case of Stephen Matteson

7 Epperly?

8 A No, sir.

9 Q Were you in the Courtroom when the Grand Jury was charged
10 and when they reported?

11 A No, sir.

12 Q Are you, as you have been advised this the case of
13 Commonwealth v. Stephen Matteson Epperly upon the charge of the
14 murder of Gina Renee Hall. Are you related by blood or marriage
15 to Stephen Matteson Epperly?

16 A No, sir.

17 Q Are you related by blood or marriage to Gina Renee Hall?

18 A No, sir.

19 Q Do you have any interests in the outcome of this case?

20 A No, sir.

21 Q Have you acquired any information concerning it through
22 the news media or any other source?

23 A Yes, I have read the articles that appeared in the papers.

24 Q All right, that being the case, would such information
25 affect your impartiality in any way?

26 A I think the articles were probably very prejudicial.

1 Q Well, that may well be, but that doesn't make a person
2 guilty, of course.

3 A No.

4 Q What we want is people who can ignore if you will what
5 they read in the paper and listen to the evidence here and decide
6 it solely on what they hear in the courtroom and we want people
7 with intelligence and fairness and objectivity, who can do that.

8 A Well, I have met Mr. Epperly before. I teach school at
9 the high school and he substituted there last year.

10 Q Well, let's come to that in just a minute. Talking now
11 just about the newspapers and the radio and TV, do you think what
12 you've heard there would affect your sense of fairness or impartiality
13 should you be selected as a juror?

14 A I have made no decision based on that.

15 Q You have not made up your mind?

16 A But I feel that it was prejudicial.

17 Q You've just said you've formed no opinion as to the
18 guilt or innocence of the accused, is that correct?

19 A Uh hum, yes, sir.

20 Q Considering what you've heard or read about the case,
21 do you believe you could enter this jury box with an open mind and
22 wait until the entire case is presented before reaching a fixed
23 opinion as to guilt or innocence of the accused?

24 A I don't believe that I have a fixed opinion at the
25 present time. However, I do feel that I have been influenced by
26 things that have appeared and conversations that have been held

1 and things of that sort.

2 Q Well, are you sensible of any feeling of bias or pre-
3 judice against the Commonwealth or against the accused?

4 A I don't think that I, myself, have come to any type of
5 conclusion, but, however, I do think that everything that I have
6 heard or read probably would have some influence. I don't think
7 any type of decision would be final, of course, until everything
8 was said that needed to be said.

9 Q You don't think then that you could remove from your
10 mind any of these newspaper stories and things and the effect
11 of those and decide the case solely on what you hear in this room?

12 A I would like to think I could, yes, but I'm not sure
13 that that hasn't influenced me in some manner. I'm telling you
14 that I would very much like to feel that I was fair and unbiased,
15 but at the same time I have read everything--

16 Q You have been exposed as most people have to all these
17 articles?

18 A Yes.

19 Q That's one of the problems we have in trying to resolve
20 the nagging problem of fair trial and free press.

21 A Very much so.

22 Q We just have to do the best we can. Well, let me ask
23 you this final critical question. Do you know of any reason why
24 you could not give the Commonwealth on the one hand and the de-
25 fendant on the other a fair and impartial trial, based solely
26 upon the law and the evidence in this courtroom?

1 A I would like to think that I could be fair and give
2 fair hearing to both sides anything that was presented to me.

3 Q All right, now you mentioned a moment ago something
4 about knowing Mr. Epperly. What did you start to say then?

5 A I teach at the high school and Mr. Epperly substituted
6 there with us last for a period of time.

7 Q Well, was that working relationship such that, was it
8 close enough that it would affect you for or against him?

9 A I don't think so but I thought that possibly I should
10 let you know that.

11 Q Well, I appreciate that. You are still a teach are you?

12 A Yes, sir.

13 Q Did you all teach in the same department?

14 A On occasion, yes, sir.

15 Q Hum?

16 A Yes, sir.

17 Q How well did you get to know him?

18 A Casually.

19 Q Casually. All right, let's let the attorneys ask you
20 some additional questions, please, ma'am.

21 BY MR. SHOCKLEY:

22 Q Miss Jackson, my name is Everett Shockley and I'm
23 Commonwealth Attorney in Pulaski County. How are you this after-
24 noon?

25 A Fine, thank you.

26 Q Just, I guess to beat a dead horse, as, well, the Judge

1 has asked you several questions in the same vein. I would like to
2 just ask you a couple more. Again from the evidence that the
3 Commonwealth and the defense would produce at any trial, would you
4 be able to base your decision on that evidence alone to reach a
5 verdict of guilt or innocence on that?

6 A I would like to think I could. However I do think that
7 there is a possibility of bias. I would like not to think that
8 I'm biased or prejudiced in any manner.

9 Q Do you think that because of what you've heard other
10 people say and the newspaper accounts that it would cause you to
11 have some bias against Mr. Epperly?

12 A I would like not to believe that.

13 Q Well, I know what you would like to believe, but is it
14 in fact true that you have some bias against him?

15 A It is possible, but I don't think so.

16 Q Well, again, you say its possible.

17 A What I have been exposed to is all been extremely negative.

18 Q Uh hum. And you think that that would influence your
19 decision as a juror?

20 A I think it could.

21 Q Judge I don't want to inject any error in this proceeding
22 and with all due respect to Mrs. Jackson, I, you know she has
23 expressed some difficulty with her impartiality and if that be the
24 case, then certainly we don't want to take the chance on putting
25 error in this and I suggest that possibly she should be refused.

26 THE COURT: Do you gentlemen, have any objection?

1 MR. LOOKABILL: No, sir, I have no objection.

2 THE COURT: Mrs. Jackson, we thank you very much for your
3 appearance and your candor and you are now excused and you can
4 go back to your children.

5 MRS. JACKSON: Thank you.

6 (The juror is discharged.)

7 PATRICIA ANN McGRADY,
8 a juror, after being first duly sworn, being examined on voir dire:

9 BY THE COURT:

10 Q Would you state your name, please, ma'am.

11 A Yes, sir, Patricia Ann McGrady.

12 Q And Miss, is it Miss or Mrs.?

13 A It's Miss.

14 Q Miss McGrady, where do you live?

15 A 41 6th Street, northeast.

16 MR. LOOKABILL: Your Honor, for what it's worth if I may
17 interrupt for a moment. Miss McGrady works at the Department of
18 Social Services and my partner and I do represent the Department
19 of Social Services. I thought you ought to be aware of that.

20 AQ All right, thank you. Miss McGrady, as I advised your
21 group earlier. This is the case of Commonwealth v. Stephen
22 Matteson Epperly who stands trial upon the charge of murder of
23 Gina Renee Hall. Are you related by blood or marriage to the
24 defendant, Mr. Epperly?

25 A No, sir.

26 Q Are you related by blood or marriage to Gina Renee Hall?

1 A No, sir.

2 Q Were you on the Grand Jury that returned the indictment
3 in this case?

4 A No, sir.

5 Q Were you in the courtroom when the Grand Jury was charged
6 or when it reported?

7 A No, sir.

8 Q Do you have any interest in the outcome of this case
9 other than to do justice to each side should you be selected as a
10 juror?

11 A No, sir.

12 Q Have you acquired any information about the alleged
13 offense through the news media or any other source?

14 A No, sir, except through just the newspaper and what I've
15 read through the paper itself and the news.

16 Q Yes, ma'am. Well, considering what you have read or
17 heard, would that information affect your impartiality in the
18 case?

19 A No, sir.

20 Q Have you formed or expressed any opinion as to the guilt
21 or innocence of the accused?

22 A No, sir.

23 Q Considering what you have heard or read about the case,
24 do you believe that you could enter the box, jury box with an
25 open mind and wait until you have heard the entire case before
26 reaching a fixed opinion as to the guilt or innocence of the

1 accused?

2 A I would hope so, sir, yes.

3 Q You think you could do that?

4 A I would hope so.

5 Q Well, we all hope a lot of things?

6 A Right.

7 Q Do you think you could?

8 A Well, I would like to say that I am acquainted with
9 the family that does own the cabin and I do know the family, but
10 I am acquainted only through church, the area of it. Other than
11 that I have no knowledge.

12 Q Have you been to the cabin where this is alleged to
13 have occurred?

14 A No.

15 Q Since it occurred?

16 A No, sir.

17 Q Have you discussed the occurrence with your friends
18 who own the cabin?

19 A No, sir, I know them only through church.

20 Q Well, really the fact that they own the cabin wouldn't
21 have anything to do with it one way or the other then would it?

22 A That's true, sir, right.

23 Q Are you sensible of any feeling of bias or prejudice
24 for or against either side for any reason?

25 A No, sir.

26 Q Mr. Lookabill mentioned that you work at the Department

1 of Social Services and that his firm represents that department.
2 Is your working relationship with these lawyers such that it
3 would influence you in any way insofar as their client is con-
4 cerned in this case?

5 A Not to my knowledge, sir, no, not to my knowledge.

6 Q It wouldn't be embarrassing for you to find whatever
7 verdict you think is proper, is that correct, insofar as your
8 friendship with Mr. Lookabill and Mr. Warburton is concerned?

9 A Oh, goodness, sir, that's a hard--I know Mr. Lookabill
10 but I don't believe that would influence me.

11 Q All right. One final question, do you know of any
12 reason whether I've touched upon it or not, why you cannot give
13 the Commonwealth on the one hand and the defendant, Mr. Epperly,
14 on the other hand, a fair and impartial trial, based solely upon the
15 law and the evidence?

16 A No, sir, just by my acquaintance with the family that
17 own the cabin and my acquaintance with them through church, and
18 that would be the only thing that would.

19 Q Now these here gentlemen will probably want to ask you
20 some questions.

21 BY MR. EPPERLY:

22 Q Hi, Miss McGrady, how are you today?

23 A Fine.

24 Q And again the fact that you may know Mr. and Mrs. Davis,
25 that really doesn't have any bearing on the guilt or innocence of
26 this defendant, does it?

1 A No, sir, just that I know them through church and
2 acquainted with them. I wanted you to be aware of that.

3 Q What I'm saying is the fact that their house may be in-
4 volved doesn't prove a homicide or a death or anything else or
5 that this individual is responsible for it?

6 A No.

7 Q So I take it that that, knowing the Davises really would
8 not enter into your decision making process?

9 A That's true.

10 Q Beause the one issue in this proceeding would be whether
11 or not the defendant killed and murdered Gina Hall as he is
12 charged with?

13 A Right.

14 Q Are you familiar with the Claytor Lake Dam area?

15 A Yes, sir, uh hum.

16 Q Do you go fishing down there or picniding?

17 A Picnicking, yes, some.

18 Q Are you pretty familiar with the area?

19 A Not really, generalizing.

20 Q Do you know the Hazel Hollow Road?

21 A Yes.

22 Q You know you go down Route 11 and turn off unto it?

23 A Uh huh.

24 Q Have you traveled that road quite a bit?

25 A No, not a lot, no.

26 Q But you are familiar with it somewhat?

1 A Right.

2 Q Are you familiar with the railroad trestle that goes
3 across the New River at Hazel Hollow Road and into Radford?

4 A Not really, sir, no.

5 Q Are you familiar with the west end of Radford, the street
6 layout, homes and buildings and so forth?

7 A Not really, sir, no.

8 Q Do you have any children yourself?

9 A No.

10 Q Do you believe that certain types of dogs have a scenting
11 ability that is superior to that which you and I have as human
12 beings?

13 A Yes, uh hum.

14 Q Do you believe that it's possible for one person to
15 kill or murder another person and then hide or dispose of the
16 body in such a fashion that the body is never found or it takes
17 years to find it?

18 A I would say so.

19 Q For that reason alone do you feel that someone who kills
20 another person and is capable of permanently hiding the body for
21 a long period of time, do you think that that fact alone should
22 relieve them of responsibility for their acts?

23 A I wouldn't know.

24 Q What I'm getting at, of course in any homicide prosecu-
25 tion the state affirmatively prove beyond a reasonable doubt that
26 a death has occurred, that the death was by criminal means and that

1 accused is the one who committed the murder. Otherwise, of course,
2 the accused would be entitled to an acquittal. As you probably
3 know from the newspaper accounts Gina Hall has never been found
4 alive or dead and if the state were to introduce circumstantial
5 evidence, facts and circumstances, which when lumped together or
6 grouped together, prove to you beyond a reasonable doubt that she
7 was dead, died of criminal means and that the defendant was the
8 perpetrator would you have any problem in returning a verdict of
9 guilty even though the body had never been found?

10 A No, sir, beyond a shadow of a doubt, no.

11 Q You say, "Beyond a shadow of a doubt." Do you understand
12 that the burden of proof in a criminal case is beyond a reasonable
13 doubt. I don't know if that's the same as beyond a shadow of a
14 doubt or--

15 A Reasonable doubt.

16 Q --beyond a reasonable doubt. I realize we are playing
17 with words. So then the fact that the body was never found would
18 not keep you from convicting someone if the other evidence proved
19 beyond a reasonable doubt that she was dead and the accused was
20 the perpetrator?

21 A No, sir.

22 Q I believe that's all I have, thank you.

23 BY MR. WARBURTON:

24 Q Miss McGrady, I'm going to ask you some more questions.
25 I hope you don't think that I'm prying. You understand that we have
26 a very serious job to do here.

1 A Right.

2 Q I just want to make sure you don't get angry with me.

3 A All right.

4 Q How long have you been a resident of Pulaski County?

5 A Let's see, I have to do some math here. I'd say roughly
6 15, 16 years.

7 Q How long have you worked for the Department of Social
8 Services?

9 A Almost 6.

10 Q And I believe you work in the food stamp section?

11 A Right, uh hum.

12 Q I believe you deal with many members of the public?

13 A Right.

14 Q _____ (Unintelligible).

15 A Uh hum.

16 Q Have you had the same position down there?

17 A No, sir, I was an eligibility worker on public assistance
18 and then I transferred about three months ago into the food stamp
19 department.

20 Q That wouldn't have had any effect on the number of people
21 or, I guess the differences between the people that you would see?

22 A No.

23 Q Basically it would be the same people?

24 A Right.

25 Q Quite a lot of people in your daily dealings?

26 A Yes, sir, uh huh.

1 Q What is your educational background?

2 A High school education.

3 Q And was that in this county?

4 A Yes.

5 Q Now regarding the Department of Social Services, as you
6 know Glennwood and I represent your department. I believe you
7 and I also worked together on some fraud cases?

8 A Uh hum.

9 Q From the prosecution standpoint?

10 A Right.

11 Q Have you also worked with Mr. Shockley or Mr. Terwilliger
12 on those same type of claims?

13 A Uh hum.

14 Q Given that you know all four of the attorneys who will
15 actually be participating in this case, is there anything about
16 anyone of the four of us that would prejudice you against us or
17 for us, anyone of the four of us?

18 A No, sir.

19 Q And it wouldn't affect your judgment then on what it is
20 that we have to say and don't have to say?

21 A No, sir.

22 Q You understand that anything any of the four of us says
23 is evidence or not evidence?

24 A I'm sorry, Mr. Warburton, say that again.

25 Q Do you understand that what we say is evidence or do
26 you understand that it is not evidence?

1 A I don't follow you, I'm sorry.

2 MR. SHOCKLEY: Your Honor, this question is phrased so again
3 we are getting into legal technicalities and this woman just can't
4 be expected to know the answer to that question.

5 THE COURT: Why don't you just tell her instead of asking
6 her.

7 Q You understand that everything that we say is not evidence,
8 do you know?

9 A Right.

10 Q That all the evidence comes from that seat actually
11 where you are sitting?

12 A Yes, right.

13 Q Now I want you to look at my client here, Mr. Epperly.
14 I want you to tell me whether or not you have any idea in your
15 mind one way or the other whether he's guilty or not?

16 A No, sir.

17 Q Not a bit?

18 A Not a bit.

19 Q What is it that you have heard--I believe you mentioned
20 radio, TV or newspaper?

21 A Right.

22 Q Could you take them one at a time. What have you seen
23 on TV?

24 A Just sporadic, Mr. Warburton, what I would catch on the
25 news, you know, just maybe update.

26 Q What kind of updates are you talking about, recently,
or earlier in the summer?

1 A About a week ago, something like that.

2 Q What is it that you heard a week ago?

3 A I read the paper so seldom, really. I don't have time.
4 Mostly, I guess, that the trial would be starting. Then I heard
5 this morning on W--on the news that the jury would be selected
6 today and that's just about the news that I have.

7 Q What about any particular facts about this alleged
8 crime, do you know the area in which it was supposed to have
9 occurred, and things like that?

10 A What I read in the paper, but I couldn't pinpoint to
11 you, no, sir.

12 Q What is it that you read in the paper?

13 A Just the general area of New River, you know, that's
14 all that I have knowledge of.

15 Q Which newspaper are we talking about?

16 A Southwest Times.

17 Q What about the Roanoke Times?

18 A I very seldom read that. I scan the headlines.

19 Q And do you get the Southwest Times daily?

20 A Yes.

21 Q Do you feel that you have read most of what's been in
22 the paper about this particular case or some of it?

23 A Not most of it, no, sir, just partial.

24 Q What kind of reaction do you have when you hear news
25 about this case?

26 A None.

1 Q Did you or were you aware of the time that our client
2 here was arrested, were you aware of that fact, the time it
3 happened?

4 A Yes, uh hum.

5 Q What reaction did you have when you heard that?

6 A Really none, Mr. Warburton.

7 Q Were you in any way relieved that someone had been
8 arrested?

9 A Not really, no, sir.

10 Q Did you feel that the fact of arrest had anything to do
11 with whether or not there was evidence against this person?

12 A No, sir, I really didn't think of these factors.

13 Q In your social life or at work have you heard persons
14 discussing this case?

15 A Sure.

16 Q Frequently?

17 A No.

18 Q Have you ever entered into any of the discussions?

19 A Not really, no. That sounds feeble but I don't have
20 that much time. I usually keep pretty busy, Mr. Warburton.

21 Q That I know. When you have overheard discussions or
22 have been around them, have you heard _____ (unintelligible)?

23 A Yes, of course.

24 Q Have they mostly been of one kind or another?

25 A Pro and con, un huh.

26 Q Both?

1 A. Um hum.

2 Q. And what's your reaction been to those opinions?

3 A. That's their opinion and that's my reaction to it.
4 They're entitled to that opinion and that's all that I really feel.

5 Q. Have you ever doubted an opinion and said that that
6 person highly doesn't know what they are talking about or that
7 the defendant, Epperly, might feel differently?

8 A. Possibly, yes, if they looked at it and rationalized
9 all of it, but it's just talk that you hear, you don't, really
10 think of all these things when you're--

11 Q. Have you changed your own thinking as the result of
12 hearing these discussions?

13 A. Not really, no.

14 Q. Assuming that you were on trial today instead of Mr.
15 Epperly, would you want jurors that have the same frame of mind
16 that you have right now, would you be satisfied with a juror
17 with your frame of mind to judge you, yourself?

18 A. I would hope so, Mr. Warburton; I would hope that they
19 would have an open unbiased mind.

20 Q. I get the sense that you feel you have a very open and
21 unbiased mind?

22 A. I hope I would have.

23 THE COURT: What was your answer, what was your last state-
24 ment?

25 A. That I hope I would have.

26 THE COURT: Would have what?

1 A An unbiased, an open, unbiased mind, yes.

2 Q As far as you are concerned, Mr. Epperly stands accused
3 of the crime but he's innocent at this point?

4 A Of course, yes.

5 Q Do you understand that he's innocent all the way
6 through the trial?

7 A Yes.

8 Q Do you understand that if you were to be a juror in
9 this case _____ (unintelligible) of his innocence until
10 you retire to the jury room and deliberate with your fellow
11 jurors?

12 A That's true, yes.

13 Q Do you feel that you could keep your mind open through-
14 out the trial and all the way to the jury room?

15 A I would hope so, Mr. Warburton.

16 Q I take it you have never served on a jury before?

17 A No, sir, I have not.

18 Q At anytime?

19 A It scares me to death.

20 Q I know for a fact though that you have been a witness
21 in criminal cases?

22 A Right.

23 Q Would your experience as a witness in a case give you
24 any feeling one way or another about the witnesses who will take
25 that stand or another stand during the trial in this case?

26 A No, sir.

1 Q Do you cringe when it's time for cross examination?

2 A Surely.

3 Q Do you understand that that's a necessary part of the
4 criminal justice system?

5 A No, sir.

6 Q Do you think it should be done away with, cross examina-
7 tion?

8 A No, sir, no, of course not.

9 Q Do you understand that cross examination is very im-
10 portant in trying to achieve the truth in any case?

11 A Yes, sure.

12 Q Now having some experience in a criminal trial, do you
13 understand that the prosecution bears the burden of proving the
14 facts that they allege, do you understand that they have to prove
15 every bit of it beyond a reasonable doubt and if they slip up in
16 one small piece, one element in the crime, that they alleged
17 happened, if they fall just short on that, do you understand that
18 you are _____ (unintelligible) with the duty to return a verdict
19 of not guilty?

20 A Uh hum.

21 Q Mr. Shockley asked you about circumstantial evidence.
22 You may or may not understand what circumstantial evidence is, but
23 I hope you will understand that circumstantial evidence is to be
24 received by any member of the jury with great care and caution.
25 Do you think you could comply with that?

26 A I would hope so.

1 Q Do you realize that the indictment in this case that
2 you may have heard about this morning when all of you were up
3 here, do you understand that it's merely a piece of paper that
4 allows the Commonwealth the privilege of trying our client?

5 A Uh hum.

6 Q Do you understand that it's not evidence of anything?

7 A Yes, sir.

8 Q Do you understand that the comments that we all make are
9 not evidence in the case?

10 A (Inaudible).

11 Q That you take to the jury room the evidence that comes
12 from that witness stand?

13 A Yes.

14 Q Once you get inside the jury room if you are in a
15 minority of thought, a minority even of one, do you feel that you
16 would hold to it?

17 A If I felt that way I would hope so, yes.

18 Q Well, you would hope so. Do you have any kind of yard
19 stick besides that to know whether or not you could stick to your
20 guns?

21 A If I felt I was right, I would stick to it, yes.

22 Q Regardless of the numerical disparities between your
23 position and the other position?

24 A Yes.

25 Q You would then judge this case solely on the facts that
26 were presented to you, the evidence that was presented to you?

1 A Yes.

2 Q You understand the jury decides the facts and the Judge
3 decides the law?

4 A Yes.

5 Q If you had any disagreement with the law that the Judge
6 gave you, would you still apply the law as it gave it to you?

7 A Yes.

8 Q Do you have any connection whatsoever with Radford
9 College? Have you ever taken a course there?

10 A Yes, sir, when I was in banking, several years ago,
11 about eight or nine years ago.

12 Q That was when it was called Radford College?

13 A Right.

14 Q Do you associate with people who regularly attend
15 Radford College or teach there?

16 A No, sir.

17 Q Are you familiar with the layout of campus and things
18 like that yourself?

19 A No, huh uh.

20 Q If you were chosen to be a juror in this case, Miss
21 McGrady, would you be embarrassed at the end of the trial to have
22 returned a verdict of guilt or to have returned a verdict of not
23 guilty?

24 A No, sir.

25 Q Would that in any way influence your relationship with
26 your friends and coworkers?

1 A No.

2 Q You mentioned the Davis family?

3 A Right.

4 Q Who is it in that family that you are familiar with?

5 A The wife and the son.

6 Q All right, is that Betty Davis?

7 A Yes.

8 Q And William King?

9 A Right.

10 Q How familiar are you with those people?

11 A I know them--

12 Q You mentioned church?

13 A Yes, I mentioned church, that's correct.

14 Q Do you attend every week?

15 A No, sir, no.

16 Q Are they there every time you are there is that fair
17 to say?

18 A It's been several months since I've ~~ben~~ but they were.
19 attending when I was there, yes.

20 Q Either one of them on the Board of Deacons or Elders
21 or whatever?

22 A Not to my knowledge.

23 Q How about yourself, are you a church officer?

24 A No.

25 Q You have known Betty Davis for how long would you say?

26 A Oh, I'd say roughly ten years.

1 Q Ten years?

2 A Yes.

3 Q And what about Mr. King?

4 A I knew him just casually up until about three or four
5 years ago and then I saw him again about a year ago but I haven't
6 seen him since then when he would come to church, only through
7 church.

8 Q He would have been a relatively young man when you first
9 met him?

10 A Yes.

11 Q And you have seen him mature somewhat?

12 A Yes, uh hum.

13 Q Have you and Mrs. Davis discussed young Bill King?

14 A No.

15 Q What he is doing and how he is doing, things like that?

16 A No, no.

17 Q If either one of them were to be a witness in this case,
18 do you think you could carefully scrutinize what they have to say
19 as well as any other witness or would you be somehow swayed by
20 your own personal feelings as to whether you trust what they say?

21 A Now that's where I feel limited right there because I
22 do them and that's where I believe I would rather not.

23 Q You would rather not what?

24 A Be a juror.

25 Q O.k.--

26 A --with them, with going to church with them.

1 Q O.k., do I take it from what you say that perhaps you
2 would be embarrassed to return a verdict of guilty or not guilty
3 because of the continuing relationship with Mrs. Davis and Mr.
4 King?

5 A I wouldn't say embarrassed.

6 Q What would you say?

7 A Taken aback, maybe.

8 THE COURT: Would you turn and face me, please. I'm having
9 difficulty hearing you.

10 A I'm sorry. Knowing them through church I feel like I
11 would be, I don't feel like I would be impartial. I feel like I
12 may possibly--just knowing them I'd rather not be involved. I
13 mean that's--

14 THE COURT: Knowing the people who own the house?

15 A Knowing the wife and the son.

16 THE COURT: You know them through the church you say?

17 A Yes, sir, right.

18 THE COURT: And because of that fact you'd rather not be
19 involved?

20 A Right, that's true.

21 THE COURT: All right, gentlemen, is there anything further?

22 Q Your Honor, I would like to get a response to the
23 question that I did ask. If either one of those two persons
24 _____ (unintelligible), if either one of those two persons,
25 or both of them, testified as witnesses in this case, would you
26 give their testimony some greater weight or lesser weight because

1 you are familiar with them as persons?

2 A No.

3 Q In other words would you trust them more because you
4 are familiar with them?

5 A No.

6 Q Would you be any more suspicious of what they have to
7 say?

8 A No.

9 Q You would merely be uncomfortable during the trial re-
10 gardless of what happened?

11 A Right, uncomfortable is a good word, yes.

12 Q With seeing those persons?

13 A Right, as far as my judgment, no, but an uncomfortable
14 feeling, yes.

15 Q You also stated you would rather not be a juror?

16 A Right.

17 Q The Judge asked you at the beginning of the questioning,
18 before Mr. Shockley asked questions and before I did if there was
19 any reason why you could not serve as a fair and impartial juror?

20 A Uh hum.

21 Q And I believe you responded that there was no reason?

22 A Right.

23 Q Now that you've had time to think about it, now that the
24 question has been asked, do you feel that that is a reason why
25 you could not be a fair and impartial juror?

26 A Yes.

1 Q So if the Judge were to ask you that same question again,
2 you would answer it differently after thinking about it?

3 A Right. I expressed my knowledge of knowing the people
4 that owned the cabin and it would be an uncomfortable feeling, yes.

5 Q Hum?

6 A It would be an uncomfortable feeling to meet them,
7 yes.

8 THE COURT: Well, we all are uncomfortable, Mrs. McGrady,
9 but that's not the point. We are not here seeking comfort.

10 A I know.

11 THE COURT: What we want to know is whether you can be a
12 fair, impartial objective juror. That's all we want to know.
13 They can ask questions for another two hours, but that's what it
14 boils down to, that's all I'm interested in. Now you told me
15 you could do that. Now after all these questions you seem to have
16 some doubt about it, but I'm not really sure what you mean to be
17 telling me.

18 A Judge Arthur, you threw it out when I mentioned knowing
19 the family that owned the cabin. You seemed to throw that out and
20 that's the only knowledge I have and that would, meeting those
21 people would make me uncomfortable but it would not in any way
22 sway my feelings of the evidence that I have, no.

23 THE COURT: Well, now that's what I thought you said.

24 A And I hope I've expressed that.

25 THE COURT: All right.

26 A But the feeling would still be there.

1 Q Mrs. McGrady, I just have basically one more question.
2 You've mentioned that you know the Davises own the cabin?

3 A Yes.

4 Q Have you ever been there?

5 A No, sir.

6 Q Do you know anything about the cabin in your discussions
7 with Mrs. Davis?

8 A No, no, sir.

9 Q Have you seen Mrs. Davis since this crime was alleged
10 to have occurred?

11 A No, sir.

12 Q When was the last time you saw her?

13 A Just about a year ago.

14 Q And was that about the same time you saw William King?

15 A Yes, sir, that's correct.

16 Q Judge, I have no further questions of this potential
17 juror.

18 THE COURT: Sir?

19 MR. Warburton: I have no further questions of this potential
20 juror.

21 THE COURT: Mr. Shockley, do you have any further questions?

22 MR. SHOCKLEY: I'm not sure that I heard the answer to the
23 last question or two.

24 Q You say you know Mrs. Davis and Bill King?

25 A Uh hum.

26 Q Have you ever gotten any notion from either of those

1 two people that they had an interest in this case, to either see
2 Steve Epperly convicted or to see him acquitted?

3 A No.

4 Q So you are not sensible of any feeling that they have,
5 any motive that they may have, if any?

6 A No.

7 Q And you are just stating that you could try the case
8 fairly and impartially as a juror but possibly you may suffer
9 some discomfort because they somehow are connected with the case?

10 A Yes, sir, that's correct.

11 Q But that discomfort that you may personally feel would
12 not affect your objectivity as a juror?

13 A No, sir.

14 THE COURT: I guess one of us asked you this question and I
15 don't remember how you answered it. Have you discussed this case
16 with these friends?

17 A With the Davises?

18 THE COURT: uh hum.

19 A No, sir.

20 THE COURT: I thought that's what you said but I wadn't sure.
21 All right, you may step down and retire over here to the jury
22 room.

23 (The juror leaves the courtroom.)

24 THE COURT: All right, gentlemen, you may state your objections
25 if you have any.

26 MR. WARBURTON: If it please the court, the Court is aware

1 that the defense counsel is not aware of what the evidence may or
2 may not be in this case. Through whatever channels I've been able
3 to achieve any knowledge about this case, I am aware that William
4 King will not only be a witness for the Commonwealth but be a
5 _____ (unintelligible) a witness, certainly one that they
6 would not want to do without. As to Mrs. Ronald Davis I am aware
7 that she has been summoned as a witness. I cannot perceive of
8 the Commonwealth putting on a case without calling her. Both
9 these persons will be in the courtroom, links in the chain of
10 evidence that the Commonwealth intends to prove in the upcoming
11 trial of Mr. Epperly. I think it would be terribly unfair to
12 subject a potential juror to an uncomfortableness which she her-
13 self suggested to sit on that jury. In addition to which I cannot
14 perceive of a juror who is acquainted with a person for ten years,
15 not having different feelings about the truth or veracity of what
16 a person's testified to from that witness stand as a result of
17 those ten years acquaintence, especially through church. I
18 think it's unavoidable, as certain as Mrs. McGrady appears and
19 wants to appear. It's unavoidable that she would not have a
20 different reaction to these two witnesses which I suggest again are
21 very important witnesses for the Commonwealth. It's unavoidable
22 that she won't have a different reaction than other jurors in this
23 case should have and I feel that she will give great credence to
24 her friends' testimony that should, may or may not have been there.

25 In addition, Your Honor, she is acquainted with all the attorneys
26 in the case. She may or may not have feelings. She expressed that

1 she didn't feel one way or the other about either four of us.
2 That in addition would be another reason for her not to be seated
3 as a juror in this case. Thank you.

4 MR. SHOCKLEY: Your Honor, she was the one who answered the
5 questions. She was under oath. She stated that she had no feelings
6 for or against any of the four attorneys with whom she's had
7 dealings. She testified that it's been some months since she's
8 had any contact with Mrs. Davis or Mr. King. She said without a
9 doubt up here that it would cause her some discomfort being on
10 the jury but that she could weigh their testimony as any other
11 witness and not be prejudiced just because of, you know, the person
12 testifying and, of course, many times in rural areas when we try,
13 particularly criminal cases, you'll have a situation where it's
14 almost impossible to escape knowledge on the part of the jury of
15 some witness. It's almost impossible in your rural counties
16 around here so she stated that she could try the case fairly and im-
17 partially. The Kings would not have, or Mr. King and his mother,
18 Mrs. Davis would not have any influence on her as a juror, but
19 it would just cause her some discomfort which she would prefer not
20 to experience. That's no reason to discharge her for cause.

21 THE COURT: Well, I'm inclined to agree. Particularly in
22 view of the fact that she says she hasn't even spoken to these
23 people about the case. It's never been mentioned and her con-
24 nection seems to be with them through the church. They are, I
25 gather, friends like we all have friends in churches and other
26 organizations, but I don't believe that that and that alone

1 would disqualify this lady from serving so I shall accept Miss
2 McGrady.

3 MR. WARBURTON: Please note our exception for the record,
4 Your Honor.

5 THE COURT: Yes, sir:

6 THEODORE PAGE,

7 a juror, after being first duly sworn, being examined on voir
8 dire:

9 BY THE COURT:

10 Q All right, sir, if you'll just take your seat there
11 and give us your name, first, please.

12 A Theodore Page.

13 Q Page?

14 A Uh huh.

15 Q And where do you live, Mr. Page?

16 A _____ (Unintelligible) Street in Dublin.

17 Q Were you on the grand jury that returned the indict-
18 ment in the case of Commonwealth v. Stephen Matteson Epperly
19 who is charged with murder? Have you been on a Grand Jury ever?

20 A (Silence).

21 Q Were you in the Court room when the Grand Jury was
22 charged and when it made its report about two or three weeks
23 ago?

24 A No, sir.

25 Q All right, Stephen Matteson Epperly is seated here be-
26 tween his two attorneys, Mr. Lookabill, on the outside and Mr.

1 Warburton on the inside and he's charged with murder of Gina
2 Renee Hall. Are you related by blood or marriage to Mr. Epperly?

3 A No, sir.

4 Q Or to Miss Hall?

5 A (Silence).

6 Q Do you have an interest in the outcome of this case other
7 then to do justice to each side if you should be selected as
8 a juror?

9 A Right.

10 Q Is that what you would try to do?

11 A Yes, sir.

12 Q Do you have any interest in the case other than that?

13 A No.

14 Q Have you acquired any information about the case from
15 the newspaper or the radio or television or from just talking with
16 people?

17 A Huh uh.

18 Q You do not have any information about the case? Had
19 you heard about it before today?

20 A Just, you know, briefly.

21 Q How was that, talking to people about it?

22 A No, you know, people were telling me they had read it
23 in the paper and stuff, you know.

24 Q You never have read anything yourself?

25 A No, huh uh.

26 Q You don't remember hearing anything about it on radio
or seeing anything about it on television?

1 A No.

2 Q All right, well, now, what these people said to you,
3 does that affect you one way or another as a prospective juror?

4 A No.

5 Q Was it just casual conversation or did they really try to
6 talk--

7 A They weren't directly talking to me. They were talking
8 to other people about it, and I was just standing there.

9 Q You overheard it?

10 A Right.

11 Q All right, do I understand then that those conversations
12 would not affect your ability to act as a juror and do each side
13 fairness and justice, is that correct?

14 A No.

15 Q Have you formed or expressed any opinion as to the
16 guilt or innocence of Mr. Epperly?

17 A Huh uh.

18 Q Do you think you could sit in the jury box and hear the
19 entire case with an open mind and then go to the room and decide
20 it after you have heard the entire case and decide the case
21 solely on what you hear here in the courtroom?

22 A Right.

23 Q Do you have any feeling of bias or prejudice for or
24 against the Commonwealth for any reason?

25 A No, sir.

26 Q Do you have any feeling of bias or prejudice for or

1 against the defendant for any reason?

2 A Huh uh.

3 Q Do you know of any reason whether I've touched upon it
4 or not why you could not give the Commonwealth on the one hand--
5 when we say Commonwealth, we are talking about the State of Virginia,
6 the state on one hand and the defendant on the other, do you know
7 of any reason why you could not give each of them a fair and im-
8 partial trial based solely upon the law and the evidence that
9 you would hear in this courtroom?

10 A No, sir.

11 Q All right, the lawyers now will ask you some questions.

12 MR. LOOKABILL: Your Honor, before questioning is done, Mr.
13 Page has been a client of mine on several occasions. I represented
14 him in a civil matter just--

15 THE COURT: How long ago was the most recent representation?

16 MR. LOOKABILL: A month ago. Matter is concluded, but I

17 THE COURT: You are not representing him now?

18 MR. LOOKABILL: I think that matter is concluded, but I
19 have represented him. I think I maybe advised him a little bit
20 on his mother's estate, too.

21 THE COURT: Well, let me ask you, Mr. Page, would that fact
22 affect your fairness?

23 A No.

24 THE COURT: Would that prejudice you in favor of Mr. Looka-
25 bill's side of the case?

26 A No.

1 THE COURT: You could decide it; you wouldn't be uncomfortable?

2 A No.

3 THE COURT: All right.

4 BY MR. SHOCKLEY:

5 Q Mr page, how are you this afternoon?

6 A All right. How are you?

7 Q Fine thank you. You say knowing, Mr. Lookabill and
8 having been represented by him would not affect your decision?

9 A No, huh uh.

10 Q Not sway you at all?

11 A No.

12 Q And you are not currently represented by him?

13 A No.

14 Q Are you familiar with the Claytor Lake Dam area?

15 A Yeah.

16 Q Have you been fishing over there or anything like that?

17 A Yeah.

18 Q Are you familiar with the Hazel Hollow Road that runs
19 off of Route 11 and along the River's edge?

20 A Yes.

21 Q You travel down that road do you?

22 A Uh huh.

23 Q Would you say you are very familiar with this area or
24 somewhat familiar or how would you categorize it?

25 A Pretty familiar with it.

26 Q Have you ever lived over that way?

1 A Huh uh.

2 Q Are you familiar with the railroad trestle that crosses
3 the bridge, river?

4 A (Unintelligible).

5 Q Are you familiar with the west end of Radford?

6 A Yeah.

7 Q Do you have any friends or relatives who live over
8 there?

9 A No.

10 Q Do you go over to west end of Radford any, you know, for
11 any reason, socialize, business?

12 A Huh uh.

13 Q Are you married?

14 A No, sir.

15 Q Do you ever hunt?

16 A No.

17 Q Do you believe that certain types of dogs have a smelling
18 or scenting ability that is superior to what you and I have as human
19 beings?

20 A Right.

21 Q Do you believe that like blood hounds and german shepherds
22 and dogs that are used in tracking and so forth, do you believe that
23 they have a real sensitivity that enables them to be good at what
24 they do?

25 A Right.

26 Q Mr. Page, do you think it's possible for one person to

1 kill or murder another person and then hide or dispose of the
2 body in such a fashion that the body is never found or it takes
3 months or years to find it?

4 A _____ (Inaudible).

5 Q You don't think that's possible?

6 A I don't think so.

7 Q What do you feel, I mean do you, can you tell me--

8 A I feel like, you know, if it had happened, some way or
9 other it would get out and the body would come around or something.

10 Q So you think it would not be possible for me or any
11 other person to kill somebody and then take them down into Tenn-
12 essee or throw them in the lake or bury them or whatever, you
13 don't think that's possible for a person to do that and hide the
14 body so that it's never found?

15 A Oh yeah.

16 Q You think it is possible?

17 A Yeah.

18 Q Well, now you seem to have changed--

19 A I said, "NO," at first because, you know, I thought maybe
20 in the vicinity, but since you say, you know, do something with it
21 and destroy it elsewhere, you know, yeah. I figure it would be
22 around, you know, somewhere in close, somebody would find it or see
23 it.

24 Q Now you are familiar, you say with the Hazel Hollow Road
25 area and the Claytor Lake area. I think you'll acknowledge that
26 that's pretty rough terrain over there. You got a mountain side

1 and a river's edge and a lot of trees and brushes and so forth.
2 Don't you think even in that area it would be possible even to bury
3 a body or somehow dispose of it in that area so that it will never
4 be found?

5 A Yeah.

6 Q Do you?

7 A Yeah.

8 Q From what you know of the geographical layout of the
9 area?

10 A Right.

11 Q Assuming that a person was able to do that, that is
12 kill somebody and then hide the body in such a fashion that it's
13 never found or it takes years to find do you think that because
14 of that fact alone, that they have successfully hid the body, do
15 you think that that ought to give them an out or ought to keep
16 them from being prosecuted or persecuted for their wrongs?

17 A No.

18 Q Mr. Page, when I talk about circumstantial evidence,
19 that is evidence, A, B, C and D which may tend to prove Fact E,
20 when it comes to death, and of course, the State must prove that
21 death has occurred in any homicide prosecution because if there is
22 no death, obviously there is no homicide. Do you think that if the
23 State introduces a variety and a set of facts and circumstances
24 that prove to you beyond a reasonable doubt that Gina Hall is
25 dead, could you so conclude even though her body has not been
26 found?

1 A Yeah.

2 Q In other words, are you saying that if the state pro-
3 duces certain facts and circumstances you could conclude she's
4 dead even though her body has not been found?

5 A Yeah, maybe so.

6 Q Would you have serious reservations or problems with
7 doing that?

8 A No.

9 Q In other words if the evidence was there, if you feel
10 like she's dead from all the other facts and circumstances that
11 are found by the State, do you feel that you could conclude that
12 she was dead even though her body has not been found?

13 A (Inaudible).

14 Q I take it then with that type of evidence that the State
15 can prove that she was dead from circumstantial evidence, and
16 of course, you know in this case she has not been found dead or alive.
17 I take it that if the State had convincing evidence of that nature
18 and that that evidence further convinced you that the defendant
19 was the perpetrator that you could return a verdict of guilty on
20 some form of homicide, is that correct?

21 A Yeah.

22 BY MR. LOOKABILL:

23 Q Mr. Page, Mr. Warburton and I are going to ask a few
24 more questions. We'll try not to get too personal and promise
25 not to get mad at us. This is Mr. Epperly. Have you seen him
26 before today?

1 A No.

2 Q Do you know him?

3 A Never met him.

4 Q Never met him. How long have you been a resident of
5 Pulaski County, Mr. Page?

6 A Twenty-two years.

7 Q How old are you presently?

8 A Twenty-two.

9 Q So you've lived here all your life. Have you always lived
10 in the town area or have you lived, ever lived down near the river?

11 A No, same address.

12 Q Pardon?

13 A I've been at the same address in Dublin.

14 Q What's your present occupation?

15 A Student.

16 Q Where were you a student?

17 A New River Community College.

18 Q Do you work also or are you a full time student?

19 A I work on work study work.

20 Q Work study?

21 A Uh hum.

22 Q And take a full load of classes?

23 A Yeah, uh hum.

24 Q Have you ever been associated with the state police or
25 local police or town police, a member of the force or anything
26 like that?

1 A No.

2 Q Have you ever been in the military?

3 A No, huh uh.

4 Q You attended high school down at Pulask?

5 A Uh huh.

6 Q Have you formed any opinions about this case?

7 A No.

8 Q Have you given any serious thought about what you know
9 about the case?

10 A No.

11 Q You've heard some friends. Have you read anything your-
12 self?

13 A No, just, no I haven't read it; most I hear people
14 talking about what's in the paper. I don't take the paper.

15 Q Do you watch TV much?

16 A Sometimes when I'm not busy but not a lot, no.

17 Q Have you seen anything on TV about the case?

18 A Once or twice, maybe.

19 Q What was said on TV?

20 A Just where they say she was missing, you know, where they
21 were taking up money to find her.

22 Q Do you remember anything else that you heard on TV or
23 heard on radio about it, saw on TV or heard on the radio?

24 A No _____ (inaudible).

25 Q You say you have discussed the case with some friends?

26 A They were discussing it and I over heard it, yeah.

1 Q How did you react to it as they talked about the case?

2 A It didn't phase me either way really. I don't know
3 nothing, about it, just what people say, but you can't always
4 base what people say, you know that.

5 Q After talking to people, listening to people talking
6 about it, do you have any different opinion about the case as you
7 did prior to that?

8 A No.

9 Q The people that you heard talking about it, were most
10 of them sort of on the side of the police or on the side of the
11 defendant?

12 A They was, it was, you know, both, I guess.

13 Q And knowing how you feel about the case right now, if
14 you were on trial today rather than Mr. Epperly would you consider
15 yourself an acceptable juror?

16 A Yeah.

17 Q You feel that you are totally unbiased about the case.
18 You have no feeling one way or the other?

19 A Right.

20 Q For the state or for the defendant. As you sit here today
21 do you have an opinion as to whether Gina Renee Hall is in fact
22 dead?

23 A I don't know.

24 Q Do you have any feeling that yes, she is or yes, she
25 isn't or do you have any opinion at all about it?

26 A Not really.

1 Q You say, not really. You really, you honestly don't
2 have any thoughts one way or the other on it?

3 A Right.

4 Q As far as you are concerned today, right now, does
5 Mr. Epperly stand before you an innocent man?

6 A Yeah.

7 Q Do you understand that it's not our responsibility to
8 prove him innocent, that it's the Commonwealth's job to prove him
9 guilty beyond every reasonable doubt?

10 A Right.

11 Q Do you also understand that this burden that they have
12 means that they must prove that Gina Hall is dead and must prove
13 this to a moral certainty?

14 A Right.

15 Q Do you understand that?

16 A Yeah.

17 Q Have you ever been on a jury before, Mr. Page?

18 A Huh uh.

19 Q Have you ever appeared as a witness other than the civil
20 case that I represented you in?

21 A No.

22 Q Have you ever been a witness in a criminal case?

23 A No.

24 Q Has any member of your family ever been in a criminal
25 action, part of a criminal trial of any kind?

26 A Huh uh.

1 Q Has any close member of your family or a friend ever
2 been a victim of a serious crime such as murder or a serious
3 felony, never had a friend that was murdered or killed?

4 A I had one that was killed, but--

5 Q I mean as far as it being, was it a homicide or was it
6 an accident?

7 A I guess, well, they, I guess it was an accident.

8 Q Was someone charged with the crime with relation to it?

9 A You mean after they went to Court?

10 Q Yeah.

11 A Huh uh.

12 Q Was somebody tried in fact for killing your friend?

13 A Yeah.

14 Q Was the person convicted of killing your friend?

15 A No.

16 Q Do you have any feelings one way or the other about that,
17 the fact that the person was acquitted of killing your friend?

18 A Do I--

19 Q Did you have any feelings about that?

20 A That he wasn't prosecuted is that what you are saying?

21 Q He was not prosecuted?

22 A No, huh uh.

23 Q Do you know what an indictment is, what the Grand Jury
24 returns?

25 A Decides, right.

26 Q Do you understand that that's not evidence in a criminal
case?

1 A Yeah.

2 Q You do understand that? It's just merely a piece of
3 paper that brings the defendant before the Court to be tried?

4 A Yeah.

5 Q Do you understand that nothing that Mr. Shockley, or
6 Mr. Terwilliger or Mr. Warburton or myself say in this trial is
7 evidence?

8 A Do what?

9 Q Do you understand that anything the attorneys say in the
10 case is not evidence?

11 A Right.

12 Q Do you understand that?

13 A Yeah.

14 Q If you were on the jury, twelve of you, and you disagreed
15 with eleven people would you stick by what you believed, if you
16 believe it?

17 A Sure I would.

18 Q You would have no problems with that?

19 A No.

20 Q Could you try this case solely upon the evidence that is
21 presented from that witness stand?

22 A Sure.

23 Q Could you give Mr. Epperly the benefit of your individual
24 judgment in regard to every aspect of the case? What I'm saying
25 is would you make your own decision regarding the case?

26 A Sure.

1 Q Do you understand what a circumstantial evidence case
2 is?

3 A Huh uh.

4 Q It's a case where there is no direct evidence such as
5 an eye witness.

6 A Right.

7 Q In other words the Commonwealth in this case would try
8 to show other evidence, both of death and of other things in the
9 case but no eye witness testimony.

10 A Right.

11 Q Do you understand that circumstantial evidence has to be
12 accepted by a jury or rejected by a jury or viewed by a juror with
13 great care and caution. Do you understand that principle? Do you
14 understand a circumstantial evidence case to be like a chain. It
15 has to connect a criminal act with the defendant, a strong chain
16 and that if the Commonwealth's case fails in any one element, the
17 chain breaks and that you have to acquit the defendant. Do you
18 understand that?

19 A Yes.

20 Q Do you feel that you could give the defendant the benefit
21 of the presumption of innocence without any mental reservations on
22 your part?

23 A Sure.

24 Q Could you give Mr. Enperly the same fair trial that you
25 could give him if he were charged with spitting on the sidewalk or
26 a minor charge?

1 A Sure.

2 Q No matter what the charge is do you feel that you can give
3 him the same fair trial regardless?

4 A Right.

5 Q Do you have any connection with Radford College, Mr.
6 Page?

7 A No.

8 Q Do you have any friends that go there?

9 A Yeah I have some friends that attend Radford University
10 but I don't, you know.

11 Q Do you visit them over there?

12 A No, they don't live on campus.

13 Q Do you understand that if you were a juror, the Judge
14 would instruct you as to what the law of the case is and that you
15 would have to be judge of the facts of the case?

16 A Right.

17 Q Would you reserve your decision in the case until all
18 the evidence was put on?

19 A Sure.

20 Q O.k., I hope I haven't been too prying here, into your
21 personal life. I appreciate your responses.

22 THE COURT: Any further questions, Mr. Shockley?

23 MR. SHOCKLEY: No, sir.

24 THE COURT: All right, you may come down and just take a seat
25 right over here, please, sir.

26 THE COURT: I'm going to accept Mr. Page since there is no

1 objection.

2 Bring the others in please.

3 Just a minute, I am correct am I not in my assumption that
4 there is no objection.

5 MR. LOOKABILL: Could we discuss this for just a minute, and

6 THE COURT: All right, hold them for just a moment, and take
7 Mr. Page in there, too, please.

8 (The juror retires to the jury room.)

9 MR. LOOKABILL Your Honor, I just feel I should express the
10 point that I represented him recently and I feel that this, and
11 although he may not admit it--I feel that this might create some
12 bias in his mind.

13 THE COURT: For or against you?

14 MR. LOOKABILL: That I couldn't tell you. That's one thing
15 that troubles me a little bit. You never know. I had a civil case
16 where I considered it was relatively successful, one of these
17 things where we sort of split a difference, but I mean I don't
18 know how he would feel. I don't know whether he holds any--

19 THE COURT: Well, this isn't ground for excluding Mr. Page from
20 this panel. It's good information for you gentlemen to have when
21 you are deciding on your preemptor challenges but I'm going to accept
22 Mr. Page.

23 MR. LOOKABILL: I note my exception, Your Honor.

24 (The accepted jurors brought into the courtroom.)

25 THE COURT: All right, ladies and gentlemen, we are going to
26 conclude our work for the day and are going to allow you to return

1 to your homes and ask you to return in the morning. You can come
2 whenever you want to, but you don't need to be in no real hurry,
3 10:00 o'clock will be all right, I think. We'll start earlier than
4 that, but if you get here by 10:00 it will be all right. Report
5 to the Lieutenant here when you arrive so he can make a record of
6 your presence and take you to the jury room.

7 Now what I am going to say now is very, very important and
8 I want each of you to really take it seriously because it's critical
9 to a fair trial and that is this. When you go home tonight, there
10 will probably be something on television or radio about what's
11 transpired here today. I don't want you to listen to that or look
12 at it at all. If you see it coming on, just walk out of the room,
13 turn it off or something and don't discuss with anyone, any member
14 of your family what was said in that news cast. By the same token
15 tomorrow morning it'll probably appear in the early edition of
16 the newspapers that circulate in this area. If a paper comes to
17 your house before you leave in the morning and you see a headline
18 about this trial, don't read it, don't read any of it. This admoni-
19 tion applies throughout the whole case, every recess that we take.
20 It's particularly important tonight from now until tomorrow. Do
21 you all think you can do that. I know--you see the only other alter-
22 native we have is to keep you together and put you in a hotel some-
23 where and I know heads of family, particularly the ladies, you would
24 have all kinds of problems with that sort of arrangement and that's
25 why I'm using the other device but if you all will assure me that you
26 will heed the Court's instruction in this regard, I'm sure we will not

1 have any problems. Do you think you can do that?

2 All right, thank you very much and you are excused until
3 tomorrow morning at 10:00 o'clock.

4 THE BAILIFF: Court will recess to 9:15 tomorrow morning.

5 (End of proceedings 12-8-80)

6 December 19, 1980

7 (Reporter sworn)

8 THE COURT: --Ready to proceed. If you are, we'll call six
9 more veniremen.

10 The first number is No. 16.

11 THE CLERK: Judy S. Minter.

12 THE COURT: No. 3.

13 THE CLERK: Ernest V. Dalton.

14 THE COURT: No. 60.

15 THE CLERK: Shirley G. Belcher.

16 THE COURT: No. 44.

17 THE CLERK: Kenneth Bratton

18 THE COURT: No. 1

19 THE CLERK: Kenneth D. Hancock.

20 THE COURT: And No. 40.

21 THE CLERK: Karen S. Cox.

22 MR. SHOCKLEY: IN light of the length of time it took yesterday,
23 I know that certain witnesses are here. Do you want to excuse them
24 until tomorrow morning or some later time in the day.

25 THE COURT: Well, we can do that. I'm sure we won't be ready
26 for them earlier than midafternoon if we really set a speed record.

1 Why don't we excuse the witnesses until say 2:00 o'clock and they
2 can come back and check and see how we are doing.

3 MR. SHOCKLEY: All right.

4 (Thereupon the fourth panel of six jurors were sworn on voir
5 dire.)

6 THE COURT: Good morning, ladies and gentlemen, we are
7 bringing you in as you probably know by now in panels of six,
8 We take one of you and let you come in here and we ask certain
9 questions to determine whether or not a person is qualified to
10 serve as a juror in this case. The other five of you will remain
11 back here and be made comfortable by the bailiff and we will call
12 you in as we need you. Do not discuss this procedure with any-
13 one, do not discuss any aspect of the case at all with anyone nor
14 permit anyone to talk to you about it. Should you be selected
15 a member of the jury panel, you are not to, throughout the whole
16 course of the trial this admonition obtains. You are not to dis-
17 cuss the case with anyone. Do not listen to any news accounts of
18 the trial, read anything in the paper about it or anything of
19 that kind. All right now, suppose we take this gentleman on the
20 end first and the remaining five of you go with Sheriff Conner here.
21 And you may take the stand right there please, sir. Step up in
22 the witness box.

23 ERNEST V. DALTON,

24 a juror, after being first duly sworn, being examined on voir
25 dire:

26 BY THE COURT:

1 Q Now would you first state your name and your residence?

2 A Ernest V. Dalton.

3 Q And where do you live?

4 A 12 Spring Avenue, Fairlawn.

5 Q Fairlawn. Mr. Dalton, were you on the Grand Jury by
6 any chance that returned the indictment in the case of Commonwealth
7 v. Stephen Matteson Epperly?

8 A No, sir.

9 Q Were you here in the courtroom when that Grand Jury was
10 charged or when it made it's report?

11 A No, sir.

12 Q Do you have any interests in the case one way or another?

13 A Well, yes, sir.

14 Q I beg your pardon?

15 A Yes, sir.

16 Q What kind of, what I mean by that, of course, I don't
17 mean an interest as a citizen. I mean do you really have an
18 interest in the outcome of the case, how it ends up?

19 A If he's guilty, sir, I believe he ought to be punished.

20 Q Well, I think most people would agree with that concept
21 in every criminal case. By the same token if the evidence proves
22 that he's not guilty, how would you feel about it?

23 A Well, I can't help the way my old mind does, but it
24 seems to me that my mind's already made up.

25 Q Well, if that's the case then--you are serious about
26 that now. You are not just--

1 A Yes, sir.

2 Q All right, if that's the case then I'll excuse you. I
3 thank you for your attendance here yesterday and today, and you
4 are free to go if you wish to.

5 (The juror is discharged.)

6 JUDY MINTER,

7 a juror being first duly sworn, being examined on voir dire:

8 BY THE COURT:

9 Q Would you state your name and your residence, please.

10 A My name is Judy Minter. I live on Overton Drive in
11 Pulaski.

12 Q Here in the Town of Pulaski?

13 A Yes.

14 Q Mrs. Minter were you on the Grand Jury that returned
15 the indictment in the case of Commonwealth v. Stephen Matteson
16 Epperly?

17 A No, sir.

18 Q Were you here in the courtroom when that Grand Jury was
19 charged or when it made its report?

20 A No, sir.

21 Q As you probably are aware the case we are going to try
22 is the case of Commonwealth v. Epperly. Mr. Epperly is seated
23 here in the middle at this table and is charged with the murder of
24 Gina Renee Hall. Let me ask you first if you are related by
25 blood or marriage either to Mr. Epperly or to Gina Renee Hall?

26 A No, sir, not that I know of.

1 Q Do you have any interests in the outcome of this case
2 other than to do justice to each side should you be selected as a
3 juror?

4 A No, sir.

5 Q Have you acquired information about the alleged offense
6 through the news media or from any other source?

7 A Well, the newspapers, yes.

8 Q All right, that being the case, would such information
9 that you have received through the newspapers affect your fairness
10 and impartiality in any way?

11 A No, I don't think so.

12 Q Have you formed or expressed any opinion as to the
13 innocence or guilt of the defendant?

14 A No.

15 Q Considering what you have heard or read about the case,
16 do you believe that you could become a member of the jury with
17 an open mind and wait until the entire case is presented before
18 reaching a fixed opinion or conclusion as to the guilt or innocence
19 of the defendant?

20 A Yes, I think I could.

21 Q Are you sensible of any feeling of bias or prejudice
22 for or against the Commonwealth or for or against the defendant
23 for any reason?

24 A No, sir.

25 Q Do you know of any reason why you cannot give the Common-
26 wealth on the one hand and the defendant, Stephen Matteson

1 Epperly on the other hand a fair and impartial trial based solely
2 on the law and the evidence that you would hear in this courtroom?

3 A I think I could be fair.

4 Q All right now, this is Mr. Shockley seated here on the
5 outside of this table. He's the Commonwealth's Attorney. The
6 gentleman on the inside is Mr. Terwilliger, the assistant Common-
7 wealth's Attorney and the gentleman in the middle is from out of
8 town and is one of their expert assistants. He's an attorney
9 also. On the right, the defendant, as I have said is seated
10 in the middle. Mr. Lookabill on the outside is one of his
11 attorneys and Mr. Warburton, Mr. Lookabill's partner is the other
12 attorney and these gentlemen will have some additional questions
13 for you.

14 BY MR. SHOCKLEY:

15 Q How are you Mrs. Brant, excuse me, I'm sorry, Mrs.
16 Minter. I called your name wrong, excuse me. Let me just ask you
17 a few questions please. Are you familiar with the Claytor Lake
18 Dam area?

19 A Just the picnic area.

20 Q The picnic area. You have been down there picnicking
21 a few times?

22 A Yes.

23 Q Recently?

24 A No, several years ago.

25 Q Several years ago. Are you familiar with the Hazel
26 Hollow Road that leads off Route 11 near Radford and goes by the

1 rive and down to the dam?

2 A Well, other than drive through, no. I know no one in
3 the area.

4 Q Do you know where the railroad trestle is that crosses
5 New River from Hazel Hollow Road into Radford?

6 A Just by sight.

7 Q Are you familiar with the west end of Radford at all?

8 A Well, I used to be. I went to school in Radford.

9 Q Did you graduate from Radford High School?

10 A Yes, I did, no college.

11 Q Radford College, o.k.

12 A That's been quite awhile ago.

13 Q Well we won't ask you about that. Do you have any
14 children, Mrs. Minter?

15 A Yes, I do, two.

16 Q Boys or girls or one of each?

17 A One of each.

18 Q One of each. And their age, please, the boy?

19 A The boy is 13 and the girl is 10.

20 Q Do you believe that certain types of dogs, blood hounds,
21 german shepherds or other types of dogs that are trained can have
22 ability to track human beings?

23 A Yes.

24 Q Do you believe in their superior scenting ability, they
25 have greater sense of smell than you or I do as human beings?

26 A Yes.

1 Q Mrs. Minter, do you believe that it's possible for one
2 person to murder another person and then hide or dispose of the
3 body in such a fashion that the body is never found, knowing the
4 dam area like you do, the Hazel Hollow Road, knowing it, you
5 know somewhat, do you think that it would be difficult to do so
6 in that area, knowing the terrain and so forth.

7 A Yes, I think so.

8 Q Are you saying it could be difficult or it could be
9 done?

10 A It could be done, especially the river with all the caves
11 and faults in the river.

12 Q Now do you feel the person that would do that, that
13 would kill somebody and be capable enough of hiding the body so
14 that it's never found, do you feel that such a person for that
15 reason alone should go unpunished?

16 A Go unpunished?

17 Q Yes.

18 A No.

19 Q NOW if the Court instructs you that circumstantial
20 evidence is adequate and competent to prove any fact that the
21 state must prove against this defendant can you abide by that
22 instruction?

23 A (Silence).

24 Q Do you understand that circumstantial evidence is a
25 group of facts and circumstances which when all grouped together
26 or lumped together, tends to prove another fact. You are familiar

1 I am sure with newspaper accounts of circumstantial evidence and
2 so on. Now obviously in any homicide prosecution the state
3 must prove that a death has occurred. Obviously there's no homicide
4 if there is no death. If the Commonwealth proves to you through
5 facts and circumstances that Gina Renee Hall is dead and that
6 the defendant killed her, could you return a verdict of guilty even
7 though the body was never found?

8 A Yes.

9 Q O.k., that's all I have, thank you.

10 BY MR. LOOKABILL:

11 Q Mrs. Minter, I want to ask a few more questions. I'll
12 try not to be too personal. I'm sure you understand the reason
13 we have to ask some questions that verge on being somewhat personal.
14 How long have you been a resident of Pulaski County?

15 A Eight and a half years.

16 Q And you said you lived in the town. Have you lived in
17 the Town of Pulaski for those eight years?

18 A Yes, in town.

19 Q Where did you live prior to that?

20 A In Roanoke, County, Roanoke County.

21 Q Was that where you were raised?

22 A Yes, sir.

23 Q You lived there up until the time you moved to Pulaski?

24 A Well, I worked away for several years but moved back.

25 Q You said that you attended Radford College or graduated
26 from Radford College?

1 A Yes, sir.

2 Q Would the fact that the girl who is missing in this
3 case was a Radford College student, would that in any way affect
4 your feeling in the case one way or the other?

5 A I don't think so. I graduated almost twenty years ago.

6 Q Do you work now?

7 A No, I don't.

8 Q You have a bachelor's degree from radford?

9 A Yes, sir.

10 Q Have either you or your husband or close relatives been
11 connected with any law enforcement agency in the state, Sheriff's
12 Department or town police or any other agency?

13 A Well my husband does service the IBM equipment, teletypes,
14 but I mean that's just service. He doesn't have anything to do with
15 the actual police work, no.

16 Q And, of course, you have been introduced to Mr. Epperly
17 as he sits here today. Do you have any feelings right now before
18 any evidence being presented as to whether he is guilty or innocent
19 of this charge?

20 A No, not really.

21 Q Have you formed any opinions in the past about the case?

22 A Well, not specifically; no. There has not been that
23 much about it. Just this girl is missing and the man has been
24 accused. That's really the basis of--

25 Q Do you know anything else about the Commonwealth's
26 evidence or about the case at all?

1 A No, I don't.

2 Q Did you read any of the articles in the paper or watch
3 TV last night?

4 A No, I didn't. We were instructed not to and my children
5 hid the paper and cut off the TV and shoed me out of the room.
6 They made sure I didn't.

7 Q Do you recall any, other than what you have just told me,
8 do you recall anything else specifically that you recall reading
9 or hearing on the news in the last few months from the end of June.

10 A Just the early summer newspapers.

11 Q Do you remember what you read then?

12 A Well, just what I told you; the girl was missing.

13 Q That's all you know. Have you discussed this case--now
14 I'm not talking about last night, prior to that have you discussed
15 the case with anyone?

16 A Oh my husband and I talked about it in the summertime.

17 Q Did either of you form an opinion in your discussion
18 at that time?

19 A No, it was mostly just curiosity.

20 Q All right, assuming that you were the defendant today
21 rather than Mr. Epperly, would you feel comfortable with those
22 jurors, with your present frame of mind being on the jury?

23 A Well, I think I could be very fair.

24 Q As far as you are concerned, does this man sit here as
25 an innocent person at this time?

26 MR. SHOCKLEY: Your Honor, I would object to the form of that

1 question.

2 MR. LOOKABILL: I'll rephrase that.

3 Q As far as you are concerned is Mr. Epperly innocent
4 until such time as he might be shown to be guilty beyond a reasonable
5 doubt?

6 A Well, I think until they've proved that a death has
7 occurred and that he did it, yes.

8 Q As to those elements, do you have any feeling today as
9 to whether or not Gina Renee Hall is in fact dead?

10 A Well, I don't know.

11 Q Do you understand that the defense is not required to
12 put on any evidence, is not required to do anything, that the
13 burden in the criminal case is completely upon the Commonwealth
14 to prove every element of the offense beyond a reasonable doubt.
15 Do you understand that??

16 A (Nods head).

17 Q Have you ever been on a jury before?

18 A No.

19 Q Have you ever been a witness in a case?

20 A Traffic accident only.

21 Q Were you involved in the accident or were you just a
22 witness to--

23 A Well, I was in the car that--

24 Q Has any member of your family ever been a victim of a
25 serious crime such as murder or any other serious crime?

26 A (Shakes head).

1 Q Do you understand that the indictment in a criminal
2 case, a felony case is nothing more than a piece of paper and it
3 handed down by the Grand Jury to bring this case to trial, that
4 it's not evidence in any form, do you understand that?

5 A Right.

6 Q Do you understand that among the other elements the Com-
7 monwealth must prove beyond a reasonable doubt, that it must also
8 prove that Gina Renee Hall is in fact dead beyond a reasonable
9 doubt or to say that another way, to a moral certainty, do you
10 understand that?

11 A (Nods head).

12 Q Do you feel as a juror that you would have to, that the
13 jury would have to solve the crime before you could enter a not
14 guilty verdict or do you feel that someone must be shown to be the
15 culprit or do you feel that it's just simply a matter of testing
16 the guilt or innocence of this one man?

17 A The crime has to be shown--

18 THE COURT: I can't hear you, Mrs. Mentor.

19 Q I mean--

20 A Well, I don't really understand as far as what you are
21 saying that they have to prove that a crime has been committed be-
22 fore you can--

23 Q No, ma'am, I mean do you feel that the crime has to be
24 solved. Do you believe that someone has to be shown to be the
25 culprit or do you feel that it's simply a matter of testing this
26 man's guilt or innocence?

1 A As far as this trial today?

2 Q Yes, as far as this trial is concerned. I think I've
3 asked that in a very confusing way and I didn't mean to confuse
4 you.

5 Let me ask you this question. If you were in a minority on
6 a jury, 11 people disagreed with you, and you felt very strong
7 about your position, would you give in because you are in the
8 minority of one?

9 A Not if I felt that strongly, no.

10 Q Do you understand that this is a circumstantial evidence
11 case and that in every circumstantial evidence case the evidence
12 must be treated by the jury with great care and caution, do you
13 understand that?

14 A (Nods head).

15 Q Do you understand that a circumstantial evidence case
16 is like a chain, a very strong chain, which must link in a strong
17 way the defendant with the criminal act and that this chain is only
18 as strong as its weakest link. Do you understand that?

19 A O.k.

20 Q Can you give the defendant the benefit of the presumption
21 of innocence without any mental reservation whatsoever?

22 A (Silence)

23 Q Do you feel that you could give the defendant just as fair
24 a trial charged with murder as you could if he were charged with
25 petit larceny or some minor crime?

26 A I think so.

1 Q If you were a juror would you follow the jury's instructions
2 not to speculate or guess about the evidence or what happened
3 in this case?

4 A Yes, I think I would have to do it.

5 Q You indicated sort of emphatically that you thought that
6 dogs had a great sense of smell. Do you think that dogs are in-
7 fallible?

8 A Well, of course, they are, but--

9 Q You mean they are not infallible?

10 A They make mistakes, of course, I know they could, but
11 (unintelligible) dogs.

12 Q Have you all ever owned dogs or trained dogs?

13 A Yes, yes.

14 Q What kind of dogs did you have?

15 A Muts.

16 Q Muts. Did you use them for hunting or anything like that?

17 A No.

18 Q You have never trained dogs as far as--

19 A No, not for hunting purposes.

20 Q Their talents. Would being on the jury in this case
21 and returning either a verdict of guilty or not guilty in any way
22 be embarrassing to you as far as your family is concerned, friends?

23 A I don't think so.

24 Q All right, well, I haven't meant to delve into too much
25 to be too personal but I appreciate your responses.

26 THE COURT: All right, thank you Mrs. Minter and you may step

1 over here.

2 (The juror leaves the courtroom.)

3 THE COURT: Any objection, gentlemen, to Mrs. Minter?

4 MR. LOOKABILL: No, sir, Your Honor.

5 THE COURT: All right, Mrs. Minter is accepted.

6 SHIRLEY BELCHER,

7 a juror, after being first duly sworn, being examined on voir
8 dire:

9 BY THE COURT:

10 Q Would you state your name, please, ma'am?

11 A Shirley Belcher.

12 Q Mrs. Belcher?

13 A Uh hm.

14 Q And where do you live, Mrs. Belcher?

15 A Mountain View Acres.

16 Q Is that here in the Town of Pulaski?

17 A No, that's in the county.

18 Q Out in the county, what part of the county?

19 A Up near the high school.

20 Q Mrs. Minter, were you by any chance on the Grand Jury
21 that returned the indictment against Stephen Matteson Epperly?

22 A No.

23 Q Were you in this room when the Grand Jury was charged
24 or when it made its report?

25 A No.

26 Q This is the case of Commonwealth v. Stephen Matteson
Epperly upon a charge of murder of Gina Renee Hall on or about

1 June 29, 1980. Are you related by blood or marriage to the
2 defendant, Stephen Matteson Upperly?

3 A No.

4 Q Are you related by blood or marriage to Gina Renee Hall?

5 A No.

6 Q Do you have any interest in the outcome of this case
7 other than to strive to do justice to each side should you be
8 selected as a juror?

9 A No.

10 Q Have you acquired any information about the alleged
11 offense from the news media or from any other source?

12 A Sir?

13 Q Have you read or heard anything about this case?

14 A I've read some in the paper is all.

15 Q Uh huh, I'm sure you have. Now what I really want to know
16 is if what you have read or heard about the case would affect your
17 impartiality?

18 A No.

19 Q In any way?

20 A No.

21 Q Have you formed or expressed any opinion as to the
22 guilt or innocence of the accused?

23 A (Shakes head).

24 Q Do you think you could be a member of a jury and sit here
25 and hear all of the evidence and the law of the case and decide
26 the case with an open mind solely on what you hear here in the

1 courtroom?

2 A (Silence).

3 Q Are you sensible of any feeling of bias or prejudice
4 against the Commonwealth or against the defendant for any reason?
5 Do you feel any subjective feeling of prejudice or bias against
6 the Commonwealth, that is the State of Virginia who will be the
7 prosecutors in this case?

8 A No.

9 Q Do you feel any prejudice or bias against the defendant?

10 A No.

11 Q Mr. Epperly. And finally, and this is all we are trying
12 to do, is get a jury of people who have no preconceived notions
13 about the case and who will give each side a fair trial. So I
14 want to ask you this, do you know of any reason whether I've touched
15 upon it or not, why you cannot give the Commonwealth on the one
16 hand and the defendant, Mr. Epperly, on the other hand, a fair
17 and impartial trial based solely upon the law and the evidence
18 that you would hear in this courtroom? Do you know of any reason
19 why you could not do that?

20 A No.

21 Q All right, now these gentlemen of counsel will have some
22 questions for you. Mr. Shockley here is the Commonwealth's
23 Attorney. He will start off and ask you a few and Mr. Lookabill
24 over here who is one of the attorneys for the defendant who is
25 seated in the middle will ask you some questions. First Mr.
26 Shockley.

1 BY MR. SHOCKLEY:

2 Q --With the Claytor Lake Dam area?

3 A Yes, sir.

4 Q Do you go down there fishing or picnicking at anytime,
5 or have you?

6 A I have.

7 Q How long has it been?

8 A Oh, twenty years.

9 Q Oh, it's been that long?

10 A Yes.

11 Q You say you live over here near the highschool in that
12 new subdivision, right. Do you ever have occasion to go over
13 towards Radford and just, you know, as you get to Memorial
14 Bridge take that right that goes down Hazel Hollow Road. Have
15 you ever gone down that road?

16 A Last February was the last time I was down there.

17 Q February?

18 A Uh-hum.

19 Q Have you traveled that road in the past or are you
20 familiar with the layout of the road and so forth, the terrain?

21 A Right.

22 Q What about the railroad trestle, are you familiar with
23 where that is. It goes across New River. Per chance have you
24 ever walked across it?

25 A No.

26 Q Are you familiar with the west end of Radford?

1 A Somewhat, not a whole lot.

2 Q Do you have any children, Mrs. Belcher?

3 A Two

4 Q Boys or girls or one of each?

5 A One of each.

6 Q And what is the age of the boy?

7 A Nine.

8 Q And your girl?

9 A Eleven.

10 Q Do you believe that certain types of dogs, tracking dogs
11 and so on can have a scenting or smelling ability that is superior
12 to that that you and I have as human beings?

13 A Yes.

14 Q Do you believe that dogs can be trained to pick up a
15 scent of a human being and track that human being?

16 A Uh hum.

17 Q Mrs. Belcher, do you think that it is possible for one
18 person to kill or murder another person and then dispose of the
19 body in such a fashion that the body is never found or not found
20 for some years?

21 A Yes.

22 Q Do you feel for that fact alone that a person who does
23 should go unpunished simply because the body can't be found?

24 A No.

25 Q Now, you understand, of course, that this is a murder
26 or homicide prosecution and obviously one of the elements that the

1 state must prove beyond a reasonable doubt is that Gina Renee
2 Hall is in fact dead. Obviously you can have a murder case with-
3 out someone being killed. The Court will instruct you on circum-
4 stantial evidence to the effect that circumstantial evidence can
5 be competent evidence. It is competent evidence and it can prove any
6 fact that the state must prove if it convinces you beyond a rea-
7 sonable doubt that that fact has been proved. What I am getting at is
8 that you can take a group of facts, A, B, C and D and from those facts
9 when they are taken together, they prove another fact. Do you
10 understand what I'm talking about?

11 A Uh hum.

12 Q And what I am also getting at, in this particular case,
13 if the State through circumstantial evidence, through a series of
14 facts and circumstances proves to you beyond a reasonable doubt
15 that Gina Hall is dead, that she was murdered and murdered by this
16 defendat, could you return a verdict of guilty even though the
17 body had not been found?

18 A Uh hum.

19 Q O.k., that's all I have.

20 BY MR. LOOKABILL:

21 Q Mrs. Belcher, I'm Glennwood Lookabill and this is my
22 partner, David Warburton. I almost said Woodie. This is Stephen
23 Epperly, the defendant. Is this the first time you have ever seen
24 Mr. Epperly today. Today's the first time you have ever seen him
25 or yesterday?

26 A No, I've seen his picture in the paper. Yes, yesterday

1 was the first time I've seen him.

2 Q Now we are going to ask you a few more questions and
3 I'll try not to get too personal so that you won't get angry with
4 me, but you understand the reason that we have to ask those questions
5 in order to try to delve in your mind a little bit and be certain
6 we are getting an unbiased jury. How long have you been a resident
7 of Pulaski County, Mrs. Belcher?

8 A Three years. I grew up here.

9 Q You grew up here and then left.

10 A Uh hum.

11 Q Where did you live prior--

12 A Virginia Beach.

13 Q Virginia Beach. And you just moved back here three years
14 ago?

15 A Right. Well, it's been five years, I'm sorry.

16 Q Five years?

17 A We've been in our house three years.

18 Q Time does fly, doesn't^{it}/. You live out, I believe, near
19 Sheriff Conner?

20 A Right.

21 Q Do you know the Sheriff?

22 A Right.

23 Q Do you work?

24 A No.

25 Q What is your educational background, Mrs. Belcher?

26 A I finished high school.

1 Q You finished high school here?

2 A Uh hum, Dublin, Then I went to Vo-Tech for eight and
3 a half months.

4 Q That's in Radford?

5 A Right, uh huh.

6 Q When you were at Vo-Tech, did you live at Radford?

7 A No.

8 Q Or did you just drive down?

9 A I lived in Fairlawn.

10 Q You lived in Fairlawn. Has any close member of your family
11 recently been or ever been a member of the Sheriff's Department,
12 town police, or state police?

13 A No.

14 Q The military?

15 A My husband was in the Navy.

16 Q Was that some years ago?

17 A (Inaudible, noise).

18 Q You indicated you had read some articles, seen something
19 off of TV and had some general knowledge about the case. As Mr.
20 Epperly sits here today do you have any opinion as to his guilt or
21 innocence in this case?

22 A No.

23 Q None whatsoever?

24 A No.

25 Q Prior to this have you formed any opinion that you have
26 relinquished?

1 A No.

2 Q You still have no opinion whatsoever?

3 A No.

4 Q What have you actually read about the things that were
5 round or seen on TV? Could you relate just some of the facts that
6 you know about?

7 A Just about the car and the house over on the lake. I
8 don't recall which house it is.

9 Q Is that about all you know about the case?

10 A I don't know too much about it.

11 Q You don't know anything else about the Commonwealth's
12 evidence? Is that correct?

13 A No, I don't.

14 Q Do you have any feeling one way or the other as to
15 whether there is one outcome in this case that is more likely
16 than another outcome?

17 A I don't understand the question.

18 Q In other words do you feel like there is more likelihood
19 for a guilty verdict rather than an innocent verdict in this
20 case?

21 MR. SHOCKLEY: Your Honor, I'd object to that question. I
22 don't think it's fair.

23 THE COURT: Was the question, "Does she have any idea as to--

24 MR. SHOCKLEY: Probability of the outcome.

25 THE COURT: Probability of the outcome or as to her personal
26 feeling?

1 MR. LOOKABILL: Her feeling as to the probability of the
2 outcome.

3 THE COURT: Suppose you rephrase your question.

4 Q Do you have any feeling yourself as to the probability
5 of the outcome in this case?

6 MR. SHOCKLEY: Your Honor--

7 THE COURT: That's not--I don't believe that's proper. It's
8 not the question of the probability of the outcome. It's how
9 she feels about it.

10 THE COURT: Do you have any preconceived notion as to the
11 guilt or innocence of this defendant?

12 A No.

13 Q Which newspaper do you all get?

14 A Pulaski and the Roanoke paper.

15 Q Roanoke Times and Southwest Times.

16 A I don't always read them.

17 Q Have you read as far as you know, most of the articles
18 that have been written or all of them or some of them?

19 A Probably three or four or so.

20 Q Have you discussed this case with anyone in your family
21 or friends? I mean not last night but prior to this?

22 A A few, yes.

23 Q I assume you didn't talk about it last night?

24 A No.

25 Q Did you see the newspaper or TV last night?

26 A No.

1 Q As you talked to people about the case, how did you
2 react to what they said about the case. Did you have any reac-
3 tion?

4 A Well, I don't believe a person is guilty until they are
5 proven guilty.

6 Q So whatever was said didn't affect your opinion about
7 the case?

8 A Huh uh.

9 Q Assuming--

10 A Could I say one thing. I know his brother. I have
11 met his brother. Does that--

12 Q Charles?

13 A Uh hum.

14 Q How do you know Charles?

15 A But it's been 17 years ago.

16 Q You haven't had any contact with him since then?

17 A No.

18 Q I assume it was a pleasant experience and not a bad
19 experience?

20 A Well, he married a neighbor of ours, but that's all.

21 Q But in seventeen years you haven't had any contact
22 with him?

23 A No.

24 Q If you were on trial here today rather than Mr. Epperly,
25 would you feel/comfortable^{ew} about a juror with your present frame of mind being
26 on the jury?

1 A Yes.

2 Q Do you understand that it's not our responsibility to
3 prove this man's innocence. It's the Commonwealth's job to prove
4 beyond a reasonable doubt that he's guilty.

5 THE COURT: Speak up please so we can record your voice. I
6 mean don't nod your head.

7 A Yes. O.k., I'm sorry.

8 Q In other words the burden on the Commonwealth is to prove
9 every element, including death of Gina Hall beyond a reasonable
10 doubt or to a moral certainty. Do you understand that?

11 A Yes.

12 Q Have you ever been a juror before?

13 A No.

14 Q Have you ever been a witness?

15 A No.

16 Q Has anybody in your family ever been involved in a criminal
17 case in any way?

18 A No.

19 Q Has any close member of your family or friends ever been
20 a victim of murder or other serious crime?

21 A No.

22 Q Do you understand Mrs. Belcher that an indictment is
23 simply a piece of paper that brings this case to trial. It is
24 not itself evidence in a case. Do you understand that?

25 A Sir?

26 Q Do you understand that the indictment in this case is

1 not evidence. It's simply the document that brings this case
2 forward to be tried?

3 A Yes.

4 Q If you were a minority of one on the jury--everybody
5 disagreed with you--would you stick by your guns? Would you
6 maintain your position if you felt that you were right?

7 A If I felt I was right, I would.

8 Q Would being on a jury in this case, whether it be a
9 guilty or not guilty verdict in any way embarrass you or create
10 problems with your friends or family?

11 A No.

12 Q Do you feel that you can give the defendant the benefit
13 of the presumption of innocence without any mental reservation
14 whatsoever on your part?

15 A Yes.

16 Q Do you feel that you could give him the same impartial
17 trial in this case--you know that the charge is murder?

18 A Yes.

19 Q If it were a charge of petit larceny or some minor charge,
20 could you give him the same fair trial in a murder charge as you
21 could with a lesser charge?

22 A Yes.

23 Q Would you follow the Court's instruction not to speculate
24 or guess about what may or may not have happened in this case if
25 you were a juror in this case? The jury would instruct you not
26 to speculate or guess what might have happened in this case.

1 A Right.

2 Q Could you follow such an instruction?

3 A Yes.

4 Q Do you have any affiliation with Radford college?

5 A No.

6 Q You don't have any children that go there, relatives or
7 friends?

8 A No.

9 Q That work there or have any connection with it?

10 A No.

11 Q Have you ever raised or trained any dogs, you or your
12 husband?

13 A No.

14 Q I think's that's all.

15 BY MR. SHOCKLEY:

16 Q Mrs. Belcher, I have just one or two more questions.
17 You mentioned to Mr. Lookabill that you had met the defendant's
18 brother some years ago. Have you had any type of relationship
19 with Mr. Epperly's brother, acquaintances?

20 A No.

21 Q I take it that your knowing him or having met him would
22 have no effect on your decision as a juror?

23 A No.

24 THE COURT: Thank you, Mrs. Belcher, if you will step over
25 here, please.

26 (The juror leaves the courtroom.)

1 THE COURT: Is there any objection, gentlemen to receiving
2 Mrs. Belcher?

3 MR. SHOCKLEY: No, sir.

4 MR. WARBURTON: We have no objection, Your Honor.

5 THE COURT: All right, Mrs. Belcher is accepted as a juror.

6 KENNETH VANCE BRATTON,
7 a juror, after being first duly sworn, being examined on voir
8 dire:

9 BY THE COURT:

10 Q Mr. Bratton, would you state your full name, please?

11 A Kenneth Vance Bratton.

12 Q And where do you live?

13 A Fairlawn.

14 Q Mr. Bratton, were you by any chance on the grand Jury
15 that returned the indictment against Stephen Matteson Epperly
16 upon a charge of murder?

17 A Pardon me?

18 Q Were you on the Grand Jury?

19 A No, sir.

20 Q In this case?

21 A No, sir.

22 Q Did you happen to be in this room when the Grand Jury
23 was charged a few weeks ago or when it made its report?

24 A No, sir.

25 Q I say a few weeks ago. Actually, I guess the indictment
26 was returned sometime ago, some months ago, but anyway you were

1 not in this room, is that right?

2 A No.

3 Q As I have stated the case is that of the Commonwealth
4 against Stephen Matteson Epperly upon a charge of murder. He is
5 charged with murdering Gina Renee Hall on or about June 29, 1980.
6 Are you related by blood or marriage to the defendant, Stephen
7 Matteson Epperly?

8 A No, sir.

9 Q Who incidentally is seated in the middle here at this
10 table. Are you related by blood or marriage to Gina Renee Hall?

11 A No, sir.

12 Q Do you have any interests in the outcome of this case
13 other than to strive to do justice, fairness to each side?

14 A No.

15 Q Have you acquired any information concerning the case
16 through the news media or any other source?

17 A I've read the paper and heard things on television is
18 all.

19 Q I'm sure you have being an informed citizen. So that's
20 no problem. What I really want to know is whether or not what you
21 have read or heard would affect your impartiality in any way?

22 A It might do it. I don't really know how to answer that
23 to tell you the truth.

24 Q Well do you have any feeling at the moment as to the
25 guilt or innocence of the defendant or do you have an open mind?

26 A Well, I've thought about it, yes, sir, but I don't think

1 I have what you'd really say an open mind.

2 Q Well, what kind of a mind do you think you have, a
3 closed mind?

4 A Well, I believe I'd be, I might be impartial.

5 Q Might be impartial?

6 A Yes, sir.

7 Q Or partial to one side or the other?

8 A Well, I might be. I'm partial to him.

9 Q I'm wondering if--I don't mean to be saying. I'm not sure
10 that I understand what you mean. Let's back up and take a fresh
11 start. Do you have any feeling of bias or prejudice for or against
12 either side?

13 A No, I don't have any--

14 Q Now a moment ago each of us used the word "partial" or
15 "partiality" and "impartiality" Just tell me in your own words how
16 you feel about that, with reference to whether or not you have any
17 preconceived notions about this case?

18 A What I've heard people talk. Of course, I know that's just
19 hearsay and what I've read and what I've saw on television. I
20 don't know whether I could really make a impartial judgment of him
21 or partial, either one.

22 Q Do you feel that you might have a built-in bias or pre-
23 judice against him?

24 A I might do, yes, sir.

25 Q Have you formed or expressed any opinion as to his guilt
26 or innocence?

1 A Well, not really. I haven't formed it and I haven't
2 really expressed it to anyone. Just, well, I've talked, of course,
3 to my wife, but that's all.

4 Q Is your wife the only person you've talked to about the
5 case?

6 A Well, no, we've talked about it at work too.

7 Q At work?

8 A Yes, sir.

9 Q Well, considering what you've heard or read about the
10 case, do you believe that you could enter the jury box with an
11 open mind and decide this case solely on what you hear in this
12 courtroom uninfluenced by any outside matters, any outside things
13 that you may have read or heard?

14 A Not really, no, sir, I don't believe, I could.

15 Q You don't think you could do that. Well, I'm going to
16 be on the safe side. I suspect you would make a perfectly good
17 juror. I appreciate your candor, however but I'm going to try to be
18 safe on this point and I'm going to excuse you.

19 A O.k.

20 Q So you are free to go.

21 (The juror is discharged.)

22 KENNETH HANCOCK,

23 a juror, after being first duly sworn, being examined on voir
24 dire:

25 BY THE COURT:

26 Q Would you tell us your name, please and where you live.
A Kenneth Hancock, Draper's Valley.

1 Q All right, Mr. Hancock, were you by any chance on the
2 Grand Jury that returned the indictment in the case of Common-
3 wealth v. Stephen Matteson Epperly?

4 A No, sir.

5 Q Were you in the courtroom when it reported?

6 A No, sir.

7 Q Or it was charged. The defendant in this case is
8 Stephen Matteson Epperly. He's charged with the murder of Gina
9 Renee Hall on or about June 29, 1980. Let me first ask you if you
10 are related by blood or marriage to the accused, Mr. Epperly?

11 A No, sir.

12 Q Are you related by blood or marriage to Gina Renee Hall?

13 A No, sir.

14 Q Do you have any interests in this trial or in its out-
15 come other than to strive to do justice to each side?

16 A No, sir.

17 Q Have you acquired any information about the alleged
18 offense through the news media or through any other source?

19 A No, sir.

20 Q You haven't read about it or heard about it?

21 A The only thing I have heard about is just rumors, probably
22 don't pertain to it at all.

23 Q Uh huh. You haven't read anything about it in the
24 papers?

25 A I don't receive a paper.

26 Q Do you recall hearing anything about it on radio or
television?

1 A Yes, sir, television.

2 Q All right, now let me ask you, whatever information you
3 received concerning this case, what I really want to know is
4 would that information affect your impartiality, your fairness
5 in the case?

6 A No, sir, it wouldn't be just to him.

7 Q You have an open mind concerning the matter?

8 A Yes, sir.

9 Q Have you formed or expressed any opinion as to the guilt
10 or innocence of the accused?

11 A No, sir.

12 Q Do you think you could enter the jury box with an open
13 mind and wait until the entire case is presented before you decide
14 on the guilt or innocence of the accused?

15 A Yes, sir.

16 Q Are you sensible of any feeling of bias or prejudice for
17 or against the state of Virginia or for or against the defendant,
18 Mr. Epperly?

19 A No, sir.

20 Q Do you know of any reason why you could not give a fair
21 and impartial trial to the Commonwealth of Virginia on the one hand
22 and to Mr. Epperly on the other?

23 A No, sir.

24 Q All right, now these lawyers will want to ask you a few
25 additional questions. We'll start with Mr. Shockley, who is the
26 Commonwealth's Attorney and then Mr. Lookabill over here who with

1 his partner, Mr. Warburton, represent the defendant, will ask you
2 a few questions.

3 BY MR. SHOCKLEY:

4 Q How are you this morning, Mr. Hancock?

5 A Just fine.

6 Q I see that you live in Draper, Route 1, Box 424D, right?

7 A Right.

8 Q How long have you lived over in Draper?

9 A All my life, 26 years.

10 Q And where did you go to high school?

11 A Dublin.

12 Q And what year did you finish up there?

13 A '72.

14 Q Do you know the defendant at all?

15 A No, sir.

16 Q Have you ever had any acquaintance with him at all?

17 A No, sir, not to my knowledge.

18 Q Are you familiar with the Claytor Lake Dam area?

19 A Partly, I've been there before.

20 Q Have you ever been to the picnic grounds there?

21 A Right at the dam?

22 Q Yes.

23 A One time.

24 Q When was that?

25 A About 1973 or 4, somewhere in that vicinity.

26 Q Do you ever go fishing over that way, hunting?

1 A I don't fish.

2 Q Are you familiar with Hazel Hollow Road?

3 A Hazel Hollow.

4 Q O.k. as you are going into Radford on Route 11 just
5 before you cross the bridge, it's a right hand turn, just before
6 you get to Memorial Bridge and it parallels the New River and
7 goes on out into the country?

8 A No, sir.

9 Q You are not familiar with that?

10 A No, sir.

11 Q Are you familiar at all with the west end of Radford?

12 A Just by going into Radford.

13 Q Do you have any friends over that way?

14 A No, sir.

15 Q Any business over that way?

16 A No, sir.

17 Q Are you familiar with First Street or the extension of
18 Norwood that just runs all the way through the west end of Radford
19 and goes from the Memorial Bridge all the way out to the interstate?

20 A Just by coming into Radford.

21 Q Do you have any children?

22 A Two.

23 Q Boys, girls?

24 A Boy and girl.

25 Q And what are their ages, please.

26 A Eight and three.

1 Q The boy is eight?

2 A Yes, sir.

3 Q The girl is three. Do you hunt?

4 A Yes, sir.

5 Q Do you use a dog when you hunt?

6 A I have before. I used to have my daddy's bird dog.

7 Q Do you believe that dogs can be trained to track human
8 beings?

9 A Presumably, yes. I've heard that they could.

10 Q Do you believe that dogs have a scenting or smelling
11 ability that is superior to what you and I have as human beings?

12 A Yes, sir.

13 Q Mr. Hancock, do you believe that it is possible for one
14 person to kill or murder another person and then dispose of the
15 body in such a fashion that the body is never found or not found
16 for a number of years?

17 A Yes, sir.

18 Q Do you think that for that reason alone a person who kills
19 someone and is able to hide the body so successfully, for that
20 reason alone do you think they should go unpunished?

21 A No, sir.

22 Q Now if you know anything at all about this case, and I'm
23 sure you know that Gina Renee Hall has never been found dead or
24 alive?

25 A Right.

26 Q The Commonwealth will prove or attempt to prove by

~~circumstantial evidence that she is dead and that the accused is~~
1 the one that killed her. Now my question to you, if the Court
2 instructs you that circumstantial evidence is competent and adequate
3 to prove any fact the state must prove, including death, and so
4 long as it proves that fact beyond a reasonable doubt, can you
5 abide by that instruction, follow that instruction?

6 A Yes, sir.

7 Q And if the facts and circumstances that the state proves
8 to you convinces you beyond a reasonable doubt that Gina Renee
9 Hall is dead and that she was murdered by the defendant, can you
10 return a verdict of guilty even though the body was never found?

11 A Yes, sir.

12 Q O.k., thank you, that's all I have.

13 BY MR. LOOKABILL:

14 Q Mr. Hancock, I'm Glennwood Lookabill and this is David
15 Warburton, my partner and cocounsel and this is Mr. Epperly. Have
16 you ever met, do you know Steve?

17 A No, sir.

18 Q I just wondered if you all ever overlapped when you
19 played--I assume you may have played football at Dublin?

20 A Yes, sir.

21 Q Did you ever play Radford High School?

22 A Yes, sir.

23 Q Do you remember Steve's name?

24 A No, sir.

25 Q When he played on the football team?
26

1 A No, sir.

2 Q You said you graduated in what year?

3 A '72.

4 Q I'll ask a few more questions and I don't mean to be
5 prying or nosey when I ask them. I hope you don't get upset with
6 me.

7 A That's all right.

8 Q But you understand we are trying to do the best we can for
9 our client.

10 A Yes, sir.

11 Q And try to see that an unbiased jury is seated.

12 A All right.

13 Q You say you have lived in Draper all your life?

14 A Yes, sir.

15 Q What's your present occupation?

16 A I'm a machinist.

17 Q Where do you work, sir.

18 A Xaloy.

19 Q And how long have you worked there?

20 A Eight years.

21 Q Did you go to work there after high school?

22 A Yes, sir.

23 Q You've been there that full time?

24 A Yes, sir.

25 Q Have you ever been, you or any member of your family,
26 close family, been a member of the police department or sheriff's

1 department or State Police?

2 A No.

3 Q Have you ever been in the military?

4 A No, sir.

5 Q O.k., the defendant Mr. Epperly sits here today. Do you
6 have any opinion today as to whether he's guilty or innocent of
7 this or any crime?

8 A No, sir, I feel he should have a just trial.

9 Q Do you have any opinion as to whether or not Gina Renee
10 Hall is in fact dead?

11 A No, sir, I wouldn't know.

12 Q You say most of the information you have received about
13 the case has been on TV. Would you tell us what you've heard or
14 seen on TV about the case?

15 A Just that they couldn't find the body.

16 Q Recall anything else about the evidence or anything else
17 you may have read?

18 A No, sir.

19 Q Do you get any of the newspapers--you said you didn't get a
20 newspaper?

21 A No, sir.

22 Q Watched the news on TV?

23 A Well, I don't watch it most of the time. It's just when
24 I'm at home. I'm home very little of the evenings any more.

25 Q Work kinda long hours?

26 A Well, we're on a week and off a week and I'm doing other

1 work, too.

2 Q Have you talked to other people about the case prior
3 to being called as a juror?

4 A Just the ones at work. Some of the people I work with
5 had discussed it.

6 Q Did you see or read anything last night about the
7 case?

8 A No, sir.'

9 Q When you talked to people at work, did they have any
10 opinions about the case one way or the other?

11 A Everybody has opinions.

12 Q They are all different?

13 A Yes, sir.

14 Q Did you react in any particular way when you heard
15 various opinion about the case?

16 A Yes, sir.

17 Q How did you react?

18 A I feel that he needs a just trial.

19 Q Did what they say in any way affect your feeling about
20 guilt or innocence?

21 A No, sir.

22 Q O.k., knowing your present frame of mind and how you
23 feel about the case, if you were sitting here today instead of
24 Mr. Epperly, the defendant, would you feel comfortable having your-
25 self as a juror, knowing your present feeling about the case?

26 A If I knew what I do about myself I would.

1 Q So you would feel comfortable with having yourself on
the jury?

2 A Yes, sir.

3 Q Do you understand Mr. Hancock that it's not our job
4 to prove the defendant, Mr. Epperly, guilty or innocent. It's
5 the Commonwealth's duty to prove him guilty?

6 A Yes, sir.

7 Q That they must prove their case, every element of the
8 case beyond a reasonable doubt, do you understand that?

9 A Yes, sir.

10 Q And this goes even so far as they must prove the death
11 of Gina Renee Hall beyond a reasonable doubt. Do you understand
12 that?

13 A Yes, sir.

14 Q Have you ever been a juror before?

15 A No, sir.

16 Q Have you ever been a witness in a case?

17 A No, sir.

18 Q Any member of your family ever been a victim of a serious
19 crime such as murder?

20 A No, sir.

21 Q Do you understand that the indictment, what the jury
22 hands down in this case is merely a piece of paper that allows the
23 Commonwealth to try the case is not evidence itself?

24 A Yes, sir.

25 Q Do you understand that this what we call a presumption of
26

1 innocence, this idea that he is innocent, goes with him through-
2 out the trial until all the evidence can be heard?

3 A Yes, sir.

4 Q Do you have any difficulty, any reservation whatsoever
5 in giving him the benefit of that presumption of innocence?

6 A No, sir.

7 Q If you were on the jury and there were eleven people
8 who thought Mr. Epperly was innocent or eleven people who thought
9 he was guilty or eleven people who disagreed with you, would you
10 still maintain your position if you thought you were right?

11 A Yes, sir.

12 Q Do you realize that as Mr. Shockley told you this is a
13 circumstantial evidence case and that means there aren't any
14 direct evidence like eye witnesses. Other evidence that points
15 toward guilt or innocence, depends on how the jury might interpret
16 it. This is the type of case which is like a chain. Do you
17 understand that. It must connect the defendant, a strong chain
18 that must connect him with the crime and show him to be the criminal
19 agent. In a circumstantial evidence case, the case is no stronger
20 than the weakest link in that chain. Do you understand that?

21 A Yes, sir.

22 Q Knowing the charge against Mr. Epperly, do you feel that
23 you could give him as fair a trial with a murder charge against
24 him as you could if he were charged with petit larceny or some
25 minor offense?

26 A Yes, sir.

1 Q Do you have any reservation about that whatsoever?

2 A No, sir.

3 Q Would you be able to follow the instructions of the
4 Court not to speculate or guess what may or may not have happened
5 in this case, but merely follow the evidence that's before you?

6 A I don't think there should be any guessing.

7 Q Do you have any connection at all, sir, with Radford
8 College, any friends that work there or attend there?

9 A My sister went there is the only thing.

10 Q When did she, did she graduate from there?

11 A Yes, sir.

12 Q When did she graduate?

13 A About three years ago, I guess.

14 Q Have you talked to her about the case?

15 A No, sir.

16 Q Where does she live?

17 A Pulaski.

18 Q But you never discussed the case with her?

19 A No, sir, I hardly ever see her.

20 Q Would the fact that Gina Hall was a student at Radford
21 College and your sister went there, have any effect on your
22 judgment?

23 A No, sir.

24 Q You said a while ago that you felt dogs probably did
25 have a pretty good sense of smell and could track. Do you think
26 that dogs are infallible, I mean that they can't make mistakes?

1 A Nothing infallible except the Lord, God.

2 Q Would being on this jury, whether it be an innocent
3 verdict or a guilty verdict returned, would being on the jury
4 affect your relationship with your family or your marriage or
5 create any problems for you?

6 A No, sir.

7 Q I thank you and I hope I wasn't too prying.

8 A No, sir.

9 Q Thank you.

10 THE COURT: All right, thank you, sir. If you would step
11 right over here, Mr. Hancock.

12 (The juror leaves the courtroom.)

13 THE COURT: Any objection to Mr. Hancock, gentlemen?

14 MR. SHOCKLEY: No, sir.

15 MR. WARBURTON: None for the defense, Your Honor.

16 THE COURT: Mr. Hancock is accepted.

17 While we are examining her, let's let the Sheriff bring up
18 the next panel of six.

19 Come around Mrs. Cox and have a seat please

20 No. 41.

21 THE CLERK: Myrtle H. Meredith.

22 THE COURT: No. 31.

23 THE CLERK: Thomas H. Piffer.

24 THE COURT: No. 45.

25 THE CLERK: Gary M. Holcomb.

26 THE COURT: No. 46.

THE CLERK: Harold Lee Beamer.

1 THE COURT: No. 9.

2 THE CLERK: Marion D. Taylor.

3 THE COURT: No. 10.

4 THE CLERK: Virginia W. Morris.

5 KAREN SHELTON COX,

6 a juror, after being first duly sworn, being examined on voir dire:

7 BY THE COURT:

8 Q Mrs. Cox, would you state your full name, please, and
9 give us your address?

10 A Karen Shelton Cox, Route 1, Box 175A, Hiwassee.

11 Q Mrs. Cox, were you by any chance on the Grand Jury that
12 returned the indictment in the case of Commonwealth v. Stephen
13 Matteson Epperly? Have you ever been on a Grand Jury?

14 A No, no, sir.

15 Q Did you happen to be here in the courtroom when that
16 Grand Jury was charged, that is instructed by the Court?

17 A No, sir.

18 Q When it made it's report?

19 A No, sir.

20 Q The case here as I'm sure you are aware is that of
21 Commonwealth v. Stephen Matteson Epperly who is seated here to
22 my right between his two attorneys, Mr. Lookabill on the outside
23 and Mr. Warburton on the inside. The charge is that the defendant
24 murdered Gina Renee Hall on or about June 29, 1980. Let me first
25 ask you if you are related by blood or marriage to Mr. Epperly,
26 the defendant?

A No, sir.

1 Q Are you related by blood or marriage to Gina Renee
2 Hall?

3 A No, sir.

4 Q Do you have any interest in the outcome of this trial
5 other than to strive to do justice?

6 A No, sir.

7 Q Have you acquired any information about the alleged
8 offense from any of the news media or from any other source?

9 A Yes, sir, I have seen the publicity on the news and read
10 it in newspapers.

11 Q I'm sure you have. Now let me ask you this. Whether or
12 not what you have read or heard would affect your fairness, your
13 impartiality in any way insofar as this case is concerned?

14 A No, sir, I believe that there's a lot more that will be
15 heard and I don't believe that would affect me.

16 Q I see. You haven't made up your mind about the defendant's
17 guilt or innocence at all, is that right?

18 A No, sir.

19 Q Have you formed or expressed any opinion as to his guilt
20 or innocence?

21 A No, sir.

22 Q Do you think you could, considering what you have heard
23 or read about the case, do you think you could believe, do you
24 think that you could enter this jury box as one of the jurors, hear
25 the evidence, the instructions of the Court and argument of counsel
26 and then with an open mind, wait until the entire case is concluded

1 before you reach a fixed and final opinion concerning the guilt
2 or innocence of the defendant?

3 A Yes, sir.

4 Q Are you sensible of any feeling of bias or prejudice
5 for or against the defendant?

6 A No, sir.

7 Q Are you sensible of any feeling of bias or prejudice for
8 or against the Commonwealth?

9 A No, sir.

10 Q And finally do you know of any reason whether I've touched
11 upon it or not why you could not give the Commonwealth on the one
12 hand and the defendant on the other, a fair and impartial trial
13 based solely upon the law and the evidence?

14 A No, sir.

15 Q Now, Mrs. Cox, the lawyers will have some additional
16 questions and we'll start with Mr. Shockley, who is the Common-
17 wealth's Attorney.

18 BY MR. SHOCKLEY:

19 Q How are you Ms. Cox?

20 A Fine.

21 Q Just a few questions, are you familiar with the Claytor
22 Lake Dam area?

23 A No, sir.

24 Q Have you ever been over there?

25 A Just in a boat and at. I don't know anybody over in there
26 or anything.

1 No, I've never _____ (unintelligible) over there.

2 Q Are you familiar with Hazel Hollow Road at all?

3 A No.

4 Q Do you know anything about the west end of Radford,
5 stress, layout?

6 A No.

7 Q Do you have any friends that live over there?

8 A No.

9 Q Do you have any children?

10 A Three.

11 Q And what are their sexes please.

12 A Two females and a son.

13 Q And their ages?

14 A Nine, seven and almost two.

15 Q O.k., the boy, how old is he?

16 A He'll be two in February.

17 Q O.k., the girls are nine and seven.

18 A Yes, sir.

19 Q Do you believe that certain types of dogs or maybe all
20 dogs for that matter have a scenting ability or smelling ability
21 that is superior to that of human beings?

22 A I've never really thought about it, but I believe they
23 could.

24 Q Well, have you ever heard of dogs being used to track
25 people?

26 A Yes, sir.

1 Q And do you believe that certain dogs can be trained to
2 take a scent and follow that scent and pick up on it?

3 A Yes, sir.

4 Q Do you believe that dogs can do that?

5 A Yes, sir.

6 Q Do you also believe that it's possible for one person
7 to murder another person and then dispose of the body in such a
8 fashion that the body is never found?

9 A Yes, sir, I do.

10 Q Do you think that because such person is capable of doing
11 that, hiding the body so successfully, that that fact alone should
12 cause him to go unpunished?

13 A No, sir, I think with all the evidence weighed, then
14 the decision should be made, but I believe that you could do that.

15 Q Do you understand that this is a circumstantial evidence
16 case. Do you understand the concept at all of circumstantial
17 evidence or would you like me to describe it to you?

18 A Describe it please.

19 Q Circumstantial evidence is when you take a group or series
20 of facts and when viewed in their entirety, they tend to establish
21 another fact or facts so you have certain facts or circumstances,
22 circumstantial evidence that proves something else. Do you under
23 stand?

24 A Yes, sir.

25 Q Do you think that if the Commonwealth were to introduce
26 various types of evidence, circumstances and facts that were to

1 prove to you beyond a reasonable doubt that Gina Hall was dead,
2 killed, killed by this defendant that you could return a verdict
3 of guilty even though her body was never found?

4 A If the facts were proven, yes.

5 Q If in other words--

6 A If the circumstantial facts led to prove--

7 Q That she's dead?

8 A Yes.

9 Q That he was the perpetrator of her death?

10 A Yes, sir.

11 Q So the fact that the body was never found would not
12 keep you--

13 A No.

14 Q --from convicting if the evidence was strong enough?

15 A If it was strong enough.

16 Q Would that evidence have to be so overwhelming that it
17 would probably be impossible to prove or--

18 A It would just have to be that I would have no doubt in
19 my mind at all, that's the only--

20 Q Are you saying that without a body the chances of you
21 returning a conviction, assuming the other evidence is there and
22 everything, but not the body, that you would be very reluctant to
23 return a conviction?

24 A No, I don't mean that. If the facts was proven and that
25 there was no doubt in my mind, regardless of the body or not, that's
26 how I would give my verdict.

1 Q O.k., thank you very much.

2 BY MR. LOOKABILL:

3 Q Mrs. Cox, I'm Glennwood Lookabill and this is David
4 Warburton, my partner and cocounsel and this is the defendant,
5 Stepehn Epperly. Is this, to your knowledge, the first time
6 you have ever seen Mr. Epperly?

7 A Yes, sir.

8 Q I'm going to ask a few more questions and I won't try
9 to be too personal. They may be a little bit. I want you to under-
10 stand it's because we have a task to do and a responsibility to-
11 ward our client to see that he obtains a fair and unbiased trial,
12 an unbiased jury, that's the reason I'm asking the questions so
13 you won't get angry with me.. o.k.

14 A O.k.

15 Q How long have you been a resident of Pulaski County?

16 A Twenty-seven years.

17 Q If I ask you if that's been all your life, you'll be
18 telling me your age, is that all right.

19 A Right.

20 Q Have you lived in the Hiwassee area all your life?

21 A Yes, sir.

22 Q What's your occupation?

23 A Housewife.

24 Q With three kids, that's about all you have time for.

25 What's your educational background?

26 A I graduated Dublin High School.

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Q What year was that?

A 1971.

Q Did you ever know Mr. Epperly when he went to Radford High School?

A No.

Q Did you ever know him before?

A No, sir.

Q Have you or any member of your family ever been associated with the local, state, or county Sheriff's Department or police force?

A No.

Q Have you or your husband ever been in the military?

A No.

Q Did you see anything on the news last night about this case or ~~or~~ did you read anything last night?

A No, sir.

Q What specifically have you read or heard about the case?

A I don't get a newspaper and the only--with something like this, I'll be honest. I've heard the rumors and the talk. I haven't read that much about it. The day that I was told or very close to the day, what day to appear, I was given a free South-west Times thrown in my yard and there it was, that's what would be on the jury today, well I figured one of the things and that was really the only part I had ever read in the paper.

Q Was that the fact that the jury was going to be chosen starting yesterday?

1 A Uh huh, the 8th, and that's really--I have heard people
2 talk; I have seen the news.

3 Q What did you see on the news and what have you heard
4 people say about the case?

5 A Just about Gina Hall, the fact that they could not find
6 her body, the fact that they were trying to connect evidence with
7 Mr. Epperly, that type a thing.

8 Q As you look at Mr. Epperly today here without having
9 any evidence presented in the courtroom, do you have an opinion
10 one way or the other whether he's guilty or innocent?

11 A No.

12 Q Do you have any feelings about it?

13 A No.

14 Q Did you hear the news when Mr. Epperly was arrested?

15 A No.

16 Q You didn't know that he had been?

17 A No.

18 Q When you learned that he had been arrested, sometime
19 you know that a person had been charged and arrested, did you
20 have the feeling of, "Oh, good they've caught somebody."?

21 A No.

22 Q The people you've talked to about the case, do you get
23 the impression mainly the people feel he's guilty or that he's
24 not?

25 A I've heard both.

26 Q Did what people say affect your thinking in the case?

A No.

1 Q Knowing the way you feel about the case at this point
2 and if you were sitting here as the defendant, would you have any
3 objections to having yourself as a juror, I mean a person with the
4 same frame of mind, would you mind having as a juror?

5 A No, sir.

6 Q What I'm saying is that you feel so unbiased about the
7 case you wouldn't have any difficulty have a person of your like
8 mind sitting on a jury trying you in a murder charge?

9 A No.

10 Q As far as you are concerned does Mr. Epperly sit here
11 today, an innocent man?

12 MR. TERWILLIGER: Objection, Your Honor, I think the way that's
13 phrased--

14 Q I'll rephrase it, Your Honor. Until the Commonwealth
15 has proven to the contrary, do you give Mr. Epperly the benefit
16 of the presumption of innocence?

17 A Yes, sir.

18 Q And he is innocent until such time as the Commonwealth
19 proves the case?

20 A Yes, sir.

21 Q Do you understand that the Commonwealth has to prove the
22 case, every element of its case beyond a reasonable doubt?

23 A Yes, sir.

24 Q And when I say every element, I mean that the Common-
25 wealth also must prove the death of Gina Hall beyond a reasonable doubt
26 or to a moral certainty, do you understand that?

1 A Yes, sir.

2 Q Do you also understand that it's not our responsibility
3 to prove he's innocent and the Commonwealth's task and burden to
4 prove he's guilty beyond a reasonable doubt?

5 A Yes, sir.

6 Q Have you ever served as a juror before?

7 A No.

8 Q Have you ever been a witness before?

9 A No.

10 Q Has any close member of your family or friend ever been
11 involved in any type criminal case?

12 A No.

13 Q Has any member of your family or close, close friend ever
14 been a victim of a serious crime such as murder or other serious
15 felony?

16 A No, sir.

17 Q Do you understand that the indictment that's returned
18 by the Grand Jury is nothing more than a piece of paper that allows
19 the Commonwealth Attorney to try this case and that it is not
20 evidence in the case?

21 A Yes, sir.

22 Q If you were on the jury and you were, there were twelve of
23 you and you disagreed with the opinions of the other eleven people
24 would you maintain your position?

25 A Yes, sir, because I would have to live with it.

26 Q You feel pressure, you would not succumb to pressure by

1 other members of the jury if you felt strongly about your position?

2 A No.

3 Q Do you understand that in a circumstantial case such as
4 this that the Commonwealth must prove every element of the offense
5 and that there must be a chain, you think about a magical or mystical
6 chain connecting the defendant with the crime, must show that he
7 did it, must prove every element of it and then if there is one
8 weak link in that chain, the chain breaks and you must acquit the
9 defendant, do you understand that?

10 A Yes, sir.

11 Q And that any evidence in a circumstantial case, evidence
12 case must be taken with great care and caution by a jury, do you
13 understand that?

14 A Yes, sir.

15 Q Do you have any mental reservation whatsoever in
16 allowing our client, Mr. Epperly, the benefit of the presumption
17 of innocence?

18 A Would you repeat the question?

19 Q Do you have any reservations in your mind that you cannot
20 give him the benefit of the presumption of innocence until all
21 the case is completed?

22 A No, sir.

23 Q Of course, you know the charge against Mr. Epperly is
24 murder?

25 A Yes, sir.

26 Q If he were charged with a much lesser offense such as

1 petit larceny and shoplifting could you give him just as fair a
2 trial on this charge as you could with a lesser charge?

3 A Yes, sir.

4 Q Would you be able to follow the Court's instructions
5 not to speculate or guess about what happened in this case, but
6 merely tune your senses to the evidence in this case?

7 A Yes, sir.

8 Q Do you have any connection or affiliation with Radford
9 College or Radford University?

10 A No.

11 Q You indicated that you felt that dogs had a superior
12 smelling ability superior to humans?

13 A Now that is just in things I've heard. I can't really--

14 Q You don't consider dogs infallible or beyond mistake?

15 A No.

16 Q Would your being on the jury and being here today in
17 any way embarrass you or create a problem with your family or friends?

18 A No, sir.

19 Q All right, I hope I haven't asked too many questions
20 to embarrass you. I didn't mean to if I did. I appreciate your
21 responses.

22 THE COURT: All right, Mrs. Cox, you may step down and come
23 over here.

24 (The juror leaves the courtroom.)

25 THE COURT: Gentlemen, are there any objections to Mrs. Cox?

26 MR. SHOCKLEY: No, sir.

1 MR. WARBURTON: Your Honor, there are no objections for the
2 defense.

3 THE COURT: No objections to Mrs. Cox?

4 MR. WARBURTON: No objections.

5 THE COURT: All right, Mrs. Cox is accepted.

6 Just one minute, let's take a 10 minute recess.

7 (After a time all interested parties, including the Court,
8 counsel and the defendant returned into the courtroom.)

9 MR. SHOCKLEY: Your Honor before any of these jurors we have
10 mentioned are excused, I would like to have defense counsel's
11 consent thereto.

12 THE COURT: Right, we'll go on the record and do that now.
13 Gentlemen, I have reflected over the night about two of our venire-
14 men whom I have accepted as jurors in this case and although I
15 still feel that they are qualified and would be good jurors, free
16 from exception, they made certain responses to questions that were
17 put to them that might raise some question and I don't want any
18 question in this case so I'm going to call in Mrs. Albert and
19 Mrs. Holmes and excuse them and I am wondering if gentlemen of
20 counsel have any objection to that procedure.

21 MR. WARBURTON: Your Honor, as we have previously mentioned,
22 we objected to the seating of both of those individual jurors and
23 we would concur in your action.

24 THE COURT: All right.

25 MR. SHOCKLEY: The Commonwealth has no objection, Your Honor.

26 THE COURT: All right. Bring in Mrs. Albert and Mrs. Holmes
please, sir.

1 THE COURT: Mrs. Holmes and Mrs. Albert you will recall on
2 yesterday certain questions were put to each of you and you made
3 certain responses that seemed to raise some question in persons
4 minds about your objectivity and whether or not you had precon-
5 ceived notions about the case and so on. I felt then and I feel
6 now that each of you would be a good responsible juror, but out
7 of an abundance of caution and to try to obviate any possible
8 error in this case, I'm going to excuse each of you and see if
9 we can't find someone to take your places. You don't object to
10 that do you? All right, you are free to go. Thank you.

11 (The two jurors are discharged.)

12 (Thereupon the fifth panel of six jurors were sworn on voir
13 dire.)

14 THE COURT: Ladies and gentlemen, you are being brought in
15 in panels of six and are being sworn and then we are going to let
16 five of you retire to a room out here and we'll question one of
17 you to determine whether or not you are qualified to serve on this
18 jury. We'll bring you in one at a time and put these questions
19 to you. During this proceeding and indeed through every phase
20 of this case should you be selected as a juror, do not discuss
21 the matter with anyone, do not permit anyone to try to talk about
22 the case in your presence. Above all do not disclose to anyone
23 what questions are put to you in here on this examination nor your
24 response thereto. Further, if you are selected as a juror, indeed,
25 well, yes, I guess that would, you would have to be selected as a
26 juror for this admonition to apply. In any event until you are

1 excused by the Court, let's put it that way, until you are excused
2 by the Court, I don't want any of you to read any newspaper account
3 or listen to any radio or TV news broadcasts about this trial. I
4 want you to keep an absolutely open mind about the matter. Then
5 when it's all over you can get your papers together and read it
6 from start to finish. It'll be like a novel so if you would all do
7 that, I'd appreciate it. Now I'll ask this gentleman to remain
8 and the five of you to go back out to the room, please, and you
9 may take this chair, sir.

10 HAROLD L. BEAMER,

11 a juror, after being first duly sworn, being examined on voir
12 dire:

13 BY THE COURT:

14 Q All right, would you state your name, please.

15 A Harold L. Beamer.

16 Q Mr. Beamer?

17 A That's right.

18 Q Where do you live, Mr. Beamer?

19 A Here in Pulaski.

20 Q Here in town. And what is your age?

21 A 70.

22 Q Mr. Beamer, were you on the Grand Jury that returned
23 the indictment against Stepehn Matteson Epperly?

24 A No, Your Honor.

25 Q Were you here in the courtroom when that Grand Jury
26 was charged or when it reported?

1 A No, Your Honor.

2 Q Mr. Epperly, as you probably know is charged with the
3 murder of Gina Renee Hall. Mr. Epperly is seated here at this
4 table in the middle between his lawyers, Mr. Lookabill and Mr.
5 Warburton.

6 A I see.

7 Q Over at the other table are the attorneys for the
8 Commonwealth. Let me ask you first, whether or not you are re-
9 lated by blood or marriage to the defendant, Stephen Matteson
10 Epperly?

11 A No, I'm not.

12 Q Are you related by blood or marriage to Gina Renee Hall?

13 A No, I'm not.

14 Q Do you have any interests in this trial or in the out-
15 come of the case?

16 A No.

17 Q Have you acquired any information concerning the case from
18 any news media or from any other source?

19 A Not except the general news items, you know, that came
20 out before I thought I would be on the jury.

21 Q Right. I'm sure nearly everybody in the county has read
22 something about the case or heard something about it. Now the
23 important thing is not that you have read it because an informed
24 citizen should read his newspaper. What I really want to know is
25 whether or not this information, whatever information you have
26 acquired concerning the case would affect your impartiality in any

1 way?

2 A No, it wouldn't, Your Honor.

3 Q Have you formed or expressed any opinion concerning the
4 guilt or innocence of the accused?

5 A No, I have not.

6 Q Do you think you could sit in this jury box as a member
7 of a jury should you be selected and listen to all of the evidence and
8 law as given to you by the Court and argument of counsel, keep an
9 open mind and then when you retire to the jury room, then and then ^{only}
10 after deliberation amongst your fellows, make up your mind as to the
11 guilt or innocence of the defendant. You think you could do that?

12 A Yes, I could.

13 Q Are you sensible of any feeling of bias or prejudice
14 for or against the Commonwealth or for or against the defendant for
15 any reason?

16 A No, I haven't.

17 Q Do you think you could give the Commonwealth on the one
18 hand and the defendant on the other a fair and impartial trial
19 based solely upon the law and the evidence that you would hear in
20 this courtroom?

21 A Yes, Your Honor.

22 Q All right, now these gentlemen of counsel will have
23 some additional questions. I've introduced defense lawyers. Mr.
24 Shockley is the Commonwealth's Attorney and he will ask you a few
25 questions first and Mr. Lookabill over here on the other side will
26 follow.

1 BY MR. SHOCKLEY:

2 Q How are you this morning, Mr. Beamer?

3 A All right.

4 Q I just want to ask you a few questions. First of all are
5 you familiar with the Claytor Lake Dam area?

6 A Generally speaking, not below the dam but above the dam.

7 Q Are you talking about the lake side?

8 A The lake side.

9 Q The lake side?

10 A Yeah, I have a boat over there.

11 Q Where is your boat?

12 A It was over there at Conrad's. I sold it though.

13 Q Have you done quite a bit of boating on Claytor Lake?

14 A Quite a bit.

15 Q Do you know where Mr. Ronald Davis has a home on Claytor Lak

16 A No, I don't.

17 Q Are you familiar with Hazel Hollow Road?

18 A No.

19 Q Do you know the road that I'm talking about?

20 A No, I don't. I'm not familiar with it.

21 Q Do you know as you go into Radford on Route 11, just
22 before you get to Memorial Bridge there is a right hand turn there
23 that runs down by the river's edge, that road. Have you ever been
24 down that road?

25 A I don't remember being on that road.

26 Q You are familiar with the dam area though?

1 A Yeah.

2 Q The picnic grounds?

3 A Not the picnic grounds, I haven't been there.

4 Q Are you familiar at all with the west end of Radford?

5 A Not very much. I know where to get to the hospital and
6 something like that, but other than that I don't know anything about
7 it.

8 Q Mr. Beamer do you have any children or grandchildren?

9 A I have three children and an adopted child.

10 Q Are your children, I assume are adults and have children
11 of their own?

12 A They have children of their own now.

13 Q How about your grandchildren? How many grandchildren
14 do you have?

15 A Let's see, I have three and then I have three more by my
16 adopted daughter, so that would be six.

17 Q O.k. how many boys and how many girls do you have
18 please.

19 A I have, let's see-

20 Q I'm talking about your grandchildren.

21 A I can't remember about the grandchildren. Let's see
22 there's three, there's four boys.

23 Q All right, sir.

24 A And whatever the difference is is girls then.

25 Q Two girls. Do you know their ages?

26 A No, I don't.

1 Q Are any of them teenagers?

2 A Oh yes.yeah, some of them in college.

3 Q Did you ever do any hunting, Mr. Beamer?

4 A Very little. When I was younger I did a little bit, but
5 very little hunting.

6 Q Do you believe that certain types of dogs have a scenting
7 ability or smelling ability that is superior to what you and I
8 have as human beings?

9 A Yes, I do.

10 Q Do you believe that dogs can be trained to track a human
11 scent, to follow a human being?

12 A Yes.

13 Q Mr. Beamer, do you think that it's possible for one
14 person to kill and murder another person and then dispose of the
15 body in such a fashion that the body is never found?

16 A Yes, I believe that.

17 Q Do you think that for that fact alone that the murderer
18 should go unpunished?

19 A No, I don't.

20 Q If you have heard anything at all about this case, Mr.
21 Beamer, I know that you know Cina Renee Hall has never been found
22 dead or alive, is that correct?

23 A That's what I understand.

24 Q All right. In any homicide prosecution the state must
25 prove a variety of elements beyond a reasonable doubt and, of course,
26 one of those elements is the death of the alleged victim. The

1 Court will instruct you that circumstantial evidence is competent
2 evidence and that it's adequate to prove any fact that the Common-
3 wealth must prove provided the evidence convinces you beyond a
4 reasonable doubt as to those facts. First of all do you understand
5 that circumstantial evidence is facts and circumstances or a group
6 of them which when accumulated and looked at together proves an-
7 other fact or tends to prove another fact. If the state were
8 to prove various types of evidence that led you to believe beyond
9 a reasonable doubt, of course, that Gina Hall is dead, that she
10 was murdered and that the defendant is the culprit or the perpetrator,
11 would you be able to return a verdict of guilty even though her
12 body has never been found?

13 A Yes, I could.

14 Q O.k., thank you, that's all I have, sir.

15 BY MR. LOOKABILL:

16 Q Mr. Beamer, Mr. Warburton, my partner, and I will ask
17 you a few more questions. We'll try not to be too personal or
18 anything. There are some questions we'll have to ask in order to
19 get the answers?

20 A That's all right.

21 Q Now this is Mr. Epperly, the defendant and our client.
22 Have you ever seen him before today?

23 A No, I don't believe I have.

24 Q You don't know him or his family?

25 A No, I don't know him or his family either.

26 Q O.k., I want to ask you a few questions. How long have

1 you been a resident of Pulaski County?

2 A Seventy years.

3 Q You've lived here all your life?

4 A All my life.

5 Q I believe you are a pharmacist?

6 A Retired pharmacist.

7 Q Would the fact of scientific, chemical evidence in the
8 case have any effect upon your determination as a juror since you
9 probably have a little bit more knowledge than most people in that
10 area?

11 A It would depend on the evidence.

12 Q Would you look at it as closely as you would any other
13 evidence in the case?

14 A Yes, I would.

15 Q How long were you a pharmacist here in Pulaski?

16 A Forty-two years, I believe.

17 Q Now as you sit here today having heard none of the
18 Commonwealth's evidence, do you have any opinion as to the guilt
19 or innocence of Mr. Epperly?

20 A I have no opinion whatever.

21 Q What have you heard on TV and read about regarding the
22 case?

23 A Very little of anything, amount of any interest to any-
24 body.

25 Q What specifically, do you remember some of the things that
26 you've heard or read about?

1 A Well, I don't remember too much about it to tell you
2 the truth. I just scanned it hurriedly and I don't recall too
3 much of it, the evidence.

4 Q Do you know any more then there's a missing person and
5 that this man's charged? Do you know anything else?

6 A That's about all I know about it.

7 Q Do you know anything about the places or times that
8 this was supposed to have occurred?

9 A No, I'm not familiar with that area.

10 Q You know nothing else about the Commonwealth's evidence?

11 A No.

12 Q Physical evidence or otherwise?

13 A No, I don't.

14 Q I believe you have been on juries before?

15 A I was on one just before Thanksgiving and got struck
16 off.

17 Q What?

18 A I was struck off.

19 Q So you didn't have to serve?

20 A I didn't serve.

21 Q Had you been on a jury prior to that?

22 A No, being a pharmacist I wadn't. I didn't serve any.

23 Q What papers do you subscribe to?

24 A Southwest Times and Roanoke Times and World News.

25 Q And you said you've read nothing more then what you've
26 just indicated?

1 A I didn't even read the paper this morning. It was on
2 the front page. I just noticed it and turned it over. I didn't
3 even look at it.

4 Q I think the Judge instructed everyone, potential jurors
5 not to read anything.

6 A I didn't read it.

7 Q You didn't watch TV last night?

8 A I watched TV but all they did was make an announcement
9 of what they were doing and it didn't amount to anything, heard
10 over it. I listened to WSLR. They didn't have any pictures or
11 anything.

12 Q Do you recall what was said last night?

13 A No, other than they had picked so many jurors. I've
14 forgotten how many they said. That was all the information I got
15 off TV and it just happened to come on.

16 Q Have you discussed this case with anyone?

17 A No.

18 Q Anybody in your family or friends?

19 A No, not even my wife, I don't think, I can't remember.

20 Q I'm not talking about just last night, any time?

21 A Well, it's possible that we've discussed it months ago.

22 Q Did you form any opinion at that time about the case?

23 A No, no opinion about the case.

24 Q Assuming that you were sitting here today as the defendant
25 rather than Mr. Epperly and knowing your present feeling about
26 the case, your state of mind, would you feel that you would be an

1 acceptable juror in such a case?

2 A Yes, I do.

3 Q As far as you are concerned, does Mr. Epperly at this
4 point--do you understand that you have to give him the benefit
5 of the presumption of innocence throughout this proceeding?

6 A That's right.

7 Q And right now he stands before you an innocent man until
8 proven otherwise by the Commonwealth?

9 A That's correct.

10 Q Have you ever been a witness in a case, Mr. Beamer?

11 A No.

12 Q Has any member of your family, close family or friends
13 ever been a victim of a serious crime?

14 A Not to my knowledge.

15 Q Do you understand the function of an indictment. That it
16 is a document that allows a case to be tried. It is not evidence
17 in itself?

18 A That's right.

19 Q Do you understand that this presumption of innocence
20 goes with the man throughout the proceedings and the Commonwealth
21 must prove every element of the offense beyond a reasonable doubt?

22 A I understand that.

23 Q And that they also must prove the death of Gina Hall
24 beyond a reasonable doubt or to a moral certainty?

25 A That's right.

26 Q If you were on the jury and you were the only one who felt

1 a certain way about this case, would you allow other people to affect
2 your thinking on it?

3 A My thinking now is no, but I don't know. It would
4 depend on the circumstances, I imagine.

5 Q If you felt very strongly about your position--

6 A I would adhere to it.

7 Q So you wouldn't allow eleven people to affect it, if you
8 really felt strongly enough?

9 A If I felt strongly enough about it.

10 Q Do you understand that in a circumstantial evidence
11 case the Commonwealth's evidence must be taken with great care
12 and caution?

13 A That's right.

14 Q Do you have any mental reservations whatsoever about
15 allowing the defendant to enjoy the presumption of innocence
16 throughout this proceeding?

17 A No, I don't.

18 Q Do you feel that you could give him the same fair trial
19 being charged with murder as you could give him if he was charged
20 with a minor crime, trespass or something of that nature?

21 A That's correct.

22 Q Would you be able to follow the Court's instructions
23 not to speculate or guess about the evidence but only to focus
24 on what's before you?

25 A That's correct.

26 Q Do you have any connection with Radford College at all,

1 sir?

2 A No.

3 Q You indicated you thought dogs had pretty good noses
4 and could be trained to track?

5 A Yes, sir.

6 Q Do you think that dogs are infallible?

7 A I wouldn't say that, no, but they're useful.

8 Q O.k., well I hope I haven't pried too much. I haven't
9 meant to, but I do appreciate your responding.

10 A Thank you.

11 THE COURT: Thank you Mr. Beamer. You may retire into the
12 jury room.

13 THE COURT: Any objection, gentlemen?

14 MR. SHOCKLEY: No, sir.

15 MR. LOOKABILL: The only objection I would have--of course,
16 one of the questions I asked him was could you follow the Court's
17 instructions on the question of law and as I understand the Court
18 asked all the jurors not to watch TV or read the newspaper and
19 he watched the Channel 10 news last night so I think that perhaps
20 _____ (unintelligible).

21 THE COURT: I'm not sure he was in the room when I--some of
22 them were down in the hall.

23 MR. LOOKABILL: I believe the Sheriff instructed them to--

24 THE COURT: I think maybe the Sheriff told them. I didn't
25 personally instruct them. I have no problem with this gentleman.
26 I'd say he's ideally suited to be a juror and I shall accept him.

1 MR. LOOKABILL: Would you note our exception, Your Honor.

2 THE COURT: Your exception as I understand it, your objection
3 was that he had looked at a news cast last night which he said
4 didn't say anything and what specifically was your objection with
5 reference to him following instructions?

6 MR. LOOKABILL: Well, I was noting that he was asked the
7 question on following instructions to the jury, the Court's in-
8 structions and he said that he could and would, but at the same
9 time--

10 THE COURT: Oh, I was thinking in terms of the written in-
11 structions at the end of the case.

12 MR. LOOKABILL: No, sir.

13 MYRTLE MEREDITH,

14 a juror, after being first duly sworn, being examined on voir
15 dire:

16 BY THE COURT:

17 Q Mrs. Meredith, will you take the witness chair right there
18 please, ma'am.

19 Have a seat if you will and speak right up so that we
20 can all hear you and tell us your name, please, ma'am.

21 A Myrtle Meredith.

22 Q I beg your pardon.

23 A Myrtle Meredith.

24 Q Myrtle Meredith. And where do you live Mrs. Meredith?

25 A In Pulaski.

26 Q Town of Pulaski?

1 A Yes, sir, 2nd Street, S.W.

2 Q Were you on the Grand Jury that returned the indictment
3 against the defendant here, Mr. Epperly?

4 A No, sir.

5 Q Were you, did you happen to be in the courtroom here
6 when this Grand Jury was charged?

7 A No.

8 Q And when it reported?

9 A No, sir.

10 Q This is a murder case against Stephen Matteson Epperly
11 and he's charged with having murdered Gina Renee Hall on or about
12 June 29, 1980. First let me ask you if you are related by blood
13 or marriage to the defendant, Stephen Matteson Epperly, who is
14 seated in, at the middle, at this table to your left?

15 A No, sir.

16 Q Are you related by blood or marriage to Gina Renee
17 Hall?

18 A No, sir.

19 Q Do you have any interests in this case or in its outcome
20 other than to strive to do justice to each side should you be selected
21 as a juror?

22 A That's right.

23 Q You have no interest in the case other than that?

24 A No, sir.

25 Q Now I assume you've read in the paper or seen on TV
26 or heard on the radio or heard talk about this case, have you not?

1 A Yes, sir.

2 Q That's all right. An informed citizen should know
3 what's going on. What I want to know is whether the information
4 that you have received from whatever source would affect your
5 impartiality in any way?

6 A No, sir, I haven't formed any opinion?

7 Q Have you formed or expressed any opinion concerning the
8 guilt or innocence of the accused?

9 A No, sir, I have not.

10 Q Do you feel that you could sit in the jury box here
11 with the other jurors with an open mind and wait until the entire
12 case is presented before you make up your mind as to the guilt
13 or innocence of the defendant?

14 A Yes, sir.

15 Q Are you sensible of any feeling of bias or prejudice
16 for or against the Commonwealth for any reason?

17 A No, sir.

18 Q Are you sensible of any feeling of bias or prejudice for
19 or against the defendant for any reason?

20 A No, sir.

21 Q Are you sensible of any feeling of bias or prejudice for
22 or against the defendant for any reason?

23 A No, sir.

24 Q Do you know of any reason whether I've touch'd upon it
25 or not why you could not give the Commonwealth on the one hand
26 and the defendant, Stephen Matteson Epperly on the other, a fair

1 and impartial trial based solely upon the law and the evidence?

2 A Yes, sir.

3 Q All right, now Mr. Shockley for the Commonwealth will
4 have a few questions for you and then Mr. Lookabill for the de-
5 fense will likewise have some questions.

6
7 BY MR. SHOCKLEY:

8 Q How do you do, ma'am. I'll just ask you a few. Are
9 you familiar with the Claytor Lake Dam area?

10 A Not really.

11 Q Have you ever been down there?

12 A Oh, it's been years since I've been down there.

13 Q Are you familiar with Hazel Hollow Road?

14 A No, sir, I'm not.

15 Q Do you know anything about the west end of Radford?

16 A No, sir.

17 Q Do you have any grandchildren?

18 A Yes, I have two.

19 Q Two?

20 A Yes, sir.

21 Q Boy and a girl, two girls?

22 A Boy and a girl.

23 Q What are their ages, please.

24 A Eighteen months and four years.

25 Q The boy is--

26

1 A The boy is four.

2 Q Mrs. Meredith, do you believe that dogs, particularly
3 certain types of dogs have a scenting or smelling ability that
4 is superior to what you and I have as human beings?

5 A I would think so.

6 Q Have you heard of dogs like blood hounds, other types
7 of dogs being used to track people?

8 A Yes, sir, I've heard of it.

9 Q Do you believe that a dog can be trained to be scented
10 on something and then try to follow that scent, look for that
11 scent in search for someone?

12 A Yes, sir.

13 Q Do you have any doubt in your mind about a dog's ability
14 to do that if he's properly trained?

15 A Well, I've never had any experience.

16 Q I understand. Do you believe what you read about the
17 ability of dogs to do that type of thing?

18 A Yes, sir.

19 Q Mrs. Meredith, do you think that it's possible for one
20 person to murder another person and then dispose of the body in
21 such a form or fashion that the body is never found or it takes
22 years to find it?

23 A I would say so.

24 Q You think that's possible. You'll have to speak up so
25 your voice can be recorded?

26 A I'm sorry. I think so.

1 Q You think that could be done?

2 A Yes, sir.

3 Q Do you think for that reason alone and that is if some-
4 one hides the body, the killer, that that person should go unpun-
5 ished simply because he was able to hide the body so well?

6 A That is hard to answer.

7 Q Can you tell me your feelings, what you are thinking.

8 A Ask me the question again.

9 Q All right, my question is, assuming that someone kills
10 another person and is capable of hiding the body and does hide
11 the body and it is not found, for that reason alone do you think
12 the person should go unpunished?

13 A I guess I'd have to say no.

14 Q Well, you understand as the judge has told you that
15 this is a murder prosecution?

16 A Yes, sir.

17 Q And if you read or heard anything at all, I'm sure that
18 you know Gina Renee Hall has never been found dead or alive since
19 her disappearance back in June. Do you understand that?

20 A Yes, sir.

21 Q Of course, in a murder prosecution the State has
22 several elements that it must prove, to prove its case. It must
23 prove each of those elements beyond a reasonable doubt, do you
24 understand that?

25 A Yes, sir.

26 Q And obviously in a murder prosecution, or any homicide

1 prosecution the state would have to prove that a death had
2 occurred. Do you understand that?

3 A Yes, sir.

4 Q Now if the Court were to instruct you that circumstantial
5 evidence is competent evidence and is sufficient evidence to
6 prove a fact that must be proved by the state, would you follow
7 that instruction, any instruction that the Court gives you, I
8 assume that you would follow?

9 A Yes, sir.

10 Q What I'm getting at, is that in this particular case
11 there is no direct evidence of death. There is no body. The
12 state would not be able to put on a medical examiner or a physician
13 to state that the body found is the body of Gina Renee Hall and
14 that the body is dead. The state will attempt to prove to you
15 beyond a reasonable doubt that she is dead by circumstantial
16 evidence, that is other facts and circumstances which when
17 accumulated and looked at, you know, as a whole proves that a death
18 has occurred. If the state's facts and circumstances that they've
19 proved to you convince you that a death has occurred, could you so
20 conclude even though no body had been introduced?

21 A Well, if all the evidence was there.

22 Q What I'm saying is if you were selected as one of the
23 twelve people to sit on the jury, would the state have to have
24 a body, a dead body before you could come to the conclusion that
25 someone had died?

26 A Well, not necessarily; I'd say no.

1 Q Are you able to conceive of a certain situation or a
2 set of facts and circumstances that will allow you as a juror to
3 conclude that a death had occurred even though no body had been
4 produced?

5 A Yes, sir.

6 Q And if the State again through its facts and circumstances
7 that it intends to prove to the jury convinces you beyond a
8 reasonable doubt that she is dead, not beyond all doubt or to a
9 100 per cent certainty, but beyond a reasonable doubt, that she
10 was killed and murdered by the defendant, would you be able to
11 return a verdict of guilty even though the body had never been found
12 and produced?

13 A Yes.

14 Q You hesitate and I guess I don't blame you for hesi-
15 tating. Certainly we want conscientious jurors but do you have
16 some severe reservations about that. Would it give you problems,
17 would you be leaning in favor of an acquittal because no body had
18 been produced. Can you give me your inner feelings on that?

19 A No, sir, I wouldn't have any doubts about that.

20 Q Pardon?

21 A I wouldn't have any doubts about that.

22 Q Wouldn't have any doubts about what, ma'am?

23 A Would you repeat the question and then I'll answer it.

24 Q I'm not sure I remember what it was. My question was,
25 if the Commonwealth was able to prove that she's died through
26 various facts and circumstances and that the defendant is the one

1 who killed her and the other elements will prove malice and so on
2 that a murder had taken place, would you be able to return a verdict
3 of guilty?

4 A Yes, sir.

5 Q Even though the body had never been found?

6 A Yes, sir.

7 Q And I guess my question that we lost track of was
8 whether or not you would have severe reservations in doing that,
9 in other words would you have an inclination to lean towards an
10 acquittal simply because there was no body?

11 A No.

12 Q O.k., that's all I have. Thank you very much.

13 BY MR. LOOKABILL:

14 Q Mrs. Meredith, this is David Warburton, my law partner.

15 A Right.

16 Q And this is the defendant, Stephen Matteson Epperly.

17 Is this the first time you have ever seen Mr. Epperly?

18 A Yes, it is.

19 Q I'll ask you a few questions. I'll try not to get too
20 personal, o.k.?

21 A All right.

22 Q These questions will have to be asked in order to try
23 to determine whether we can obtain fair minded jurors. I know you
24 have been a resident of Pulaski County for several years.

25 A All my life.

26 Q Are you working right now, presently?

1 A No, I'm retired.

2 Q Retired. Has any close relative or friend been a
3 member of the police department, state police or sheriff's
4 department?

5 A No.

6 Q Or in the military?

7 A No.

8 Q As you sit here today, not having heard any of the
9 evidence the Commonwealth would produce, do you have any feelings
10 one way or another as to the guilt or innocence of this man?

11 A No.

12 Q Do you have an opinion right now as to whether or not
13 Gina Renee Hall is in fact dead?

14 A No, I don't.

15 Q What have you read or heard about the case on TV or
16 newspapers?

17 A Some on the TV and the newspaper.

18 Q Do you remember any specific things that you have read,
19 or what you've actually heard?

20 A Well, I just read, you know, when it first happened,
21 where she was and everything.

22 Q Had you heard that she was missing?

23 A Yes, sir.

24 Q Did you read the paper when Mr. Epperly was charged?

25 A Yes, I did.

26 Q Did you have any feeling at that time, "I'm glad they

1 caught somebody"?

2 A No.

3 Q What papers do you get?

4 A Southwest Times.

5 Q Do you get the Roanoke Times, too?

6 A Sometimes, not always.

7 Q Do you know anything else about the case, other than
8 what you've just told me?

9 A No, I do not.

10 Q You don't know anything about the Commonwealth's evidence
11 or what they intend to prove or anything like that?

12 A No.

13 Q Have you discussed the case with anyone?

14 A No, I have not.

15 Q O.k. knowing, you know your mind better than anybody
16 else, if you were on trial today for murder, would you feel good
17 about having you on the jury, would you feel o.k. about that?

18 A Excuse me, would you repeat the question.

19 Q If you were the person charged other than Mr. Epperly
20 with murder, would you feel good about having a person like your-
21 self, the same frame of mind that you are in being on the jury?

22 A Yes.

23 Q Do you understand that Mr. Epperly is presumed innocent
24 until proven guilty?

25 A Yes.

26 Q Do you also understand that the Commonwealth, the state

1 must prove every element of the offense beyond a reasonable doubt?

2 A Yes.

3 Q That they also must prove to a moral certainty beyond a
4 reasonable doubt that Gina Hall is dead?

5 A Yes.

6 Q That's one of the elements of the offense?

7 A Yes.

8 Q Do you have any reservation at all about giving Mr.
9 Epperly the benefit of the presumption of innocence throughout
10 this proceeding?

11 A No.

12 Q Have you ever been on a jury before?

13 A No, I haven't.

14 Q Have you ever been a witness in a case?

15 A No, I haven't.

16 Q Have you, has any close member of your family ever been
17 a victim of a serious crime such as murder or felonious assault?

18 A No.

19 Q Do you understand that the indictment which is handed
20 down by the Grand Jury is nothing more than a document to allow
21 the Commonwealth to try this man for the charge?

22 A Uh hum.

23 Q That it's not evidence itself?

24 A Yes.

25 Q Do you feel that as a juror that it's your function
26 to solve the case and find the guilty party or someone else who

1 may have committed the crime or do you feel that your function as
2 a juror is merely to determine the guilt or innocence of this
3 man. In other words like Perry Mason, for example, somebody
4 always jumps out of the audience and confessed and then everybody
5 felt good because the crime had been solved and the defendant was
6 not guilty. Do you feel like we have to solve the crime, that
7 someone has to be found as the culprit or do you feel that the
8 function of the jury is merely to determine whether this man is
9 in fact guilty or innocent?

10 A Well, I think it's to find out whether he's innocent
11 or guilty.

12 Q If you were on a jury and eleven people disagreed with
13 your position and you felt very strongly about your position would
14 you stick with that position?

15 A Yes, I would.

16 Q Do you think that being on a jury, whether there be an
17 acquittal or conviction, would in any way embarrass you or create
18 any problems with friends or neighbors?

19 A No, sir.

20 Q Do you understand that a circumstantial evidence case
21 which this is, meaning there is no eye witnesses or direct
22 evidence of that nature do you realize that the Commonwealth's
23 case must be like a chain connecting our client, Mr. Epperly, with
24 the crime itself and that if there is any weak links in this
25 chain, that you must vote for an acquittal. It's only as strong as the
26 weakest link in that chain, do you understand that?

26 A Yes.

1 Q Do you have any mental reservations whatsoever about
2 giving him the presumption of innocence throughout this proceeding?

3 A No.

4 Q If he were, knowing that he's been charged with murder.
5 If he were charged with a lesser offense such as shoplifting,
6 would you give him the same fair trial?

7 A Yes, sir.

8 Q Would you have any problems following the Court's in-
9 structions that you shouldn't guess or speculate about what the
10 facts of the case are or what happened in the case, but you just
11 abide strictly by the evidence in the case?

12 A Yes, sir.

13 Q Do you have any connection whatsoever with Radford
14 College?

15 A No, I do not.

16 Q You indicated that you thought that tracking dogs or
17 scenting dogs had better noses than most of us. Do you think
18 dogs are infallible or do you think they make mistakes too as
19 far as being able to smell and track?

20 A Well, I guess it would be possible for them to make
21 mistakes, but I've always felt, you know, they did have a scent
22 that humans don't have.

23 Q They have a better scent than we do?

24 A That's right.

25 Q Do you feel that they are infallible or that they can't
26 make mistakes?

1 A Yes.

2 Q You feel that they are infallible?

3 A Oh, no, The answer is, "No."

4 Q So you feel that they could make mistakes.

5 A Yes.

6 Q Do you understand that as a juror you are the trier of
7 fact, in other words you must determine what the facts of the case
8 are and its up to the Judge to instruct you as to the law and then
9 you apply the law to the facts as you determine them, do you under-
10 stand that?

11 A Yes.

12 Q I hope my questioning hasn't been too prying. I
13 appreciate your responding. Thank you.

14 THE COURT: All right, Mrs. Meredith, thank you. If you'll
15 step over here please.

16 (The juror leaves the courtroom.)

17 THE COURT: Any objections gentlemen, to this venireman?

18 MR. SHOCKLEY: No, sir.

19 MR. LOOKABILL: No, Your Honor.

20 THE COURT: All right, Mrs. Meredith is accepted.)

21 THOMAS PIFFER,

22 a juror, after being first duly sworn, being examined on voir
23 dire:

24 BY THE COURT:

25 Q Mr. Piffer, have a seat please, sir, and give us your
26 full name and your address?

1 A Thomas Henry Piffer. My mailing address is Post Office
2 Box 361 in Dublin.

3 Q You live in Dublin or in the Dublin area?

4 A I live in the Dublin area right outside the corporate
5 limits.

6 Q All right, sir, thank you. Were you on the Grand Jury
7 that returned the indictment against Stephen Matteson Epperly,
8 the young man seated in the middle here to your left?

9 A No, sir.

10 Q Did you happen to be in the courtroom when the Grand Jury
11 was charged or when it made its report?

12 A No, sir.

13 Q This is the case of Commonwealth v. Stephen Matteson
14 Epperly, who is charged with the murder of Gina Renee Hall on or
15 about June 29, 1980. Are you related by blood or marriage either
16 to Mr. Epperly or to Miss Hall?

17 A No sir, I'm not.

18 Q Do you have any interests in this trial or in its out-
19 come other than to do justice to each side should you be selected
20 as a juror?

21 A No, sir, I have no interest.

22 Q I assume you've read about the case and heard about it
23 over the radio, television?

24 A Yes, sir.

25 Q Have you discussed it with other persons?

26 A You mean prior to--

1 Q Well, any--yeah prior to your being called?

2 A Yes, sir.

3 Q You have discussed it?

4 A Yes, sir.

5 Q All right, now what I want to know is whether the in-
6 formation that you have thus recieved concerning the case would
7 affect your impartiality in any way or do you still have an open
8 mind on the guilt or innocence of the accused?

9 A I may still have an open mind but it's been discussed
10 extensivley where I work.

11 Q Where do you work?

12 A I work in the Industrial Engineering section at Radford
13 Army Ammunition Plant.

14 Q Well, I'm sure it has been discussed and I suppose you've
15 heard every kind of opinion concerning the case, have you not?

16 A Yes, sir, I believe I have really, especially there and
17 in the barber^{shop}/also.

18 Q Well, let me ask you this, have you formed or expressed
19 any opinion yourself as to the guilt or innocence of the accused?

20 A I'm not certain. I may have.

21 Q Well, how do you feel here now? Do you have some
22 subjective feeling one way or the other as to his guilt or innoc-
23 ence?

24 A No, sir, I really do not have an opinion whether or not
25 he's guilty but I've heard it discussed like I said before.

26 Q I'm sure you've heard it discussed and I'm sure you've

1 read about it. Well, this is purely a subjective exploration that

2 we are making here and you are the only one who can answer the

3 question, and what I really need to know as I said a moment ago

4 is whether any information that you have received from any source

5 would affect your impartiality in the case. In other words if

6 you are selected as a juror could you sit here and listen to the

7 evidence and the law of the case and decide the case solely on

8 that or would you be influenced by things you've already heard or

9 read.

10 A I believe that I would be impartial.

11 Q All right, sir. Do you have any feeling of bias or pre-

12 judice for or against the Commonwealth or for or against the

13 accused for any reason, whether I've touched upon it or not?

14 A No, sir.

15 Q Do you know of any reason then, why you could not give

16 the Commonwealth on the one hand and the defendant, Stephen

17 Matteson Kupperly, on the other a fair and impartial trial, based

18 solely upon the law and the evidence?

19 A No, sir.

20 Q All right, now these lawyers will have some additional

21 questions, Mr. Pitter. We'll start with the Commonwealth's

22 Attorney, Mr. Shockey.

23 BY MR. SHOCKLEY:

24 Q Hi, Mr. Pitter.

25 A Hello, Mr. Shockey.

26 Q I wasn't sure about one of the answers that you gave the

1 Judge about the second or third question from the end. You indicated
2 through your communications and conversations with other people that
3 you heard the case discussed and opinions expressed and everything.
4 I want to ask you the question again, are you capable of sitting here
5 and fairly and impartially trying this case being fair and impartial
6 to the Commonwealth and fair and impartial to the accused or would
7 somehow you have some deep seated biases you could not rid yourself of

8 A Well, I hope I wouldn't but like I said originally I have--
9 in the office where I worked it seemed to be a morning thing, about
10 coffee break time and in the barber shop where I get my chair cut in
11 Radford seemed to be a lot of discussion about it there, too and in al
12 fairness to everybody I still kinda question maybe perhaps whether
13 or not I have heard too much about the case.

14 Q Do you feel that you might have some bias that could possibl

15 A I don't feel like I'm biased, but, you know, it's been
16 discussed at length.

17 Q Do you feel that what you've heard said would influence
18 you in your decision making process as a juror?

19 A I don't believe so.

20 Q Well, again the end question, can you give this defendant
21 a fair trial, can you sit and listen to the evidence and from the
22 evidence and solely from the evidence determine whether or not
23 he's guilty or innocent?

24 A I think I can.

25 Q You think you can do that. Do you happen to know the
26 defendant's father?

1 A No, sir.

2 Q Do you know of him. I believe he used to work at the
3 arsenal, did he not?

4 A I wasn't aware of it if he did.

5 Q You say you are in engineering there?

6 A Yes, I'm a methods analyst.

7 Q Sir?

8 A I'm a methods analyst in industrial engineering.

9 Q Do you have a college degree?

10 A No, sir, I do not quite have a degree.

11 Q Are you familiar at all with the Clavtor Lake Dam area?

12 A Yes, sir.

13 Q Do you fish over there or hunt over there or anything
14 like that?

15 A Very little.

16 Q Have you ever been to the picnic grounds there?

17 A Yes, sir.

18 Q Living in Dublin or outside of Dublin have you ever
19 had occasion to go down 11, Route 11, into Radford and then take
20 a right hand turn to go down to Hazel Hollow Road?

21 A Oh, yes.

22 Q Are you familiar with that road?

23 A I'm familiar with Hazel Hollow Road.

24 Q Have you ever fished along its banks or anything?

25 A I'm not a fisherman.

26 Q O.k. A lot of people are, I tell you over there.

1 So I take it then that you are familiar with the railroad trestle
2 that crosses over the road into Radford?

3 A Yes, sir.

4 Q Do you have any children, Mr. Piffer?

5 A I have two, two sons.

6 Q Two sons, and what are their ages, please.

7 A One's 18 and one's 23.

8 Q Do you have an grandchildren?

9 A No, sir.

10 Q Do you believe that dogs can be or that dogs have certain
11 scenting or smelling abilities that are superior to what you and
12 I have as human beings?

13 A Oh, I know they have.

14 Q You say you know they do, why do you say that?

15 A I've seen them hunt.

16 Q You've seen them hunt?

17 A Oh, yes.

18 Q You've seen a dog pick up on--

19 A Rabbit's track or something.

20 Q Rabbits. Do you think that certain types of dogs can
21 be trained to be given a scent and then follow that scent in an
22 attempt to try to locate someone?

23 A I'm not familiar with that, but it's my general under-
24 standing that they can.

25 Q You've heard of dogs being used to look for lost
26 persons or escapees from correctional facilities and things of

1 that nature.

2 A (Silence).

3 Q Mr. Piffer, do you believe that it's possible for one
4 person to kill and murder another person and then dispose of the
5 body in such a fashion that the body is never found or it takes
6 years to find it?

7 A Yes, sir.

8 Q Do you think for that reason alone, that is if the body
9 is never found, that murderer or killer should go unpunished?

10 A No, sir.

11 Q If you know anything at all about this case and obviously
12 you've heard some counts of it, you know that Gina Renee Hall has
13 never been found, alive or dead. Consequently the Commonwealth
14 case is a circumstantial evidence type case, that is where the
15 Commonwealth will introduce various evidence and through various
16 facts and circumstances that it proves will attempt to prove that
17 Gina Renee Hall is dead and convince the jury beyond a reasonable
18 doubt of that fact. Do you understand what I mean when I say
19 circumstantial evidence that a group of facts and circumstances
20 which when all looked at together tends to prove another fact or
21 set of facts?

22 A Yes, sir.

23 Q Now if the Commonwealth were able to prove to you beyond
24 a reasonable doubt that Gina Renee Hall was dead from circumstantial
25 evidence and that she was murdered and the defendant is the culprit
26 would you be able to return a verdict of guilty even though her

1 body had never been found?

2 A I think so.

3 Q O.k., thank you very much, Mr. Piffer.

4 BY MR. LOOKABILL:

5 Q Mr. Piffer, I'm Glennwood Lookabill and this is Mr.
6 Warburton, David Warburton, my partner and cocounsel and this is
7 the defendant, Stephen Epperly. I assume that since the trial
8 has begun this is the first time you have ever seen Mr. Epperly?

9 A That's correct.

10 Q Do you know any members of his family or _____
11 (unintelligible)?

12 A I'm not acquainted with them.

13 Q I'm going to ask you a few more questions. I'll try
14 not to get too personal or prying but I do need some answers in
15 order for us to _____ (inaudible) an unbiased jury is concerned.
16 How long have you been a resident of Pulaski County?

17 A Since I was 12 years old with the exception of a couple
18 of short periods of time.

19 Q Where do you live in the county. I missed your address.

20 A I live near Dublin, right out of the corporate limits
21 of Dublin.

22 Q And you say you are with Radford Arsenal?

23 A Yes, sir.

24 Q And what is the title, method--

25 A Methods analyst.

26 Q What does that involve?

1 A Industrial engineering type work.

2 Q Now the Commonwealth may present some scientific chemical
3 type evidence that you may be more familiar with in some respects
4 than other jurors might. Would this affect your function as a
5 juror in any way because scientific evidence would presented?

6 A I don't understand how it--

7 Q Would you evaluate this closely, carefully, objectively
8 like any other type evidence?

9 A I think so, yes, that's my job is evaluations
10 (unintelligible).

11 Q So you are accustomed to that?

12 A I'm accustomed to it,

13 Q Have you been in the military?

14 A Yes, sir.

15 Q Has it been a few years ago?

16 A Quite a few, quarter of a century ago.

17 Q I wasn't going to ask that. Have you ever been on a
18 police force?

19 A No, sir.

20 Q Have any friends or close relatives that have been on
21 a police force recently at any time?

22 A (Inaudible, noise).

23 Q As you sit here today and the defendant sits here, do
24 you have any opinion as to guilt or innocence yourself, any
25 feelings?

26 A This, this, you know, we went through this a couple of

1 times already and I don't have an opinion at this time I feel
2 certain but it has been discussed. I want the Court to realize
3 that it has been discussed at length, it seemed like at work and
4 in the barber shop.

5 Q Did it just happen that that was the center of conversa-
6 tion, any particular reason?

7 A It seemed just to be a center of conversation, a bunch of
8 men that I work with.

9 Q What type of things did you hear about the case, varying
10 opinions or do most people think he's guilty or do most people
11 think he's innocent?

12 A Most of the opinions was that's he's guilty.

13 Q Has this fact that people have said this over and over
14 again in your presence affected your thinking any?

15 A I don't really think it has. I feel like I still have
16 an open mind.

17 Q Do you feel that we as his attorneys would have to prove
18 his innocence?

19 A No, I don't feel like you'd have to prove his innocence.
20 I feel that the Court would have to prove his guilt.

21 Q Is there anything in your mind that would help the Common-
22 wealth, in other words do you already sort of feel like he's
23 guilty, you just feel like they've got to put on more evidence
24 then you've seen in the paper?

25 A Oh yeah, there'd have to be more evidence.

26 Q But you feel there is some evidence of guilt?

1 A Oh, I don't feel like there's evidence of guilty. I
2 just said that that was the opinions, seemed to be most of the
3 opinions in the discussions. I'm not trying to be evasive with
4 the answers or anything; I'm just trying to give a full and
5 accurate--

6 Q I understand some of the questions aren't that easy
7 to answer just "yes" or "no."

8 A It's a close line some of this stuff.

9 Q Do you have any problem at all with giving this man the
10 benefit of the presumption of innocence from this point until
11 the end of the proceedings if the Commonwealth proves beyond a
12 reasonable doubt every element of the offense.

13 A Go through the question again, please.

14 Q Do you feel that you could consider this man innocent
15 until such time as the Commonwealth Attorney might prove him
16 guilty beyond a reasonable doubt?

17 A I think so.

18 Q Do you realize that the Commonwealth has to prove
19 every element beyond a reasonable doubt, including the fact that
20 Gina Hall is dead, do you realize that?

21 A Every element?

22 Q Yes, sir, including the fact that she's dead; they have
23 to prove that beyond--

24 A No, I wasn't, I'm not aware of the legal technicalities.

25 Q Do you have an opinion right now as to whether she is
26 dead or alive?

1 A Yes, sir.

2 Q What is your opinion?

3 A My opinion she's dead.

4 Q Regardless of what we said, or what they said or what-
5 ever they put on, you would still feel that she's dead?

6 A Well, I wouldn't say regardless of what's said but--

7 Q Well, if she walked in the courtroom you'd know she's
8 alive, but if she didn't, would you assume she's dead?

9 A I'm assuming at this time that she's dead.

10 Q Your Honor, I think we have the same difficulty on this--

11 THE COURT: All right, Mr. Piffer, I commend you for your
12 frankness and candor and I know that you would strive to your
13 upmost to be a good juror and you probably would be an excellent
14 juror, but in view of your conclusion on one of the important
15 elements in this case I feel constrained to excuse you and I do
16 so with thanks for your being here today. You are free to go.
17 Thank you.

18 (The juror is discharged.)

19 GARY M. HOLCOMB,
20 a juror, after being first duly sworn, being examined on voir
21 dire:

22 BY THE COURT:

23 Q Mr. Holcomb, would you state your full name and your
24 place of residence, please?

25 A Gary Michael Holcomb. I live on Alum Spring Road.

26 Q Is it Holcomb or Holton?

1 A Holcomb.

2 Q C-o-m-b?

3 A Yes.

4 Q All right, thank you sir. Mr. Holcomb were you on the
5 Grand Jury that returned the indictment against Stephen Matteson
6 Epperly?

7 A No, sir, I wasn't.

8 Q Were you in the courtroom here when that grand jury
9 was charged or when it made its report?

10 A No, sir.

11 Q Mr. Epperly is seated here in the middle between his
12 two lawyers, Messrs. Warburton and Lookabill and he is charged
13 with the murder of Gina Renee Hall on or about June 29, 1980.
14 First let me ask you if you are related by blood or marriage to
15 the defendant, Stephen Matteson Epperly?

16 A Excuse me, sir.

17 Q Are you related by blood or marriage to the defendant,
18 Stephen Matteson Epperly?

19 A No, sir.

20 Q Are you related by blood or marriage to Gina Renee
21 Hall?

22 A No, sir.

23 Q Do you have any interests in this trial or in the out-
24 come of the case?

25 A No, sir.

26 Q I assume you have read something about it or heard

1 something about it through some source have you?

2 A Yes, sir.

3 Q Let me ask you if what you have read or heard would
4 affect your impartiality in any way?

5 A No, sir..

6 Q Have you expressed or formed any opinion concerning the
7 guilt or innocence of the accused?

8 A No, sir.

9 Q Do you think you could be a member of a jury panel and
10 sit here and listen to all of the evidence and the law of the case
11 and the argument of counsel with an open mind before you would
12 consider the guilt or innocence of the accused?

13 A Yes, sir.

14 Q IN other words do you feel you could hear the entire
15 case and wait until the jury retires to its room and commences its
16 deliberations before you reach any conclusion one way or the other?

17 A Yes, sir.

18 Q Are you sensible of any feeling of bias or prejudice
19 for or against either side for any reason?

20 A No, sir.

21 Q Do you know of any reason whether I've touched upon it
22 or not why you cannot give the Commonwealth on the one hand and
23 the defendant on the other a fair and impartial trial based solely
24 upon the law and the evidence that you would hear in this court-
25 room?

26 A No, sir.

1 Q All right, I thank you and now the lawyers will have a
2 few additional questions for you.

3 BY MR. SHOCKLEY:

4 Q Mr. Holcomb, how do you do today?

5 A All right.

6 Q My name is Everett Shockley and I'm Commonwealth
7 Attorney in Pulaski. I just want to ask you a few questions. Are
8 you familiar with the Claytor Lake area, the dam and so forth?

9 A Yes.

10 Q Do you ever do any hunting or fishing in that area?

11 A No, sir, only a little water skiing ever once in awhile.

12 Q Do you know where the dam is?

13 A Yes, sir.

14 Q Are you familiar with the roadways leading up to the
15 dam?

16 A No, sir, I am not.

17 Q How do you get to that area or is it solely on the
18 water that you would come to the dam or near the dam?

19 A Only visually from the water as--

20 Q Do you know where--excuse me.

21 A As in a boat.

22 Q O.k. Do you know where Hazel Hollow Road is?

23 A No, sir, I do not.

24 Q Are you familiar at all with the west end of Radford?

25 A Vaguely.

26 Q Do you have any children, Mr. Holcomb?

1 A No, sir.

2 Q Do you believe that dogs have a scenting or smelling
3 ability that is superior to what we have as human beings?

4 A Yes, sir.

5 Q Do you believe that certain types of dogs can be trained
6 to track a scent that is given to them?

7 A Yes, sir.

8 Q Mr. Holcomb, do you think it's possible for one person
9 to kill or murder another person and then dispose of the body in
10 such a way that the body is never found or that it takes years to
11 find?

12 A Yes, sir.

13 Q Do you think for that fact alone that someone should go
14 unpunished?

15 A No, sir.

16 Q Now if you know anything at all about this case, you
17 know that Gina Renee Hall has never been found dead or alive--

18 A Yes, sir.

19 Q --since her disappearance. Consequently the state will
20 have no evidence to put on the witness stand, no medical examiner
21 to testify that a body was found and that it is the body of Gina
22 Renee Hall. The Commonwealth will attempt to prove to the jury
23 beyond a reasonable doubt that she's dead from a variety of other
24 facts and circumstances which would lead a person to conclude that
25 she is dead.

26 A Yes, sir.

1 Q Now if the Court instructs you that circumstantial
2 evidence is sufficient to prove any fact that the state must prove
3 and of course one of the facts that the state must prove is a
4 death. Could you abide by that instruction?

5 A Yes, sir.

6 Q And consider circumstantial evidence as you would any
7 other evidence?

8 A Yes, sir.

9 Q Now my ultimate question is if the state through its
10 proof of circumstantial evidence convinces you beyond a reasonable
11 doubt or to a moral certainty that Gina Hall is dead, that she
12 was murdered and that the accused was the one who did it, could
13 you return a verdict of guilty even though her body had never been
14 found?

15 A Yes, sir.

16 Q O.k., that's all I have, thank you.

17 BY MR. LOOKABILL:

18 Q Mr. Holcomb, this is Mr. David Warburton, cocounsel and
19 this is Stephen Epperly? Did you know Steve before today?

20 A No, sir.

21 Q I'll ask you a few questions and try not to be too
22 personal. I hope you won't get angry at me if I do get personal,
23 o.k.. How long have you lived in Pulaski County?

24 A Since '62.

25 Q Where did you live prior to that?

26 A Prince George, Virginia.

1 Q What is your occupation?

2 A Dental technician.

3 Q What do you actually do, what is your function as a
4 dental technician, what do you do?

5 A Filling dental prescriptions from dentists for the
6 construction of oral prosthetics.

7 Q What's your educational background?

8 A At the end of winter, 1981 quarter I will graduate from
9 New River with an Associate Degree in Business Management.

10 Q Have you ever been associated with the state police or
11 local police or county sheriff's department?

12 A No, sir.

13 Q Any close member of your family?

14 A No, sir.

15 Q Any close member of your family been in the military?

16 A Sir?

17 Q Any close member of your family ever been in the
18 military?

19 A Yes, I have one brother in the military now.

20 Q O.k. and you've never been in the military, is that
21 correct?

22 A No, sir.

23 Q As you sit here today do you have any opinion as to the
24 guilt or innocence of this man?

25 A No, sir, I do not.

26 Q Have you formed any opinions before this about the case?

1 A No, sir.

2 Q What have you heard on the radio, TV, about the case?

3 A Just that there was an indictment and a murder, supposed-
4 ly. No body had been found, that's the extent of it. I try and
5 not follow criminal cases until they have been tried because you
6 can get a lot of false information from the press.

7 Q Is that basically all you know, what you've stated to
8 me?

9 A Yes, sir.

10 Q Do you get the--what papers do you read?

11 A Southwest Times.

12 Q Do you get the Roanoke also or just the Southwest
13 Times?

14 A Just the Southwest.

15 Q Did you see it on TV also or on the news, 6:00 o'clock
16 news?

17 A Yes, sir.

18 Q Was there anything that was on there that changes your
19 opinion of what you just said in regard to the case?

20 A No, sir.

21 Q Knowing, have you talked to anybody about it, about the
22 case?

23 A No, sir.

24 Q You haven't discussed it. Knowing that the defendant
25 was charged with murder and assuming you were sitting here in-
26 stead of him--

1 A Yes, sir.

2 Q Do you feel that a person with your present frame of
3 mind would be a juror that you would want on the jury, that you
4 would feel comfortable in accepting?

5 A Yes, sir.

6 Q Do you understand that Mr. Warburton and I have nothing,
7 we don't have to prove anything, that the burden of proof in a
8 criminal case is upon the Commonwealth?

9 A Yes, sir, I understand that a man is innocent until
10 proven guilty.

11 Q Do you understand that even the Commonwealth must also
12 prove every element of the offense?

13 A Yes, sir.

14 Q Do you have an opinion as you sit here today as to
15 whether or not Gina Hall is in fact dead?

16 A No, sir, I do not have an opinion on that. I haven't seen
17 any proof either way.

18 Q You are completely open so far as that part of the
19 issue is concerned?

20 A Yes, sir.

21 Q Do you realize one of the elements the Commonwealth must
22 prove is beyond a reasonable doubt or to a moral certainty is
23 that she is dead?

24 A Yes, sir.

25 Q Have you ever been a juror before?

26 A No, sir.

1 Q Have you ever been a witness in a case?

2 A No, sir.

3 Q Or have you ever been on a Grand Jury?

4 A No, sir.

5 Q Have you ever had anybody in your family or close friend
6 a victim of murder or some serious crime of that nature?

7 A No, sir.

8 Q Do you understand Mr. Holcomb that an indictment is
9 merely a piece of paper allowing the Commonwealth to try this
10 case and that it is not evidence against the defendant?

11 A Yes, sir.

12 Q Do you feel that a trial of a criminal case is to de-
13 termine the guilt or innocence of this man or to solve the crime
14 itself?

15 A It's to determine the guilt or innocence.

16 Q Do you understand that the law in circumstantial evidence
17 cases is such that it's like a chain, a strong chain which must
18 connect the defendant with a criminal act and that in a circum-
19 stantial evidence case each of the chains making, each of the
20 links making up the chain must be strong and such a case is only
21 as strong as it's weakest link, do you understand that?

22 A Yes, sir.

23 Q Do you understand that in a circumstantial case of
24 this nature that the evidence that you as a juror would listen to,
25 you would have to take it with great care and caution?

26 A Yes, sir.

1 Q Because of the fact there is no direct evidence. Do
2 you have any mental reservations at all about allowing this man
3 to enjoy the benefit of the presumption of innocence throughout
4 the proceeding?

5 A No, sir.

6 Q Knowing that he's charged with murder, could you give
7 him the same fair trial that you could give him if he were charged
8 with a much lesser offense?

9 A Yes, sir.

10 Q Such as trespass or something like that?

11 A Yes, sir.

12 Q Would you follow the Court's instruction not to specu-
13 late or guess about what may or may not have happened in this case
14 and listen solely to the evidence?

15 A Yes, sir.

16 Q Do you have any connection at all, Mr. Holcomb, with
17 Radford College?

18 A No, sir.

19 Q You indicated that you thought dogs had a pretty good
20 sense of smell to track, can be trained to track. Do you feel
21 dogs make mistakes or are they infallible? They make no mistakes.

22 A Nothing is infallible.

23 Q I hope I didn't get too personal in these questions
24 and I appreciate your responses.

25 THE COURT: All right, thank you, Mr. Holcomb, you may re-
26 tire to this room over here.

1 (The juror leaves the courtroom.)

2 THE COURT: Gentlemen, I believe this is a convenient place
3 to take our luncheon recess. I want to confer with counsel for
4 just a moment in Chambers before we disburse and I want to state
5 to the members of the press that I have been requested by a party
6 to this trial to ask you if you would consider not making direct
7 quotes of ^{what I} any of the prospective jurors have had to say. You
8 understand I'm not trying to impose a gag rule or anything like
9 that. I am simply passing on to you the request that has been
10 made of me of one of the parties to the trial.

11 All right, gentlemen, if you'll come back with me a minute
12 and we'll recess to 1:00 o'clock.

13 (Thereupon Court was recessed for lunch and after a time all
14 interested parties returned into the courtroom, including the
15 court, counsel and the defendant.)

16 THE COURT: All right, let's go on the record and let the
17 record show that the Court accepts Mr. Holcomb the last venireman
18 examined as a juror in this case. Now you may bring the next
19 venireman, please, sir.

20 DEAN TAYLOR,
21 a juror, after being first duly sworn, being examined on voir
22 dire:

23 BY THE COURT:

24 Q All right, sir, would you give us your name, please
25 and tell us where you live.

26 A Dean Taylor. I live in Dublin, Virginia.

1 Q Taylor?

2 A Yes, sir.

3 Q T-a-y-l-o-r?

4 A Yes, sir.

5 Q All right, sir. Mr. Taylor, were you on the Grand
6 Jury that returned the indictment against Stephen Matteson
7 Epperly?

8 A No, sir.

9 Q Were you in this room when the Grand Jury was charged
10 and when it reported the indictment?

11 A No, sir.

12 Q This is the case of Commonwealth v. Stephen Matteson
13 Epperly who stands charged of the murder of Gina Renee Hall.
14 Are you related to Stephen Matteson Epperly by blood or marriage?

15 A No, sir.

16 Q Are you related by blood or marriage to Gina Renee Hall?

17 A No, sir.

18 Q Do you have any interests in this trial or the outcome
19 of the case?

20 A No, sir.

21 Q I assume you've read or heard something about the case
22 prior to now have you not?

23 A Yes, sir.

24 Q To what extent are you familiar with it? Have you read
25 a lot or a little or practically none about it or what? What is
26 your situation?

1 A I've read just a little bit on it, just off and on I
2 guess.

3 Q All right. Whatever information you have concerning
4 the case, would that affect your impartiality, your fairness in
5 any way should you be selected as a juror?

6 A No, sir.

7 Q Have you formed or expressed any opinion as to the
8 guilt or innocence of the accused?

9 A No, sir.

10 Q You haven't expressed an opinion either before your
11 coming to this courthouse yesterday nor since you've been here
12 is that correct?

13 A Yes, sir, that's correct.

14 Q Has anyone expressed an opinion of the guilt or innocence
15 of the accused to you since you've been here yesterday and today?

16 A No, sir.

17 Q Considering what you know about the case, do you think
18 that you could enter the jury box with an open mind and wait until
19 all the evidence is presented to you before you make a conclusion
20 a judgment as to the guilt or innocence of the defendant?

21 A Yes, sir.

22 Q Are you sensible of any feeling of bias or prejudice
23 against the defendant?

24 A No, sir.

25 Q Are you sensible of any feeling of bias or prejudice
26 against the Commonwealth?

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A No, sir.

Q Do you know of any reason why you could not give the Commonwealth on the one hand and the defendant on the other a fair and impartial trial based solely upon the law and the evidence that you will hear in this courtroom?

A No, sir.

Q All right, now these lawyers will have some additional questions for you Mr. Taylor and we'll start with the Commonwealth's Attorney, Mr. Shockley.

BY MR. SHOCKLEY:

Q Good afternoon, Mr. Taylor, how are you today?

A Not much.

Q I have just a few questions I'd like to ask you. First of all are you familiar with the Claytor Lake Dam area?

A Yes, sir, I fish right much in the area.

Q Have you been out there fishing in that area or hunting in that area?

A Fishing, mostly.

Q Are you familiar with the roads that lead into the Claytor Lake Dam?

A Yes, sir.

Q Are you familiar with Hazel Hollow Road?

A I've heard the name but right off I--

Q O.k, if you went down Route 11 as you are going into Radford, just before you go over the Memorial Bridge, there's a right hand turn and you ride that road parallel to the river's

1 edge and on back into the county, are you familiar with that road?

2 A Yes, sir.

3 Q Are you familiar with the railroad trestle that crosses
4 the New River from Hazel Hollow Road to the City of Radford?

5 A They's one I think there at New River--

6 Q Right, if you are riding across Memorial Bridge going
7 into Radford and you look off to your right a few hundred yards
8 you would see that railroad trestle. Are you familiar with that
9 structure?

10 A Yes, sir, as you go on the hard top road.

11 Q Are you familiar with the west end of Radford?

12 A That would be up toward the interstate?

13 Q Yes, sir, near the police station, near the courthouse,
14 again as you go across Memorial Bridge take a right and go down
15 that street, that would be west end.

16 A Yes, sir, I travel selling building material so I'm
17 pretty familiar with most of the roads in the county.

18 Q Do you have any children, Mr. Taylor?

19 A Yes, sir.

20 Q How many, please?

21 A One.

22 Q Boy or a girl?

23 A A girl.

24 Q And how old is she?

25 A Three and a half.

26 Q Mr. Taylor do you believe that dogs generally have a

1 scenting ability or an ability to smell that is greater than what
2 you and I have as human beings?

3 A Yes, sir, most. I own a Doberman dog and it's pretty
4 good about tracking.

5 Q Do you think that certain types of dogs can be trained
6 to track a human scent if they were given a sample to go by?

7 A Yes, sir, I think they could.

8 Q You don't have any problem with a dog's ability to do
9 that if he's properly trained and everything?

10 A No.

11 Q Do you understand my question, Mr. Taylor?

12 A If you would repeat it, please.

13 Q O.k. Would you say your confidence in such dogs who are
14 supposed to be able to track a human scent, would you say your
15 confidence in such type dog would be strong, medium or weak?

16 A Well, according to certain type a dog, I feel pretty
17 strongly that they could, yes, sir.

18 Q Of course, with the proper training and pedigree and so
19 forth, is that what you are saying?

20 A Yes, like more of the dogs that I've read up on, you
21 know, pretty interesting.

22 Q Mr. Taylor, do you think it is possible for one person
23 to kill or murder another person and then dispose of the body in
24 such a fashion that it's never found or it takes years to find?

25 A Yes, sir.

26 Q Do you think that for that reason alone a person who

1 does that should go unpunished?

2 A Would you repeat that, please.

3 Q All right, suppose you have a person that kills another
4 person and that person takes his victim out and in some manner
5 hides the body, disposes of the body so that it is not able to
6 be found, do you think that because the body is not able to be
7 found that that should be an out for that person or they should
8 escape responsibility for their act simply because the body was
9 not found?

10 A Not if they're responsible.

11 Q All right. Now, if you know anything at all about this
12 case, Mr. Taylor, you know that Gina Renee Hall has never been
13 found dead or alive and if the Court instructs you on circumstantial
14 evidence and instructs you that circumstantial evidence is com-
15 petent evidence and that it's adequate to prove any given fact
16 the state must prove so long as it proves the fact beyond a
17 reasonable doubt, could you adhere to that instruction?

18 A If it was beyond a reasonable doubt, yes, sir.

19 Q Now my question to you, first of all, do you understand
20 the concept of circumstantial evidence?

21 A Yes, sir.

22 Q Do you understand that it is an assortment or variety
23 of facts and circumstances which when viewed in its entirety
24 tends to establish another fact or facts?

25 A Yes, sir.

26 Q Now in this particular case my ultimate question to you

1 is if the State through its evidence is able to convince you be-
2 yond a reasonable doubt that Gina Renee Hall is dead and that she
3 was murdered and that the defendant is the one who killed her,
4 would you be able to return a verdict of guilty even though the
5 body has never been found?

6 A If it was beyond a reasonable doubt.

7 Q Can you give me your definition of beyond a reasonable
8 doubt?

9 A Well, sir, if I was satisfied in my own mind.

10 Q That she was dead?

11 A Right, and that the accused person would be the one,
12 yes, sir.

13 Q So in other words the fact that the Commonwealth does not
14 have a body would not keep you, preclude you from rendering a
15 verdict of guilty so long as the evidence was strong and convinced
16 you that she was dead beyond a reasonable doubt?

17 A Right.

18 Q O.k., that's all I have, Mr. Taylor. Thank you.

19 BY MR. LOOKABILL:

20 Q Mr. Taylor, this is David Warburton, my partner and co-
21 counsel and this is Stephen Epperly. Do you know Mr. Epperly?

22 A No, sir.

23 Q Have you ever had any contact with him or through his
24 family or otherwise?

25 A No, sir.

26 Q Now long have you been a resident of Pulaski County?

1 A Since, I believe it was 1966.

2 Q Have you lived over in Draper all that time?

3 A No, we originally lived at Carroll County next to
4 Hillsville.

5 Q Was that before '66?

6 A Up to '66, Sylvatus, a community up there.

7 Q And you came to Pulaski County in '66?

8 A Yes, sir.

9 Q You live in Draper, is that right?

10 A No, sir, I live in Dublin.

11 Q You've lived in Dublin that period of time, since '66?

12 A I lived next to Gus's Market up til '78 and built a
13 house down there, lived in Dublin since then.

14 Q Where are you employed?

15 A Varn Home Centers.

16 Q What do you--you say you sell building supplies for them,
17 is that correct?

18 A Yes, sir, commercial and then residential, home con-
19 tractor for building materials.

20 Q What's your educational background?

21 A I graduated from Pulaski High School.

22 Q What year was that?

23 A '70.

24 Q And you've been working since your graduation, is that
25 correct?

26 A Yes, sir.

1 Q Have you or any close member of your family been assoc-
2 iated with the state police, or town police or sheriff's depart-
3 ment?

4 A Not other than just like a speeding ticket or something
5 like that.

6 Q But I mean have you ever, like worked for them as an
7 officer?

8 A No, sir.

9 Q Now you say that you've never met Stephen Epperly
10 before and I assume except what you've read and heard, you are not
11 aware of the Commonwealth's evidence in this case?

12 A No, sir.

13 Q Do you have any opinions today as to his guilt or innocence?

14 A No, sir.

15 Q Based on what you've read or heard?

16 A No, sir.

17 Q Do you think there's no more probability that he's
18 guilty than it is that he's innocent, is that correct?

19 A Right.

20 Q What have you heard about the case through the TV, radio
21 or newspaper?

22 A Well, I've read in the paper about the girl being missing
23 and there was a pretty big search going on and different rumors
24 people got started about it.

25 Q What have you heard in the way of rumors, anything?

26 A Well, somebody said that they had found a body in a

1 plastic bag floating on New River around Parrott or somewhere,
2 pretty wild rumors, I think.

3 Q Do you have an opinion as to whether or not she's
4 alive or dead?

5 A No, sir, I don't know.

6 Q You don't feel slightly one way or the other on it?

7 A No, sir.

8 Q You don't have any opinion at all?

9 A _____ (Inaudible, noise).

10 Q What newspapers do you read. Do you all subscribe to a
11 newspaper?

12 A Most the time read the Roanoke Times.

13 Q Did you read most of the articles in the Roanoke Times
14 regarding this case?

15 A Well, I hadn't really read a whole lot on it, just ever
16 now and then if I get the time, I'll pick the paper up and look at it,
17 you know.

18 Q But you haven't read all the articles. You've read
19 some of them?

20 A Just a little bit.

21 Q Has anything you've read changed any opinion you've had
22 or feeling you've had about it?

23 A No, sir.

24 Q Have you discussed the case with anyone at work or home?

25 A Well, my wife, you know, we talked about it.

26 Q Has anyone expressed any opinion as to guilt or innocence?

1 A No, sir.

2 Q Has talking to other people about the case given you
3 any opinion, any feeling about the case?

4 A No, sir, I feel like I have to hear the evidence
5 _____ (inaudible).

6 Q Knowing how you feel about the case at this time, and
7 you were the defendant today rather than Mr. Epperly, would you
8 have any problems with having you on the jury, do you think you
9 would be a good juror?

10 A Yes, sir, I think so.

11 Q Do you feel like you have any bias at all that would make
12 you a bad juror?

13 A No, none.

14 Q Do you understand the Commonwealth has to bear the
15 burden of proving every element of the offense beyond a reasonable
16 doubt if there is an offense?

17 A Yes, sir.

18 Q They have to prove a crime, every element of it, in-
19 cluding the death of Gina Hall, do you realize they have to prove that
20 to a moral certainty beyond a reasonable doubt?

21 A Yes, sir, I think it'd have to be, you know, well satis-
22 fied myself there wasn't any doubt, you know, or even, have to be
23 completely one way before I, you know, one way or another.

24 Q Do you feel that the defendant at any time has to prove
25 his innocence to you as a juror?

26 A No, sir.

1 Q You believe the burden is on the Commonwealth to prove
every element in the case?

2 A I think it should be.

3 Q Have you ever been a juror before, Mr. Taylor?

4 A Yes, sir.

5 Q When were you a juror?

6 A Since now about the end of, I think it was November.
7 I've been on about three.

8 Q Were they criminal or civil cases?

9 A The first one was just a small case and one of them was
10 involving a case some boy had been accused assaulting a police
11 officer and another was a mistrial.

12 Q In those cases did you try the cases and come up with
13 a verdict, I mean everyone being on a jury, try the case or was
14 the evidence struck by the Court or did you actually come up with
15 a verdict?

16 A We came up with a verdict in two and the other one was
17 a mistrial.

18 Q So you understand the function of a jury and the probable
19 cause, the presumption of innocence in a criminal case, is that
20 correct?

21 A Yes, sir.

22 Q Has any close member of your family ever been a victim
23 of a serious crime?

24 A No serious crime.

25 Q Such as murder or assault or something like that. Do
26

1 you understand that an indictment in a criminal case is nothing
2 more than a piece of paper to bring the case before the Court to
3 be tried and that it's not evidence, do you understand the indict-
4 ment itself is not evidence in a criminal case?

5 A That's just saying the case will be heard.

6 Q If you were on a jury of twelve people and you were a
7 minority of one and I mean by that that you disagreed with every-
8 body else, that you felt strongly about your position, would you
9 stick with it?

10 A Yes, sir.

11 Q Do you understand that in a circumstantial evidence case
12 such as this case that a juror must consider all the evidence with
13 great care and caution because there is no direct evidence like
14 an eye witness involved in the case, do you understand that?

15 A Yes, sir.

16 Q Do you understand that the evidence in a circumstantial
17 evidence case is like a chain, that it has to connect, that the
18 Commonwealth has to make a case such as the evidence connects the
19 defendant directly with the crime and if there are any weak links
20 in that chain that you must acquit the defendant, do you understand
21 that?

22 A Yes, sir.

23 Q Do you have any reservations whatsoever in your mind
24 about giving our client, Mr. Epperly, the benefit of the presump-
25 tion of innocence throughout the proceedings?

26 A No, sir, not any.

1 Q Could you follow the Court's instructions not to guess
2 or speculate about what happened in this case but simply follow
3 what evidence you have seen during the trial?

4 A Yes, sir, I'd try to.

5 Q Do you think you could without any reservation in your
6 mind?

7 A Yes, sir.

8 Q Do you have any affiliation with Radford College in any
9 way, any friends or relatives that attend there?

10 A No, sir, not that I know of.

11 Q You indicated a moment ago when Mr. Shockley asked you
12 that you thought that dogs had a pretty good ability to smell or
13 to scent or to track. Do you think that dogs are infallible or
14 do they make mistakes, too?

15 A Well, it may sound a little funny but you get a dog
16 that runs rabbits or something, they'll run a deer just as quick
17 as they'll run a rabbit.

18 Q So they are not all that trustworthy at times?

19 A Well, they'll follow a trail, you know, according to
20 what they are on.

21 Q Do you think they make mistakes?

22 A Yes, they, I guess they would.

23 Q Do you think that being on a jury in this particular
24 case would in any way create an embarrassment or problems with
25 friends or relatives, create any hardship for you in that respect?

26 A No, sir, I don't think it would.

1 Q Do you understand that as a juror you would have to
2 reserve a decision in this case until all the evidence is pre-
3 sented and the Judge instructs you as to the law?

4 A Yes.

5 Q You understand that?

6 A Uh hum.

7 Q I hope I haven't asked too many questions and didn't
8 embarrass you or anything.

9 A No.

10 THE COURT: All right, Mr. Taylor, you may step down and
11 cover over here, please.

12 (The juror leaves the courtroom.)

13 THE COURT: Any objection--

14 MR. SHOCKLEY: No, sir.

15 THE COURT: --for the Commonwealth or for the defense on
16 Mr. Taylor?

17 MR. LOOKABILL: No, sir, Your Honor.

18 THE COURT: All right, Mr. Taylor is accepted.

19 VIRGINIA WILLOW MORRIS,
20 a juror, after being first duly sworn, being examined on voir
21 dire:

22 BY THE COURT:

23 Q Mrs. Morris, will you state your full name please and
24 give us your residence address.

25 A Virginia Willow Morris and I live at River Haven
26 Apartments, in Fairlawn.

1 Q In Fairlawn?

2 A Uh hum.

3 Q Mrs. Morris did you happen to be on the Grand Jury that
4 returned the indictment in the case against Stephen Matteson Epperly?

5 A No, sir.

6 Q Where you in this room when that Grand Jury returned
7 it's indictment or when it was charged by the Court?

8 A No, sir.

9 Q Stepehn Matteson Epperly, the defendant, is seated here to
10 your left between his two lawyers, Mr. Warburton and Mr. Lookabill.
11 Mr. Lookabill is the gentleman on the outside. He is charged with
12 the murder of Gina Renee Hall on or about June 29, 1980. I want
13 to ask you first whether you are related by blood or marriage to
14 the defendant Stephen Matteson Epperly?

15 A No, sir.

16 Q Are you related by blood or marriage to Gina Renee Hall?

17 A No, sir.

18 Q Do you have any interests in this case or in its out-
19 come?

20 A No, sir.

21 Q I assume you've read about the case or heard about it
22 or both, have you not?

23 A Yes, sir.

24 Q Would such information as you have affect your impartiality
25 in any way should you be selected as a juror?

26 A No, sir.

1 Q Have you formed or expressed any opinion concerning the
2 guilt or innocence of the accused?

3 A No, sir.

4 Q Have you heard anyone else express such an opinion since
5 you've been here in Court yesterday and today?

6 A No, sir.

7 Q Considering what you have learned about the case, do
8 you believe that you could enter the jury box with an open mind
9 and wait until the entire case is developed and presented to you
10 before you make a definite decision on the guilt or innocence
11 of the accused?

12 A Yes, sir.

13 Q Are you sensible of any feeling of bias or prejudice for
14 or against either side of this case?

15 A No, sir.

16 Q Do you know of any reason, whether I've touched upon it
17 or not why you could not give the Commonwealth on the one hand
18 and the defendant on the other a fair and impartial trial based
19 solely upon the law and the evidence?

20 A No, sir.

21 Q All right, now Mrs. Morris, the lawyers will have some
22 additional questions and we'll start with the Commonwealth's
23 Attorney, Mr. Shockley.

24 BY MR. SHOCKLEY:

25 Q How are you today?

26 A Fine.

1 Q Mrs. Morris, are you familiar with the Claytor Lake Dam
2 area?

3 A Very little.

4 Q Have you ever been down there picnicking, fishing or
5 anything of that nature?

6 A State park area.

7 Q Are you familiar at all with Hazel Hollow Road?

8 A Yes, sir, I've been on it.

9 Q You know the road I'm talking about?

10 A Yes, sir.

11 Q Are you familiar with the railroad trestle that crosses
12 the river?

13 A Yes, sir.

14 Q How often do you go down into this area?

15 A Not very often.

16 Q When was the last time you were there?

17 A It might have been back in the summer.

18 Q Are you familiar with the area's terrain?

19 A Vaguely.

20 Q How would you describe it to me.

21 A Awful crooked road. That's the reason I hardly ever
22 use it.

23 MR. WARBURTON: If it please the Court, I can't hear her.

24 THE COURT: Now you know what it's like. We can't hear you.
25 All right, Mrs. Morris, I'll tell you if you will project your
26 voice as though you are talking to me then everybody can hear

1 you.

2 A O.k.

3 THE COURT: Thank you.

4 Q You say it's a winding road?

5 A Yes, sir.

6 Q Are you familiar with the river bank and the trees and
7 the mountain side and so forth?

8 A Well, I've been on it probably enough that I would, you know
9 basically know the road but I hardly ever travel the road.

10 Q Do you have any children, Mrs. Morris?

11 A Yes, sir.

12 Q How many, please.

13 A I have one.

14 Q A boy or a girl?

15 A Boy.

16 Q How old is he?

17 A Fifteen months.

18 Q Mrs. Morris, do you believe that dogs in general have
19 a scenting ability that is superior to what you and I have as
20 human beings? Ability to smell or sensitivity to odor?

21 A Yes.

22 Q Do you think that the right type of dog can be trained
23 to track a human scent?

24 A Yes.

25 Q Do you think that if the dog was properly trained and
26 was given a scent and so on that the dog would be reliable, or

1 would you have confidence in what a dog did?

2 A Yes.

3 Q Mrs. Morris, do you feel that it's possible for one
4 person to kill or murder another person and then dispose of the
5 body in such a fashion that the body is never found or it takes
6 years to find it?

7 A Well, I guess anything would be almost possible.

8 Q Anything is possible?

9 A Yes.

10 Q Let's suppose that were the situation, you know, one
11 person kills another and is able to hide the body and dispose of
12 it so that it is impossible to find. For that reason alone do
13 you think that the person should go unpunished?

14 A No, sir.

15 Q Now if you know anything at all about this particular
16 case, you know that Gina Renee Hall has never been found, dead
17 or alive since her disappearance back in June. Are you aware
18 of that fact?

19 A Yes, sir.

20 Q Do you understand then that the Commonwealth cannot pro-
21 duce any testimony to the effect, you know that a body was found
22 and it was her and so forth and that the Commonwealth will intro-
23 duce circumstantial evidence which tends to prove that a death
24 occurred and that this defendant, you know, is the perpetrator
25 of that crime. Do you understand that?

26 A Yes, sir.

1 Q Do you know what I mean when I say circumstantial evidence.
2 You know evidence of other facts and circumstances which when
3 viewed in its entirety tend to establish certain other facts
4 and circumstances.

5 A Yes, sir.

6 Q Now a necessary element that the state must prove in a
7 murder case is death and then, of course, you've got to prove
8 that the accused is the one who killed the person with malice and
9 there's a few other elements. Now can the State through circum-
10 stantial evidence prove to you beyond a reasonable doubt that
11 Gina Renee Hall is dead?

12 A Yes, if the evidence would point to that.

13 Q And assuming that the evidence that the state produces
14 convinces you beyond a reasonable doubt that she is in fact dead
15 and that the accused is responsible for her death, could you re-
16 turn a conviction against him even though the body was never
17 found?

18 A Yes, sir.

19 Q O.k., that's all I have. Thank you very much.

20 BY MR. LOOKABILL:

21 Q I'm Glennwood Lookabill and this is David Warburton, my
22 cocounsel and this is the defendant, Stephen Epperly. I don't
23 assume you have ever seen him before this proceeding today?

24 A No, I haven't.

25 Q I'm going to ask you a few more questions. I'll try not
26 to be too personal. Don't get mad at me, o.k. How long have you

1 been a resident of Pulaski County?

2 A Ten years.

3 Q Have you lived at the same location that you live now
4 for the last ten years?

5 A No, sir.

6 Q Where did you live? Where do you live right now?

7 A River Haven Apartments. I basically have lived in
8 Fairlawn for ten years.

9 Q Where did you live prior to that?

10 A Oxford Avenue in Fairlawn.

11 Q Prior to ten years ago did you still live in Pulaski
12 County?

13 A No, sir, I lived in Botetourt County.

14 Q Botetourt County. Do you work, Mrs. Morris?

15 A Yes, sir.

16 Q Where do you work?

17 A I work at the _____ (Unintelligible) University Mall.

18 Q In Blacksburg?

19 A Yes, sir.

20 Q Are you a salesperson there?

21 A I cut hair.

22 Q O.k., shows I didn't know what the Scissor Circuit was.

23 Sorry about that. What is your educational background?

24 A Excuse me.

25 Q Did you go to school here in the county?

26 A I went to Dublin High School.

1 Q You began working after you graduated?

2 A Yes, sir. I went to the beauty school in Radford.

3 Q Is any close member of your family a member of any
4 police department?

5 A No, sir.

6 Q State or local?

7 A No, sir.

8 Q You said that today, I guess today or maybe yesterday
9 was the first time you had ever seen Mr. Epperly. As you sit there
10 today, do you have any opinion as to his guilt or innocence?

11 A No, sir.

12 Q Do you have an opinion as to whether or not Gina Hall
13 is dead?

14 A No, sir.

15 Q What have you heard on the radio and TV and in the news-
16 paper about this case?

17 A Mainly what I've heard is just the body hadn't been
18 found. Really since I've got called for jury duty, I haven't even
19 tried to listen to the news or anything.

20 Q Do you know anything else about the case at all, where
21 it was alleged to have occurred _____ (unintelligible).

22 A I know the lake has been mentioned. I really don't
23 even know what part of the lake it was or anything.

24 Q Since my father is a barber I guess I can ask you this
25 question. I know people talk a lot in barber shops and beauty salons.
26 Have people talked about the case a great deal?

1 A Not, you know there was a lot mentioned at first. I
2 haven't heard that much about it really since it happened.

3 Q The opinions you've heard, have they been positive or
4 negative, guilty or innocent?

5 A Really both, it weighed both ways.

6 Q By listening to the talk that you hear, have you formed
7 any opinion?

8 A No, sir.

9 Q Do you get a newspaper at home or at the shop?

10 A No, sir.

11 Q I said shop, pardon me. O.k., knowing how you presently
12 feel about the case and you were sitting here as the defendant
13 rather than Mr. Epperly, would you consider yourself a type of
14 person you would want on the jury as far as your bias or feeling
15 about the case?

16 A Yes, sir.

17 Q You don't have any reservations about that?

18 A No, sir.

19 Q Do you understand that from now until this proceeding
20 is concluded that Mr. Epperly sits before you now and will con-
21 tinue to do so as an innocent man until the Commonwealth has proved
22 him guilty beyond any reasonable doubt, do you understand that?

23 A Yes, sir.

24 Q Do you also understand that the Commonwealth must prove
25 the death of Gina Renee Hall beyond a reasonable doubt or to a
26 moral certainty?

1 A Yes, sir.

2 Q Do you also understand that Mr. Epperly doesn't have
3 to prove anything. The total burden in this case is upon the
4 Commonwealth?

5 A Yes, sir.

6 Q Have you ever served on a jury before?

7 A No, sir.

8 Q Have you ever been a witness in court before in a case?

9 A No, sir.

10 Q Has any close member of your family ever been a victim
11 of murder or any other serious crime?

12 A No, sir.

13 Q Do you understand that an indictment which the Grand Jury
14 hands down which charges this man with a crime is nothing more
15 than a piece of paper or a document that allows the case to be
16 tried, that it is not evidence in the case?

17 A Yes, sir.

18 Q Do you feel that if you were a juror in the case that
19 it would be your function as a juror to solve the case or simply
20 to decide the guilt or innocence of this man?

21 A To decide guilt or innocence.

22 Q You don't feel like you would have to like in Perry
23 Mason stories you have to come up with the culprit, is that correct?

24 A No, sir.

25 Q If you were on the jury of twelve people and you held
26 a very strong view that might be contrary to what everybody else

1 feels, would you stick by your view and _____ (inaudible,
2 cough)?

3 A Yes, sir.

4 Q Do you understand that in a case like this which Mr.
5 Shockley has described as a circumstantial evidence case, do you
6 understand that the evidence has to be like a chain that connects,
7 the defendant, the accused, with the crime and that the case is
8 only as strong as the weakest link in that chain and that if there
9 is a weak link that does not connect everything up, that you must
10 acquit the defendant, do you understand that?

11 A Yes, sir.

12 Q That any circumstantial evidence must be heard and
13 accepted by you with great care and caution?

14 A Yes, sir.

15 Q Do you feel that you can give Mr. Epperly, the accused
16 in this case the benefit of the presumption of innocence without
17 any mental reservation on your behalf?

18 A Yes, sir.

19 Q Do you feel that you could give him the same fair trial
20 on the charge of murder that you could give him if he were charged
21 with a lesser offense such shoplifting or something like that?

22 A Yes, sir.

23 Q Do you feel that you can follow the Court's instructions
24 not to guess or speculate about the facts of the case but simply
25 apply what you see or judge from what you hear from the witness
26 stand?

1 A Yes, sir.

2 Q Do you have any connection or affiliation with Radford
3 College in any way?

4 A No, sir.

5 Q You indicated you thought that dogs had a pretty good
6 sense of smell. Do you think that they make mistakes as far as
7 tracking dogs or dogs that are used for tracking. Do you think
8 that they are infallible, that they don't make any errors?

9 A Well, no. I guess they could make an error. Most any-
10 body is capable of that.

11 Q Dogs are like humans. They make mistakes, too.

12 A Yes, sir.

13 Q Do you have any reservation about that feeling. Do you
14 feel that dogs are subject to error just like people are?

15 A Yes, sir, I know they probably could get thrown off
16 their track or something.

17 Q Have you ever trained dogs or know anything about them?

18 A No, sir, no. _____ (Inaudible).

19 Q Do you know anything more about them other than what
20 you might see on TV or read about them?

21 A No.

22 Q If you were on a jury and the jury returned a verdict of
23 not guilty or they returned a verdict of guilty, would you have
24 any embarrassment among your friends or colleagues?

25 A No, sir.

26 Q I thank you. I hope I haven't gotten too personal.

1 A No, I thank you.

2 THE COURT: All right, thank you, Mrs. Morris. You may
3 retire to this room.

4 (The juror leaves the courtroom.)

5 THE COURT: Any objection for the Commonwealth?

6 MR. SHOCKLEY: No, sir.

7 THE COURT: For the defense?

8 MR. WARBURTON: No, sir.

9 MR. LOOKABILL: No, sir, Your Honor.

10 THE COURT: All right, Mrs. Morris is accepted.

11 Now gentlemen, it's come to the attention of the Court that
12 one of the veniremen may have expressed an opinion as to the
13 guilt or innocence of the defendant on yesterday. I'm of the
14 opinion ~~that~~ since this information is pretty reliable, I'm of the
15 opinion out of an abundance of caution that this person should be
16 excused. I wish to inquire now whether either side has any
17 objection?

18 MR. SHOCKLEY: We have no objections, Your Honor, but I'd
19 want to make sure that--

20 THE COURT: I refer to Mrs. Allen.

21 MR. WARBURTON: Your Honor, along with the other two ~~that~~ you
22 struck earlier this morning that were formerly accepted, we had
23 moved to exclude Mrs. Allen from the jury panel already and we
24 would renew that and concur with Mr. Shockley and the Court as
25 to Mrs. Allen.

26 THE COURT: All right, since there is no objection then, have

1 Mrs. Allen come in please.

2 (Mrs. Allen comes into the courtroom).

3 THE COURT: Mrs. Allen, would you step right around here just
4 a moment please. That's fine, right there. Mrs. Allen, it's come
5 to the attention of the Court that on yesterday you may have expressed
6 an opinion on the guilt or innocence of the accused and this being
7 the case I think out of an abundance of caution we shouldn't take
8 a chance on that and with the thanks of the Court I thank you for
9 your attendance here yesterday and today. I'm going to excuse you
10 from jury service in this case. You are free to go. Thank you.

11 (The juror is discharged.)

12 THE COURT: Now gentlemen according to my count we have
13 seventeen accepted jurors, is that right?

14 Let's bring up a panel of three then rather than six and
15 see how we get along with those.

16 No. 47.

17 THE CLERK: Verona F. Kegley.

18 THE COURT: No. 55.

19 THE CLERK: Ruth E. Hardy.

20 THE COURT: No. 49.

21 THE CLERK: William E. Lewis.

22 (Thereupon the sixth panel of three jurors were sworn on
23 voir dire.)

24 THE COURT: Now what we are doing as I'm sure you are aware
25 is bringing people up from downstairs in small groups and then
26 we bring one person in at a time and question that person to

1 determine whether or not he or she is disqualified for any reason
2 from serving on this jury. Until you are excused by the Court,
3 you will not discuss the case with anyone or read anything about
4 it in the newspapers or listen to it on radio or television and
5 try to keep a completely open mind. When the case is over, then
6 you can do all the reading and talking about it, of course, that
7 you wish to. I'll ask this lady and your name, please, ma'am?

8 A VOICE: Verona Kegley.

9 THE COURT: Mrs. Kegley, I'll ask you to remain in the room
10 and I'll ask the other two to retire and then we'll call you in
11 in just a few moments. Mrs. Kegley would you take the witness
12 stand there, please.

13 VERONA KEGLEY,

14 a juror, after being first duly sworn, being examined on voir
15 dire:

16 BY THE COURT:

17 Q Would you state--now first, I'm going to ask you to
18 speak right up. I suppose you are a little nervous but there is
19 not a thing in the world to be nervous about. Just relax and
20 talk to me and if I can hear you, everybody can hear you. We are
21 not going to embarrass you in any way. We just want to ask some
22 pertinent questions, so speak loudly.

23 Now first we want you to state your name and give us your
24 residence address, please.

25 A Verona Kegley, 1213 Peppers Ferry Road.

26 Q That's a Town of Pulaski address is it?

1 A Right.

2 Q All right, Mrs. Kegley, were you by any chance on the
3 Grand Jury that returned the indictment against Stepehn Matteson
4 Epperly, the young man who's seated here?

5 A Pardon?

6 Q Have you ever been on a Grand Jury in your life?

7 A No, I have not.

8 Q All right, well, that takes care of that. Did you
9 happen to be in this room a few weeks or months ago when a Grand
10 Jury returned an indictment against the defendant, Mr. Epperly?

11 A No, I was not.

12 Q All right. Mr. Epperly stands charged with the murder
13 of Gina Renee Hall on or about June 29, 1980. Let me ask you
14 first if you are related by blood or marriage to Mr. Stephen
15 Matteson Epperly?

16 A No, indeed.

17 Q Are you related by blood or marriage to Gina Renee
18 Hall?

19 A No.

20 Q Do you have any interests in this trial or in the out-
21 come of the case?

22 A I have followed it very closely. I have been very
23 interested in it and from the very beginning have read and listened
24 to the news completely.

25 Q I didn't catch your last few words?

26 A I said I have followed the news and read all of the newspaper.

1 Q Right.

2 A Through the whole thing.

3 Q All right, now let me ask you this. Have you had such
4 an interest in the case that you think it might affect your
5 impartiality should you be selected as a juror?

6 A I do.

7 Q You think you could not be fair and impartial. open
8 minded?

9 A I don't think so.

10 Q All right, I thank you for your candor and I shall
11 excuse you and you are free to go.

12 (The juror is discharged.)

13 RUTH EVELYN HARDY,

14 a juror, after being first duly sworn, being examined on voir
15 dire:

16 BY THE COURT:

17 Q Come around please and take this chair on the other side
18 of the microphone. And if you will, please, ma'am, state your
19 name and your residence.

20 A Ruth Evelyn Hardy and I live in Newbern.

21 Q Mrs. Hardy?

22 A Hardy, H-a-r-d-y.

23 Q Thank you, ma'am. Mrs. Hardy, have you ever been on a
24 Grand Jury. Do you know what a Grand Jury is that investigates
25 cases and returns bills of indictment?

26 A No, sir.

1 Q You have never done that?

2 A No, sir.

3 Q Did you happen to be in this courtroom on the day that
4 a Grand Jury returned an indictment against the defendant here,
5 Mr. Epperly?

6 A No.

7 Q This is the case of Commonwealth v. Stephen Matteson
8 Epperly who is seated here in the middle to your left. He is
9 charged with the murder of Gina Renee Hall and I want to ask you
10 first if you are related by blood or marriage to the defendant,
11 Stephen Matteson Epperly?

12 A No, sir.

13 Q Are you related by blood or marriage to Gina Renee Hall?

14 A No, sir.

15 Q Do you have an interests in this trial or in the out-
16 come of the case other than to see that justice is done on either
17 side?

18 A No.

19 Q Have you acquired any information about the case through
20 the news media or through any other source?

21 A Quite a bit.

22 Q I'm sure you've read about it, heard about it and talked
23 about it?

24 A Quite--There's been quite--

25 Q That's all right. An informed citizen should do that.

26 Now what, the critical question is this, do you think that what

1 you've heard, the information you've received would affect you in
2 such a way that you could not be impartial in the case should you
3 be selected as a juror?

4 A Yes, I think it has affected me.

5 Q In what way has it affected you? Have you already made
6 up your mind, have you?

7 A Yes, sir.

8 Q Well, all right. I won't ask you in which direction you
9 made it up, but I will thank you for your attendance here and I
10 will excuse you and you are free to go.

11 A Thank you, sir.

12 Q Thank you.

13 (The juror is discharged.)

14 WILLIAM LEWIS,

15 a juror, after being first duly sworn, being examined on voir dire:
16 BY THE COURT:

17 Q Will you state your name, please, sir.

18 A William Lewis.

19 Q And where do you live, Mr. Lewis?

20 A Dublin, Virginia.

21 Q In Dublin?

22 A Yes, sir.

23 Q Have you ever been on a Grand Jury, Mr. Lewis?

24 A No, I haven't.

25 Q Were you in this courtroom when a Grand Jury returned
26 an indictment against the defendant, Mr. Epperly?

1 A No, I wasn't.

2 Q Are you related by blood or marriage either to the
3 defendant, Stephen Matteson Epperly or to Gina Renee Hall?

4 A No, I'm not.

5 Q Do you have any interest in this trial or in the outcome
6 of this case one way or another?

7 A No, other^{then/}what I've just seen in the paper.

8 Q Well, I know you've read about it and heard about it,
9 but my question is do you sort of feel like, "I'd like for this
10 case to go one way or the other." Do you have any interest in
11 it or would you be fair and open minded about it?

12 A Well, to myself I've already formed an opinion.

13 Q You have. Well, that makes it easy for us then doesn't
14 it. You really have. You're not just telling me that?

15 A No, I really, in my own mind I've formed an opinion.

16 Q All right, I thank you, sir, and I'll excuse you.
17 You are free to go.

18 (The juror is discharged.)

19 THE COURT: All right, gentlemen, No. 50.

20 THE CLERK: Jane A. Farmer.

21 THE COURT: No. 6.

22 THE CLERK: Joan D. Mabry.

23 THE COURT: No. 36.

24 THE CLERK: Donald L. Cressell.

25 THE COURT: No. 39.

26 THE CLERK: Ilene C. Compton.

1 THE COURT: No. 52.

2 THE CLERK: Joyce W. Abbott.

3 THE COURT: No. 15.

4 THE CLERK: Charles D. Kidd.

5 (Thereupon the seventh panel of six jurors were sworn on
6 voir dire.)

7 THE COURT: Good afternoon, ladies and gentlemen. I know
8 this has been a long hard time for you, yesterday and today;
9 sitting around doing nothing is about the hardest job I know of
10 and we all thank you. We are now getting to the point where we
11 are going to examine you people and see if any of you are dis-
12 qualified for any valid reason from serving on this jury in the
13 case of Commonwealth v. Stephen Matteson Epperly who stands
14 charged of murder. We will examine you one at a time. We'll
15 start with this young lady on the end here. The rest of you
16 will retire to a room and we'll call you in singly. You will not
17 discuss the case with anyone at any time until you are excused by
18 the Court. You will not read about the case please in any news-
19 paper or listen to any newscast concerning it until you are
20 excused by the Court. This may sound to you like it's difficult
21 but it really isn't. It's just a matter of a little discipline
22 and I'm sure you will observe this admonition. Now if the young
23 lady will remain in the room and the remaining five retire for a
24 few moments, we shall commence. If you would take that chair
25 right there, please, ma'am.

26

JO ANN MABRY,

1 a juror, after being first duly sworn, being examined on voir
2 dire:

3 BY THE COURT:

4 Q Speak up good and loud so everybody can hear you and
5 don't be nervous and tell us first what your name is?

6 A Jo Ann Mabry.

7 Q Mabry. Thank you, ma'am. Are you married?

8 A Yes, sir.

9 Q Mrs. Mabry, where do you live?

10 A In Dublin.

11 Q Dublin. All right. Have you ever served on a Grand
12 Jury?

13 A No.

14 Q Did you happen to be in this room when the Grand Jury
15 returned a bill of indictment against the defendant, Epperly,
16 some weeks ago?

17 A No.

18 Q Are you related by blood or marriage to the defendant,
19 Stephen Matteson Epperly?

20 A No.

21 Q Are you related to Gina Renee Hall, the young girl
22 whom he is charged with murdering?

23 A No.

24 Q Do you have any interests in the outcome of this case
25 other than to do justice to each side should you be selected as
26 a juror?

1 A No.

2 Q I assume you read about the case, heard about it?

3 A Yes, sir.

4 Q One way or another. Now let me ask you if such informa-
5 tion as you have received would affect your impartiality in the
6 case?

7 A I believe it would, seriously.

8 Q In what way would it affect your impartiality?

9 A Well, the evidence that I've read and we've, at the
10 plant where I work, we've talked about it and we all believe that
11 he is guilty.

12 Q Uh huh.

13 A Just by, you know, what we've heard.

14 Q You've already made up your mind?

15 A Yes, sir.

16 Q All right, I thank you ma'am for your attendance today
17 and you are excused.

18 (The juror is discharged.)

19 JANE ANN FARMER,

20 a juror, after being first duly sworn, being examined on voir
21 dire:

22 BY THE COURT:

23 Q Mrs. Farmer would you state your full name, please?

24 A Jane Ann Farmer.

25 Q And where do you live?

26 A Route 3, Box 128, Pulaski, Brookmont Road.

1 Q Is that close by the Town of Pulaski?

2 A About three miles out of the town limits.

3 Q Were you on the Grand Jury that returned the indictment
4 against Stephen Matteson Epperly?

5 A No, sir.

6 Q Were you in this courtroom when that Grand Jury
7 reported?

8 A No, sir.

9 Q Are you related by blood or marriage to Stephen
10 Matteson Epperly?

11 A No, sir.

12 Q Are you related by blood or marriage to Gina Renee
13 Hall?

14 A No, sir.

15 Q Do you have any interests in the outcome of this case
16 other than to try to help see that justice is done on each side?

17 A No, sir.

18 Q I assume you acquired information about the case through
19 one means or another have you not?

20 A Yes, sir, I have heard.

21 Q Would that be newspaper, radio, television?

22 A There was a couple of newspaper articles, yes, sir.

23 Q And you've read something about the case have you?

24 A Yes, sir.

25 Q All right, would such information as you have acquired
26 affect your impartiality in any way?

1 A In all honesty I believe I may have already formed an
2 opinion.

3 Q How could you form an opinion reading a couple of
4 newspaper articles?

5 A Well, probably shouldn't have, o.k. but, two or three
6 articles I've read, I think my mind I've kinda--

7 Q You've already made up your mind without hearing--that's
8 easy. I wish I could try cases that way. Just stay at home and
9 make up my mind based on what I read in the paper.

10 A Well, to give you an honest answer--

11 Q Of course, you are being honest and I don't mean to be
12 facetious about it. It's serious business and I appreciate your
13 frankness. You feel that you could not sit as a juror with an
14 open mind?

15 A I'm afraid that subconsciously I've sort of formed my
16 own opinion.

17 Q All right. Thank you ma'am and you're excused.

18 (The juror is discharged.)

19 DONALD LEE CRESSELL,

20 a juror, after being first duly sworn, being examined on voir
21 dire:

22 BY THE COURT:

23 Q Mr. Cressell, will you state your full name, please.

24 A Donald Lee Cressell.

25 Q And where do you live?

26 A Lilly Dale Section of Pulaski County.

1 Q Were you on the Grand Jury that returned the indictment
2 in the case of Commonwealth v. Epperly?

3 A No, sir.

4 Q Were you in the courtroom when that Grand Jury was charged
5 or when it reported?

6 A Huh uh.

7 Q Do you have any interest in the outcome of this case
8 one way or another?

9 A No, sir.

10 Q Are you related by blood or marriage to the defendant,
11 Stephen Matteson Epperly?

12 A No, sir, not to my knowledge.

13 Q Are you related by blood or marriage to Gina Renee
14 Hall?

15 A Not to my knowledge.

16 Q Have you acquired any information about this case
17 through any news media or otherwise?

18 A Nothing more than anyone else would read in the newspaper.

19 Q Just reading in the newspaper. Well, the information
20 that you have acquired, would that affect your impartiality one
21 way or another in the case?

22 A I think not.

23 Q Have you formed or expressed any opinion as to the guilt
24 or innocence of the accused?

25 A No, sir.

26 Q Do you think you could sit here in the jury box and hear

1 all of the evidence and the law and the argument of counsel and
2 keep an open mind until you retire to your jury room and consider
3 your verdict?

4 A Yes, sir.

5 Q All right, sir, are you sensible of any feeling of bias
6 or prejudice for or against either side?

7 A No, sir.

8 Q Do you know of any reason whether I've touched upon it
9 or not why you could not give each side a fair and impartial
10 trial based solely upon the law and the evidence?

11 A The only objection I would have would be in the case of
12 life or death decision, and I don't feel I could make a--

13 Q A life or death decision?

14 A Yes, sir.

15 Q Well, I can tell you now that this is not a capital
16 case. Death punishment is not involved. Is that what you are
17 referring to?

18 A Yes, sir.

19 Q Other than that question which I hope I've answered for
20 you, do you feel you could give each side a fair and impartial
21 trial?

22 A Yes, sir.

23 Q Now the lawyers will have a few additional questions
24 and we'll start with the Commonwealth's Attorney, Mr. Shockley.

25 BY MR. SHOCKLEY:

26 Q How are you today, Mr. Cressell?

1 A Fine.

2 Q I just want to ask you a few questions. First of all,
3 are you familiar with the Claytor Lake Dam area?

4 A Somewhat. I've been to the base of the dam before
5 fishing and this type thing.

6 Q How recently?

7 A Not within the last year.

8 Q Are you familiar with Hazel Hollow Road?

9 A I know where it is. I haven't been on it, it's probably
10 been two or three years.

11 Q Are you familiar with the road that goes into the dam
12 from Newbern?

13 A I've driven it occasionally _____ (inaudible).

14 Q You have some familiarity with it but not a great deal?

15 A No.

16 Q Are you familiar with the west end of Radford at all?

17 A Well, I work in Radford so I'm familiar with some of
18 it.

19 Q Where do you work in Radford?

20 A Harvey Chevrolet.

21 Q Do you have any children?

22 A Yes, sir.

23 Q And how many, please?

24 A Two.

25 Q The sex of them, boys, girls.

26 A Two boys.

1 Q Two boys and their age, please.

2 A Ages seven and two.

3 Q Mr. Cressell, do you think that dogs in general have
4 a scenting or smelling ability that is superior to what you and
5 I have as human beings?

6 A Yes, sir.

7 Q Have you ever had an occasion to hunt with dogs or
8 train dogs?

9 A Yes, sir.

10 Q Which or both?

11 A Not so much training as hunting.

12 Q Do you regularly hunt?

13 A Yes, sir.

14 Q Do you use dogs when you do hunt?

15 A _____ (Inaudible).

16 Q Do you own a bird dog or anything like that?

17 A No, sir.

18 Q Do you believe that certain types of dogs can be
19 trained to track a scent?

20 A Oh, yes, sir.

21 Q Do you feel confident in the work that such a dog would
22 do if he's properly trained?

23 A Yes, sir.

24 Q Mr. Cressell, do you feel that it is possible for one
25 person to kill another person and then dispose of the body in such
26 a fashion that it is never found or that it may take years to

find?

1 A Yes, sir.

2 Q Should that situation, you know, happen, do you think
3 that the perpetrator of that crime should go unpunished simply
4 because the body was not able to be found?

5 A No, sir, if it can be proven.

6 Q Sir?

7 A If it can be proven beyond a shadow of a doubt.

8 Q Beyond a shadow of a doubt?

9 A Uh hum.

10 Q Do you understand that in our legal system in this
11 country in a criminal prosecution the State must prove the
12 evidence to the jury beyond a reasonable doubt. When you say,
13 "Beyond a shadow of a doubt," is that standard different then
14 beyond a reasonable doubt or do you know--

15 A Basically the same.

16 Q Basically the same thing?

17 A Do you know that beyond a reasonable doubt means not
18 beyond all possible doubt or beyond all conceivable doubt but
19 just beyond a reasonable doubt?

20 A Yes, sir.

21 Q If you know anything at all about this case Mr. Cressell,
22 you know that Gina Renee Hall has never been found dead or alive
23 since she disappeared back in June, are you aware of that fact?

24 A Yes, sir.

25 Q Well, you must also then be aware that the Commonwealth's
26

1 evidence will be of a circumstantial nature, that is the Common-
2 wealth will introduce certain evidence, certain facts and circumstances
3 which the Commonwealth contends proves her death beyond a reasonable
4 doubt. Now if the Commonwealth in its evidence convinces you
5 beyond a reasonable doubt that Gina Renee Hall is dead and that the
6 defendant is responsible for her death and you know committed a
7 murder, would you be able to return a verdict of guilty even though
8 the body was never found?

9 A Yes, sir.

10 Q And would you have any deep seated reservations about
11 that, I mean the fact that there is no body if the other evidence
12 is pretty strong?

13 A At this point, no.

14 Q You could return a verdict of guilty in a homicide case
15 even without the body?

16 A I think so.

17 Q Mr. Cressell, I thank you and that's all I have.

18 BY MR. LOOKABILL:

19 Q Mr. Cressell, I'm Glennwood Lookabill and this is David
20 Warburton my partner and cocounsel. This is the defendant,
21 Stephen Epperly. I assume today is the first time you have ever
22 seen Mr. Epperly, is that correct?

23 A Yes, sir.

24 Q Do you live over in the Lilly Dale area of Pulaski
25 County?

26 A Yes, sir.

1 Q Are you familiar with the assistant Commonwealth's
2 Attorney, Mr. Terwilliger, who used to live over in that area?

3 A I may have met him.

4 Q But you don't know him otherwise?

5 A No.

6 Q I want to ask you a few more questions beyond what
7 Mr. Shockley has asked you and the Court has asked you and I'll
8 try not to be too prying, o.k. I want you to understand that in
9 order to try to seat an unbiased jury we have to ask certain
10 questions and find out something about you, o.k. How long have
11 you been a resident of Pulaski County?

12 A All my life except for military duty.

13 Q Now where were you, were you in the army?

14 A Yeah.

15 Q What years were they?

16 A From October of '66 to July of '70.

17 Q What's your age?

18 A 31

19 Q 31.. What do you do at Harvey Chevrolet?

20 A I'm a diesel mechanic.

21 Q Diesel mechanic?

22 A Truck mechanic.

23 Q Pardon me?

24 A Truck mechanic.

25 Q What did you do in the Army?

26 A A heavy equipment operator, combat engineer.

1 Q How long have you worked over at Harvey's?

2 A I've only been with them two years, approximately two
3 years.

4 Q Have you ever been associated with the State Police
5 or local police or County Sheriff's Department, have you ever been
6 a member of a police force?

7 A No.

8 Q Or a close relative of yours ever been a member of the
9 police force?

10 A (Inaudible).

11 Q As you sit there now, having heard no evidence from the
12 Commonwealth in this case, do you have any feeling one way or the
13 other as to whether Mr. Epperly is guilty or innocent?

14 A No, sir, I don't have the slightest idea.

15 (Court Reporter's note: At this point a tape malfunctioned.
16 There was no objection to the venireman, Donald Lee Cressell and
17 he was accepted as a juror by the Court.

18 The next venireman was Ilene C. Compton and the malfunction
19 of the tape continued through the entire examination of Mrs.
20 Compton. There was no objection to her and she was accepted as
21 a juror by the Court.

22 The next venireman was Joyce W. Abbott and the tape continued
23 to malfunction through the beginning of the examination of
24 Mrs. Abbott and that examination is picked up as follows on the
25 next tape:)

26 BY THE COURT:

1

2 Q ---this courtroom?

3 A I think so.

4 Q Are you sensible of any feeling of bias or prejudice
5 for or against either side for any reason?

6 A No, sir.

7 Q Do you know of any reason why you cannot give the Common-
8 wealth on the one hand and the defendant on the other a fair
9 and impartial trial based solely upon the law and the evidence?

10 A I don't know of anything.

11 Q All right, thank you, ma'am and now the lawyers will
12 ask you some questions and we'll start with the Commonwealth's
13 Attorney, Mr. Shockley:

14 BY MR. SHOCKLEY:

15 Q Mrs. Abbott, how are you today?

16 A Just fine.

17 Q First of all, Mrs. Abbott, are you familiar with the
18 Claytor Lake Dam area?

19 A I have been to the picnic area, that is all.

20 Q When is the last time you were there?

21 A When the Lions Club had their picnic three or four years
22 ago, I guess.

23 Q So it's been sometime?

24 A Yes.

25 Q You don't frequent the picnic grounds or anything?

26 A No.

1 Q Do you know anything about Hazel Hollow Road?

2 A No, sir.

3 Q You know the road I'm talking about?

4 A I don't think so.

5 Q As you go into Radford on Route 11, just before you
6 cross Memorial Bridge there is a right hand turn and that's
7 Hazel Hollow Road?

8 A Well, I work for the census Bureau and I believe I was
9 on that road. I didn't know the name of it.

10 Q Are you familiar with its terrain?

11 A (Inaudible).

12 Q Do you have any children, Mrs. Abbott?

13 A Yes, I do.

14 Q How many, please.

15 A Two.

16 Q A boy and a girl?

17 A Two boys.

18 Q Two boys and their age, please?

19 A Fifteen and seventeen.

20 Q Mrs. Abbott, do you think that dogs in general have a
21 scenting ability or a smelling ability that is superior to what
22 you and I have as human beings?

23 A Yes.

24 Q Do you believe that certain types of dogs can be trained
25 to track scents, to try to locate something?

26 A Yes, sir.

1 Q Would you have confidence in a dog that is properly
2 trained in that respect, would you have confidence in that dog's
3 work, jst your gut reaction so to speak?

4 A I've never thought about it. I guess I would.

5 Q Have you heard of dogs being used by law enforcement
6 officers and so on?

7 A Uh hum.

8 Q Have you heard of the dogs, you know, tracking somebody
9 down and finding them?

10 A Uh hum.

11 Q Would those stores retlated to you, or stories you may have
12 read would they give you confidence in those type of dogs?

13 A Yes.

14 Q Mrs. Abbott, do you think that it is possible for one
15 person to kill another person and then dispose of the body so
16 well, hide it, that it would never be found or at least not found
17 for a number of years?

18 A Well, I know this has happened sometimes.

19 Q You know that this has happened. Can you tell me what
20 you are talking about?

21 A I mean from just reading the paper over the years.

22 Q Right.

23 A Where this has happened. I don't know of anyone
24 specifically.

25 Q So then you would think that that's a possibility?

26 A Yes.

1 Q It could be done with little difficulty, do you think

2 A Yeah, I think it would be difficult.

3 Q You think it would be difficult?

4 A Yes.

5 Q But you believe that it would be possible in the right
6 set of circumstances, time given to someone that they could do such
7 a job. All right.

8 Now assuming that that happened, someone killed another person
9 and was successful in hiding the body, do you think that that
10 fact alone could cause that person to go unpunished?

11 A No, but you'd need a lot of evidence.

12 Q Uh hum. Well, that brings me to my next question.
13 Of course, this is a homicide murder prosecution and the State as
14 does in any criminal prosecution has a number of elements to prove
15 to make out a case against the accused person and obviously in a
16 murder prosecution, the State must prove among other things that a
17 death has occurred.

18 A Right.

19 Q Now in this situation if you know anything at all about
20 this case, you know that Gina Hall has never been found dead or
21 alive since she disappeared in June. Now if the Court instructs
22 you as the Court will that circumstantial evidence is competent
23 evidence and that it can be used and is adequate to prove any of
24 the given facts that the state must prove, that it's good evidence,
25 competent evidence and will sustain a conviction provided that the
26 proof is beyond a reasonable doubt, Can you have any problem with

1 that instruction?

2 A No, sir.

3 Q Now since the state does not have a body in this parti-
4 cular case, it will rely on circumstantial evidence which is a
5 group of facts and circumstances which when proved, prove another
6 fact or facts or tend to prove another fact or facts, do you under-
7 stand that? Now my question to you, if the state through its
8 evidence is able to convince you by circumstantial evidence that
9 a death has occurred and that this girl was killed and murdered by
10 the defendant, could you return a verdict of guilty even though the
11 body had not been found?

12 A Yes, sir.

13 Q Would you have problems with that. In other words would
14 you be inclined to lean in favor of an acquittal simply because
15 there was no body?

16 A Well, not if the evidence were such. I'd have to know
17 the evidence.

18 Q I understand and I can't sit here and lay the evidence
19 all out for you now and I realize that I'm asking you to make
20 statements in the dark so to speak, but I guess my question is
21 would the mere fact that the state does not have a body, would that
22 cause you to lean in favor of an acquittal?

23 A No, I don't think so.

24 Q If the evidence was strong enough--

25 A If it was strong enough.

26 Q You could vote for a conviction?

1 A Oh, yes.

2 Q O.k., thank you very much. That's all I have.

3 BY MR. LOOKABILL:

4 Q Mrs. Abbott, I didn't hear awhile ago what you said.
5 Where do you live in the County?

6 A I live in the Town of Pulaski.

7 Q In the town. I'm sorry. This is my partner and co-
8 counsel, David Warburton and this is the defendant, Stephen
9 Epperly. I'm going to ask you a few questions. As I've promised
10 everyone else, I'll try not to be too personal and if I am, give me
11 a hard look and I'll try to ask another question. I won't ask
12 you your age or anything like that. The reason we ask these is
13 as you know is to try to obtain a fair and unbiased jury, look
14 a little bit into you mind and ask you some questions, o.k.

15 How long have you been a resident of Pulaski County?

16 A It'll be 11 years in March.

17 Q And what county or where did you live prior to that?

18 A Just before coming here?

19 Q Yes, ma'am?

20 A Russell County.

21 Q Are you employed, do you work?

22 A I'm a housewife.

23 Q That's work.

24 A That's work.

25 Q What is your educational background, Mrs. Abbott?

26 A I have a BA.

1 Q You didn't go to Radford, did you?

2 A No, I went to Bridge Water College.

3 Q Bridge Water. Do you have any connection with Radford
4 College?

5 A No, I don't.

6 Q Does any member of your family, close member of your
7 family part of a police department in Pulaski County?

8 A No, sir.

9 Q Any other county, state police, or town?

10 A My husband has a nephew who is on the police force.

11 Q Where?

12 A In Lynchburg.

13 Q As you sit there now today and having heard none of
14 the evidence of the Commonwealth except what was referred to by
15 Mr. Shockley and perhaps what you have read, do you have any
16 opinion at to Mr. Epperly's guilt or innocence at this point?

17 A No, not really.

18 Q You say, "Not really," is there any reservation you have
19 about it?

20 A I just mean I've read what was in the paper, and that's
21 it and it's not enough for me to form an opinion.

22 Q Did it influence you in any way what you read. If you
23 had no opinion before, did it help you start forming an opinion,
24 what you read in the paper?

25 A As to his guilt or his innocence?

26 Q Yes, ma'am.

1 A I just don't know until I hear all the evidence about
2 his guilt or innocence. I mean I knew there was something or
3 you couldn't have brought him to Court to trial.

4 Q You know he was indicted. Do you understand what an
5 indictment is?

6 A I think so.

7 Q Do you understand that it would be a charge that a Grand
8 Jury finds probable cause--

9 A Uh hum.

10 Q Just enough to hold--

11 A Just to hold, uh hum.

12 Q The fact that he's indicted, does that affect your
13 feeling toward him, his guilt or innocence?

14 A Well, I understand that to mean that there's just
15 enough evidence to bring it to trial to be determined now whether
16 he is or not.

17 Q Does that indictment in any way affect your thinking as
18 to whether he is in fact guilty or innocent?

19 A I wouldn't think so.

20 Q What have you read in the papers or in the newspapers?

21 A Well, I didn't read the paper last night, but I had been
22 reading the papers prior to that.

23 Q What do you recall reading about the case?

24 A You mean from the very beginning?

25 Q Yes, ma'am, just basically summarize what you know about
26 the case from what you've read or what has been presented in the

1 A I just don't know until I hear all the evidence about
2 his guilt or innocence. I mean I knew there was something or
3 you couldn't have brought him to Court to trial.

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5 indictment is?

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13 feeling toward him, his guilt or innocence?

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15 enough evidence to bring it to trial to be determined now whether
16 he is or not.

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18 to whether he is in fact guilty or innocent?

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21 A Well, I didn't read the paper last night, but I had been
22 reading the papers prior to that.

23 Q What do you recall reading about the case?

24 A You mean from the very beginning?

25 Q Yes, ma'am, just basically summarize what you know about
26 the case from what you've read or what has been presented in the

1 manner I'm surprised we haven't had more of a problem than we have
2 had. People have opinions about things based on what they've read
3 in the paper but that doesn't mean they have a fixed opinion that
4 would carry over into this trial, that's the problem. Now here
5 we have a fine lady perfectly qualified in every way that I can
6 see and because she doesn't answer this question acceptably I'm
7 asked to reject her and I reckon I'll have to do it. You see,
8 Mrs. Abbott, one of the essential issues in this case is whether
9 or not this young girl is dead and the Commonwealth has to prove
10 she's dead before they concern themselves with who did it and if
11 you or any other juror already has a notion that she is dead or
12 that she isn't and already made up your mind on that, then, of
13 course, that has already disposed of one of the issues in the case
14 that's supposed to be proved or disproved by the evidence in the
15 courtroom. I hate to do it. I really hate to excuse you, but
16 I'll have to do it. You are free to go.

17 A Thank you.

18 THE COURT: Thank you.

19 (The juror is discharged.)

20 CHARLES KIDD,

21 a juror, after being first duly sworn, being examined on voir
22 dire:

23 BY THE COURT:

24 Now let's just ask that question first. No use wasting 15
25 minutes and asking that question at the end.

26 MR. SHOCKLEY: Judge, may I say please that I think prospective

1 jurors can be rehabilitated on that issue and this woman gave an
2 answer that she had some notions in that direction but obviously
3 it was not as positive as some other prospective jurors who have
4 said, "I think she was murdered," or "yes, I'm sure she's dead,"
5 that type of thing and I think that if the question is put in the
6 proper frame for her and she is advised and informed that the
7 Commonwealth bears the burden of proof, I think this woman would
8 have been rehabilitated very easily.

9 THE COURT: I don't believe you can rehabilitate a venireman
10 under the Justus case once they make this statement that they
11 have a certain fixed belief upon any critical issue. I think that's
12 it.

13 MR. SHOCKLEY: I think the Justus case was though basing an
14 opinion on the guilt or innocence of the accused.

15 THE COURT: Well, anyway I've excused the lady.
16 I'm going to ask that question myself right in the beginning.

17 MR. LOOKABILL: That'll be fine, Your Honor.

18 Q What's your name, please, sir.

19 A Charles Kidd.

20 Q Charles Kidd. And where do you live, Mr. Kidd?

21 A Fairlawn.

22 Q Mr. Kidd, were you on the Grand Jury that returned the
23 indictment in the case of Commonwealth v. Epperly?

24 A No, sir.

25 Q Were you in this room when the Grand Jury was instructed
26 by the Court or when it returned its indictment?

1 A No, sir.

2 Q Mr. Epperly is the defendant in this case, Stephen
3 Matteson Epperly. He is seated here in the middle between his
4 two attorneys. He is charged with the murder of Gina Renee Hall.
5 So let me ask you first if you are related by blood or marriage
6 to Mr. Epperly?

7 A No, sir.

8 Q Are you related by blood or marriage to Gina Renee Hall?

9 A No, sir.

10 Q Do you have any interest in this trial or in the outcome
11 of the case?

12 A Yes, sir, I sure do.

13 Q What's your interest?

14 A I'd like to see things go like they should go.

15 Q Well, I think that's why we are all here. We want--now
16 what do you mean--let me put it to you this way. Have you made
17 up your mind already?

18 A No, sir, I haven't.

19 Q Sir?

20 A No, sir.

21 Q Oh, you didn't mean that?

22 A No, sir.

23 Q You mean you want to see the process go on and justice
24 done, is that correct?

25 A Exactly.

26 Q And let the chips fall where they may?

1 A Exactly.

2 Q So that's what you meant when you said you have an in-
3 terest in the case?

4 A Uh hum.

5 Q What I meant by the question was do you have any feeling
6 already that you want the case to go one way or the other?

7 A No, sir.

8 Q All right. Now I assume you have acquired information
9 concerning the case from newspapers or conversation or whatever
10 source. Let me ask you if that information that you have received
11 would affect your impartiality in the case?

12 A I don't think so.

13 Q Could you be completely impartial and fair to each
14 side?

15 A I think so.

16 Q Have you formed or expressed any opinion concerning the
17 guilt or innocence of the defendant?

18 A No, sir.

19 Q Do you think you could be a member of a jury and listen
20 to the evidence and the law and go into the jury room and decide
21 the case solely on what you hear here in this courtroom?

22 A Yes, sir.

23 Q Do you have any feeling of bias or prejudice for or
24 against either side?

25 A No, sir, I don't.

26 Q Do you know of any reason why you cannot give each

1 side a fair and impartial trial based solely upon the law and
2 the evidence?

3 A None whatsoever.

4 Q Now I've asked you in a general way whether you have
5 made up your mind as to the guilt or innocence of the accused.
6 Let me ask you this now. The first issue in the case that the
7 Commonwealth has to overcome, they've got to prove beyond a
8 reasonable doubt that Gina Renee Hall is in fact dead, that's the
9 first thing. You see in every murder case you've got to prove
10 that first. Have you made up your mind on that issue, whether
11 she's living or dead?

12 A No, sir, I haven't.

13 Q You have not. You are open minded on that. All right,
14 now the lawyers will have some additional questions and we'll
15 start with the Commonwealth's Attorney, Mr. Shockley.

16 BY MR. SHOCKLEY:

17 Q How are you, Mr. Kidd?

18 A All right.

19 Q Mr. Kidd, I see that you work at the Radford Arsenal,
20 is that correct?

21 A That's right.

22 Q Do you know the defendant?

23 A No, sir.

24 Q Do you know his father?

25 A I've seen the gentleman, yes, sir.

26 Q When did you see him last?

1 A Quite a few years ago. He was the janitor foreman.

2 Q Sir?

3 A He was the janitor foreman.

4 Q Were you working at the arsenal at that time?

5 A Yes, sir.

6 Q And was he?

7 A Yes, sir.

8 Q I believe he's now retired, is that correct?

9 A Uh hum.

10 Q Do you have any type of association or connection,
11 social or business with Mr. Epperly?

12 A No, sir.

13 Q I'm talking about the defendant's father. Would your
14 knowing the defendant's father play any part whatsoever in your
15 decision making process as a juror?

16 A None whatsoever.

17 Q What type a job do you have at the Arsenal?

18 A I'm a fireman.

19 Q Fireman. And how long have you been employed there?

20 A 16 years.

21 Q Mr. Kidd, are you familiar with the Claytor Lake area,
22 Claytor Dam?

23 A Somewhat, yes.

24 Q Are you familiar with Hazel Hollow Road?

25 A Yes, sir.

26 Q Do you travel it frequently?

1 A Maybe once or twice a month.

2 Q So you know the terrain and the layout of the road?

3 A Uh hum.

4 Q You know the railroad trestle, do you that goes across?

5 A Uh hum.

6 Q How would you describe that terrain through there?

7 A It's not a very safe road to go through there, that's

8 for sure; it's narrow. That's about all I know.

9 Q Do you have any children, Mr. Kidd?

10 A Yes, sir.

11 Q How many, please?

12 A Two.

13 Q Boys, girls?

14 A One of each.

15 Q And the boy's age, please.

16 A Boy?

17 Q Yes.

18 A Eleven.

19 Q And your daughter's age?

20 A Twelve.

21 Q Mr. Kidd, do you believe that dogs have a scenting or
22 smelling ability that is superior to what we have as human beings?

23 A Definitely.

24 Q Do you hunt with dogs?

25 A No, sir.

26 Q Why do you have that opinion?

1 A I've seen them in action.

2 Q In what capacity?

3 A I've seen a dog chase a rabbit.

4 Q Did he catch it?

5 A Definitely.

6 Q Pretty good dog to catch a rabbit, isn't it?

7 A Yeah.

8 Q Are you familiar with any types of dogs that are used
9 to track human beings, human scents?

10 A I've seen them, yes, sir.

11 Q You've seen that done as well?

12 A Uh hum.

13 Q What type of dogs have you seen?

14 A Blood hounds.

15 Q And under what circumstances?

16 A They were looking for an escaped prisoner.

17 Q You've been with a group that--

18 A I've been around, yeah.

19 Q You've seen the procedures followed?

20 A Uh hum.

21 Q Would it be safe to say that you are pretty confident
22 in dogs and their abilities in that respect?

23 A Maybe, maybe.

24 Q Well, now what does "maybe",--can you be a little more
25 descriptive for me.

26 A I would say, you know, they could sniff them out and

1 catch them, I'd say, yeah.

2 Q Mr. Kidd, do you think it's possible for one person to
3 kill or murder another person and then hide or dispose of the body
4 in such a fashion that it's never found or not found--

5 A Very possible.

6 Q Very possible. Or not found for a number of years?

7 A Very possible.

8 Q Because of that fact alone do you think that a person
9 who kills another person and is able to hide the body so success-
10 fully, do you think they should go unpunished just because they
11 are able to hide it?

12 A No, sir.

13 Q Now as the Judge has informed you this is a murder pro-
14 secution and one of the elements that the state must prove in any
15 murder prosecution is that a death has occurred, that's one of
16 three or four elements that the state must prove. Now the State
17 and law enforcement authorities have never found Gina Renee Hall
18 dead or alive since her disappearance in June, You are aware of
19 that fact?

20 A Right.

21 Q Now because the State cannot prove a death by direct
22 evidence, that is by a physician or someone to say, you know, her
23 body was found and this was her body and that the body is dead,
24 the State will introduce circumstantial evidence which the State
25 contends proves death. What I'm getting at is the State will
26 introduce various other facts and circumstances from which the

1 State contends it can be concluded she was in fact dead and, of
2 course, that's what circumstantial evidence is all about and
3 looking at another set of facts and circumstances, you can infer
4 that another fact or fact is true. Do you have any problem with
5 that?

6 A No, sir, I don't.

7 Q If the State is able to prove to you beyond a reasonable
8 doubt through its introduction of various circumstantial evidence
9 that Gina Hall is deceased and that she was killed and murdered
10 by this defendant, could you return a verdict of guilty even
11 though the State had never found the body?

12 A I think I could, yes, sir.

13 Q You say you think you could. Would you have some
14 problems? Because there had never been a body found, would you
15 maybe have an inclination to lean toward an acquittal?

16 A If there was enough evidence I think I could, yes.

17 Q If there was enough evidence you think you could
18 convict?

19 A Enough evidence.

20 Q My question though is since the State has not found the
21 body, would you be inclined to lean toward an acquittal?

22 A I'll have to think about that.

23 Q Well, can you think about it a minute and give me your
24 thoughts on it.

25 A I'd say I could, yes.

26 Q You'd lean toward an acquittal? In other words you

1 are saying that simply because the State does not have a body
2 that you would be more inclined to vote for not guilty?

3 A Like I say, I got to have some evidence.

4 Q Well, I understand and I'm not permitted to sit here
5 and go over the evidence with you before trial, but my question
6 is without knowing what our evidence is, would you be automatically
7 inclined to be predisposed to vote for not guilty simply because
8 the state can't prove beyond all possible doubt that she's dead?

9 A I don't think so.

10 Q You don't think so. So you don't think you would have
11 an automatic leaning for an acquittal?

12 A No, sir.

13 Q You would be open minded, would you?

14 A I think so, yes, sir.

15 Q And you would listen to the evidence and if you were
16 convinced beyond a reasonable doubt of her death, then you could
17 return a conviction if all the other elements are met?

18 A Exactly.

19 Q O.k., thank you, very much.

20 BY MR. LOOKABILL:

21 Q Mr. Kidd, I'm going to ask a few more questions. I'll
22 try not to be too personal or prying. I don't mean to be. We
23 just need to obtain an unbiased jury if possible, and we'll have
24 to probe your mind a little bit if you don't mind, o.k.?

25 A O.k.

26 Q How long have you been a resident of Pulaski County?

1 A Fifteen years.

2 Q Have you always lived in the Fairlawn area?

3 A Yes, sir.

4 Q Where did you live prior to coming to Fairlawn?

5 A Bland County.

6 Q Did you ever work at the Bland Correctional Center?

7 A No, sir.

8 Q I'm just curious about how you had the contact with the
9 dogs?

10 A That's where I seen them.

11 Q Is that where you saw them?

12 A Uh hum.

13 Q Did you ever go out with them?

14 A No, sir, I just seen them, you know when they was going
15 out.

16 Q Do you think that dogs are infallible, do they make
17 mistakes like humans?

18 A Just like humans.

19 Q Have you seen them make mistakes?

20 A No, I haven't been around them that much.

21 Q But you feel that they do make errors like humans do?

22 A Uh hum.

23 Q They don't have perfect noses?

24 A Right.

25 Q And you indicated when you first came to the stand that
26 you think things should go like they ought to. What did you mean

1 by that?

2 A Well, if you know, there's enough evidence and every-
3 thing I'd say he should be prosecuted.

4 Q Having had some experience with dogs and their abilities
5 or disabilities as trackers, if you were on the jury, would you
6 share any knowledge you had about dog's abilities with the other
7 jurors?

8 A I doubt it.

9 Q Pardon?

10 A I doubt it.

11 Q Why would you not?

12 A Well, I don't believe I should try to impartial them
13 or whatever.

14 Q You wouldn't want to affect their judgment?

15 A No, I don't think so.

16 Q Have you ever been associated with a police department,
17 have you ever been a member of a police department, state police?

18 A No, sir.

19 Q Any law enforcement agency?

20 A No, sir.

21 Q Any close member of your family?

22 A No, sir.

23 Q As you sit here today, not having heard any official
24 evidence, of the Commonwealth, just perhaps what you've read or
25 heard, do you have any opinion as to Mr. Epperly's guilt or
26 innocence?

1 A No, sir, I don't.

2 Q You don't have any feeling whatsoever?

3 A (Shakes head).

4 Q What have you heard or read about the case?

5 A About what everybody else has read or seen on tele-
6 vision, I guess.

7 Q What specifically have you heard or read?

8 A Just general knowledge of it, I presume.

9 Q What kind of things have you heard, what do you know
10 right now about the case?

11 A Other than just what I've seen, I guess, really.

12 Q And what is that?

13 A Nothing in specific.

14 Q For example you know that there's a missing person, an
15 alleged missing person?

16 A Uh hum.

17 Q What else do you know about it?

18 A Where it happened, of course, presumably happened.

19 Q Where was that?

20 A It was on Claytor Lake, at a cabin or whatever; where
21 the car was found on Hazel Hollow Road, and other than that,
22 that's about it.

23 Q You don't know any of the other facts or evidence that
24 the Commonwealth might have or might have discussed or that the
25 press may have written about?

26 A Not really.

1 Q What papers do you--

2 A The Roanoke Times.

3 Q The Roanoke Times, do you get the Southwest or Radford
4 paper?

5 A No, sir, I don't.

6 Q Have you discussed this case with anyone, the people
7 you've worked with?

8 A No, not really.

9 Q Do people around where you work discuss the case much?

10 A VErY little said.

11 Q You haven't heard much about it at all?

12 A Huh uh.

13 Q O.k., knowing how you feel right now about the case
14 and what you know about it, if you were sitting here now instead
15 of Mr. Epperly, would you feel that you would like to have a person
16 of your same frame of mind on the jury?

17 A Yeah, I would hope so, yeah.

18 Q Do you understand that the defense doesn't have to prove
19 anything, that it the Commonwealth's burden to prove every element
20 of an offense beyond a reasonable doubt?

21 A Exactly.

22 Q Do you also understand that they have to prove that
23 there is a death beyond a reasonable doubt to a moral certainty?

24 A Uh hum.

25 Q Do you understand that in a circumstantial case such
26 as this , it's like a chain connecting the defendant with the

1 crime and there has to be a strong link there. Each link must
2 be strong. If the Commonwealth fails in one element, the chain
3 breaks and you have to acquit the defendant, do you understand
4 that?

5 A Exactly.

6 Q Do you understand that any evidence in a circumstantial
7 case, all evidence in a circumstantial case must be taken by a jury
8 with great care and caution?

9 A Uh hum.

10 Q Have you ever been a juror before?

11 A (Inaudible, cough).

12 Q What kind a case was it?

13 A Civil case.

14 Q Civil case?

15 A Uh hum.

16 Q Was that some time ago or was it recently?

17 A Many years ago.

18 Q Was that here in Pulaski County?

19 A Bland County.

20 Q Bland County?

21 A Uh hum.

22 Q Do you understand the difference between the burden in
23 a civil case and that in a criminal case as far as a preponderance
24 of the evidence?

25 A Uh hum.

26 Q --Versus reasonable doubt, do you understand those
differences? Which is the higher proof?

1 A _____ (Unintelligible) the evidence.

2 Q A criminal case or a civil case, which requires the
3 stronger proof?

4 A The criminal.

5 Q Have you ever been a witness in a case that you can
6 recall?

7 A Not that I can recall.

8 Q Has any close member of your family or friends ever
9 been the victim of a serious crime such as murder or a serious
10 felony?

11 A Huh uh.

12 Q Do you understand that this presumption of innocence
13 that I'm talking about goes with the defendant throughout the
14 proceeding until all the evidence is in and the decision is made
15 in the case?

16 A Uh hum.

17 Q Do you have any mental reservations whatsoever of giving
18 our client the benefit of that presumption of innocence.

19 A No, sir.

20 (Court Reporter's note: At this point a tape malfunctioned
21 and the remainder of the examination of Mr. Kidd is omitted.
22 The Court accepted him without objection.

23 Thereupon a jury of twelve was duly impanelled and sworn
24 to try the case.

25 The Court then proceeded to examine prospective jurors as
26 alternates and the eighth panel of six jurors were sworn on voir dire.

1 The first prospective juror examined was Sharon F. Sayers.
2 The tape malfunction continued through that examination. The
3 Court rejected Mrs. Sayers as an alternate juror.

4 The malfunctioning of the tape continued through a portion
5 of the examination of the next prospective juror, Mark K. Lundy
6 and that examination is picked up on the next tape as follows:)

7 BY MR. LOOKABILL:

8

9 Q Did you discuss this case with anyone, with your wife
10 or with anyone else?

11 A _____ (Unintelligible) in passing.

12 Q When you discussed it, did anyone of you voice an opinion
13 about the case?

14 A Not really an opinion, maybe just, you know, basically
15 that we had read it.

16 Q You didn't draw any conclusions or opinions about what
17 you had read?

18 A (Silence).

19 Q Assuming, you know your mental attitude better than we
20 do, if you were on trial today for murder would you feel comfortable
21 with the person trying the case just like yourself with the same
22 frame of mind you have right now?

23 A I suppose so, yeah.

24 Q You wouldn't have any problems, you'd be glad to see a
25 jury of persons feeling the way you do now about the case?

26 A _____ (Inaudible).

1 Q Do you understand that until the proceedings of this
2 case are over Mr. Epperly is considered to be innocent and that
3 this presumption of innocence goes with him throughout the pro-
4 ceeding until such time as a decision is made by the jury?

5 A That's right.

6 Q Do you have any problem or mental reservation about
7 giving him the benefit of this presumption of innocence throughout
8 this proceeding?

9 A No, sir.

10 Q In other words would you consider him innocent until
11 the Commonwealth proves beyond a reasonable doubt that he is
12 guilty of some crime?

13 A Yes, sir.

14 Q Do you understand that in a criminal case the Common-
15 wealth must prove every element beyond a reasonable doubt, every
16 element of the case, including the death of the alleged decedent,
17 Gina Hall. They must prove that item also beyond a reasonable
18 doubt, do you understand that?

19 A Yes, sir.

20 Q Have you ever served on a jury before?

21 A I was here last week. It was a mistrial.

22 Q Did you all ever consider the evidence as a jury?

23 A No.

24 Q You all were dismissed without--

25 A --Before the case--

26 Q Have you ever been a witness in a case, have you ever

1 taken the stand on someone's behalf or--

2 A No.

3 Q Has any member of your family or close friend ever been
4 a victim of a serious crime, murder or felonious assault?

5 A No.

6 Q Do you feel that the function of the jury if you should be
7 on the jury as an alternate, do you feel that the function of a
8 jury is to solve the crime or simply to try the guilt or innocence
9 of this man?

10 A I'd say it would be to try the guilt or innocence.

11 Q If you ended up on the jury as a regular juror, for
12 example and there were eleven other people who disagreed with
13 your opinion and you felt very strong about guilt or innocence
14 or some aspect of the case would you maintain your position or
15 would you give in because of pressure of eleven other people?

16 A If I felt strong enough about my point.

17 Q You feel that you would stand by your position. Mr.
18 Lundy, do you realize that in a circumstantial evidence case that
19 you've got to consider the Commonwealth's evidence with great
20 care and caution. When I say circumstantial evidence case, I
21 mean a case in which there is no direct evidence like an eye
22 witness, where the case is circumstantial, meaning things that
23 surround the facts that they are trying to prove and there is no
24 direct evidence. Do you understand that this evidence must be
25 taken with great care and caution by a jury?

26 A (Inaudible).

1 Q Do you understand that in a circumstantial evidence case
2 it's just like a chain. It has to connect this man with the crime
3 and the Commonwealth's case is no stronger than the weakest link in
4 that chain and if one part of their case is not proven, one element
5 of the case isn't proved, then you have to acquit him and find him
6 not guilty. Do you understand that?

7 A I suppose.

8 Q Do you understand what I've said?

9 A Not totally, no.

10 Q What I'm saying is do you understand that in a circum-
11 stantial evidence case, the Commonwealth without any direct
12 evidence, like an eye witness, they must show evidence that
13 surrounds the alleged crime to try to convince you beyond a
14 reasonable doubt and if any of these elements are absent or
15 missing, then everything has not been proven beyond a reasonable
16 doubt and you must acquit this man, do you understand that?

17 A Yeah.

18 Q Do you feel that just because the charge against Mr.
19 Epperly is murder that you can give him just as fair trial as if he
20 were charged with trespass or some minor crime?

21 A Yes, sir.

22 Q Could you follow the Court's instructions that you aren't
23 to guess or speculate about the case or any elements of the case
24 but that you are just to listen to the evidence and make your
25 determination from the evidence?

26 A Yes, sir.

1 Q Do you have any connection with Radford College?

2 A No.

3 Q You indicated that you thought dogs do have a superior
4 smelling ability to us people. Do you feel like they never make
5 mistakes or do you feel that they error just like humans do?

6 A I don't see how anything can be infallible.

7 Q Thank you sir, I think that's all the questions and
8 I appreciate your--

9 THE COURT: All right, thank you, Mr. Lundy, if you'll
10 step right over here, please.

11 (The juror leaves the room.)

12 THE COURT: Any objections to Mr. Lundy, gentlemen?

13 MR. SHOCKLEY: No, sir.

14 MR. WARBURTON: None for the defense, Your Honor.

15 THE COURT: All right Mr. Lundy is accepted as an alternate
16 without objection.

17 EVERETT WOODROW WORRELL, JR.,

18 a juror after being first duly sworn, being examined on voir dire.

19 BY THE COURT:

20 Q Mr. Worrell, would you state your full name, please,
21 sir.

22 A Everett Woodrow Worrell, Jr.

23 Q And where do you live?

24 A P.O. Box 136, Belspring.

25 Q Where is your home, where would that be?

26 A In Belspring.

1 Q Oh, you said Belspring. You said a post office. I
2 was thinking about the post office here. Belspring?

3 A Yes, sir.

4 Q Yes, I know where Belspring is.

5 All right, were you on the Grand Jury that returned the in-
6 dictment in the case of Commonwealth v. Stephen Epperly?

7 A No, sir.

8 Q Were you per chance in the courtroom here when that
9 Grand Jury was charged and when it reported?

10 A No, sir.

11 Q Mr. Epperly's full name is Stephen Matteson Epperly
12 and the young lady whom he is charged with murdering is Gina
13 Renee Hall. Are you related by blood or marriage to either of
14 these persons?

15 A No, sir.

16 Q Do you have any interest in the outcome of this case
17 other than to see that justice is done if you should become a
18 member of the jury?

19 A No, sir.

20 Q Have you acquired any information concerning the case
21 through the news media or through any other source?

22 A Yes, sir.

23 Q You've read about it, I'm sure.

24 A Read about it.

25 Q Heard about it on radio and television?

26 A Radio and television and gossip everywhere.

1 Q I beg your pardon.

2 A Gossip everywhere.

3 Q Gossip, yeah. Well, that's understandable. Now what I
4 really want to know is do you think any of this would affect your
5 fairness and impartiality should you be selected as a juror?

6 A No, sir, I believe I could.

7 Q You think you have an open mind?

8 A Yes, sir, I think I'd have an open mind.

9 Q Have you, yourself, expressed or formed any opinion as
10 to the guilt or innocence of the accused?

11 A I've said, yes, sir, I think I've had an idea one way
12 or the other but I would have to go by the evidence.

13 Q Well, now you say you have an idea one way or the other
14 based on what you've read and heard?

15 A I just, you know, just heard possibly.

16 Q Well, when one reads something or hears something, of
17 course he reacts mentally to it and gets some kind of impression
18 one way or another ordinarily.

19 A Anyone cannot have an impression.

20 Q That's right. But what I want to know is have you made
21 up your mind that this man is either guilty or not guilty, based
22 on what you've read or heard?

23 A I'd say, yes, sir.

24 Q You think you have?

25 A Yes, sir.

26 Q Well, I suspect we should be on the safe side then

1 Mr. Worrell and excuse you with the thanks of the Court.

2 (The juror is discharged.)

3 SANDRA DICKERSON,

4 a juror, after being first duly sworn, being examined on voir dire:

5 BY THE COURT:

6 Q This is Mrs. Sandra Dickerson?

7 A Yes.

8 Q Is it Dickerson or Dickenson?

9 A Dickerson.

10 Q Dickerson. Where do you live Mrs. Dickerson?

11 A I live out on 100 on the old Farris Farm.

12 Q I see. Were you on the Grand Jury that returned the
13 indictment against Mr. Stephen Epperly?

14 A No, sir.

15 Q Were you in this room when the Grand Jury was instructed
16 or when it reported?

17 A You mean yesterday?

18 Q No, I mean some weeks or months ago.

19 A Oh, no, this is my first time.

20 Q Right. Are you related by blood or marriage to the
21 accused, Stephen Matteson Epperly?

22 A No, sir.

23 Q Are you related by blood or marriage to Gina Renee
24 Hall?

25 A No, sir.

26 Q Do you have any interest in the trial of this case or

1 its outcome other than to try to do what's right if you should be
2 selected as a juror?

3 A No, sir.

4 Q I assume you've read about it and heard about it through
5 the news media have you?

6 A Yes.

7 Q Have you heard people talk about it?

8 A Yes.

9 Q Well, that's understandable, but now what I really
10 want to know is have you made up your mind about his guilt or
11 innocence, the defendant's guilt or innocence as a result of
12 what you've read or heard?

13 A Uh, no.

14 Q You have not?

15 A No.

16 Q All right, do you think you could sit here with an open
17 mind--that's all we want is just somebody that will be fair to
18 each side with an open mind, hear the evidence and the law given
19 to the jury by the Court and then retire and decide the case on
20 the basis of what you've heard in this courtroom and nothing
21 else?

22 A I don't know if I could or not. I've heard a lot of
23 things. I just don't know.

24 Q I'm sure you have. Have you, yourself, formed or
25 expressed any opinions concerning the guilt or innocence of the
26 accused?

1 A Well, I don't know.

2 Q You don't know.

3 A I think I have, but you don't know til you hear every-
4 thing. I don't know if I could be fair or not.

5 Q I suppose as long as there is a doubt in your mind about
6 it and I thank you for your frankness, we had better be on the
7 safe side and excuse you so I thank you for your attendance and
8 you are free to go.

9 (The juror is discharged.)

10 MADELON POUND,

11 a juror, after being first duly sworn, being examined on voir
12 dire:

13 BY THE COURT:

14 Q Just have a seat there, Mrs. Pound, please. Mrs.
15 Pound what's your given name?

16 A Madelon.

17 Q Madelon? And you are married, of course?

18 A Yes.

19 Q What's your husband's name?

20 A Winston, Winston.

21 Q And where do you live, Mrs. Pound?

22 A We live out on Route 611 in the Wurno Community.

23 Q I see. Mrs. Pound did you happen to be on the Grand
24 Jury that considered the Epperly case and returned the indictment
25 some weeks or months ago?

26 A No, I was not.

1 Q Did you happen to be in this courtroom when the Grand
2 Jury did its work?

3 A No, I was not.

4 Q All right, are you related by blood or marriage to the
5 defendant in this case, Stephen Matteson Epperly?

6 A No, I'm not.

7 Q Are you related by blood or marriage to Gina Renee
8 Hall?

9 A No.

10 Q Do you have any interest in the case Mrs. Pound other
11 then to do justice to each side, should you be called upon to act
12 as a juror?

13 A No.

14 Q That's your only interest in the case?

15 A That's right.

16 Q Have you acquired information concerning the case
17 through the news media or any other source?

18 A Yes, of course.

19 Q I'm sure you have. Now would such information affect
20 your impartiality in any way or could you be fair to both sides?

21 A Well, I would hope that I could be fair to both sides.
22 I don't know how much, having heard about the case, would affect
23 my thinking.

24 Q Well, I'm sure you have heard pros and cons?

25 A Yes.

26 Q For and against each side and you hear all kinds of

1 talk but you and I know about talk lots of times. You say you
2 hope you could be fair and objective. Do you feel that you
3 could be?

4 A Yes, as far as I'm able I would be.

5 Q All right. Have you, yourself, formed or expressed
6 any opinion as to the guilt or innocence of the accused?

7 A No.

8 Q Then do you think you could sit here as an alternate
9 juror and perform your duties and if called upon to do so, retire
10 to the jury room and decide this case solely on the evidence and
11 the law that you hear here in this room?

12 A I would do my best.

13 Q Are you sensible of any bias or prejudice for or against
14 either side?

15 A I don't think so.

16 Q Do you know of any reason then whether I've touched
17 upon it or not, why you could not give the Commonwealth on the one
18 hand and the defendant on the other a fair and impartial trial
19 based solely upon the law and the evidence?

20 A No, I suppose not.

21 Q You think you could do that?

22 A Uh hum.

23 Q All we want is a fair minded juror, open minded and
24 without any preconceived biases or prejudices to sit and judge
25 the case that's all.

26 A I have read about it all in the newspapers and have

1 high schoolers in my home that have had some connection with the
2 defendant and that's one reason I've been hesitant.

3 Q You've had who in your home?

4 A I say I have two high schoolers at home who have known
5 the defendant.

6 Q Who had known him?

7 A Just briefly, you know in--

8 Q Out at the high school here in Pulaski County?

9 A Uh hum and I just thought I should tell you that.

10 Q Well, I appreciate that and these lawyers may want to
11 ask you about that. Whatever that connection was, would that
12 affect you one way or another?

13 A I don't think so.

14 Q All right. Now let's see if the Commonwealth's Attorney,
15 Mr. Shockley, has any questions.

16 BY MR. SHOCKLEY:

17 Q Good afternoon, Mrs. Pound. How are you today?

18 A All right.

19 Q Have you expressed any opinion at this time as to
20 whether or not Gina Hall is dead or alive?

21 A No, I have no way of knowing. We don't know that.

22 Q You are open minded on that, on that fact?

23 A Yes, I am.

24 MR. WARBURTON: Mrs. Pound, pardon me, I would like for you
25 to speak up so I can hear you also.. Face Mr. Shockley, but speak
26 right up so I can hear you also.

1 A All right.

2 Q Mrs. Pound, are you familiar with the Claytor Lake Dam
3 area?

4 A I have been there maybe once but I don't know that much
5 about the area.

6 Q Are you familiar at all then with Hazel Hollow Road.
7 Do you know where Hazel Hollow Road is?

8 A No, I couldn't go there by myself.

9 Q You say that you have children. I know that you have
10 a couple of boys, is that--

11 A No, I--well, I have a daughter and a friend of hers
12 who is living in my home this winter, two of them who are in
13 high school. My son is in college now.

14 Q That's right, your son graduated last year was it?

15 A Yes, no two years. He's a sophomore in college now.

16 Q So he would be what, twenty?

17 A Twenty.

18 Q And you have a daughter, one daughter, and her age is?

19 A Eighteen.

20 Q Mrs. Pound, do you feel that dogs in general have a
21 scenting or smelling ability that is superior to what you and I have
22 as human beings?

23 A I presume so. I've been told that.

24 Q Well, their sensitivity to odor.

25 A Yes.

26 Q Do you feel that certain types of dogs can be trained to

1 track human scents?

2 A As far as I know they can.

3 Q Have you heard of situations where they've been used
4 to find lost people or escapees from correctional facilities?

5 A Yes, I have.

6 Q Would you have confidence in a dog that's properly
7 trained in this respect?

8 A Yes.

9 Q Mrs. Pound, do you think that it is possible for one
10 person to kill or murder another person and then hide or dispose
11 of the body in such a fashion that the body is never found or
12 that it may take years to find?

13 A I suppose it's possible.

14 Q Would that fact alone, the fact that a body is not
15 able to be found, would that in your mind, do you feel that such
16 a person who kills somebody and hides the body that that should
17 cause them to go unpunished?

18 A Well, I suppose if guilt was proven a person should be
19 punished.

20 Q Right, of course, you've indicated that, you know,
21 you've heard newspaper accounts?

22 A Yes.

23 Q And so forth on this and you obviously know that Gina
24 Hall has never been found since she disappeared alive or dead?

25 A That's right.

26 Q And obviously the Commonwealth has no direct evidence

of her death, no body, no testimony that can come from an examination of a body. The Commonwealth instead will introduce various facts and circumstances in evidence and the Commonwealth contends that these facts and circumstances, when accumulated and looked at as a whole, commonly referred to as circumstantial evidence, proves death. If the evidence was strong and proved beyond a reasonable doubt that she was dead and that she was murdered by the defendant, could you return a verdict of guilty?

A Yes, I suppose if I was convinced.

Q Uh hum, that she was dead. Obviously the State in any prosecution has numerous elements of the offense that they must prove and then after they prove that the crime has been committed, of course, they must connect the accused with the crime.

A Uh hum.

Q And in a homicide prosecution the state must prove that a death occurred, obviously and, of course, in this situation, as I told you, you know there is no body and the state will attempt to do so on the strength of circumstantial evidence and again if the evidence, circumstantial evidence was strong enough, do you feel that you could conclude beyond a reasonable doubt that the young lady was dead?

A If it was strong enough.

Q Well, because there is no body, do you feel that you would automatically lean in favor of an acquittal because, you know, there has been no body found. Do you think you would be leaning towards an acquittal or do you think that that would

1 influence you that much?

2 A That's a hard one to answer.

3 Q I understand.

4 A I think it would depend on the evidence presented.

5 Q Uh hum.

6 A That would be the determining factor.

7 Q I see. Now Mrs. Pound I know that you and your husband
8 are members of the Methodist Church in Dublin and I know that you
9 attend very regularly and participate in church activities and
10 what not. As a juror, if you were, you know something happened to
11 one of the other jurors and you had to serve as a juror, in addi-
12 tion to listening to the evidence, when you deliberate, you would
13 have the duty then of determining whether or not the defendant
14 was guilty beyond a reasonable doubt or whether he was innocent.
15 Assuming that the jury unanimously concluded that the accused was
16 guilty, the jury would then have the function of setting the de-
17 fendant's punishment within the range provided by law. Would
18 your religious convictions and so forth, would that in any way
19 inhibit you in setting someone's punishment, assuming, of course,
20 that they were found guilty?

21 A Well, if a person is found guilty I feel like they
22 should be punished but I could not take another person's life.

23 Q I understand. Now, of course, we are not dealing with
24 a capital murder case here. The death penalty is not involved in
25 this case at all so we are talking solely about imprisonment and
26 my question to you is if the jury and you were on the jury, decided

1 beyond a reasonable doubt that the defendant was guilty, would
2 you have any reservations about imposing prison sentence?

3 A No, I'd think not.

4 Q You think you could do that, o.k. Thank you very much.

5 BY MR. WARBURTON:

6 Q Mrs. Pound, I'm David Warburton.. Glennwood Lookabill
7 is my law partner. This is the defendant, Steve Epperly. Seeing
8 him today, and knowing what you know about this case, do you have
9 any feeling one way or the other about whether he's innocent or
10 guilty?

11 A No.

12 Q And I believe Mr. Shockley has already asked you whether
13 you have any feeling one way or the other about Gina Hall, whether
14 she's dead or alive?

15 A No, nothing but what I've read in the paper.

16 Q What paper is it that you read and subscribe to?

17 A The Southwest Times and the Roanoke Times.

18 Q And you are aware, I'm sure that it's been in the paper
19 over quite a period of time. Would you say that you've read most
20 of the articles, some of them or just a few?

21 A I expect I've read them all.

22 Q And television and radio, have you had any exposure--

23 A Well, I usually watch the news.

24 Q And have you been exposed to stories about this parti-
25 cular incident _____ (unintelligible) on the news, TV?

26 A Oh, I have seen what they've given on TV.

1 Q Would you say that you've probably seen most of that?

2 A We watch the news pretty regularly.

3 MR. TERWILLIGER: Excuse, me, Mrs. Pound. Could you speak
4 up just a little bit more so I can hear you as well.

5 A I'll try.

6 MR. TERWILLIGER: Thank you.

7 Q At any time over the past couple of months when you have
8 been going through this publicity, have you formed an opinion one
9 way or another, even for a moment?

10 A No, I don't think I have. I couldn't have formed it
11 from what I've read.

12 Q You spoke of saying, "We watch the news and we read the
13 newspapers."--

14 A Our family.

15 Q Did you at any time have discussions about this parti-
16 cular case as the result of seeing something on the news or reading
17 about it in the paper?

18 A Of course, we wondered about it, questioned about it
19 and talked about it.

20 Q Family members express their opinions to you?

21 A Well, some have opinions but--

22 Q Uh hum.

23 A We only know about what we read.

24 Q When someone expressed an opinion to you, how did you
25 react?

26 A Well, I'd say, "You don't know," that's what I would say.

1 Q Are you employed?

2 A Not right now. I take care of the home.

3 Q _____ (inaudible). Have you been employed recently?

4 A Not for ten years.

5 Q What did you do ten years ago?

6 A I was a teacher for five years.

7 Q Was that in Pulaski County Schools?

8 A Yes, in Draper.

9 Q I believe that's where your husband works?

10 A No, he's at Dublin.

11 Q Dublin, I'm sorry. If you were on trial today for
12 murder instead of Mr. Epperly, would you be satisfied with having
13 a juror sitting in judgment on you which has the same frame of
14 mind that you do right now?

15 A I think I would be.

16 Q Do you understand that the defense, defense attorneys
17 don't have to prove anything to you as a juror, that it's the
18 Commonwealth's burden to prove every bit of the case and every
19 bit of that beyond a reasonable doubt. Do you understand that?

20 A I was thinking we heard from both sides but I can under-
21 stand that he's the one presenting the case.

22 Q Do you understand that the defendant does not have to
23 prove his innocence and that quite to the contrary the Common-
24 wealth must prove guilt?

25 A He must prove his guilt, right.

26 Q Beyond a reasonable doubt?

1 A That's right.

2 Q I take it, you've not been on a jury before?

3 A No, this is the first time--

4 Q Is this the first time you have ever been in a court-
5 room?

6 A Well, I was here one afternoon for one case, that's all
7 I've been on.

8 Q Have you ever been a witness in a case or anything like
9 that?

10 A No.

11 Q You know that a man is presumed innocent unless and
12 until the jury members feel that he has been proven guilty beyond
13 a reasonable doubt?

14 A Yes.

15 Q Do you have any reservations about that in your mind
16 whether you could give this man right here the benefit of that
17 presumption of innocence throughout the trial?

18 A I would do my best to be impartial.

19 Q If in the off chance that you do serve as a regular
20 juror in the decision making process in this case and if you were
21 to retire to the jury room and you found yourself in the minority
22 even as a minority of one, would you hold to your opinion or
23 would you feel the others must be right?

24 A That's the thing that's been bothering me. I feel like
25 I'd have to be convinced.

26 Q So if you were convinced one way or another, convinced

1 for acquittal or convinced for conviction in this case, and you
2 felt strongly about it and despite the thought of others, you would
3 stick to your thoughts?

4 A Yes, sir.

5 Q You said, "That's what's been bothering me." --

6 A I wondered how you would feel if you were the only one
7 who felt differently in a case, you know, and how much pressure
8 it would be on you to make a decision. I thought about that. I
9 feel like I would have to be true to my own conviction.

10 Q Is there anything else that has bothered you that you've
11 thought about. I suppose you've been waiting downstairs for two
12 days wondering what's going to happen.

13 A Yes.

14 Q Is there something else that perhaps that would bother
15 you about jury service? Would you be embarrassed, for example,
16 to have been on a jury that returns a verdict of guilty or to have
17 been on a jury that returns a verdict of not guilty?

18 A No, not if we were convinced that we were right.

19 Q So you wouldn't feel any embarrassment one way or an-
20 other if you had served on that jury regardless of the outcome?

21 A If I felt that we had been fair.

22 Q Mr. Shockley has indicated to you that this will be a
23 case primarily of circumstantial evidence. Do you understand or
24 would you heed an instruction from the Judge that circumstantial
25 evidence is to be received by jury members with great care and
26 caution?

1 A Yes, I understand that.

2 Q Do you understand in a circumstantial evidence case
3 that we would have a chain of circumstances which Mr. Shockley will
4 urge should convince you of guilt but that the Commonwealth's
5 case is only as good as its weakest link in that chain?

6 A I think I understand that.

7 Q Do you understand also that the Commonwealth has to
8 prove every element of the crime that they allege beyond a reason-
9 able doubt and that if they fail on even one of them, that you
10 must vote for an acquittal?

11 A I think I understand that.

12 Q Do you want me to run that by again. I'll be glad to.

13 A What did you say?

14 Q If you'll like me to, I'll run that by you again.

15 A Try it again.

16 Q O.k. In every crime, there are elements of the crime,
17 things a number of which must be proved beyond a reasonable doubt
18 before you or anyone else could convict. Hoping that you under-
19 stand that the Commonwealth must prove each element beyond a
20 reasonable doubt, not most of them or just some of them, but each
21 and every element beyond a reasonable doubt, do you understand
22 that?

23 A Yes.

24 Q Do you understand that if they fail in one element of
25 coming very close but not good enough that you must vote for an
26 acquittal, that you must vote not guilty, in that circumstance,

1 can you understand that?

2 A Yes, I understand that.

3 Q Knowing that the charge against this man is murder in
4 the first degree, do you feel that you could give him the same
5 fair and impartial trial that you would if he had been charged with
6 a much lesser offense such as shoplifting?

7 A Yes, I think so.

8 Q Would you follow the Court's instruction that a jury
9 member is not allowed to speculate or guess as to what the evidence
10 means?

11 A Yes.

12 Q I hope I haven't asked too many questions. I do want
13 to ask you a few more questions about schools. One is Radford
14 College. Do you have any connection with Radford College?

15 A Well, except that I'm a graduate of Radford.

16 Q You are. I should not probably ask you when that was.
17 Has it been within the last 20 years?

18 A Yes.

19 Q When did you graduate?

20 A In 1960.

21 Q And you took a four year degree?

22 A Yes.

23 Q Are you an active alumni?

24 A No.

25 Q Do you go back to see old Taylor Hall or whatever it
26 is?

1 A No.

2 Q You mentioned that there are two children in your home?

3 A Yes.

4 Q Who have, of course, over the last couple of years
5 attended Pulaski County High School?

6 A That's right.

7 Q You are apparently aware that Mr. Epperly has been a
8 substitute there?

9 A Yes, I am.

10 Q Did anyone have any comments to you one way or the
11 other about Mr. Epperly, whether they had him as a teacher for
12 a day or whether they reacted to him negatively or positively?

13 A Yes, I have heard some discussion about some things.

14 Q They've spoken to you--

15 MR. RUSSELL: I can't hear.

16 A They have spoken of him, of this.

17 Q Have they made comments about Mr. Epperly as a person
18 as opposed to him as a teacher, whether or not he was a good
19 teacher or whatever. Did they make comments to you about him as
20 a person?

21 A Yes.

22 Q How did you react?

23 A Well, I did not know. I didn't know Mr. Epperly and--

24 Q You've never seen him before today is that right?

25 A No, just saw his picture in the paper.

26 Q Now I want you to be very frank with the Court and

1 THE COURT: No. 21.

2 THE CLERK: Louanna H. Dowell.

3 (Thereupon the ninth panel of six jurors were sworn on
4 voir dire.)

5 THE COURT: Ladies and gentlemen, I know these have been two
6 long tiring days for you and I appreciate your service. We are
7 reaching the end of the process now. We've already selected the
8 jury that's actually going to try the case and what we are doing
9 now is trying to impanel a group of four from whom two alternates
10 will be selected, and an alternate fills in in case a juror gets
11 sick or something of that kind. We will examine you one at a time
12 in order to determine whether or not you are qualified to serve
13 on a jury. The rest of you will remain back here and we will
14 call you in as we need you. Let me admonish you at this time
15 until you are excused by the Court, whenever that may be, do not
16 discuss this case with anyone, nor permit anyone to try to talk
17 about it in your presence. Do not read anything about it in the
18 newspaper or listen to it on TV or radio so that you can keep an
19 open mind free from any outside influences. Now if the five of
20 you--I'll ask this gentleman to remain in the room and the five
21 of you will retire and we'll call you back in momentarily.
22 Thank you.

23 JERRY REED,

24 a juror, after being first duly sworn, being examined on voir
25 dire:

26 BY THE COURT:

1 Q All right, sir, if you would take the chair there behind
2 you. Would you state your name, please, sir.

3 A Jerry Reed.

4 Q Jerry Reed?

5 A Yes, sir.

6 Q Where do you live, Mr. Reed?

7 A Parrott, below Parrott, Dry Branch actually.

8 Q Mr. Reed, were you on the Grand Jury that returned the
9 indictment against Stephen Matteson Epperly?

10 A No, sir.

11 Q Were you in this room when that Grand Jury was instructed
12 or when it reported?

13 A No, sir.

14 Q Are you related by blood or marriage to the defendant
15 in this case, Stephen Matteson Epperly?

16 A No, sir.

17 Q Are you related by blood or marriage to Gina Renee Hall?

18 A No, sir.

19 Q Do you have any interest in the outcome of this case
20 other than to try to help to do justice should you be selected as
21 a juror?

22 A No, sir.

23 Q I assume you've heard about the case prior to today?

24 A Yes, sir.

25 Q Would such information as you have received affect your
26 impartiality in any way should you be selected?

1 A Yes, sir, it would.

2 Q Tell me about that if you will, please, sir.

3 A Well, best friend of mine, his first cousin's house is
4 where it took place and I've heard all there is to hear on it,
5 you know.

6 Q Your friend's first cousin's--

7 A Home is where it took place.

8 Q Is the house where it took place?

9 A Uh hum.

10 Q And you've discussed the case at length with him have
11 you?

12 A Yeah, you know, just all the time since it happened.

13 Q So you feel you just couldn't be impartial then if you
14 were selected?

15 A No, sir, I don't feel I could.

16 Q All right, Mr. Reed, I thank you for your frankness and
17 I will excuse you. You may go.

18 (The juror is discharged.)

19 JOAN ANDERSON,

20 a juror, after being first duly sworn, being examined on voir dire:
21 BY THE COURT:

22 Q Would you state your name, please. Just have a seat
23 and state your name, please, ma'am.

24 A Joan Anderson.

25 Q All right, Mrs. Anderson. And where do you reside?

26 A Dublin.

1 Q Mrs. Anderson, were you on the Grand Jury that returned
2 the indictment in the case of Commonwealth v. Epperly?

3 A No, sir.

4 Q Were you in this room when that Grand Jury was charged
5 or when it reported?

6 A No, sir.

7 Q Do you have any interests in this case one way or another?

8 A (Silence).

9 Q Maybe I had better explain that. I know as a citizen you
10 have an interest. I didn't mean it in that light. I mean do you
11 want the case to come out a certain way, that kind of interest?

12 A I have formed an opinion if that's what you are asking
13 me.

14 Q I believe you people have been talking down there and
15 figuring out a way to get out of jury service. Have you really?

16 A Yes, sir, I have.

17 Q And based on what?

18 A Everything I've read and everything I've heard about it,
19 I'm convinced that Steve is guilty.

20 Q All right, I thank you for your candor and if you feel
21 that way about it, I will excuse you. You are free to go.

22 (The juror is excused.)

23 MADELON S. MARSHALL,

24 a juror, after being first duly sworn, being examined on voir dire:
25 BY THE COURT:

26 Q Mrs. Marshall, where do you reside?

1 A Allisonia.

2 Q In Allisonia. Did you happen to be on the Grand Jury
3 that returned the indictment in the case of Commonwealth v.
4 Stephen Epperly?

5 A No, sir.

6 Q Were you in this courtroom when the Grand Jury was
7 instructed or when it reported?

8 A No, sir.

9 Q Do you have any interest in the case of Commonwealth v.
10 Epperly one way or another except to try to help to do justice if
11 that becomes necessary?

12 A No, sir.

13 Q I assume that you've heard about the case or read about
14 it?

15 A Yes.

16 Q Is that a fair assumption. Would this information
17 affect your fairness and impartiality in any way should you be
18 selected as a juror?

19 A Yes, sir.

20 Q In what way would it affect you?

21 A I'm not sure I could be fair.

22 Q You've read that much and heard that much that you
23 couldn't sit here and listen to the evidence and decide the case?

24 A My husband and I operate a country store and we hear
25 everything.

26 Q Well, all right, in light of that statement then Mrs.

1 Marshall, I will excuse you. Thank you.

2 (The juror is discharged.)

3 MOZELLE BARKER,

4 a juror, after being first duly sworn, being examined on voir dire:

5 BY THE COURT:

6 Q Good afternoon, Mrs. Barker. Would you tell us for
7 the record where you live, please.

8 A I live at 2148 Sunset Drive in Pulaski.

9 Q You live here in the Town of Pulaski?

10 A Yes, in the corporation limits.

11 Q Were you on the Grand Jury that returned the indictment
12 in the case of Commonwealth v. Stephen Epperly?

13 A No, sir.

14 Q Were you in this courtroom when that Grand Jury was
15 instructed or when it reported?

16 A No, sir.

17 Q Do you have any interest in the case of Commonwealth
18 v. Epperly at all except to see that justice is done to each
19 side?

20 A No, sir.

21 Q That's your only interest. Have you acquired any informa-
22 tion concerning the case through the news media or any other
23 source?

24 A Yes, sir.

25 Q I'm sure you have. Would that information that you have
26 acquired affect your fairness and impartiality in any way?

1 A No, sir, I don't think it would.

2 Q You haven't made up your mind about the case?

3 A No, sir.

4 Q Have you made up your mind as to whether or not Gina
5 Renee Hall is dead?

6 A No, sir.

7 Q Because you keep an open mind on that issue also.

8 A Yes, sir.

9 Q Have you formed or expressed any opinion as to the
10 guilt or the innocence of the accused?

11 A No, sir.

12 Q Do you think you could sit here as a juror if you were
13 called upon to do so and listen to the evidence and the law of
14 the case and retire to the jury room and decide the case on the
15 strength of what you hear here in the courtroom and on nothing
16 else, that is the evidence, the actual evidence in the case,
17 could you decide the case on that and nothing else?

18 A Yes, sir, I think I could do that.

19 Q Are you sensible of any feeling of bias or prejudice
20 against either side?

21 A No.

22 Q Do you know of any reason whether I've touched upon it or
23 not why you could not give the state on the one hand, the pro-
24 secution, and the defendant on the other a fair and impartial trial?

25 A Would you repeat that please.

26 Q Yes, ma'am. It's kind of a negative thing. Do you

1 know of any reason why you could not give each side a fair and
2 impartial trial?

3 A No, I don't know of any reason.

4 Q Yes, ma'am. All right, now the lawyers will ask you
5 some additional questions and this is Mr. Shockley, the Common-
6 wealth's Attorney.

7 BY MR. SHOCKLEY:

8 Q How are you, Mrs. Barker?

9 A Fine.

10 Q Mrs. Barker, I have to ask you some questions that may
11 be a little embarrassing to you. I hope that it's not too much
12 so. Is your son, Darrell Barker?

13 A Yes, sir.

14 Q And, of course, you are aware that right now your son
15 has charges, felony charges pending against him in Pulaski County?

16 A Yes, sir, I'm aware of that.

17 Q And I believe your son also has felony charges pending
18 against him in the State of South Carolina?

19 A I read that in the newspaper.

20 Q You don't have personal knowledge of that?

21 A I asked him about it.

22 Q May I ask--you don't have to answer this if you don't
23 want to, but may I ask how your relationship is with your son,
24 whether it's a close one or a distant one?

25 A It's distant.

26 Q The reason, of course, that I asked you this, Mrs.

1 Barker, is that as you know any charges that have been placed
2 against your son my office, whether it be me or Mr. Terwilliger,
3 will be responsible to prosecute those criminal charges.

4 A Yes, sir, I understand that.

5 Q And I don't think that it would, but I must ask you if
6 the fact that charges are pending against him and that we would
7 be responsible for prosecuting him if that would in any way give
8 us a negative image in your mind or influence you in any way?

9 A No, sir, his case wouldn't have anything to do with
10 this.

11 Q You don't feel that the fact that we would have to
12 prosecute him or that he may even--I don't know when his pre-
13 liminary, I think his preliminary hearing day is set sometime in
14 January, but the fact that I or Mr. Terwilliger may have to pro-
15 secute it would not leave a bad taste in your mouth about us if
16 you would have to sit in this case as a juror?

17 A Mr. Shockley, I think everybody is entitled to a fair
18 trial whether it's my son or anyone else's.

19 Q I just want to make sure that, you know, you wouldn't
20 hold anything against my office, me or my office because, you
21 know, of the prosecution that's pending against your son?

22 A No, sir, I won't hold anything against anyone.

23 Q O.k. Now Mrs. Barker, are you familiar at all with
24 Hazel Hollow Road area and the Claytor Lake Dam?

25 A No, I'm not too familiar with it.

26 Q Is Derrell your only son?

1 A Yes, sir.

2 Q Do you have any daughters?

3 A Yes, I do.

4 Q May I ask how many, please.

5 A One.

6 Q And her age?

7 A Seventeen.

8 Q Mrs. Barker do you have a belief that dogs in general
9 have a greater smelling ability then you and I do as human
10 beings?

11 A Yes.

12 Q Do you believe that certain types of dogs can be trained
13 to track a human scent?

14 A Certain types, yes.

15 Q Do you, if a dog was properly trained in that respect
16 would you have confidence in such a dog?

17 A Yes.

18 Q Mrs. Barker, do you think that it's possible for one
19 person to kill or murder another person and then hide the body in
20 such a fashion that it's never found or not found for a number of
21 years?

22 A Yes, I think that's possible.

23 Q Do you think that because of that fact alone the killer
24 should go unpunished?

25 A No, he shouldn't go unpunished if we prove that he's
26 guilty.

1 Q Right. Of course, if you know anything about this
2 case at all you know that Gina Hall has never been found since
3 she disappeared, dead or alive and the state will attempt through
4 the introduction of various evidence, commonly called circumstantial
5 evidence to prove to the jury beyond a reasonable doubt that she
6 is dead and that the defendant is responsible for her death. If
7 the State's evidence is strong enough, would you have any problem
8 as a juror in determining that she was in fact dead if, you know,
9 if the evidence proved that beyond a reasonable doubt?

10 A Would I have any problem?

11 Q Yes, ma'am. Could you do so, could you come to the
12 conclusion, based on circumstantial evidence that she is dead?
13 Do you understand my question?

14 A Yes, sir, I do. Yes, I think I could come to the con-
15 clusion if the evidence--

16 Q If the evidence was strong enough. O.k., that's all
17 I have, thank you.

18 BY MR. WARBURTON:

19 Q Mrs. Barker, I may ask some questions that you perceive
20 to be a little personal and I'm sure you'll understand. All we
21 are trying to do also is get a fair trial for this man.

22 I'd like to know how long you have been a resident of
23 Pulaski County?

24 A Twenty-seven years.

25 Q Where did you live before that?

26 A In Grayson County.

1 Q Have you lived in the Town of Pulaski all twenty-seven
2 of those years?

3 A Yes, I have.

4 Q Are you employed?

5 A No.

6 Q Are you retired from some occupation?

7 A No, I'm a housewife.

8 Q And that's work, too, isn't it. What is your educational
9 background?

10 A High school.

11 Q Was that in Grayson County?

12 A Yes.

13 Q I want you to look at this man seated next to us. This
14 is the defendant in the case, Steve Epperly. Do you have any feeling
15 one way or another whether he's guilty or innocent?

16 A No, I don't.

17 Q You've said that, of course, you've heard about all of
18 this in the paper?

19 A Yes, I have.

20 Q Have you read all of the materials that have been in
21 the press as far as you know, most of it, or some of it?

22 A I probably have.

23 Q Did you at any time form an opinion that you have
24 abandoned?

25 A No, I have never formed any opinion about it.

26 Q Have you discussed it with your husband or daughter?

1 A My daughter said she had him at school.

2 Q Did she state any reaction to Mr. Epperly, positive or
3 negative to you?

4 A Positive.

5 Q She said, I take it from what you said, she was in a
6 class that he was a substitute teacher at Pulaski County High
7 School?

8 A Right.

9 Q And she did state an opinion to you about him. I'm
10 not really concerned with what it was. I just want to know if she
11 stated an opinion about him as a person?

12 A Yes, she did.

13 Q Did you have a reaction to that?

14 A Not too much with children, you know.

15 Q Did you speak with your daughter about the fact that
16 you had been called for jury duty in this particular case?

17 A Yes, I did.

18 Q What kind of discussion did you have?

19 A She was at home when I was served the subpoena for
20 jury duty. She just laughed about it.

21 Q Did she talk anymore about Mr. Epperly at that time?

22 A Not really.

23 Q If you have followed the case of the missing person
24 since last June 29th until today, you are aware that a man was
25 arrested in early September and charged with this crime. What re-
26 action did you have when you read in the news that a man had been

1 arrested?

2 A Not too much of a reaction.

3 Q Did you have any sense of relief that someone had been
4 arrested, did you have a relief that perhaps this would be solving
5 the crime?

6 A Well, I just said that I hoped that they did have the
7 right one. I did say that.

8 Q Did you ever have the feeling that perhaps yes, indeed
9 they did have the right one?

10 A No, sir, I didn't have that feeling.

11 Q Assuming that you were on trial today for murder in the
12 first degree, would you be happy and encouraged by having a jury
13 made up of persons with the frame of mind that you have right now?
14 I'd better start all over again. If you were on trial for murder
15 today, would you want the jurors to have the same frame of mind
16 that you have right now?

17 A Yes, I wouldn't mind, because I haven't made up my mind.

18 Q Do you understand that it's not our responsibility to
19 prove this man innocent; you understand it's the Commonwealth's
20 burden to prove him guilty?

21 A Yes, sir, I understand that.

22 Q And they bear the total burden on that issue. Do you
23 also understand that they must do that beyond a reasonable doubt?

24 A Yes, I understand.

25 Q As to each element of the crime.

26 A I understand that.

1 Q Including the death of Gina Hall which must be proved
2 beyond a reasonable doubt or to a moral certainty. You understand
3 that?

4 A Yes, sir, I do.

5 Q You also understand that in a case of circumstantial
6 evidence which Mr. Shockley has told us he will present that the
7 jury is to receive that evidence with great care and caution.

8 A Yes, sir, I understand.

9 Q That the Judge will instruct you to that fact?

10 A Yes, sir.

11 Q And that this chain of circumstances would only be as
12 strong as the weakest link in there?

13 A Yes, sir, I understand.

14 Q I'm hoping that you will also understand that if the
15 Commonwealth fell just a little short on one element of the crime
16 that you as a jury member, if you would serve as a juror would
17 have to vote to acquit, do you understand that?

18 A Yes, sir.

19 Q Are you uncomfortable with that idea at all?

20 A Well, not really.

21 Q Would you suffer any embarrassment by friends and family
22 if you served on a jury that acquitted Mr. Epperly?

23 A No, I wouldn't suffer any embarrassment.

24 Q How about would you suffer any embarrassment if you
25 were on a jury that convicted Mr. Epperly?

26 A No, sir.

1 Q If you were to serve as a juror in this case and you had
2 some strong feelings about guilt or innocence, whether Gina Hall
3 is alive or dead or any other issue in the case and you find your-
4 self in the minority, even a minority of one, would you consider
5 yourself convinced by the other eleven persons or would you hold
6 to your views. How do you feel that you would react in that sit-
7 uation?

8 A I feel that I would vote my conviction regardless of
9 what anyone else did.

10 Q Would you follow the Court's instruction that you are
11 not to speculate or guess about any element in this case?

12 A Yes, sir, I'd try to.

13 Q Do you have any connection with Radford college?

14 A No, sir.

15 Q The only time you have ever come across any direct con-
16 nection between yourself and Mr. Epperly, that would have been
17 your daughter having had him as a teacher at school, is that right?

18 A Right.

19 Q Thank you. _____ (Unintelligible).

20 THE COURT: Mrs. Barker, I thank you very much and you can
21 step in this room here. Lieut. Campbell will take you for a few
22 moments, please.

23 (The juror leaves the courtroom.)

24 THE COURT: Any objections, gentlemen?

25 MR. SHOCKLEY: No, sir.

26 MR. WARBURTON: No, sir.

1 THE COURT: All right, Mrs. Barker is accepted as an alternate.
2 Bring in the--

3 WILLIAM J. LANCASTER,

4 a juror, after being first duly sworn, being examined on voir dire:

5 BY THE COURT:

6 Q This is Mr. Lancaster, is it?

7 A Yes, sir.

8 Q Or do you pronounce it Lancaster?

9 A Either way.

10 Q Either way, all right. Which way do you pronounce it?

11 A Lancaster most of the time.

12 Q All right, I want to pronounce it the way you do.

13 Mr. Lancaster, where do you live?

14 A Snowville.

15 Q Were you on the Grand Jury, Mr. Lancaster that returned
16 the indictment against Stephen Matteson Epperly?

17 A No.

18 Q Were you in this courtroom when that Grand Jury reported
19 or when it was instructed by the Court?

20 A No.

21 Q Are you related by blood or marriage to the defendant,
22 Stephen Matteson Epperly who is seated here in the middle between
23 his two lawyers?

24 A No.

25 Q Are you related by blood or marriage to Gina Renee
26 Hall?

1 A No.

2 Q Do you have any interest in the case of Commonwealth v.
3 Stephen Epperly at all except to do justice should you be selected
4 as a juror?

5 A Well, no, but--

6 Q Well, let me break that question--

7 A I don't quite understand.

8 Q All right. Do you have any interests in this trial or
9 any parties to the trial or any outcome of the trial, one way or
10 another?

11 A No.

12 Q I'm sure you've heard about the case?

13 A Yeah.

14 Q Prior to today?

15 A Yes, sir.

16 Q Would what you have heard affect your fairness and im-
17 partiality one way or another?

18 A Well, I've heard a lot of talk.

19 Q I'm sure you have but could you put that talk aside and
20 get down to business here and listen to the evidence and decide
21 the case solely on what you hear in this courtroom?

22 A I believe I could.

23 Q What's your occupation, Mr. Lancaster?

24 A I work for a furniture factory.

25 Q Which one?

26 A Coleman's.

1 Q I see. How long have you been there?

2 A Around twenty-five years.

3 Q Have you, yourself formed or expressed any opinion
4 concerning the guilt or innocence of the accused?

5 A No.

6 Q Have you formed or expressed any opinion as to whether
7 or not the young lady, Gina Renee Hall is deceased?

8 A Well, I don't exactly know.

9 Q Well, now that, you're not supposed to know, that's
10 the point. You see that's one of the issues that the Commonwealth
11 would have to prove and that would have to be determined from the
12 evidence whether she's living or dead. So that's the purpose of
13 my question whether you've already made up your mind on that
14 issue or not.

15 A I believe I'd have to answer that, "Yes."

16 Q That you have made up your mind?

17 A Yeah.

18 Q You think she's already deceased?

19 A I do.

20 Q Based on what you've read and heard?

21 A Heard.

22 Q All right, I'm going to excuse you then Mr. Lancaster
23 because that is one of the issues in the case and if you've already
24 made up your mind on it, you see, that creates a problem. Thank
25 you, you are free to go.

26 (The juror is discharged.)

1 LAUANNA H. DOWELL,
2 a juror, after being first duly sworn, being examined on voir
3 dire:

4 BY THE COURT:

5 Q Mrs. Dowell, where do you live?

6 A I live in Newbern.

7 Q In Newbern?

8 A Yes, sir.

9 Q Were you on the Grand Jury that returned the indictment
10 against Stephen Epperly?

11 A I'm sorry, would you repeat that.

12 Q Were you on the Grand Jury that returned the indictment
13 against Stephen Epperly?

14 A No, sir.

15 Q Were you in this courtroom a few weeks or months ago
16 when the Grand Jury reported?

17 A No, sir.

18 Q Or when it was instructed by the Court. Are you related
19 by blood or marriage to the accused, Stephen Matteson Epperly?

20 A No, I'm not.

21 Q Are you related by blood or marriage to Gina Renee Hall?

22 A No.

23 Q One of the issues in this case will be whether or not
24 Miss Hall is deceased and that will be developed from the witness
25 stand, evidence that's presented to the jury. Have you already
26 made up your mind as to whether or not she's deceased?

1 A I don't know sir. No, I haven't made up my mind.

2 Q Have you made up your mind as to the guilt or innocence
3 of the accused?

4 A No, I can't say that either.

5 Q I assume you've heard about the case and read about it?

6 A Yes, I have.

7 Q Would that information affect your fairness and impar-
8 tiality in any way if you were selected as an alternate juror?

9 A I would like to think that it would not, but I don't
10 want to be on this jury or an alternate or whatever.

11 Q Well, I'm sure nobody really is looking for the job but
12 there are certain responsibilities of citizenship that we all have
13 to perform. So why don't you just be open and frank with us as
14 you are being and let us decide, that's my responsibility really
15 to decide whether or not you are qualified, you see. So I'll re-
16 state my last question and that is simply, do you think you could
17 be fair and impartial and objective and open minded should you
18 be selected as a juror?

19 A Yes, I think I could be.

20 Q All right. Do you think you could wait until all the
21 evidence is in and I've given you the law of the case and the case
22 is concluded and the jury retires to the jury room before you
23 begin the process of making up your mind as to the defendant's
24 innocence or guilt?

25 A Yes.

26 Q You think you could do that. Are you sensible of any

1 feeling of bias or prejudice for or against either side in this
2 case?

3 A No, sir.

4 Q Do you know of any reason whether I've touched upon it
5 or not why you cannot give each side a fair and impartial trial
6 based solely upon the law and the evidence?

7 A Yes, sir.

8 Q All right, now the lawyers will have a few additional
9 questions for you please, ma'am.

10 BY MR. SHOCKLEY:

11 Q Miss Dowell, how are you this afternoon.

12 A Fine, thank you. I'm nervous.

13 Q Well, just try to relax. We just want to ask you a few
14 questions to try to determine your state of mind about this case
15 and so on and so forth. I understand that you know Mr. Terwilliger,
16 is that correct?

17 A I have met him, yes.

18 Q You have met him. Would his participation in this trial
19 affect you in any way?

20 A No, I don't think so.

21 Q Are you familiar with the Claytor Lake Dam and Hazel
22 Hollow Road area?

23 A I'm not very familiar with it, no.

24 Q Do you have any children?

25 A No.

26 Q Do you believe that dogs have a superior smelling

1 ability then what you and I have as human beings?

2 A Do I believe that? Yes, I believe that.

3 Q Do you believe that dogs can be trained to track scent
4 to try to locate someone or some thing?

5 A Yes, I believe they could.

6 Q Now if you know anything at all about this case, you know
7 that Gina Hall has never been found dead or alive since her dis-
8 appearance back in June. You are aware of that fact?

9 A I am, yes.

10 Q Now the State will introduce in trial certain circum-
11 stantial evidence, facts and circumstances that the State intends
12 to prove and then, of course, urge that those facts and circum-
13 stances, commonly called circumstantial evidence proves that Gina
14 Hall is in fact dead and that the defendant is responsible for her
15 death. If the State's circumstantial evidence is strong enough
16 would you have any problem in weighing it and giving it the weight
17 that it is entitled and if you believe beyond a reasonable doubt
18 could you conclude that Gina Hall is dead even though no body had
19 ever been found or produced? Do you understand my question?

20 A I think I do. I think it would depend on the evidence.
21 I don't think I can answer that either "yes" or "no."

22 Q Well, the fact that a body has not been found, would that
23 cause you automatically to lean towards an acquittal, that is a
24 finding of not guilty?

25 A No.

26 Q Would you shy away from convicting someone just for that

1 fact alone?

2 A No.

3 Q So you're telling me, let me put it in my own words
4 maybe, if the evidence is strong enough, circumstantial evidence
5 is strong enough, then you could determine that she is dead and
6 of course, if the accused is found to be the perpetrator, you
7 could return a verdict of guilty?

8 A Yes, _____ (unintelligible).

9 BY MR. WARBURTON:

10 Q Mrs. Dowell, I'm David Warburton and Mr. Steve Epperly,
11 the defendant is seated next to me as does Mr. Lookabill who is my
12 law partner. I understand you are very nervous about sitting
13 there. _____ (Unintelligible).

14 A It's a situation.

15 Q Is this the first time you have ever been in a courtroom?

16 A I've been in one other time. I was nervous then, too.

17 Q Were you a witness then or were you serving on a jury?

18 A No, I wasn't. I've never been in a situation like this.

19 Q You've never served on a criminal jury before?

20 A No.

21 Q Not even last week?

22 A No.

23 Q You may be unfamiliar with the surroundings and perhaps
24 with some of the law and things that I have been talking about
25 and Mr. Shockley has and the Judge has. I want to ask a few
26 questions. First of all, I'd like to ask you how long you've been

1 a resident of this County?

2 A I came to Pulaski County in 1973.

3 Q And where did you live before that?

4 A Well, I was married before that. I was in Germany for
5 two years and then I was in Galax prior to that.

6 THE COURT: Would you speak a little louder please, Mrs. Dowell.

7 A I'm sorry. Would you like me to repeat it.

8 THE COURT: No, that's all right.

9 Q Are you employed now?

10 A Yes, I am.

11 Q Where do you work?

12 A Virginia Employment Commission in Radford.

13 Q And how long have you held a position there?

14 A I've been in Radford Employment Commission 2 1/2 years.

15 Q How long have you been with VEC?

16 A Three and a half years.

17 Q And what is it that you do for our Commonwealth?

18 A I'm an employment security interviewer.

19 Q Can you tell me what you do now that you told me that.
20 I don't know.

21 A You want to know what my job is?

22 Q Yes, please.

23 A Basically I interview people for employment, for jobs.

24 Q I believe you answered Mr. Shockley's question that you
25 do not have any children, is that right?

26 A That's right.

1 Q I want you to take a look at this man right here, Mr.
2 Epperly. I want you to tell me whether you have any reaction one
3 way or another on whether he's guilty or innocent right now?

4 A I can't say that whether he's guilty or not guilty. I
5 don't know.

6 Q Looking at him, you're neutral, is that correct?

7 A Uh huh.

8 Q You've heard about this case as you went over with the
9 Judge. You've heard by TV?

10 A Uh hum.

11 Q Newspaper?

12 A Uh hum.

13 Q Would that be the Roanoke Times or Southwest Times or
14 both?

15 A Well, I don't subscribe to either. I don't take a news-
16 paper.

17 Q O.k. You have read some of the news articles about this
18 case?

19 A Yes, random articles.

20 Q What is it that you know about the case, just basically?

21 A I really don't know a lot about it.

22 Q It's not necessary that you know a lot or a little. I
23 just want to know what you do know.

24 A What I do know, mostly is rumors that I have heard from
25 people. The girl was missing, left the Merriot Inn--as I said
26 this is just rumors that I've heard. I'm telling you just what's

1 in my mind. The girl left the Merriott Inn supposedly with Jerry
2 Epperly and was never seen after that, that there was a lot of
3 circumstantial evidence that led people to believe that she was
4 murdered and that Jerry Epperly was accused of the murder.

5 Q You were aware of the news then when Mr. Epperly was
6 arrested?

7 A Yes.

8 Q _____ (Unintelligible) How did you feel when you
9 heard the news he had been arrested?

10 A I was pretty neutral at that point, too. My feeling
11 has always been, you know, that it's in the hands of the law.
12 It's not my decision or opinion or whatever to make which is how
13 I feel about this situation and I don't want to be in this sit-
14 uation.

15 Q We all understand, you say it's in the hands of the law
16 and you don't want it in your hands?

17 A Right, I don't want the responsibility, really.

18 Q Is that your only reservation about being a juror?

19 A Uh hum, I guess it is.

20 Q You've spoken with other people. You've mentioned
21 rumors. Have you heard people express opinions both ways about this
22 case?

23 A Yes, I have.

24 Q And your reaction, I assume, would still be neutral?

25 A Uh hum.

26 Q If you were on trial here today, would you want someone

1 like yourself on the jury with your frame of mind _____
2 (inaudible)?

3 A I guess I would.

4 Q As far as you are concerned Mr. Epperly stands innocent
5 of the crime right at the moment?

6 A Uh hum.

7 Q Do you understand that we don't have to prove him
8 innocent?

9 A Uh hum.

10 Q Mr. Shockley and his office bears the burden of proving
11 him guilty beyond a reasonable doubt?

12 A Uh hum.

13 Q Do you understand that they have to prove each element
14 in the case beyond a reasonable doubt, not just some, but all and
15 each and every element of the crime they allege, beyond a reasonable
16 doubt or to a moral certainty.

17 A Right.

18 Q Do you feel that if you ended up on this jury panel that
19 you could apply that standard to this case?

20 A Beyond a reasonable doubt?

21 Q Uh hum, could you apply that statement?

22 A It would be based on the evidence.

23 Q Right, I understand that. I'm asking you if you will
24 take the evidence if you are selected and apply the standard of
25 guilty beyond a reasonable doubt. I'm assuming that if you served
26 as a juror you'd follow the Judge's instructions, am I right?

1 A Uh hum.

2 Q For example if he instructed you that circumstantial
3 evidence is to be received with a great deal of care and caution,
4 you would follow that?

5 A Uh hum.

6 Q And if the Judge instructed you that if the Commonwealth
7 fails to prove or fall short on just one element of the crime,
8 you would be duty bound to vote to acquit, you would follow that
9 instruction?

10 A The Judge's instruction?

11 Q Yes, if the Judge instructed you that should in your
12 own mind the Commonwealth failed to prove one of the elements by
13 so much as that much that you would have to vote for an acquittal,
14 would you follow that instruction in case the Judge gave it?

15 A Yes, I would.

16 Q Would you follow the Court's instruction not to speculate
17 or guess, fill in the gaps in evidence, that you are to concern
18 yourself only with the evidence that you hear from the witness
19 stand and none else?

20 A Yes.

21 Q Do you think you could do that?

22 A Yes.

23 Q Would you suffer any embarrassment if you served on a
24 jury that voted to convict Mr. Epperly?

25 A I might.

26 Q You feel that you would be embarrassed if you voted to

1 convict this man with your family and friends after the trial was
2 over?

3 A I would be embarrassed to serve on the jury, guilty or
4 not guilty. I don't want to serve on the jury.

5 Q So then if I asked you the opposite question, would
6 you feel any embarrassment among your family or friends if you
7 served on a jury in which the defendant was acquitted, you would--

8 A Uh hum, I would, right.

9 Q I'd also like to ask you if you have an connection with
10 Radford College, Radford University?

11 A No, I don't.

12 Q I've asked you a lot of questions and I hope I haven't
13 embarrassed you or _____ (inaudible).

14 THE COURT: If you will retire to this room right here,
15 please, ma'am.

16 (The juror leaves the courtroom.)

17 MR. SHOCKLEY: (Inaudible, noise).

18 THE COURT: Let's see if there are any objections to Mrs.
19 Dowell first.

20 MR. WARBURTON: We have none, Your Honor.

21 THE COURT: No objections, all right. Mrs. Dowell then is
22 accepted as the fourth member of the panel.

23 (Thereupon two alternate jurors were duly impanelled and
24 sworn to try the case.)

25 (Thereupon Court was adjourned to 12-10-80 at 9:30 a.m.)

26 END OF PROCEEDINGS 12-9-80

1 NOTICE

2 I, Elinor E. Williams, Court Reporter, do hereby certify
3 that the evidence in the foregoing case was recorded electroni-
4 cally by me and has been duly transcribed by me, all of said pro-
5 ceedings having been heard before the Honorable R. William
6 Arthur, Judge of the Twenty-seventh Judicial Circuit Court in
7 Pulaski County, Virginia, on December 8 and 9, 1980.

8 I further certify that on this *27th* day of *January*,
9 1981, I delivered the original and two copies of this transcript
10 to the Clerk of the Circuit Court of Pulaski County.

11
12
13 Elinor E. Williams
14 Court Reporter

15 CERTIFICATE

16 I, Elinor E. Williams, Court Reporter, whose name is
17 signed to the foregoing notice certify that I mailed a copy of
18 said notice to Everett P. Shockley, Esq., Attorney for the Common-
19 wealth, Pulaski County, Virginia, and that I mailed copies
20 thereof to Max Jenkins, Esq. and R. Keith Neely, Esq., counsel
21 for Stephen Matteson Epperly, defendant, on the *27th* day of
22 *January*, 1981.

23 In Witness Whereof, I have hereunto affixed my signature on
24 this *27th* day of *January*, 1981.

25
26 Elinor E. Williams
Court Reporter

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CLERK'S CERTIFICATE

I, Gerry J. Atkinson, Clerk of the Circuit Court of Pulaski County, Virginia, do hereby certify that the foregoing stenographic copy and report of the voir dire of prospective jurors in the case of Commonwealth v. Stephen Matteson Epperly, Defendant, was filed with me as Clerk of said Court on the day of 1981.

Clerk of the Circuit Court
Pulaski County, Virginia