

No. \_\_\_\_\_

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IN THE SUPREME COURT OF THE UNITED STATES

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TIMOTHY TYRONE FOSTER,  
*Petitioner,*

v.

CARL HUMPHREY, WARDEN,  
*Respondent.*

\_\_\_\_\_

On Petition for Writ of Certiorari  
to the Supreme Court of Georgia

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**APPENDIX TO PETITION FOR WRIT OF CERTIORARI**

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January 30, 2015

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# APPENDIX A



SUPREME COURT OF GEORGIA  
Case No. S14E0771

Atlanta, November 03, 2014

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

**TIMOTHY TYRONE FOSTER v. CARL HUMPHREY, WARDEN**

**From the Superior Court of Butts County.**

**Upon consideration of the Application for Certificate of Probable Cause to appeal the denial of habeas corpus, it is ordered that it be hereby denied. All the Justices concur, except Benham, J., who dissents.**

Trial Court Case No. 1989V2275

**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

*Sean C. Pulton*, Chief Deputy Clerk

# APPENDIX B

IN THE SUPERIOR COURT OF BUTTS COUNTY  
STATE OF GEORGIA

TIMOTHY TYRONE FOSTER,

\*

Petitioner,

v.

\*

Habeas Corpus  
Civil Action

File No. 1989-V-2275

CARL HUMPHREY, WARDEN,  
Georgia Diagnostic and  
Classification Prison,

\*

Respondent.

ORDER DENYING PETITIONER'S REQUEST FOR HABEAS RELIEF

After consideration of the record, applicable law, the briefs, arguments, and evidence submitted by the parties, and after having held an evidentiary hearing in this matter, this court finds and orders as follows:

Petitioner, Timothy Tyrone Foster, was convicted by a jury in the Superior Court of Floyd County of one count of malice murder and one count of burglary on May 1, 1987. The Petitioner was thereafter sentenced to death for the malice murder of Queen Madge White. In addition to the death sentence, the trial court sentenced Petitioner to twenty years for burglary.

On direct appeal, the Georgia Supreme Court affirmed Mr. Foster's convictions and death sentence. Foster v. State, 258 Ga. 736 (1988). Mr. Foster's Motion for Reconsideration was denied. The United States Supreme Court denied certiorari. Foster v. Georgia, 490 U.S. 1085 (1989); *rehearing denied* 492 U.S. 928 (1989). Mr. Foster then filed a petition for a writ of habeas corpus in this court. In response, the court granted a limited remand for a mental retardation trial and held the remainder of the petition in abeyance. At the mental retardation trial, which was held in Floyd County in 1999, the jury found that Mr. Foster was not mentally retarded. Mr. Foster's Motion for New Trial was denied by the trial court. On appeal, the Georgia Supreme Court affirmed. Foster

v. State, 272 Ga. 69, 525 S.E.2d 78 (2000). The United States Supreme Court denied certiorari. Foster v. Georgia, 531 U.S. 890 (2000); *rehearing denied* 531 U.S. 1045 (2000).<sup>1</sup>

After the mental retardation trial, Mr. Foster amended the remainder of his habeas petition several times, and this court held an evidentiary hearing on October 30-31, 2006, see Hearing Transcript, pages 1-169. At the hearing, the court received evidence in the form of live testimony, affidavits, deposition transcripts, and other exhibits. The court then invited the parties to submit written objections, post-hearing briefs, and proposed final orders.

#### Petitioner's Objection to State's Exhibits

Both parties filed written objections. On May 17, 2010, Mr. Foster objected to the admission of 145 exhibits introduced by the State for lack of authentication. The State did not respond to Mr. Foster's objection. The court has reviewed Mr. Foster's objection and the submitted exhibits, and in exercising its broad authority to admit such evidence, has decided to overrule the Petitioner's objection and admit the State's exhibits.

#### Respondent's Objection to Petitioner's Affidavits

On July 16, 2010, the State objected to several of the affidavits filed by Mr. Foster on grounds such as relevance, speculation, and hearsay. On August 16, 2010, Mr. Foster responded to the State's objections. The court agrees that the State's objections go to the weight, not the admissibility, of the affidavits. See McElroy v. Williams Bros. Motors, 104 Ga. App. 435, 437 (1961) ("A judge [sitting without a jury] is not held to the strict rules as to the admission of evidence, and [is] presumptively able to 'sift the wheat from the chaff' . . ."). The court further agrees that the standard practice in Georgia is for habeas corpus courts to admit affidavits into evidence pursuant

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<sup>1</sup> The Following abbreviations are used in citations throughout this order:

"1987 R"-record on appeal from Petitioner's trial

"1999 R"-record from mental retardation trial

"MNT"-Motion for New Trial

"HT"-habeas transcript (followed by volume number)

"TT"-trial transcript

"M.R. Trial"-mental retardation trial transcript

"Pet. PHB"-Petitioner's post-hearing brief

to O.C.G.A. § 9-14-48(a). Accordingly, Mr. Foster's affidavits in support of his Petition are admitted in their entirety.

Respondent's Motion to Permit the Submission of Affidavit Testimony for Purposes of Clarification Following the Close of Evidence

Also on July 16, 2010, the State filed a Motion to Permit the Submission of Additional Affidavit Testimony. Mr. Foster opposed the motion. Given the untimeliness of the State's submission, this court denies the State's Motion to Permit the Submission of Additional Affidavit Testimony. See State v. Sabillon, 280 Ga. 1, 2 (2005) (holding that the habeas court properly excluded an affidavit submitted by the petitioner after the statutory deadline).

Claims not Reviewable Due to Res Judicata

As a preliminary matter, this court notes that, as cited by the Respondent, the following claims are not reviewable based on the doctrine of res judicata, as the claims were raised and litigated adversely to Petitioner on his direct appeal to the Georgia Supreme Court, Gunter v. Hickman, 256 Ga. 315 (1986); Roulain v. Martin, 266 Ga. 353 (1996).

- Claim XVII of the amended petition dated 1/4/02, Claim XVII of the amended petition dated 1/26/04 and Claim I of the amended petition dated 7/10/06, wherein Petitioner alleges that the State used peremptory challenges in a racially discriminatory manner in violation of Batson v. Kentucky, (see Foster v. State, 258 Ga. at 737-739(2));
- Claim I of the amended petition dated 1/4/02, Claim I of the amended petition dated 1/26/04 and Claim III of the amended petition dated 7/10/06, wherein Petitioner alleges that he is mentally retarded and therefore ineligible for the death penalty. (See Foster v. State, 272 Ga. at 70(1));
- Claim X of the amended petition dated 1/4/02, Claim X of the amended petition dated 1/26/04 and that portion of Claim V of the amended petition dated 7/10/06, wherein Petitioner alleges that the trial court violated his constitutional rights by failing to provide



him with the necessary assistance of competent and independent experts that included expert assistance to examine fingerprint, shoe print and blood spatter evidence. (See Foster v. State, 258 Ga. at 739(5));

- That portion of Claim VI of the amended petition dated 7/10/06, wherein Petitioner alleges that the prosecutor suppressed evidence of the State's use of racial stereotypes in selecting a jury in violation of Brady v. Maryland, (see Foster v. State, 258 Ga. at 739(4));
- Claim VII of the amended petition dated 7/10/06, wherein Petitioner alleges that his statements to the police were illegally obtained in violation of his constitutional rights. (See Foster v. State, 258 Ga. at 740-742(8));
- The portion of Claim VIII of the amended petition dated 7/10/06, wherein Petitioner alleges that the trial court erred in admitting the videotape of the scene that the police made the day after the crime. (See Foster v. State, 258 Ga. at 740(7));
- Claim XIV of the amended petition dated 7/10/06, wherein Petitioner alleges that the trial court erred in failing to change venue for Petitioner's trial due to the pretrial publicity surrounding the case and the exposure that numerous jurors had to the publicity. (See Foster v. State, 258 Ga. at 740(6));
- Claim XXII of the amended petition dated 1/4/02, Claim XXIII of the amended petition dated 1/26/04 and Claim XV of the amended petition dated 7/10/06, wherein Petitioner alleges that his constitutional rights were violated by the trial court's restrictions on voir dire. These alleged trial court restrictions include the following:
  - 1) limiting the voir dire of jurors' views on capital punishment and/or their ability to set aside their personal feelings and be impartial, including the voir dire of Myrtle Francis, Ray Tate and Hugh Hubbard;
  - 2) limiting voir dire regarding jurors' ability to impartially receive the testimony from police officers;

- 3) limiting voir dire on jurors' ability to consider and weigh mitigating evidence at the penalty phase;
- 4) limiting voir dire on jurors' biases and prejudices against individuals who come from a different cultural, economic or social background;
- 5) limiting voir dire on jurors' views about race, the appropriateness of the death penalty for minors, and youth as a potentially mitigating circumstance; and
- 6) limiting voir dire on jurors' views, biases and prior knowledge regarding insanity, mental illness, and drug and alcohol abuse;

To the extent this claim asserts that the trial court erred by allegedly not allowing Petitioner to ask questions during voir dire as to attitudes, race, youth, insanity and mental illness, this claim was addressed and decided adversely to Petitioner on direct appeal. See Foster v. State, 258 Ga. at 739(3). To the extent Petitioner asserts any other restrictions by the trial court on voir dire, it is procedurally defaulted;

• Claim V of the amended petition dated 1/4/02, Claim V of the amended petition dated 1/26/04 and Claim XVI of the amended petition dated 7/10/06, wherein Petitioner alleges that the trial court improperly failed to excuse jurors for cause who showed a clear bias against Petitioner. These jurors include the following: Mr. Ratliff; Ray Allen Tate; Billy Graves; James T. Cochran; Dorsey Hill; Charles Haulk; Elbert J. Roberson; Linda Kay Fincher; John William Hoban; Margaret Hibbert; Robert Milan; Shirley Jackson; Hugh Hubbard; Pamela Hyde; Leslie Hatch; Virginia Berry; Robert Summners; Walter Fuqua; and A.D. Branton. This claim was addressed and decided adversely to Petitioner on direct appeal. See Foster v. State, 258 Ga. at 736-737(1). To the extent that this claim was not addressed by the Georgia Supreme Court on direct appeal, this claim is procedurally defaulted and may not be addressed on its merits in this proceeding absent a showing of cause and actual prejudice or of a miscarriage of justice to overcome the procedural default.

This court finds that the Petitioner has not met his burden in showing cause and actual prejudice or miscarriage of justice on this issue to overcome default.

- Claim VI of the amended petition dated 1/4/02, Claim VI of the amended petition dated 1/26/04 and Claim XVII of the amended petition dated 7/10/06, wherein Petitioner alleges that the trial court erred in excusing for cause jurors whose views on the death penalty were not extreme enough to warrant exclusion. These jurors include the following: Juror Hines; Dorothy Black; Beverly Kay Richardson; Scott Henson, Jr.; Michael Steve Green; and Lewis Nixon. This claim was addressed and decided adversely to Petitioner on direct appeal. See Foster v. State, 258 Ga. at 736-737(1). To the extent that this claim was not addressed by the Georgia Supreme Court on direct appeal, this claim is procedurally defaulted and may not be addressed on its merits in this proceeding absent a showing of cause and actual prejudice or of a miscarriage of justice to overcome the procedural default. This court finds that the Petitioner has not met his burden in showing cause and actual prejudice or miscarriage of justice on this issue to overcome default.
- Claim XXIX of the amended petition dated 1/4/02, Claim XXX of the amended petition dated 1/26/04 and Claim XIX of the amended petition dated 7/10/06, wherein Petitioner alleges that he was tried under a statute that mandated he prove his mental illness beyond a reasonable doubt before the jury would be authorized to find him guilty but mentally ill in violation of his constitutional rights. (See Foster v. State, 258 Ga. at 745(11));
- Claim XIV of the amended petition dated 1/4/02, Claim XIV of the amended petition dated 1/26/04 and Claim XXIV of the amended petition dated 7/10/06, wherein Petitioner alleges that the death penalty constitutes cruel and unusual punishment in Georgia in that it is applied in an arbitrary and capricious fashion and pursuant to a pattern and practice of Georgia prosecuting authorities, courts and juries to discriminate on grounds of race, sex and poverty. (See Foster v. State, 258 Ga. at 747(13));

- Claim XI of the amended petition dated 1/4/02, Claim XI of the amended petition dated 1/26/04 and that portion of Claim XXV of the amended petition dated 7/10/06, wherein Petitioner alleges that his death sentence is disproportionate. (See Foster v. State, 258 Ga. at 747(13)); and
- Claim XL of the amended petition dated 1/4/02, Claim XLI of the amended petition dated 1/26/04 and Claim XXX of the amended petition dated 7/10/06, wherein Petitioner alleges that the trial court erred in failing to change venue for Petitioner's mental retardation trial. (See Foster v. State, 272 Ga. at 70(2)).

#### Claims that are Procedurally Defaulted

This Court finds that Petitioner failed to raise the following claims on direct appeal and has failed to establish cause and actual prejudice, or a miscarriage of justice, sufficient to excuse his procedural default of these claims. Black v. Hardin, 255 Ga. 239 (1985); Valenzuela v. Newsome, 253 Ga. 793 (1985); O.C.G.A. § 9-14-48(d).

- Claim II of the amended petition dated 7/10/06, wherein Petitioner alleges that he was denied his right to a fair trial, an impartial jury, due process, and equal protection as a result of the prosecution's repeated attempts to rely on arguments supported by racial stereotypes;
- Claim III of the amended petition dated 1/4/02 and Claim III of the amended petition dated 1/26/04, wherein Petitioner alleges that the State destroyed unidentified potentially exculpatory evidence, including allegations that the State, through its investigating officers confiscated unidentified critical evidence that was never tested and then allegedly either lost or destroyed;
- Claim IV of the amended petition dated 1/4/02 and Claim IV of the amended petition dated 1/26/04, wherein Petitioner alleges that he was tried while incompetent, specifically that he allegedly suffered mental illnesses that prevented him from "rendering his attorneys such assistance as a proper defense to the indictment preferred against him demands." This Court

finds this claim is procedurally defaulted to the extent that Petitioner seeks to assert that under Pate v. Robinson, 383 U.S. 375 (1966), the trial court should have sua sponte ordered a competency hearing and to the extent Petitioner seeks to assert a substantive competency claim, that he was actually incompetent at the time of trial and therefore should not have been tried;

- That portion of Claim V of the amended petition dated 7/10/06, wherein Petitioner alleges that Dr. Laipple was not an independent defense expert and that the trial court erred in not providing him with a psychologist or social worker, an expert on mental retardation and a forensic pathologist;
- Claim II of the amended petition dated 1/4/02, Claim II of the amended petition dated 1/26/04 and that portion of Claim VI of the amended petition dated 7/10/06, wherein Petitioner alleges that the prosecutor suppressed material exculpatory evidence in violation of Brady v. Maryland, including evidence of the involvement of other individuals in the crime and evidence concerning the reward given to Sam Stubbs in exchange for his and Lisa Stubbs' cooperation with the State;
- Claim XVI of the amended petition dated 1/4/02, Claim XVI of the amended petition dated 1/26/04 and that portion of Claim VIII of the amended petition dated 7/10/06, wherein Petitioner alleges that the trial court erred in admitting photographs taken of the victim prior to the autopsy and photos from the crime scene;
- Claim IX of the amended petition dated 7/10/06, wherein Petitioner alleges that the State presented testimony it knew or reasonably should have known was perjured, including the testimony provided by Lisa Stubbs wherein she stated that she did not benefit from her testimony;
- Claim XVIII of the amended petition dated 1/4/02, Claim XVIII of the amended petition dated 1/26/04 and Claim X of the amended petition dated 7/10/06, wherein Petitioner alleges

that the prosecutor made impermissible and prejudicial arguments during the guilt phase of Petitioner's trial in that the prosecutor:

- 1) improperly shifted the burden of proof to Petitioner on the essential elements of the offenses;
- 2) improperly commented upon Petitioner's failure to testify;
- 3) improperly vouched for the credibility of his witnesses;
- 4) improperly emphasized irrelevant, inflammatory and prejudicial evidence;
- 5) improperly testified and misstated the evidence;
- 6) improperly took advantage of Petitioner's lack of funds to properly investigate possible guilt/innocence defenses;
- 7) improperly impugned the performance of Petitioner's counsel;
- 8) improperly stated and argued the law applicable to Petitioner's case;
- 9) improperly suggested that the jury had a duty to return a guilty verdict to prevent further deaths;
- 10) improperly appealed to the passion and prejudice of the jury, and;
- 11) improperly argued similar transactions evidence;

• Claim XXX of the amended petition dated 1/4/02, Claim XXXI of the amended petition dated 1/26/04 and Claim XI of the amended petition dated 7/10/06, wherein Petitioner alleges that the prosecutor made improper argument at the penalty phase in that the prosecutor:

- 1) argued facts not in evidence;
- 2) offered his opinion;
- 3) argued an incorrect law on the role of mitigation;
- 4) appealed to racial stereotypes;
- 5) argued that jurors should treat Petitioner adversely because he exercised his constitutional rights;

- 6) argued an escape although no evidence of escape was admitted at either phase of the trial, and;
  - 7) equated a guilty but mentally ill verdict with acquittal;
- Claim XII of the amended petition dated 1/4/02, Claim XII of the amended petition dated 1/26/04 and Claim XII of the amended petition dated 7/10/06, wherein Petitioner alleges that he was either constructively or actually absent from proceedings at which critical issues were determined;
  - Claim XXVI of the amended petition dated 1/4/02, Claim XXVII of the amended petition dated 1/26/04 and Claim XIII of the amended petition dated 7/10/06, wherein Petitioner alleges that Dr. Hark was allowed to testify without Petitioner making a knowing and intelligent waiver of the psychologist/patient privilege;
  - Claim XIII of the amended petition dated 1/4/02 and Claim XIII of the amended petition dated 1/26/04, wherein Petitioner alleges that the Unified Appeal Procedure is unconstitutional;
  - Claim XIX of the amended petition dated 1/4/02, Claim XIX of the amended petition dated 1/26/04 and Claim XVIII of the amended petition dated 7/10/06, wherein Petitioner alleges juror misconduct during the original trial. This misconduct included the following:
    - 1) improper consideration of matters extraneous to the trial;
    - 2) improper racial animus which infected the deliberations of the jury;
    - 3) false or misleading responses of jurors on voir dire;
    - 4) improper biases of jurors which infected their deliberations;
    - 5) improper communications with third parties;
    - 6) improper ex parte communications with the trial judge; and
    - 7) improperly prejudging the guilt/innocence and penalty phases of Petitioner's trial;
    - 8) improper exposure to the alleged prejudicial opinions of third parties;

- Claim XXIII of the amended petition dated 7/10/06, wherein Petitioner alleges that his execution would violate the Eighth Amendment even if he does not meet the traditional definition of mental retardation because of the combination of his lack of cognitive ability and his age at the time of the offense;
- Claim XXIII of the amended petition dated 1/4/02 and Claim XXIV of the amended petition dated 1/26/04, wherein Petitioner alleges that the grand jury and the grand jury foreman were discriminatorily selected;
- Claim XXIV of the amended petition dated 1/4/02 and Claim XXV of the amended petition dated 1/26/04, wherein Petitioner alleges that the grand jury which returned the indictment against Petitioner engaged in unidentified misconduct, considered unidentified extrinsic evidence and was subject to unidentified undue and prejudicial influence;
- Claim XXV of the amended petition dated 1/4/02 and Claim XXVI of the amended petition dated 1/26/04, wherein Petitioner alleges that evidentiary rulings by the trial court at his original trial effectively prevented Petitioner from presenting a defense, in violation of his constitutional rights, because Petitioner was not permitted to elicit testimony that the Floyd County District Attorney's Office and Floyd County juvenile justice system allegedly knew of Petitioner's alleged mental disorder and alleged high risk for violent behavior but failed to act properly;
- The portion of Claim XXV of the amended petition dated 7/10/06, wherein Petitioner alleges that the proportionality review conducted in Georgia is constitutionally infirm, both in general and as applied;
- Claim XLII of the amended petition dated 1/26/04 and Claim XXVI of the amended petition dated 7/10/06, wherein Petitioner alleges that the lack of a uniform standard for seeking the death penalty across Georgia renders Petitioner's death sentence unconstitutional under Bush v. Gore;



- Claim XXVII of the amended petition dated 1/4/02 and Claim XXVIII of the amended petition dated 1/26/04, wherein Petitioner alleges that the trial court's instruction on reasonable doubt at the guilt phase of Petitioner's original trial violated his constitutional rights, specifically that the trial court allegedly equated reasonable doubt and moral certainty;
- Claim XXXIX of the amended petition dated 1/4/02, Claim XL of the amended petition dated 1/26/04 and Claim XXIX of the amended petition dated 7/10/06, wherein Petitioner alleges that his mental retardation remand jury engaged in misconduct and/or considered extrinsic evidence, which included the following:
  - 1) improper consideration of matters extraneous to the trial;
  - 2) improper racial animus which infected the deliberations of the jury;
  - 3) false or misleading responses of jurors on voir dire;
  - 4) improper biases of juror which infected their deliberations;
  - 5) improper exposure to the prejudicial opinions of third parties;
  - 6) improper communications with third parties;
  - 7) improper ex parte communications with the trial judge; and
  - 8) improperly prejudging the guilt/innocence and penalty phases of Petitioner's trial;
- Claim XXXIII of the amended petition dated 1/4/02, Claim XXXIX of the amended petition dated 1/26/04 and Claim XXXI of the amended petition dated 7/10/06, wherein Petitioner alleges that Dr. Laipple was allowed to testify as an expert for the State at the mental retardation remand trial without Petitioner making a knowing and intelligent waiver of the doctor/patient privilege;
- Claim XXXI of the amended petition dated 1/4/02 and Claim XXXII of the amended petition dated 1/26/04, wherein Petitioner alleges that the State presented unidentified testimony it knew or reasonably should have known was perjured at both Petitioner's original trial and his mental retardation remand trial;

- That portion of Claim XXXVII of the amended petition dated 1/4/02, that portion of Claim XXXVIII of the amended petition dated 1/26/04 and that portion of Claim XXXII of the amended petition dated 7/10/06, wherein Petitioner alleges that the trial court's charge on unanimity during the mental retardation remand trial was erroneous and a misstatement of law;
- That portion of Claim XXXIII of the amended petition dated 1/4/02, wherein Petitioner alleges that numerous unspecified portions of the court's instructions at the original trial and at the mental retardation remand trial were confusing, misleading, misstatements of law, burden shifting and otherwise constitutionally defective;
- Claim XXXIII of the amended petition dated 7/10/06, wherein Petitioner alleges that he was denied the ability to be present at all portions of his mental retardation remand trial that were critical to the outcome of the proceedings; and
- Claim XXXIV of the amended petition dated 7/10/06, wherein Petitioner alleges that portions of his original trial and mental retardation remand trial were not recorded in violation of his constitutional rights.
- Claim XXXVI of the amended petition dated 1/4/02 and Claim XXXVII of the amended petition dated 1/26/04, wherein Petitioner alleges that the trial court committed reversible error and allegedly violated Petitioner's constitutional rights when it allegedly violated Georgia statutory law by failing to sequester the jury for Petitioner's mental retardation remand trial; and
- Claim XLI of the amended petition 1/4/02, wherein Petitioner alleges that his sentence of death is being exacted pursuant to a pattern and practice of Georgia prosecuting authorities, courts and juries to discriminate on grounds of race, sex, and poverty in the administration of rights guaranteed by the Eighth and Fourteenth Amendments because, Petitioner alleges, the death penalty has only been imposed against defendants convicted of killing Caucasians.

### Procedural Default Standard

To overcome the procedural default of these claims, Petitioner must demonstrate both cause and prejudice or a miscarriage of justice. The "existence of cause for a procedural default must ordinarily turn on whether the prisoner can show that some objective factor external to the defense impeded counsel's efforts to comply with the State's procedural rule ... a showing that the factual or legal basis for a claim was not reasonably available to counsel, or that some interference by officials made compliance impracticable." Murray v. Carrier, 477 U.S. 478, 488 (1986) (citations omitted).

As to prejudice that excuses the procedural default, a petitioner must demonstrate "actual prejudice that 'worked to his actual and substantial disadvantage, infecting his entire trial with error of constitutional dimensions.'" Head v. Carr, 273 Ga. 613, 614 (2001), citing Turpin v. Todd, 268 Ga. 820, 828 (1990), quoting United States v. Frady, 456 U.S. 152, 170 (1982). This Court finds Petitioner has failed to establish either cause or prejudice or a miscarriage of justice. As a result, these claims remain procedurally defaulted and are dismissed.

### The Petitioner's six main claims:

Mr. Foster argued six main issues of alleged error at his habeas hearing and in his post-hearing brief. Specifically, he contended that (1) the State struck all four black prospective jurors at the capital trial on the basis of race; (2) his counsel at the capital trial was ineffective; (3) his counsel at the capital trial had an actual conflict of interest that affected their performance; (4) the State suppressed favorable and material evidence at the capital trial; (5) the jury and the judge at the mental retardation trial engaged in misconduct; and (6) his counsel at the mental retardation trial was ineffective.

On those six issues, the court makes the following findings of fact and conclusions of law:

#### Batson claim

- (1) The Court finds that the prosecution did not violate Batson v. Kentucky, 476 U.S. 79, 97 (1986), when it exercised peremptory strikes to remove all four black prospective jurors from the

venire at Mr. Foster's capital trial. The Respondent argues that this claim is not reviewable due to the doctrine of res judicata. However, because the Petitioner claims that additional evidence allegedly supporting this ground was discovered subsequent to the Georgia Supreme Court's ruling in Foster v. State, 258 Ga. 736 (1988), this court will review the Batson claim as to whether Petitioner has shown any change in the facts sufficient to overcome the res judicata bar.

The Petitioner contends that the prosecutor's jury selection notes, which were turned over to the Petitioner subsequent to the 1988 Foster decision via an open records request, specifically identified all potential black jurors by the use of a green highlighter pen. There were four black prospective jurors qualified to serve on the trial jury, and the State exercised peremptory strikes to remove each of them.

Batson requires a three-step analysis: First, the defendant must make a prima facie showing of racial discrimination by presenting evidence of racial bias on the part of the prosecution. Second, the prosecution must offer race-neutral reasons for the peremptory strikes in question. Third, the court must determine whether the prosecution's race-neutral reasons were a pretext for purposeful discrimination in light of "all of the circumstances that bear upon the issue of racial animosity." Snyder v. Louisiana, 552 U.S. 472, 476-478 (2008). At the final stage of a Batson inquiry, the ultimate burden of persuasion regarding racial motivation rests with, and never shifts from, the opponent of the strike. Jackson v. State, 265 Ga. 897 (1995). Mr. Foster's Batson claim reached step three in the trial court. Now, reaching step three again on the basis of the new evidence presented in these proceedings, the court finds the following:

There were four copies of the traverse jury list from the Petitioner's trial, and each noted that "[Green Highlighting] Represents Blacks." (Hearing T. 903-26.) The prosecution or its investigators made written notations of the race of each individual prospective juror on its "qualified" juror list. (Hearing T. 949-950, 998-999.)

District Attorney Stephen Lanier and Assistant District Attorney Doug Pullen have both stated that they exercised their peremptory challenges for entirely race-neutral reasons, and that they

did not rely upon the highlighted jury lists to make their decision on how to utilize strikes. Furthermore, both the trial court and the Georgia Supreme Court conducted lengthy examinations of the Petitioner's initial Batson claims and found no error. This court cannot find that the highlighting of the names of black jurors and the notation of their race can serve to override this previous consideration, especially where the race of each juror was noted. While Miller-El v. Dretke, 545 U.S. 231 (2005) and Adkins v. Warden, Holman CF, 710 F.3d 1241 (2013) are cited by the Petitioner in support of his claim of purposeful discrimination, as both cases included the fact that prosecutors also marked the race of each prospective juror on their juror cards. This court finds Miller and Adkins to be distinguishable from the circumstances of this case, as the prosecution here has rebutted the purported evidence of discriminatory intent. The court finds the record evidence shows that every prospective juror, regardless of race, was thoroughly investigated and considered by the prosecution before the exercise of its peremptory challenges. (HT Vol. 2, 218-219, 221.)

At the Petitioner's Motion for New Trial, while under oath as a witness called by Petitioner, District Attorney Stephen Lanier explained that he assisted in jury selection at trial by Assistant District Attorney Doug Pullen and Chief Investigator Clayton Lundy. (MNT. 15-16). Mr. Lanier testified that over the weekend between April 24 and April 27, 1987, he, Mr. Pullen, and Mr. Lundy decided on the ten people they felt would be unfavorable jurors. (MNT. 17). Concurrent with the Petitioner's Motion for New Trial, the State also filed an Affidavit of Mr. Lundy, who testified that "having worked with and knowing Mr. Pullen and Mr. Lanier, each of us knowing the seriousness and penalty of this crime, can honestly state that the strikes used by Mr. Pullen and Mr. Lanier were not racially biased." (1987 R. 557). Mr. Lundy, himself African American, testified that prior to working as chief investigator in the instant case he had served approximately eight years as a police officer patrolling various neighborhoods in the Rome area. He explained that specifics on African American jurors within the notes and records of the prosecutor were likely information he knew from having lived in Rome all his life, and that he knew many people and could "just come off the top of my head with it." (HT Vol. 2, 175-176, 206-207).

It is further clear that multiple staff members within the office of the district attorney including secretaries, investigators and other assistant district attorneys would take part in adding their personal knowledge to the lists of prospective jurors. (HT Vol. 2, 219.) Mr. Lundy testified that 10 to 12 different individuals would go through the list, make marks and notations and add "little stuff on [prospective jurors] that we know about each." (HT Vol. 2, 220.) The motivation for the passing lists and notes on individual jurors was to help pick a fair jury, especially given that this was a death penalty case. (HT Vol. 2, 221.)

This Court finds that the record is clear that all jurors in this case, regardless of race, were thoroughly investigated and considered before the State exercised its peremptory challenges. The notes and records submitted by Petitioner fail to demonstrate purposeful discrimination on the basis that the race of prospective jurors was either circled, highlighted or otherwise noted on various lists. Furthermore, the State has offered evidence sufficient to rebut such a claim. The court finds that the State put forward multiple race-neutral reasons for striking each juror, and the Petitioner's claim of inherent discrimination is unfounded by the record. Importantly, this court notes that on direct appeal, trial counsel raised a claim that the trial court erred in finding that the prosecution provided race-neutral reasons for striking the four African American jurors. The Georgia Supreme Court affirmed the trial court's denial of this claim, finding that the prosecutor's explanations were related to the case to be tried, and were clear and reasonably specific. The Georgia Supreme Court held that the trial court did not err by finding these reasons to be sufficiently neutral and legitimate. Foster v. State, 258 Ga. at 737-739 (1988).

Accordingly, the court finds the Petitioner's renewed Batson claim is without merit.

#### **Ineffective assistance of trial counsel claim**

(2) The Court finds that Mr. Foster's trial counsel, Robert Finnell and James Wyatt, were not constitutionally ineffective at the 1987 capital trial under the standard set out by Strickland v. Washington, 466 U.S. 668, 687 (1984).

To prevail on his ineffectiveness claim, Petitioner must show that (1) trial counsel's performance was deficient and (2) that the deficient performance prejudiced the defense. This requires showing that trial counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable. Unless a defendant makes both showings, it cannot be said that the conviction or death sentence resulted from a breakdown in the adversary process that renders the result unreliable. Strickland v. Washington, 466 U.S. 668 (1984). To establish actual prejudice, a petitioner "must demonstrate that 'there is a reasonable probability (i.e., a probability sufficient to undermine confidence in the outcome) that, but for counsel's unprofessional errors, the result of the proceeding would have been different.'" Head v. Carr, 273 Ga. 613, 616 (2001). Matters of trial tactics, even if they appear in hindsight to be questionable, are grounds to find counsel ineffective only if the tactical decision is so patently unreasonable that no competent attorney would have chosen it. McKenzie v. State, 284 Ga. 342 (2008).

Trial counsel was not deficient for presenting evidence of mental illness to the jury and trial counsel performed a reasonable mental health investigation

The Petitioner specifically contends that trial counsel pursued the defense of "guilty but mentally ill" and sought to prove that the Petitioner suffered from antisocial personality disorder. The Petitioner argues that at the close of the guilt phase, the trial court instructed the jury on Mr. Foster's "guilty but mentally ill" defense, but clarified that "[t]he term 'mentally ill' does not include a mental state manifested only by repeated, unlawful or antisocial conduct." (T. 2431.) The Petitioner contends that the pursuit of this defense was a misunderstanding of the law and evidence of deficient performance of counsel.

At the request of trial counsel, the Petitioner was evaluated by Drs. Samuel Perri and Patrick Brooks at the Floyd County Jail over a four day period. (1987 R. 178-180.) Drs. Perri and Brooks concluded that Petitioner was competent to stand trial and was criminally responsible for his actions. (1987 R. 178-179.) In addition, they found that Petitioner was "moderately depressed," within the borderline range of intelligence and did not suffer from any brain dysfunction or any major mental

illness. *Id.* Dr. Douglas Laipple also performed a psychiatric evaluation of Petitioner to determine whether he was "mentally competent to participate in his defense" and to determine whether there were any psychiatric diagnoses that Petitioner had at both the time of the evaluation and at the time of the crime. (HT Vol. 2, 400.) Following his evaluation of Petitioner, Dr. Laipple diagnosed Petitioner with mixed substance abuse and antisocial personality disorder. (HT Vol. 1, 61; Vol. 2, 429.) Dr. Laipple reported that the substance abuse included alcohol, marijuana, cocaine and other substances. (HT Vol. 2, 429.) In his report, Dr. Laipple found the diagnosis of antisocial personality disorder was "manifested by (before the age of fifteen) truancy, suspension from school for misbehavior, delinquency, persistent lying, repeated sexual intercourse in a casual relationship, repeated substance abuse, thefts, poor school performance, and chronic violations of rules at school." *Id.* Regarding Petitioner's ability to distinguish between right and wrong at the time of the crime, Dr. Laipple opined that Petitioner's intoxication at the time of the crime prevented him from being able to distinguish between right and wrong. (HT Vol. 1, 62; Vol. 2, 429.)

The record evidence shows that trial counsel utilized Dr. Laipple at trial to attempt to prove to the jury that Petitioner suffered from a mental illness and to address the issue of intoxication. (HT Vol. 2, 366.) In presenting the testimony of Dr. Laipple, trial counsel explained that it was a "continuation of the environmental defense. It's another section of it dealing with the impact of drugs and alcohol on human behavior, and Tim's overall capacity with regards to his behavior, his IQ and so forth." (HT Vol. 1, 60.) Trial counsel further stated they used Dr. Laipple's diagnosis to show the jury Petitioner's capacity and "to try and make him a more sympathetic figure to the jury and understanding Tim's overall condition at the time this event occurred." (HT Vol. 1, 60-61.)

The court finds that Petitioner's two trial attorneys were experienced in criminal law. (HT Vol. 1, 80; Vol. 2, 307, 378-379.) Trial counsel conducted an extensive and thorough investigation into Petitioner's background, family history, and mental health prior to trial. This Court finds trial counsel were not deficient in their investigation of Petitioner's background and mental health and Petitioner was not prejudiced by the investigation or its presentation to the jury. As stated by



Attorney Finnell: "...we were trying to get the jury to understand who Tim was and where he came from and what little resources he had to bring to a situation that he found himself in on that night. Again, it was all an attempt to get the jury to understand that this was not a life that needed to be taken, in our opinion." The court finds that the presentation of evidence of Petitioner's mental illness was a reasonable trial strategy, and one that was presented in an effort to gain sympathy and avoid a possible death sentence.

Counsel was not ineffective for failing to challenge Petitioner's confession

Mr. Foster made two confessions to the police. The first was unrecorded; the second was recorded on videotape. (T. 1726-27.) At trial, a detective testified about the first confession by reading from his notes. Defense counsel did not object. (T. 1731-35.) The State also played the videotape of Mr. Foster's second confession for the jury. (T. 1744-72.) Defense counsel did object to the admission of the videotape, but the trial court overruled the objection. (T. 1566, 1572.) On appeal, the Georgia Supreme Court held that the trial court erred in admitting the videotaped confession because the interrogators told Mr. Foster that his confession "was not going to hurt 'a thing.'" Foster v. State, 258 Ga. 736, 742 (1989) (quoting T. 1749). However, the Court held that the error was harmless because the second confession was "merely cumulative to the first, non-recorded confession." Foster, 258 Ga. at 742.

The court finds that the failure to make a meritless objection does not constitute ineffective assistance of counsel. See Scott v. State, 298 Ga. App. 376 (2009). The court finds that trial counsel did object to the admission of the second, videotaped confession. The court cannot find, under the circumstances of this case, that any objection made by counsel to testimony about the first confession would have been sustained, especially in light of the Georgia Supreme Court's finding that admission of the videotaped confession was harmless. Accordingly, the court finds no merit to this contention of error.

Trial counsel's guilt phase representation was reasonable

The court finds that trial counsel's guilt phase strategy involved a presentation of mitigation evidence. In keeping with that strategy, trial counsel informed the jury during their guilt phase opening statements that they would present evidence as to why the crime occurred and whether it could have been prevented. (TT. 1599.) Specifically, trial counsel stated to the jury that they would present evidence of Petitioner's life that was "void of parental responsibility, void of the values and value judgments that you and I bring to our family lives, and that we expect from our neighbors." *Id.* In addition, trial counsel noted that Petitioner had prior psychological evaluations performed by the State that "cried out for this boy to get help, to help him." (TT. 1599-1600.) Trial counsel asserted that neither the State nor Petitioner's parents helped him. (TT. 1600.) Trial counsel also stated that there was evidence of "marijuana, of alcohol and of cocaine in a boy that's borderline mentally retarded, who at the time this occurred was eighteen years old and was living with a twenty-six-year-old woman." *Id.* Trial counsel also asserted that their guilt phase presentation would include evidence that Petitioner lacked the capacity to distinguish between right and wrong at the time of the crime, and that he was mentally ill. *Id.*

During the guilt phase of Petitioner's trial, counsel presented the testimony of twelve witnesses. Three witnesses were employed at the Coosa Valley Mental Health Center in 1984, and they testified as to the various conflicts within Petitioner's family. (TT. 2061-2078.) Part-time juvenile court judge Tim Pape and Deborah McDaniel, a unit director for the Division of Youth Services, testified regarding the Petitioner's juvenile delinquency, his psychological deficiencies, and his troubled home life. (TT. 2082-2111; 2132-2145.) Tim Strickland, who was Petitioner's caseworker at the Community Training Center, testified that he instructed the Petitioner to attend a substance abuse program due to his use of marijuana, but the Petitioner did not attend the program. (TT. 2146-2148.) Don Nix, an administrator with the Division of Youth Services, also testified regarding the Petitioner's juvenile treatment record. (TT. 2153-2161.) Dr. Richard Hark, a clinical psychologist, testified that he interviewed the Petitioner and administered intelligence and

personality tests. (TT. 2176.) Marnie Dodd, Petitioner's juvenile court service worker in 1984, testified that she performed the pre-sentence investigation after Petitioner was charged in juvenile court in November, 1984. (TT. 2196-2197). After completing her report, Ms. Dodd had spoken with Judge Pape regarding her recommendations in Petitioner's delinquency case. (TT. 2198-2199.)

Trial counsel also presented the testimony of Petitioner's parents, Bernice and Ernest Foster. Ms. Foster testified about Petitioner's troubled childhood and drug use. (TT. 2212-2218.) During the questioning by trial counsel, Mr. Foster denied being under the influence of drugs or alcohol, but he was subsequently withdrawn as a witness because he appeared to be "hyped up." (TT. 2221-2225.)

Dr. Laipple was the final witness presented by trial counsel during the guilt phase of Petitioner's trial. Dr. Laipple testified that he conducted an examination of Petitioner. (TT. 2226-2227.) As part of his evaluation, Dr. Laipple interviewed Petitioner on three separate occasions, reviewed reports from other psychiatrists and psychologists, reviewed Petitioner's police statements (both the unrecorded and the videotaped statement), reviewed his juvenile court records, interviewed his parents and interviewed other people who knew or had observed Petitioner's behavior. (TT. 2227-2228.)

In keeping with their guilt phase strategy, trial counsel elicited testimony from Dr. Laipple that Petitioner lacked the ability to distinguish between right and wrong at the time of the crime. (TT. 2229-2232.) Dr. Laipple testified that the opinion was based on the drugs and alcohol that Petitioner had ingested that night. (TT. 2232.) He explained to the jury that the amount of drugs consumed by Petitioner would have been an "intoxicating amount" that would have resulted in "obscure judgment," and Petitioner would have been unable to function normally and unable "to differentiate between right and wrong." (TT. 2230.) His opinion was also based on findings that Petitioner suffered from substance abuse, antisocial personality disorder, borderline intellectual functioning, and the combination of these three mental disorders "incapacitated" Petitioner "to the point where he was unable to differentiate between right and wrong." (TT. 2232.) Furthermore, Dr.

Laipple testified that Petitioner's level of intoxication would have caused the following: a disorder of thought; impaired judgment; an inability to recognize or deal with reality; and an inability to cope with the ordinary demands of life. (TT. 2230.)

Regarding Petitioner's development of a conscience, Dr. Laipple testified that Petitioner's development was "one that would ordinarily develop an antisocial personality disorder." (TT. 2233-2234.) During his childhood, Petitioner's parents failed to spend as much time with him as they did with the other children, and they frequently put the other children in charge of Petitioner and failed to teach him right from wrong. (TT. 2234.) In addition, Dr. Laipple noted that antisocial personality disorder seemed to be "genetic in nature." *Id.* In Petitioner's case, his father possessed several traits of antisocial personality disorder. *Id.* As such, Petitioner had "very little choice but to develop a lot of those" traits due to genetics and/or the exposures he experienced at a very young age. *Id.* In regards to the diagnosis of borderline intellectual functioning, Dr. Laipple informed the jury that this diagnosis was commonly referred to as borderline mental retardation. (TT. 2236.) As to Petitioner's diagnosis of substance abuse, Dr. Laipple stated that Petitioner suffered from "multiple drug abuse," which included alcohol, marijuana and cocaine. (TT. 2235.)

In closing argument, trial counsel asserted that they had proven beyond a reasonable doubt that Petitioner was mentally ill. (TT. 2346.) Specifically, Petitioner was involuntarily intoxicated and could not differentiate between right and wrong at the time of the crime. *Id.* In addition, trial counsel expressed doubts that Petitioner was at the crime scene alone. (TT. 2348.)

This court finds trial counsel's guilt phase strategy and presentation to the jury was reasonable given that trial counsel possessed evidence that Petitioner was under the considerable influence and control by Lisa Stubbs who provided Petitioner with cocaine and alcohol. During the evidentiary hearing before this court, trial counsel maintained that involuntary intoxication was a possible defense in Petitioner's case. (HT Vol. 1, 101-102.) In support of that theory, trial counsel utilized Dr. Laipple who opined that Petitioner lacked the mental capacity to distinguish between right and wrong and "he did it in the context of involuntary intoxication...that he was under the strong

influence of [Lisa Stubbs]." (HT Vol. 1, 102.) In addition, trial counsel testified that they presented Petitioner's parents during the guilt phase as they wanted to "establish that he was living with Lisa Stubbs, that he had left them and gone to live with her and kind of tie that into the...involuntary intoxication type thing." (HT Vol. 1, 106.) The court finds that trial counsel used a reasonable trial strategy in presenting evidence of Petitioner's juvenile delinquency, dysfunctional family life, drug use, and mental illness. The court finds trial counsel were not deficient and Petitioner was not prejudiced by trial counsel's guilt phase investigation and representation.

Counsel was not ineffective in failing to investigate and present mitigating evidence

As conceded by the Petitioner, trial counsels' strategy at the penalty phase was to "attempt to get the jury to understand that . . . this was a young man who came from a deprived background genetically, socially, educationally, culturally, in every aspect of life." (H. 355.) Counsel "were hoping that if the jury understood that, that they would . . . find some sympathy for Tim that would dissuade them from imposing the death penalty." (H. 48.) Trial counsel's strategy also involved showing "his condition at the time of the incident being what we thought was intoxicated, under the influence of alcohol and marijuana and so forth." (HT Vol. 2, 355.) In addition, trial counsel wanted to show the jury that Petitioner was mentally ill at the time of the crime. (HT Vol. 2, 356.)

Both counsel also testified that they met with numerous leading death penalty attorneys, including Millard Farmer, Bobby Lee Cook, and Clive Smith. (HT Vol. 1, 35-36; 86-87.) Trial counsel obtained the services of Investigator George Petusky to help investigate the case. (1987 R. 171-175; HT Vol 40, 12257-12261.) Attorney Finnell stated that it was difficult to obtain information from a community that was guarded with information and existed on the margins of society. (HT Vol. 1, 38-39.) Furthermore, although trial counsel had a good relationship with Petitioner (HT Vol. 1, 37; 85), the Petitioner remained "nonreactive," "unemotional" and "matter of fact." (HT Vol. 2, 297-298.)

Trial counsel found it difficult to receive assistance from Petitioner and his family, specifically his parents, grandmother, and sisters. (HT Vol. 1, 41, 64, 85, 105; HT Vol. 2, 309, 356.) Petitioner's family was reluctant and unhelpful. (HT Vol 1, 37.) During trial counsel's investigation, Mr. Finnell stated that he had a meeting with Petitioner's parents wherein he tried to explain what they were trying to accomplish in regard to Petitioner's defense. (HT Vol. 2, 356-357.) During that meeting, Mr. Finnell attempted to solicit their support "in terms of talking about who they were and what they were and what the environment that Tim grew up in and what were the influences, good or bad, in Tim's life." (HT Vol. 2, 357.) Mr. Finnell explained that they were essentially asking Petitioner's parents to "fall on their sword for their son by being reflective and self-examining their lives and what types of lives they lived and the impact that would have on a child." *Id.* Regarding the response of Petitioner's parents during that meeting, Mr. Finnell testified: "They were not cooperative. They did not want to talk about themselves or their lives, they were very defensive about it. At one point, I can remember Mr. Foster telling me that he worked on a garbage truck, that he came home, that he smoked his dope, that he laughed, and that was his life. And he wasn't going to -- he was not going to portray that as something that was wrong or would have been a bad influence on Tim." *Id.*

Additionally, Petitioner's parents informed trial counsel during their meeting that they smoked marijuana with Petitioner. (HT Vol. 2, 358-359.) Mr. Finnell explained to his parents that this was "critical information" that needed to be presented to the jury to provide an "understanding as to who Tim was and what were the influences in his life." *Id.* In response to the assertion that Petitioner smoked marijuana with his parents, trial counsel's typed notes show that:

"Both Bernice and Ernest Foster admitted that they had indeed done so, even on the evening of the White murder, but contended that the use of marijuana only made Tim 'mellow' and really had no bad effects. Bernice and Ernest Foster vehemently declined to offer testimony in court that they had used drugs with their son stating that in so doing they would jeopardize Ernest Foster's job with the City of Rome and everything they owned. Bernice and Ernest Foster said they were good parents; that they would not get on the stand and say otherwise; that they had done all they could; and that they would not publicly admit to using drugs regardless of what happened to their son. Bernice Foster said she would trust God to take care of her son. She and Ernest Foster were angry as they walked out of the meeting." *Id.*

Trial counsel presented Petitioner's father as a witness during the trial despite the fact that his father did not want to testify. (HT Vol. 2, 362.) When Petitioner's father entered the courtroom, he appeared to be in a "catatonic state" and could "barely get to the witness stand." *Id.* The trial court believed that Petitioner's father was under the influence of drugs and/or alcohol. (HT Vol. 2, 362-363.) Petitioner's father was removed from the courthouse and escorted to Floyd Medical Center for a screening. (HT Vol. 2, 363.)

The court finds that trial counsel made extensive efforts to involve Petitioner's family in the discovery and presentation of potential mitigation evidence, but the family was uncooperative. (HT Vol. 1, 37.) Accordingly, due to this lack of cooperation, trial counsel was not ineffective for failing to present more mitigating evidence of the Petitioner's family life and influence.

Additionally, the court finds ample evidence in the record to show that trial counsel conducted a reasonable and competent investigation of Petitioner's case. Trial counsel obtained and fully reviewed previous trial counsel's file. (HT Vol. 1, 33-34, 83; HT Vol. 44, 13339-13390); (HT Vol. 1, 83; HT Vol. 2, 318.) Trial counsel met with Petitioner numerous times. (HT Vol. 1, 37, 85; HT Vol. 2, 382.) Trial counsel also viewed the crime scene. (HT Vol. 2, 372.) The court finds that trial counsel did conduct a reasonable investigation into other people's potential involvement in this case, specifically Lisa Stubbs and Clifford Stocks, but "Tim never pointed the finger at anyone else." (HT Vol. 2, 384.)

#### **Conflict of interest by trial counsel claim**

(3) The Court finds that attorney James Wyatt, who represented Mr. Foster and Mr. Foster's uncle, Clifford Stocks, in separate criminal proceedings, did not have an actual conflict of interest which materially or adversely affected the defense's presentation of mitigating evidence at the penalty phase of Mr. Foster's capital trial.

"A lawyer shall not represent or continue to represent a client if there is a significant risk that the lawyer's own interests or the lawyer's duties to another client, a former client, or a third person

will materially and adversely affect the representation of the client." *Ga. R. Prof'l Conduct 1.7(a)* Criminal defendants have a right to conflict-free counsel and prejudice is presumed when counsel is burdened by an actual conflict of interest. *Cuyler v. Sullivan*, 446 U.S. 335, 348 (1980). Prejudice is presumed only where the defendant demonstrates that counsel "actively represented conflicting interests" and that "an actual conflict of interest adversely affected his lawyer's performance." See *Strickland, supra* at 692. An actual conflict is not established by the mere "possibility that a conflict might have developed" and a theoretical or speculative conflict will not impugn a conviction which is supported by competent evidence. *Hudson v. State*, 250 Ga. 479, 482 (1983). To prove that a conflict, in fact, existed, a petitioner "must demonstrate that the attorney made a choice between possible alternative courses of action, such as eliciting (or failing to elicit) evidence helpful to one client but harmful to the other. If he did not make such a choice, the conflict remains hypothetical." *Smith v. White*, 815 F.2d 1401, 1404 (11th Cir. 1987).

The record shows that Mr. Wyatt represented Clifford Stocks in a theft-by-taking case and a separate armed robbery and aggravated assault case. (H.T. pg 755-757.) The Georgia Court of Appeals affirmed Mr. Stocks's theft by taking convictions in March of 1987. All charges in the armed robbery and aggravated assault case were resolved either by plea agreement or were withdrawn by the State prior to October 22, 1986, which is the date Mr. Wyatt was appointed to represent the Petitioner. (HT Vol. 48, 14653, 14655.) The Petitioner contends Mr. Wyatt could not maintain his duty of loyalty to Mr. Stocks while also fulfilling his duty to Mr. Foster to investigate and present mitigating evidence of Mr. Stocks' negative and criminal influence.

This court finds Petitioner has failed to establish that his trial counsel was laboring under any "actual conflict" that "adversely affected" counsel's performance or that Petitioner's case was prejudiced due to the alleged conflict. Mr. Wyatt's involvement was effectively complete in Mr. Stocks' theft by taking case at the time of Petitioner's trial. Mr. Wyatt's representation in Mr. Stocks' armed robbery and aggravated assault case had ended prior to being appointed co-counsel in the Petitioner's case. Thus, this court finds Petitioner's claims of concurrent representation by Mr. Wyatt



are not entirely accurate. Furthermore, Petitioner has not shown that Mr. Wyatt made a choice between possible alternative courses of action, and his allegation that an actual conflict existed in this case is hypothetical. The habeas record in this case reflects that Mr. Stocks' relationship was investigated by counsel and that detailed aspects of Petitioner's juvenile criminal activity and early use of alcohol and drugs were thoroughly investigated and presented to the jury. This court finds Petitioner has failed in his burden to demonstrate counsel were deficient in their investigation or that there was a reasonable probability evidence of Mr. Stock's alleged "negative influence" would have changed the outcome during either phase of trial.

Lead trial counsel Robert Finnell testified in the habeas proceedings that the Petitioner's relationship with Mr. Stocks was investigated by counsel, but that it was difficult to elicit information from the Petitioner. (HT Vol. 2, 382-383.) Trial counsel further testified that they investigated Mr. Stocks due to the fact that Petitioner went to live with Mr. Stocks around the age of fifteen or sixteen and because he was a "known criminal in our community." (HT Vol. 1, 39-40; Vol. 2, 361.) Mr. Finnell described Mr. Stocks as a "very shadowy figure" who had a "very poor reputation in the community." (HT Vol. 2, 361.) Both trial counsel and Petitioner's mother felt Mr. Stocks was a negative influence in Petitioner's life. (HT Vol. 1, 40; Vol. 2, 361.)

Trial counsel chose to introduce multiple witnesses regarding Petitioner's delinquent background and early substance abuse. Social worker Linda Lockhart testified regarding Petitioner's visits to the Coosa Valley Mental Health Center when he was 16. Evidence was presented regarding the Petitioner's dropping out of school, his unemployment, and conflicts at home with an older brother. (TT. 2068.) Lois Jean Smith, also employed by Coosa Valley as a social worker, testified that Petitioner's family environment was in a state of crisis at the time, that there was communication problems with Petitioner's parents and older brother, and that Petitioner's own mother's breath smelled of alcohol during the visit to the mental health center. (TT. 2076.) Ms. Smith stated that Petitioner admitted to using both drugs and alcohol but denied they were a problem. (TT. 2079.)

Tim Pape, a part-time juvenile court judge, testified that Petitioner was brought before his court on a petition for delinquency which was based upon an armed robbery. (TT. 2082-2083.) Judge Pape noted that a psychological report he had ordered at the time showed Petitioner and his parents smoked marijuana, and Youth Services had noted family and situational difficulties for Petitioner partially due to ten people living in the home. (TT. 2110, 2120.) Deborah McDaniel, a unit director with Youth Services, testified that Petitioner had admitted to using marijuana on a daily basis. (TT. 2137.)

The Petitioner's mother, Bernice Foster, testified that the Petitioner was the youngest of her six children. She began to have problems with him at a young age when he was playing Pee Wee league football, and would "get into it" with his coach and did not get along with playmates. (TT. 2212, 2215.) Ms. Foster further testified that when Petitioner entered junior high, he started getting into a lot of fights with others, including teachers and the principal, eventually resulting in him dropping out of school. (TT. 2217). Ms. Foster also testified that Petitioner used marijuana and drank beer. (TT. 2217).

The record in this case shows that Clifford Stocks' relationship to the Petitioner was considered and investigated by counsel. Rather than focus on Mr. Stocks's purported influence on Petitioner, the defense instead chose, as a trial strategy, to paint a detailed picture of Petitioner's background utilizing those employed in social services and the juvenile court system. As Petitioner has failed to establish deficient performance or a reasonable probability that evidence of Clifford Stocks' "negative influence" would have undermined the verdict in either phase of trial or established the presence of an actual conflict here, he cannot demonstrate ineffectiveness of counsel or resulting prejudice as to this claim. Accordingly, this Court finds no merit to the Petitioner's conflict of interest claim.

**Brady violation claim**

(4) The Court finds that the prosecution did not violate Brady v. Maryland, 373 U.S. 83, 87 (1963), by allegedly suppressing a police report stating that a confidential informant heard that Lisa Stubbs, Mr. Foster's girlfriend, was involved in the crime.

The Petitioner claims that the day after his former girlfriend, Lisa Stubbs, testified at his capital trial, the Floyd County Police took a report from a confidential informant who stated that he or she "heard talk" that Ms. Stubbs was present at the crime scene and assisted Mr. Foster with removal of items from the victim's home. A copy of this report was presented at the evidentiary hearing of this matter, and Mr. Foster's trial counsel testified that the prosecution did not disclose to them the existence of this police report. H.898; H. 373-74 (Atty. Finnell); H. 298 (Atty. Wyatt). It appears that the purported communication between the confidential information and the police occurred on the evening on April 30, 1987, which was the day before the jury returned its verdict finding Petitioner guilty on all counts. (1987 R. 370).

The court notes that this issue was not raised at trial or on direct appeal. Brady claims can be procedurally defaulted, and in order to overcome the default, the Petitioner must demonstrate both cause and prejudice or miscarriage of justice. As to prejudice to excuse the procedural default of a Brady claim, the United States Supreme Court holds that the proper analysis parallels the issue of Brady "materiality" such that if information is not material for Brady purposes, then no prejudice to excuse the procedural default of the Brady claim has been established. Strickler v. Greene, 527 U.S. 263, 302-303. To establish a violation of a defendant's due process rights pursuant to Brady v. Maryland, the defendant must show: "(1) that the State possessed evidence favorable to the defendant; (2) that the defendant did not possess the evidence nor could he obtain it himself with any reasonable diligence; (3) that the prosecution suppressed the favorable evidence; and (4) that had the evidence been disclosed to the defense, a reasonable probability exists that the outcome of the proceeding would have been different." Zant v. Moon, 264 Ga. 93 (1994).

"Evidence is material only if there is a 'reasonable probability' that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome." U.S. v. Bagley, 473 U.S. 667, 682 (1985). The mere fact that some undisclosed information might have helped the defense does not establish its materiality in a constitutional sense. Castell v. State, 250 Ga. 776

(1983). "[S]howing that the prosecution knew of an item of favorable evidence unknown to the defense does not amount to a Brady violation, without more." Kyles v. Whitley, 514 U.S. 419, 421 (1995), 514 U.S. at 437. Instead, a Brady violation is established only "by showing that the favorable evidence could reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict." Kyles, 514 U.S. at 435; see also Strickler, 527 U.S. at 290.

In determining whether evidence is "material" in a constitutional sense, so as to establish a "Brady" violation, the United States Supreme Court explained that "[t]he judge should not order a new trial every time he is unable to characterize a nondisclosure as harmless under the customary harmless-error standard. ... [T]he constitutional standard of materiality must impose a higher burden on the defendant. ... [I]f the omitted evidence creates a reasonable doubt that did not otherwise exist, constitutional error has been committed. This means that the omission must be evaluated in the context of the entire record. If there is no reasonable doubt about guilt whether or not the additional evidence is considered, there is no justification for a new trial." U.S. v. Agurs, 427 U.S. 97, 111-113 (1976) (footnotes omitted).

This court finds that the Petitioner has failed to establish either cause or prejudice, and the alleged *Brady* violation claim therefore remains procedurally defaulted. This court cannot find that the police report was in the possession of the State at the time of trial, that it was favorable, exculpatory or material to the Petitioner's defense, or that the State's alleged failure to disclose the report has resulted in a miscarriage of justice. Accordingly, as Petitioner did not raise these issues at trial and/or appeal and did not make a showing of cause and actual prejudice or of a miscarriage of justice which would be sufficient to excuse his procedural default of these claims, the claims are procedurally defaulted and not properly before this Court.

**Juror misconduct, improper ex parte communications, and  
improper juror consideration claim**

(5) In 1999, Judge Walter J. Matthews presided over the Petitioner's mental retardation trial, which was held pursuant to Fleming v. Zant, 259 Ga. 687 (1989). The trial was held in Floyd County, and the jury found that Mr. Foster was not mentally retarded. M.R.R. 394. The Petitioner now claims that: a) juror William Harrison failed to disclose knowledge of Petitioner's conviction and death sentence during voir dire; b) the judge engaged in improper *ex parte* communications with a juror during the mental retardation trial; and c) several jurors considered prejudicial extraneous evidence surrounding Petitioner's convictions and sentences in deciding the issue of mental retardation.

This Court finds Petitioner's claims of juror and judicial misconduct in his mental retardation trial are procedurally defaulted pursuant to Black v. Hardin, 255 Ga. 239 (1985). The Court notes that following his mental retardation trial, Petitioner failed to raise any of the claims in his direct appeal. Foster v. State, 272 Ga. 69 (2000).

#### Juror Harrison

The general rule in Georgia is that jurors may not impeach their own verdict. There are exceptions when "extrajudicial and prejudicial information has been brought to the jury's attention improperly, or where non-jurors have interfered with the jury's deliberations." Glover v. State, 274 Ga. 213 (2001) (citations omitted). To be entitled to a new trial based on a voir dire examination, a defendant must show that: (1) the juror failed to answer honestly a material question on voir dire and (2) a correct response would have provided a valid basis for a challenge for cause. Glover at 214.

This court finds that Juror Harrison's affidavit does not show that he failed to honestly answer the material question of whether he had prior knowledge of the Petitioner's case at the time of voir dire. Rather, Mr. Harrison's affidavit states that he was aware the Petitioner was on death row prior to the first witness's testimony. Furthermore, Juror Harrison stated that based upon the evidence presented, he believed that the Petitioner was not mentally retarded. (Hearing T. 702-703.) Juror Harrison did not state that his verdict was based upon any prior knowledge of the Petitioner's

conviction and sentence. Accordingly, this court finds that the Petitioner has failed to establish prejudice as to the claim regarding Juror Harrison.

Improper ex parte communication between trial judge and juror

Juror Helen Lane offered affidavit and in-person testimony at the evidentiary hearing. Juror Lane's affidavit states that she passed a note to Judge Matthews through the bailiff, and that she and Judge Matthews then had a conversation alone in his office. (Hearing T. Vol. 3, 733.) In her direct testimony, Juror Lane stated that she did not recall whether anyone else was present during the alleged meeting. (Hearing T. Vol 1, 124.) Juror Lane's affidavit and testimony also differ as to when the alleged ex parte contact occurred. (Hearing T. Vol. 3, 735; 124, 130). Contrary to the allegations in her affidavit, Juror Lane testified that she did not believe she told Judge Matthews that "Timothy Foster was trying to escape the death penalty." Juror Lane also testified that no part of the alleged exchange affected her decision as to whether the Petitioner was mentally retarded. (Hearing T. Vol. 3, 125, 130).

Judge Matthews' testimony disputed Juror Lane's affidavit and testimony in their entirety. Judge Matthews testified that he had never received a note from a juror who wanted to speak with him toward the end of this trial. He further testified that no juror had ever told him the mental retardation remand trial had something to do with the death of Queen Madge White, and that no juror told him that they realized Petitioner was trying to escape the death penalty. (HT Vol. 1, 143-144). Judge Matthews testified that when a different juror in this case passed a note to him wanting to discuss a media story which had upset her, the judge immediately brought in counsel for the State and the Petitioner before discussing the matter with the juror. (HT Vol. 1, 143). Judge Matthews testified that whenever he has received a juror note, it had always been his practice to notify counsel, and then meet with counsel and the juror to address any issues. (Hearing T. Vol 3, 143-144, 152-153.)

After reviewing Juror Lane's affidavit, her testimony, and Judge Matthews' testimony, this court finds that Judge Matthews' testimony and credibility greatly outweigh the inconsistencies of

Juror Lane. Accordingly, this court finds that no improper ex parte communications occurred between Judge Matthews and Juror Lane during the mental retardation trial.

Improper juror consideration of extraneous and prejudicial evidence

To the extent that Petitioner seeks to utilize the affidavit testimony of Mr. Harrison to undermine the verdicts of other jurors' finding that Petitioner is not mentally retarded, this court finds the testimony to be inadmissible. Bowden v. State, 126 Ga. 578 (1906) (holding "[a]s a matter of public policy, a juror cannot be heard to impeach his verdict, either by way of disclosing the incompetency or misconduct of his fellow juror, or by showing his own misconduct or disqualification, from any cause").

To the extent that Petitioner seeks to show misconduct by fellow jurors or that other jurors did not base their verdicts upon the evidence, this court finds the affidavit testimony cited is inadmissible as impermissible impeachment evidence, hearsay and speculation. The court further finds Petitioner has presented no admissible evidence that jurors based their verdicts upon extraneous evidence. Accordingly, the court finds no merit to the Petitioner's contention that he was denied his right to a fair trial by improper juror consideration of extraneous and prejudicial evidence.

**Alleged ineffective assistance of counsel by Petitioner's remand counsel at his mental retardation trial**

(6) The Court finds that Mr. Foster did not receive ineffective assistance of counsel at his 1999 mental retardation trial under the standard of Strickland v. Washington, 466 U.S. 668, 692 (1984).

Petitioner was represented at his mental retardation remand trial by Attorneys Jon Douglas Stewart and Michael Mears. Mr. Stewart became a member of the State Bar of Georgia in 1962. (HT Vol. 4, 1006). Following the completion of law school, Mr. Stewart worked for a firm for about six years wherein he performed insurance defense work. (HT Vol. 4, 1010). He subsequently joined a firm in Gainesville, Georgia, and he was placed on the appointed list in Hall County. (HT Vol. 4, 1010, 1012).

During his career, Mr. Stewart has tried through verdict over two hundred civil cases. (HT Vol. 4, 1054). Regarding his criminal experience, Mr. Stewart testified that he tried two or three jury trials. (HT Vol. 4, 1012). Prior to Petitioner's case, Mr. Stewart had not been involved in any death penalty cases. (HT Vol. 4, 1013). Although Mr. Stewart's criminal practice was geared towards the defense side, he testified that he specially prosecuted a murder case and obtained a conviction. (HT Vol. 4, 1013-1014). Mr. Stewart had also handled several closed head injury cases. (HT Vol. 4, 1055). In addition, he had attended numerous seminars that dealt with closed head injuries. *Id.* As such, Mr. Stewart knew that "trauma can drastically reduce the intelligence quotient of a fully active, healthy grown man who would otherwise have ... an average IQ." *Id.* Mr. Stewart further stated that he "knew something about the brain" and how the brain "responds to various different things." *Id.*

Mr. Mears had extensive experience in the representation of capital defendants. Since the mid 1980's, Mr. Mears's practice had primarily been in criminal defense with a "strong emphasis on death penalty defense work." (HT Vol. 5, 1175). During his career, Mr. Mears attended death penalty seminars. *Id.* In addition, he has "presented at a number of seminars involving criminal procedure ... and the defense of death penalty case procedures." (HT Vol. 5, 1175-1176). Prior to Petitioner's case, Mr. Mears had tried about ten or twelve murder cases, and he had tried about seven or eight death penalty cases. (HT Vol. 5, 1176).

At the time of his representation of Petitioner, Mr. Mears had experience in cases involving mental health and mental retardation. (HT Vol. 5, 1177-1178). Mr. Mears described his experience with mental health and mental retardation issues as coming from "on-the-job training," and that his "training was by exposure to mental health issues in the trial of cases." *Id.* Prior to Petitioner's case, Mr. Mears had tried at least two cases that involved incompetency to stand trial. (HT Vol. 5, 1177). He had also attended seminars wherein mental retardation and other mental illnesses were discussed. *Id.* In addition to their own experience, remand counsel also had the assistance and resources of other attorneys, investigators and a mitigation specialist from the Multi-County Public Defender's Office and the Georgia Resource Center. (HT Vol. 4, 1017; Vol. 5, 1194).



As Petitioner's case was remanded to the trial court on the issue of mental retardation pursuant to Fleming v. Zant, *supra*, it was Petitioner's burden to establish by a preponderance of the evidence that he is mentally retarded. Zant v. Foster, 261 Ga. 450, 452 (1991). After the presentation of extensive evidence from both sides, Petitioner was found not mentally retarded by a jury. In the instant habeas corpus case, this court finds Petitioner failed to establish that trial counsel was deficient in investigating and presenting his claim of mental retardation and that this alleged deficiency prejudiced Petitioner.

The court finds the record establishes that remand counsel conducted extensive research on the issue of mental retardation. (HT Vol. 24, 7078-7326; Vol. 25, 7327-7626; Vol. 26, 7627-7842; Vol. 27, 7980-7999; Vol. 29, 8752-8839; Vol. 30, 8864-8913, 9009-9033; Vol. 31, 9152-9172, 9184-9205, 9247-9252, 9382-9438; Vol. 32, 9439-9461, 9472-9635; Vol. 33, 9786-9834, 9890-9914, 9918-9933; Vol. 39, 11767-11984; Vol. 40, 11985-12040). As part of his preparation for the remand trial, Mr. Stewart testified that he "studied the medical," read numerous articles on mental retardation, obtained the manual entitled, "Manual for Attorneys Representing Death Sentenced Prisoners in Postconviction Proceedings," and talked with a psychiatrist to get himself "up to speed on the issue of mental retardation." (HT Vol. 4, 1025, 1044, 1056, 1128; Vol. 28, 8268-8416). In addition, Mr. Stewart purchased the Diagnostic and Statistical Manual of Mental Disorders (hereinafter "DSM") that was current at that time, and he then "memorized" it. (HT Vol. 4, 1024). Mr. Stewart also attended the entire trial of Earnest Morrison, a mental retardation remand trial of a capital defendant that was being tried by District Attorney Danny Craig in Augusta, Georgia, and he obtained documents from other cases that involved a mental retardation remand trial. (HT Vol. 4, 1024; Vol. 13, 3734-3989). Regarding his knowledge of mental retardation, Mr. Stewart stated, "I think I had a pretty good handle on mental retardation." (HT Vol. 4, 1025).

The record also shows that Mr. Mears was knowledgeable about mental retardation. During his deposition, Mr. Mears testified that "proving or disproving mental retardation is not just an IQ score. There has to be a lack of adaptive skills and there has to be a pattern of mental retardation or

inability to adapt to ordinary day-to-day skills." (HT Vol. 5, 1207). As such, Mr. Mears stated that a psychosocial history was "extremely important when you're trying to prove all of the prongs of mental retardation." Id.

As part of their investigation, remand counsel and members of the remand team spoke with Petitioner's original trial attorneys, Robert Finnell and James Wyatt. (HT Vol. 4, 1021; Vol. 5, 1206; Vol. 36, 10935, 10954; Vol. 43, 13109-13110). Remand counsel read the transcript of the proceedings from the original trial. (HT Vol. 4, 1037; Vol. 5, 1206). Remand counsel also received the files from Petitioner's original trial attorneys. (HT Vol. 4, 1042; Vol. 36, 10959, 10966). Remand counsel and their team reviewed the State's file during their investigation. (HT Vol. 34, 10243; HT Vol. 4, 1049-1050).

During the investigation, remand counsel obtained extensive records regarding Petitioner and his family. Mr. Stewart testified that he obtained the records on Petitioner as he knew the "developmental history" was "very important in mental retardation." (HT Vol. 4, 1041). As evidenced by the record, remand counsel requested Petitioner's birth records and birth certificate, medical records, school records, juvenile records, DFACS records, psychological and psychiatric records, jail and prison records, criminal history and credit reports. (HT Vol. 23, 6753-6774, 6782-6796, 6800-6856, 6865-6866). In response to those requests, remand counsel received the following records on Petitioner: birth certificate; birth records; medical records; school records which included psychological testing; juvenile records; credit report; jail records which included escape records; prison records; GCIC and Central State Hospital records. (HT Vol. 4, 1040-1041; Vol. 5, 1320-1450; Vol. 6, 1451-1585; Vol. 12, 3636-3673; Vol. 20, 5818-6049; Vol. 21, 6050-6348; Vol. 22, 6349-6720; Vol. 23, 6882-6911, 6918-7025; Vol. 24, 7026-7079; Vol. 36, 10967; Vol. 40, 12373-12417). Remand counsel also had the raw data of Dr. Howard Albrecht. (HT Vol. 6, 1485-1520; Vol. 41, 12328-12372). In addition to the records, remand counsel obtained childhood photographs of Petitioner. (HT Vol. 23, 6744-6750).

Remand counsel obtained numerous records on various members of Petitioner's family as they wanted to determine if there was a "genetic component" to Petitioner's mental health problems. (HT Vol. 5, 1210-1211). Specifically, counsel obtained the following records: Petitioner's mother's school records, credit reports and marriage records, (HT Vol. 14, 4005-4022, 4026-4045); Petitioner's father's birth certificate, medical records, school records, employment records, credit reports, criminal history and criminal records, (HT Vol. 14, 4081-4226, 4230-4254); Petitioner's sister's (Linda King) birth certificate, medical records, criminal records, marriage records, credit records, employment records, school records, (HT Vol. 15, 4266, 4302-4306, 4310-4547; Vol. 16, 4553-4565); Petitioner's sister's (Teresa Foster) birth certificate, birth records, medical records, school records, employment records, credit reports, criminal history, psychological testing records, civil court records, (HT Vol. 16, 4644-4852; Vol. 17, 4853-5012); Petitioner's sister's (Ernestine Cunningham) birth certificate, birth records, medical records, school records, employment records, credit report, civil court records, (HT Vol. 17, 5046-5155; Vol. 18, 5156-5429); Petitioner's sister's (Dana Foster) criminal history and criminal records, (HT Vol. 16, 4587-4608); Petitioner's brother's (Ernest Lamar McConnell, Jr.) school records, medical records, employment records, credit reports, criminal history, criminal records, jail records, (HT Vol. 19, 5486-5499, 5503-5535, 5590-5659); The death certificate of Petitioner's relative Willie Mae Clemmons Foster (HT Vol. 20, 5759), and; The criminal records of Petitioner's relatives (James McConnell, Waschunn Foster, Lillie Heath, Thurman Cunningham, Jr., Morris King, Jr., Javan Staples, Claude Foster, Barbara Poole, Rosa Mae Finch, and Terry Foster) (HT Vol. 19, 5539-5587, 5661-5746; HT Vol. 20, 5782-5784, 5787-5791, 5795-5817).

Remand counsel testified that they met with Petitioner but he was not helpful in the preparation of the case. (HT Vol. 4, 1026; Vol. 5, 1201). Mr. Stewart tried to get Petitioner to talk about his childhood. (HT Vol. 4, 1027). Mr. Stewart testified that he never talked to Petitioner about the crime. (HT Vol. 4, 1026).

In an effort to obtain information about Petitioner's background, remand counsel and members of the remand team spoke with his parents and siblings and prepared memoranda detailing the information provided during the interviews. (HT Vol. 4, 1037; Vol. 36, 10856-10857; Vol. 41, 12420-12427). Regarding Petitioner's family, Mr. Stewart testified that they were "cooperative up until the time of trial." (HT Vol. 4, 1038). Mr. Stewart testified that Petitioner's mother was very involved in the case, and that Petitioner's other family members were not as involved in the case. (HT Vol. 4, 1039).

In describing Petitioner's family, Mr. Stewart stated that they were "very childlike," and that Petitioner's mother was "probably the smartest one of all and it was ... hard to tell her what we were doing and why we were doing it." (HT Vol. 4, 1038). Mr. Stewart described Petitioner's father as "nice," but he was mentally retarded "according to the physician that we had test him." (HT Vol. 4, 1039). Regarding Petitioner's sisters, Mr. Stewart stated that they were involved in "what was happening in their own lives." *Id.* Mr. Stewart made a strategical decision not to call the Petitioner's family as witnesses in the mental retardation trial because he feared they would have been unpredictable and unclear as to their purpose. (HT Vol. 4, 1045-1046). Mr. Mears testified that he also had concerns about the Petitioner's mother's potential behavior on the witness stand. (HT Vol. 5, 1208-1209).

Remand counsel spoke with some of Petitioner's teachers who were "very reluctant to talk" as the victim was "one of their own, and they knew, all of them, the story." (HT Vol. 4, 1037). Despite their reluctance, the record clearly shows that the remand team interviewed Petitioner's teachers and obtained relevant information. In addition, there is a chart from remand counsel's files that contains contact information for Petitioner's teachers, notes regarding the statements made by the teachers and information about scheduled meetings with several of Petitioner's teachers. (HT Vol. 5, 1362-1364). However, one teacher, Ms. Umberhandt, was not "as strong a witness in support of mental retardation as.... first thought." (HT Vol. 43, 13115).

Remand counsel did not call any of Petitioner's teachers during the mental retardation remand trial as he did not believe that they would be helpful to the case. (HT Vol. 4, 1038). Mr. Stewart testified that "[t]here was no reason to call someone who was reluctant to testify and would not give you any information that would be helpful to you." (HT Vol. 4, 1037-1038).

The record also shows that remand counsel spoke with one of Petitioner's neighbors. According to a memo dated December 21, 1998, the remand team met with Katie Marcus. (HT Vol. 43, 13150). Ms. Marcus, who was a neighbor of Petitioner's family, stated that Petitioner used to cut her grass. *Id.* She opined that Petitioner had "mental disturbances" as he was unresponsive at times when she asked him general questions. *Id.* Ms. Marcus also stated that Petitioner was a "good kid" who lacked a stable family environment. *Id.* Regarding Petitioner's family, Ms. Marcus stated that they smoked marijuana and were "strange." *Id.*

Another witness that was interviewed by remand counsel, Ms. McDaniel, noted that Petitioner was behind in reading and writing; however, there was no doubt that Petitioner knew the difference between right and wrong. (HT Vol. 43, 13153). In addition, she was "certain that Tim was not mentally retarded because children were typically seen by a psychologist before being admitted into the [Community Training Center] program" as they did not want children with low IQ's in the program. *Id.* Ms. McDaniel further stated that her belief that Petitioner could pass the GED if he tried. *Id.*

In addition, remand counsel met with Lillie Mae Heath. (HT Vol. 20, 5786). Ms. Heath, who was Petitioner's aunt, informed remand counsel that Petitioner always had a temper and could "snap in an instant." *Id.* Regarding her opinion as to whether Petitioner was mentally retarded, Ms. Heath stated that Petitioner was not slow and did not develop at a slower rate than his siblings or other children his age. *Id.* She further stated that Petitioner "had lots of friends, helped around the house, kept himself neat and clean, and did well in school." *Id.*

#### Presentation of Petitioner's Mental Retardation Claim Was Reasonable

During their opening statements to the jury, remand counsel informed the jury that they were to decide whether Petitioner was mentally retarded as defined by Georgia law. (M.R. Trial, pp. 297-298). According to Georgia law, mental retardation was defined as "significantly sub-average general intellectual functioning resulting in or associated with impairments in adaptive behavior which manifested itself during the developmental period. (M.R. Trial, p. 301). Remand counsel explained to the jury that "significantly sub-average intellectual function" was an IQ of approximately seventy or below, and that there was a measurement of error of five points in assessing IQ. (M.R. Trial, pp. 301-303). As such, it was possible to diagnose a person with mental retardation if their IQ was between seventy and seventy-five. (M.R. Trial, p. 303). Regarding deficits in adaptive functioning, remand counsel stated that a mentally retarded person must have impairments in at least two of the following areas: skills; work; leisure; health; safety; home living; social and personal skills; communication; and self-care. (M.R. Trial, pp. 300-302). Remand counsel further stated to the jury that the onset of mental retardation must be before the age of eighteen. (M.R. Trial, p. 302).

During the mental retardation remand trial, counsel presented the testimony of two expert witnesses. The first witness presented by remand counsel was Dr. Anthony Stringer. Dr. Stringer, a neuro-psychologist, testified that the definition of mental retardation in the Georgia Code was "essentially the same definition" that was contained in the DSM-IV. (M.R. Trial, pp. 337-338). Regarding sub-average intellectual functioning, Dr. Stringer explained to the jury that this meant that a person's IQ score on a standardized intelligence test placed them "roughly two standard deviations below average" and "in a range which is below that of approximately 90 to 95 percent of people their age." (M.R. Trial, p. 338). In defining adaptive functioning to the jury, Dr. Stringer explained that it referred to the everyday activities that a person has to do "in order to be a successful member of society." (M.R. Trial, p. 341). Dr. Stringer then provided a brief explanation regarding the skill areas contained in the DSM-IV that relate to adaptive functioning. (M.R. Trial, pp. 341-343).

Regarding the third criteria for a diagnosis of mental retardation, Dr. Stringer stated that the onset must occur prior to the age of eighteen. (M.R. Trial, pp. 343-344).

Dr. Stringer testified that he had examined Petitioner's father, Ernest Foster, on February 27, 1999. (M.R. Trial, p. 346). During the examination, Dr. Stringer performed a clinical interview of Mr. Foster and his wife. (M.R. Trial, p. 348). Dr. Stringer concluded that Petitioner's father met all the criteria for mental retardation. (M.R. Trial, p. 371). Regarding Petitioner's father's adaptive functioning, Dr. Stringer testified that he exhibited "impairments in his ability to manage money, his ability to manage home and transportation, his ability to take care of health concerns, to keep himself safe." (M.R. Trial, p. 365). Further, the historical record provided by Ernest Foster and his wife and a review of school and employment records proved that the onset of his mental retardation was prior to the age of eighteen. (M.R. Trial, p. 366). In addition to eliciting testimony from Dr. Stringer regarding Petitioner's father's mental retardation, remand counsel also presented evidence regarding the correlation between heredity and the development of mental retardation. (M.R. Trial, pp. 335-336).

Remand counsel also presented the testimony of a psychologist, Dr. Robert Shaffer. Similar to Dr. Stringer, remand counsel elicited testimony from Dr. Shaffer regarding the definition of mental retardation and the three prongs that must be proven to warrant a diagnosis of mental retardation. (M.R. Trial, pp. 432, 444-447). Dr. Shaffer provided the jury with information as to the various levels of mental retardation. (M.R. Trial, pp. 429-430). According to the established guidelines, a person with an IQ score between fifty or fifty-five up through seventy are considered to be mildly mentally retarded. (M.R. Trial, p. 429). Dr. Shaffer noted that some guidelines considered an IQ score of seventy to seventy-five to be in the upper range of mild mental retardation. (M.R. Trial, pp. 429, 431).

Pursuant to the request of remand counsel, Dr. Shaffer performed an evaluation of Petitioner. (M.R. Trial, p. 447). As part of his evaluation, Dr. Shaffer administered standard IQ tests and neuropsychological tests. *Id.* Specifically, Dr. Shaffer administered the Halstead-Reitan

Neuropsychological Test Battery, the Stanford-Binet Intelligence Scale, Fourth Edition, the WAIS-III and the Vineland Adaptive Behavior Scales (hereinafter "Vineland"). (M.R. Trial, pp. 449-450). Dr. Shaffer stated that Petitioner obtained a composite score of 65 on the Stanford-Binet and a full scale IQ of 58 on the WAIS-III. (M.R. Trial, p. 451). The results of the Vineland revealed that Petitioner performed at a "national percentile rank of less than one-tenth of one percent" in communication, daily living and socialization skills. (M.R. Trial, p. 453). The age-equivalent scores for Petitioner were as follows: eight years, eight months in the communication domain; five years, nine months in the daily living skills domain; and five years, eight months in the socialization skills domain. (M.R. Trial, pp. 453-454).

Regarding the neurological testing, Dr. Shaffer testified that Petitioner scored in the impaired range on five out of the six measures used to assess neurological functions. (M.R. Trial, p. 455). Specifically, Petitioner scored in the moderate level of impairment on the Tactual Performance Test. (M.R. Trial, pp. 456-457). On the Category Test, Petitioner "exhibited classical signs of neurological impairment such as perseveration." (M.R. Trial, p. 457). Dr. Shaffer testified that the Category Test revealed that Petitioner's "thinking was extremely concrete and quite narrow." (M.R. Trial, p. 458). Regarding the Finger Oscillation and Trailmaking tests, Dr. Shaffer stated that the scores revealed "mild to moderate lack of brain development or brain compromise." (M.R. Trial, p. 459).

In addition to the neurological testing, Dr. Shaffer testified that there was evidence from Petitioner's history that supported his conclusion that Petitioner suffered from a compromised brain and central nervous system. (M.R. Trial, p. 460). Specifically, Dr. Shaffer testified that Petitioner was born six weeks premature with a "dangerously low" birth weight and was placed in an incubator for about two and a half weeks. (M.R. Trial, pp. 460-461). Dr. Shaffer explained to the jury that a low birth weight was "statistically related to deficits in intellectual functioning in later life." (M.R. Trial, p. 461). In addition, Dr. Shaffer testified that Petitioner fell and hit his head on a rock at the



age or four or five, hit his head on a car dashboard during an automobile accident at the age of six or seven, and was struck by a car while riding a bicycle at the age of ten. (M.R. Trial, pp. 461-462). As part of his evaluation, Dr. Shaffer reviewed Petitioner's prior test scores relating to intellectual functioning. (M.R. Trial, p. 467). In reviewing all of Petitioner's test scores, Dr. Shaffer noted that the test scores revealed a "gradual decline over the course of several years in the intellectual functioning of Mr. Foster." *Id.* The decline in Petitioner's test scores was indicative of a "progressive deterioration or some kind of progressive compromise in his intellectual skills." (M.R. Trial, p. 468). Dr. Shaffer informed the jury that there were six IQ scores obtained on Petitioner starting at age ten and then again at ages sixteen, nineteen, twenty-two, twenty-five and thirty. *Id.* These IQ scores started at eighty and then declined to seventy-nine, seventy-one, sixty-eight, sixty-seven and fifty-eight. *Id.* Dr. Shaffer stated that these scores demonstrated a "gradual decline in the intellectual skills that did originate in the developmental period." (M.R. Trial, pp. 468-469). In support of his opinion, Dr. Shaffer stated that Petitioner's score of seventy-nine that was obtained when he was sixteen years old could be lowered three to five points due to the fact that the test was ten years old at the time it was administered. (M.R. Trial, p. 471).

Dr. Shaffer concluded that Petitioner met all three prongs for mental retardation as defined by Georgia law. (M.R. Trial, pp. 462, 465-467). Specifically, Dr. Shaffer found that Petitioner's IQ test scores fell in the range of significantly sub-average intellectual skills, that Petitioner had significantly sub-average adaptive behavior and that these impairments originated during the developmental period. *Id.*

During their closing arguments, remand counsel reminded the jury that they were responsible for making the determination as to whether or not Petitioner was mildly mentally retarded. (M.R. Trial, p. 752). Remand counsel stated that a mildly mentally retarded person usually functioned at a sixth or seventh grade level. (M.R. Trial, p. 753). Remand counsel asserted that they had presented psychologists with "excellent credentials" who opined that Petitioner was mentally retarded. (M.R. Trial, p. 757). Regarding Petitioner's mental retardation, remand counsel stated that

the school records showed that he repeated the first grade, and that he struggled in the fifth grade with reading and spelling. (M.R. Trial, pp. 755-756). Specifically, Petitioner had difficulty retaining information and had minimal self-confidence. (M.R. Trial, pp. 756-757). As such, the school recommended that Petitioner be tested for a learning disability. (M.R. Trial, p. 757). The test results showed that Petitioner's reading was at a 4.4 grade level, spelling was at a 3.9 grade level and arithmetic was at a 3.2 grade level. *Id.*

According to Dr. Shaffer, Petitioner's scores on IQ tests steadily dropped. (M.R. Trial, p. 759). This gradual decrease in Petitioner's test scores could be attributed to his premature birth, low birth weight and several childhood head injuries. (M.R. Trial, pp. 759-760). In addition, remand counsel reminded the jury that Petitioner's father was mentally retarded. (M.R. Trial, p. 760). As such, Petitioner was predisposed to be mentally retarded due to heredity. *Id.*

Regarding the allegations made by the State that Petitioner was malingering, remand counsel asserted that Petitioner's test scores would be "scattered" if he were malingering. (M.R. Trial, p. 763). Dr. Shaffer testified that all of Petitioner's test scores were consistent, which ruled out the possibility that Petitioner was malingering. (M.R. Trial, pp. 762-763). In addition, Dr. Shaffer administered several tests to Petitioner, and the test scores were all consistent. (M.R. Trial, p. 763). During his deposition, Mr. Stewart testified as to his difficulty in proving to the jury that Petitioner was mentally retarded. Specifically, Mr. Stewart stated: "...it was a hard burden to over -- to carry, to show that because he was still mentally retarded even though the test grades prior to age 16 showed that he was above the score for mental retardation, and to try to explain that." (HT Vol. 4, 1066-1067).

Further, remand counsel's presentation at trial was reasonable as adaptive behavior deficits were properly introduced through an expert witness rather than lay witnesses. The court finds no deficient performance in remand counsel's failure to call lay witnesses who the Petitioner contends could have testified regarding deficits in adaptive behavior. Dr. Shaffer testified that: "In looking at the Vineland Adaptive Behavior Scales we provide what is called a structured interview to the

people in this patient's life who have the best information about what he actually did during the developmental period...just hundreds of questions that the individual person responds to based on their personal observations of Mr. Foster." (M.R. Trial, p. 452). Thus, lay witness testimony was incorporated through Dr. Shaffer's use of a standardized measure. Dr. Shaffer further testified that based upon his results, the Petitioner had significantly sub-average general intellectual functioning. (M.R. Trial, p. 454). Therefore, this court finds that adaptive behavior deficits were reasonably presented at trial.

Remand counsel reasonably relied upon the presentation of Petitioner's IQ scores, as those scores were directly obtained through contemporaneous intelligence testing conducted by Petitioner's own experts. (M.R. Trial, pp. 356-357, p. 451). Drs. Stringer and Shaffer testified directly as to their findings, and submitted to cross examination by the State. Neither IQ test introduced by the State was done so through the testing agent for verification and explanation of their findings. (Pet. PHB 88). Thus, this Court finds remand counsel's choice to directly present and explain his own IQ findings through the experts who obtained those scores rather than directly challenge those introduced by the State was reasonable.

Remand counsel were not deficient in failing to object to letters attributed to Petitioner from his prison file

Petitioner alleges that remand counsel were ineffective in failing to object to the introduction of the letters that the State attributed to Petitioner from his prison file and were rendered ineffective by withdrawing their objection to the admissibility of those letters. During the mental retardation remand trial, the State introduced three handwritten letters that were identified by employees of the Georgia Diagnostic and Classification Prison as being written by Petitioner. (M.R. Trial, pp. 607-618). Mr. Stewart testified during his deposition that he believed that the letters were not written by the same person. (HT Vol. 4, 1046). He acknowledged that one of the letters might have been written by Petitioner; however, Mr. Stewart stated that Petitioner did not write all three letters as the "three handwritings were so different from each other that practically a blind man could tell that." (HT Vol. 4, 1048).

During a discussion with the remand court as to the admissibility of the three letters, remand counsel stated that it would be "unfair and prejudicial" if one of the letters was admitted into the evidence and the other two letters were not admitted. (M.R. Trial, p. 651). Remand counsel explained that one of the State's witnesses had stated on cross-examination that all three letters were written by the same person. (M.R. Trial, p. 652). As such, remand counsel argued that the jury had the "right to consider that." *Id.* Remand counsel subsequently withdrew its objection to the letters and requested that portions of the letters be redacted. (M.R. Trial, p. 654). Remand counsel and the State were then afforded an opportunity to review the letters to see if they could agree upon the redactions. (M.R. Trial, pp. 654-655). As evidenced by the exhibits, there were some portions of the letters that were redacted. (State Exhibits 3-5).

This court finds Petitioner has failed to show any deficiency or prejudice as remand counsel was able to first persuade the court that allowance of just one of the three letters would be prejudicial, and second that portions of the letters should be redacted. Having all three letters introduced allowed remand counsel to distinguish the handwriting styles of each letter, casting doubt upon the State's assertion that all three were written by Petitioner. Given this strategic decision of remand counsel, this court finds Petitioner cannot show deficiency or prejudice as to this claim.

This court finds Petitioner has failed to demonstrate any deficiency or prejudice arising from remand counsel's reasonable presentation during Petitioner's mental retardation trial. Accordingly, this claim is denied, and the Petitioner is not entitled to a new mental retardation trial on the basis of ineffective assistance of counsel.

Claims that are non-cognizable are precluded from review by this court

This Court finds the following allegations raised by Petitioner fail to allege grounds which would constitute a constitutional violation in the proceedings which resulted in Petitioner's conviction and sentence and are therefore barred from review by this habeas corpus court as non-cognizable under O.C.G.A. § 9-14-42(a).

- Claim XXXII of the amended petition dated 1/4/02 and Claim XXXIII of the amended petition dated 1/26/04, wherein Petitioner alleges that he is actually innocent and his continued incarceration or execution would violate his constitutional rights. This Court dismisses this claim non-cognizable as it fails to allege a substantial violation of constitutional rights in the proceedings which resulted in Petitioner's convictions and sentences.
- Claim XV of the amended petition dated 1/4/02, Claim XV of the amended petition dated 1/26/04 and Claim XX of the amended petition dated 7/10/06, wherein Petitioner alleges cumulative error. This Court dismisses this claim as non-cognizable as it fails to allege a substantial violation of constitutional rights in the proceedings which resulted in Petitioner's convictions and sentences, or, in the alternative, deny this claim as being without merit.
- Claim VII of the amended petition dated 1/4/02, Claim VII of the amended petition dated 1/26/04 and Claim XXII of the amended petition dated 7/10/06, wherein Petitioner alleges that he is severely mentally ill and that under evolving standards of decency, his execution would therefore allegedly violate the Eighth Amendment to the United States Constitution and analogous provisions of the Georgia Constitution, a claim which Respondent denies. This Court dismisses this claim as non-cognizable because, since there is no constitutional right not to be executed if mentally ill, this claim fails to allege a substantial violation of constitutional rights in the proceedings which resulted in his conviction and sentence.
- Claim XX of the amended petition dated 1/4/02, Claim XX of the amended petition dated 1/26/04 and Claim XXVII of the amended petition dated 7/10/06, wherein Petitioner alleges that as provided for in the protocols promulgated by the Georgia Department of Corrections, lethal injection constitutes cruel and unusual punishment. This Court dismisses this claim as non-cognizable as it fails to allege a substantial violation of constitutional rights in the proceedings which resulted in his conviction and sentence or, in the alternative, deny this claim as being without merit.

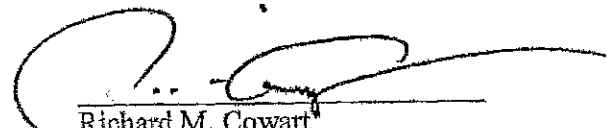
- Claim XXI of the amended petition dated 1/26/04, wherein Petitioner alleges that to subject him to death by lethal injection would subject him to punishment under a law which is ex post facto. The Court dismisses this claim as non-cognizable as it fails to allege a substantial violation of constitutional rights in the proceedings which resulted in his conviction.
- Claim XXI of the amended petition dated 1/4/02 and Claim XXII of the amended petition dated 1/26/04, wherein Petitioner alleges that the statute in force at the time he was sentenced to death, O.C.G.A. § 17-10-38, which merely provides for the method of execution of a death sentence in Georgia, was declared unconstitutional in *Dawson v. State*, 274 Ga. 327 (2001), and that his death sentence is therefore null and void and may not be carried out. The Court dismisses this claim as non-cognizable as it fails to allege a substantial violation of constitutional rights in the proceedings which resulted in his conviction and sentence or, in the alternative, deny this claim as being without merit.

This Court dismisses these claims as non-cognizable as they fail to allege a substantial violation of constitutional rights in the proceedings which resulted in Petitioner's sentence.

All other claims made by Petitioner which are not specifically addressed by the court in this order are DENIED.

The Clerk of Court is directed to furnish a copy of this order to counsel for the parties.

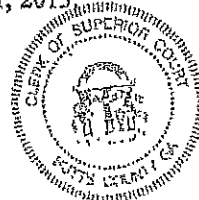
AND SO ORDERED, this 4<sup>th</sup> day of December, 2013.

  
Richard M. Cowart  
Judge, Superior Court

Clerk's Certificate:

I hereby certify that I have furnished a copy of this Order to all counsel of record, this 4<sup>th</sup> day of December, 2013.

  
Beth S. Weaver  
Clerk/Deputy Clerk



# APPENDIX C



Supreme Court of Georgia.

FOSTER

v.

The STATE.

No. 45609.

Nov. 22, 1988.

Reconsideration Denied Dec. 14, 1988.

Defendant was convicted in the Superior Court, Floyd County, John A. Frazier, Jr., J., of malice murder and sentenced to death, and he appealed. The Supreme Court, Marshall, C.J., held that: (1) a prospective juror's views against the death penalty supported a finding that she was disqualified, even though she stated that "maybe" she could change her mind; (2) a prospective juror's confusion about the automatic imposition of the death penalty, and his opinion that the police had "probably got the right man" when they arrested defendant, did not warrant disqualification; (3) the prosecutor successfully rebutted a prima facie case of racial discrimination in the exercise of peremptory challenges; (4) although the defendant's second, videotaped confession had been obtained in violation of *Miranda* when an investigator told the defendant that the second confession would not hurt "a thing," there was no reversible error in admitting the confession; (5) the defense of voluntary intoxication did not involve a lack of intent to commit the crime; and (6) the evidence supported the imposition of the death penalty for a murder that was outrageous or wantonly vile, horrible or inhuman, as involving torture, depravity of mind, or an aggravated battery on the victim.

Judgment affirmed.

West Headnotes

## [1] Jury 230 🔑108

### 230 Jury

[230V](#) Competency of Jurors, Challenges, and Objections

[230k104](#) Personal Opinions and Conscientious Scruples

[230k108](#) k. Punishment prescribed for offense. [Most Cited Cases](#)

Prospective juror's answers to questions about death penalty indicated that she was opposed to death penalty and that she would automatically vote for life sentence in murder case and, thus, trial court's finding that juror was disqualified was not clearly erroneous, even though she stated that "maybe" could change her mind.

## [2] Jury 230 🔑107

### 230 Jury

[230V](#) Competency of Jurors, Challenges, and Objections

[230k104](#) Personal Opinions and Conscientious Scruples

[230k107](#) k. Weight and effect of evidence. [Most Cited Cases](#)

## Jury 230 🔑108

### 230 Jury

[230V](#) Competency of Jurors, Challenges, and Objections

[230k104](#) Personal Opinions and Conscientious Scruples

[230k108](#) k. Punishment prescribed for offense. [Most Cited Cases](#)

Prospective juror's initial statement that he would vote automatically to impose death sentence if defendant were convicted of malice murder, and that he had formed opinion that police had "probably got the right man" when they arrested defendant, did not show disqualification of juror; juror was confused at first by question about automatic imposition of death penalty and his previously formed opinion of guilt was not so "fixed and definite" as to necessitate excusal for cause.



**[3] Jury 230 ☞97(2)**

**230 Jury**

**230V** Competency of Jurors, Challenges, and Objections

**230k97** Bias and Prejudice

**230k97(2)** k. Personal relations in general.

**Most Cited Cases**

Trial court did not err by overruling defendant's challenges for favor against prospective jurors who knew murder victim, but were not close to victim, and who testified that they could be fair and impartial and could decide case on evidence presented.

**[4] Jury 230 ☞120**

**230 Jury**

**230V** Competency of Jurors, Challenges, and Objections

**230k114** Challenge to Panel or Array, and Motion to Quash Venire

**230k120** k. Affidavits and other evidence.

**Most Cited Cases**

Prosecutor successfully rebutted prima facie case that peremptory challenges had been exercised for racially discriminatory purposes by showing that he did not want social workers on jury in death penalty case, as they would tend to sympathize with defendant, that he preferred not to allow on jury anyone who was closely related to someone with drug or alcohol problem, when defendant planned to blame crime on drug and alcohol problem, that prosecutor could not trust someone who gave materially untruthful answers on voir dire, and that he was prepared to challenge peremptorily any juror who was reluctant to impose death penalty as matter of conscience, even if juror's opposition to death penalty did not rise to level justifying disqualification for cause.

**[5] Jury 230 ☞131(2)**

**230 Jury**

**230V** Competency of Jurors, Challenges, and Objections

**230k124** Challenges for Cause

**230k131** Examination of Juror

**230k131(2)** k. Discretion of court.

**Most Cited Cases**

Trial court did not abuse its discretion in conducting week-long voir dire examination of prospective jurors in capital murder prosecution.

**[6] Criminal Law 110 ☞627.5(6)**

**110 Criminal Law**

**110XX** Trial

**110XX(A)** Preliminary Proceedings

**110k627.5** Discovery Prior to and Incident to Trial

**110k627.5(6)** k. Work product. **Most**

**Cited Cases**

State's jury-selection notes were "attorney work product" and, thus, were not discoverable, even if defense counsel might have found notes strategically useful.

**[7] Costs 102 ☞302.3**

**102 Costs**

**102XIV** In Criminal Prosecutions

**102k301.1** Security for Payment; Proceedings in Forma Pauperis

**102k302.3** k. Investigative assistance.

**Most Cited Cases**

Trial court did not err in capital murder prosecution in denying funds for expert assistance to examine fingerprints, shoe prints and blood spatters.

**[8] Criminal Law 110 ☞134(1)**

**110 Criminal Law**

**110IX** Venue

**110IX(B)** Change of Venue

**110k129** Application

**110k134** Affidavits and Other Proofs

**110k134(1)** k. In general. **Most**

**Cited Cases**

Evidence presented by defendant in support of his motion for change of venue in capital murder prosecution did not show such an inundation of pre-trial publicity as would give rise to presumption of

prejudice.

**[9] Criminal Law 110 ⚔438(8)**

110 Criminal Law

110XVII Evidence

110XVII(P) Documentary Evidence

110k431 Private Writings and Publications

110k438 Photographs and Other Pictures

110k438(8) k. Special types of photographs; enlargements, motion and sound pictures, X-rays. [Most Cited Cases](#)

Investigator's videotape of murder scene was not so inflammatory and duplicative of still photographs of scene and victim's body as to outweigh videotape's relevance and, therefore, trial court did not abuse its discretion in admitting videotape.

**[10] Criminal Law 110 ⚔411.54(3)**

110 Criminal Law

110XVII Evidence

110XVII(M) Statements, Confessions, and Admissions by or on Behalf of Accused

110XVII(M)14 Conduct of Interrogation

110k411.52 Promises; Hope of Benefit

110k411.54 Nature of Promise

110k411.54(3) k. Promises not to prosecute accused. [Most Cited Cases](#)  
(Formerly 110k520(5))

Investigator's informing defendant that no rape would be charged, based on his statement that no rape occurred, was not benefit offered to induce confession, for purposes of determining whether confession was admissible in capital murder prosecution. [O.C.G.A. § 24-3-50](#).

**[11] Criminal Law 110 ⚔411.7**

110 Criminal Law

110XVII Evidence

110XVII(M) Statements, Confessions, and Admissions by or on Behalf of Accused

110XVII(M)10 Warnings

110k411.7 k. Form and sufficiency.

**Most Cited Cases**

(Formerly 110k517.2(3))

Investigator's telling defendant that second confession was not going to hurt "a thing," and that it would be "as much for your benefit as ours," was not consistent with warnings required by *Miranda*, even after defendant had initially confessed to murder.

**[12] Criminal Law 110 ⚔1169.2(6)**

110 Criminal Law

110XXIV Review

110XXIV(Q) Harmless and Reversible Error

110k1169 Admission of Evidence

110k1169.2 Curing Error by Facts Established Otherwise

110k1169.2(6) k. Admissions, declarations, and hearsay; confessions. [Most Cited Cases](#)

No reversible error occurred when trial court admitted videotape of defendant's second confession, even after investigator had told defendant that second confession would not hurt "a thing," and that it would be "as much for your benefit as ours," where videotaped confession was merely cumulative to defendant's initial, unrecorded confession, and where initial confession and remaining evidence overwhelmingly established defendant's guilt of malice murder.

**[13] Criminal Law 110 ⚔2194**

110 Criminal Law

110XXXI Counsel

110XXXI(F) Arguments and Statements by Counsel

110k2191 Action of Court in Response to Comments or Conduct

110k2194 k. Presentation of evidence.

**Most Cited Cases**

(Formerly 110k730(3))

No mistrial was warranted by prosecutor's question during cross-examination of defense psychiatrist about whether persons with antisocial per-

sonality disorders who had consumed large quantities of cocaine, marijuana, and beer would be able to “walk out of the courtroom” acquitted on basis of insanity where objection was sustained and jury instructed to disregard question.

**[14] Criminal Law 110 🔑53**

**110 Criminal Law**

**110VI** Capacity to Commit and Responsibility for Crime

**110k52** Intoxication

**110k53** k. In general. [Most Cited Cases](#)

Inability to distinguish between right and wrong is no defense if inability is consequence of voluntary intoxication. [O.C.G.A. §§ 16-3-2, 16-3-4.](#)

**[15] Criminal Law 110 🔑48**

**110 Criminal Law**

**110VI** Capacity to Commit and Responsibility for Crime

**110k47** Insanity

**110k48** k. In general. [Most Cited Cases](#)

**Criminal Law 110 🔑53**

**110 Criminal Law**

**110VI** Capacity to Commit and Responsibility for Crime

**110k52** Intoxication

**110k53** k. In general. [Most Cited Cases](#)

Statutes governing defenses of voluntary intoxication and inability to distinguish between right and wrong do not excuse persons from criminal liability even if they are incapable of forming criminal intent. [O.C.G.A. §§ 16-3-2, 16-3-4.](#)

**[16] Homicide 203 🔑1506**

**203 Homicide**

**203XII** Instructions

**203XII(F)** Capacity to Commit Crime

**203k1505** Intoxication

**203k1506** k. In general. [Most Cited](#)

[Cases](#)

(Formerly 203k294.2, 203k294(2))

Voluntary intoxication defense in malice murder prosecution did not involve lack of intent to commit crime and, thus, it was not necessary to charge jury on defendant's alleged inability to form intent as result of intoxication. [O.C.G.A. §§ 16-3-2, 16-3-4.](#)

**[17] Criminal Law 110 🔑331**

**110 Criminal Law**

**110XVII** Evidence

**110XVII(C)** Burden of Proof

**110k326** Burden of Proof

**110k331** k. Insanity. [Most Cited Cases](#)

Statutory requirement that defense prove mental illness beyond reasonable doubt is not constitutionally infirm.

**[18] Sentencing and Punishment 350H 🔑1684**

**350H Sentencing and Punishment**

**350HVIII** The Death Penalty

**350HVIII(D)** Factors Related to Offense

**350Hk1684** k. Vileness, heinousness, or atrocity. [Most Cited Cases](#)

(Formerly 203k357(11))

Evidence supported sentencing jury's finding that malice murder was outrageously or wantonly vile, horrible or inhuman, as involving torture, depravity of mind, or aggravated battery to victim and, thus, evidence supported imposition of death penalty; evidence showed that defendant hit victim with fireplace log hard enough to break her jaw, sexually molested her, poured talcum powder all over her face, and then strangled her to death. [O.C.G.A. §§ 17-10-30\(b\)\(7\), \(c\), 17-10-35\(c\)\(1-3\).](#)

**[19] Sentencing and Punishment 350H 🔑1668**

**350H Sentencing and Punishment**

**350HVIII** The Death Penalty

**350HVIII(D)** Factors Related to Offense

**350Hk1666** Nature or Degree of Offense

**350Hk1668** k. Murder. [Most Cited](#)

## Cases

(Formerly 203k357(1))

Death sentence for malice murder was not imposed under influence of passion, prejudice or other arbitrary factor, and was neither excessive nor disproportionate to penalty imposed in similar cases, considering both crime and defendant. [O.C.G.A. §§ 17-10-30\(b\)\(7\), \(c\), 17-10-35\(c\)\(1-3\)](#).

**\*\*190 \*748** James C. Wyatt, Robert K. Finnell, Rome, for Timothy Tyrone foster.

David L. Lomenick, Jr., Dist. Atty., David J. Dunn, Jr., Scott K. Camp, Asst. Dist. Attys., Stephen F. Lanier, Dist. Atty., Rome, Michael J. Bowers, Atty. Gen., Paula K. Smith, Asst. Atty. Gen., for the State.

**\*736** MARSHALL, Chief Justice.

This is a death-penalty case. Queen Madge White, a 79-year-old widow, lived by herself in Rome, Georgia. Early in the evening of August 27, 1986, a friend took White to choir practice, and brought her home at 8:30 p.m. White talked to her sister by telephone at 9:00 p.m. and everything was normal. However, when the sister stopped by early the next morning, she discovered that White's house had been broken into and ransacked. The sister called the police, who found White's body lying on the floor in her bedroom covered to her chin by a blanket. Her face was coated with talcum powder. Her [jaw was broken](#). She had a severe gash on the top of her head. She had been sexually molested with a salad-dressing bottle, and strangled to death. A number of her possessions were missing from her home.

The appellant, Timothy Tyrone Foster, was arrested for White's murder a month later when he threatened his live-in companion and she responded by turning him in. The victim's possessions were recovered from their home and from Foster's two sisters. Foster was interrogated and confessed. A jury convicted him of malice murder and burglary, and sentenced him to death. This is his appeal. <sup>FN1</sup>

<sup>FN1</sup> The crime occurred August 27, 1986. Foster was arrested September 26 and indicted on October 17, 1986. The case was tried April 20 through May 1, 1987. A motion for new trial was filed May 28, 1987 and heard November 24, 1987. The trial court denied the motion on February 3, 1988. A notice of appeal was filed March 3, 1988, and the case was docketed in this court on March 21, 1988. Oral arguments were heard June 6, 1988.

1. Foster first contends the trial court erred by excusing one prospective juror and by failing to excuse eight prospective jurors.

Prospective juror Black was excused because of her views against capital punishment. The test for excusal is "whether the juror's views [on capital punishment] would 'prevent or substantially impair the performance of his duties as a juror in accordance with his instructions and his oath.'" [Wainwright v. Witt](#), 469 U.S. 412, 424, 105 S.Ct. 844, 852, 83 L.Ed.2d 841 (1985). See [Alderman v. State](#), 254 Ga. 206(4), 327 S.E.2d 168 (1985).

[1] Black's answers to questions about the death penalty, like those of many other prospective jurors, were somewhat contradictory. See [Curry v. State](#), 255 Ga. 215, 220, 336 S.E.2d 762 (1985). As she **\*737** pointed out, she had never before been asked to express her views on capital punishment. See [Spivey v. State](#), 253 Ga. 187, 197 (fn. 3), 319 S.E.2d 420 (1984). She did state, however, that, although she "maybe" could change her mind, she was opposed to the death penalty, and she stated repeatedly that she would automatically vote for a life sentence in a murder case. The trial court's finding that she was disqualified is not clearly erroneous. [Wainwright v. Witt](#), *supra* 469 U.S. at 431, 105 S.Ct. at 856. <sup>FN2</sup>

<sup>FN2</sup> We note that Black gave inconsistent answers to several attempts to ask a question in the exact language of the [Witt](#) test for excusal. Although the standard enunciated

ated in *Witt* is the test for excusal, it is not necessarily the best or most comprehensible voir dire question. As is noted in *Witt*: “Relevant voir dire questions addressed to this issue [of death-qualification] need not be framed exclusively in the language of the controlling appellate opinion; the opinion is, after all, an opinion and not an intricate devise in a will.” *Id.* 469 U.S. at 433–34, 105 S.Ct. at 857.

\*\*191 [2] Foster contends that prospective juror Tate should have been excused because he initially stated that he would vote automatically to impose a death sentence if the defendant were convicted, and because he had formed an opinion that the police had “probably got the right man” when they arrested Foster. However, it is clear that Tate was confused at first by the question about the automatic imposition of the death penalty.<sup>FN3</sup> Further questioning cleared up the confusion and showed no disqualification in this respect. Compare *Pope v. State*, 256 Ga. 195(7f), 345 S.E.2d 831 (1986). The previously-formed opinion as to guilt was not so “fixed and definite” as to necessitate an excusal for cause. *Childs v. State*, 257 Ga. 243(8), 357 S.E.2d 48 (1987). Tate stated repeatedly that he could set aside his opinion, and decide the case strictly on the evidence. *Spivey v. State*, supra 253 Ga. at 196–7, 319 S.E.2d 420.

FN3. Tate was not alone. Many of the prospective jurors stated at first that they would vote automatically for *both* a death sentence *and* a life sentence.

Foster also contends that prospective juror Holder should have been excused for his views on the death penalty. Any death-qualification issue here is moot, since this prospective juror was excused on other grounds.

[3] Foster complains of the refusal to excuse six additional prospective jurors on the ground of bias. Some of these prospective jurors knew the victim, but none were close to her, and they all test-

ified that they could be fair and impartial jurors and could decide the case on the evidence presented. The trial court did not err by overruling Foster's challenges for cause. *Wilson v. State*, 250 Ga. 630(4b), 300 S.E.2d 640 (1983).

[4] 2. The voir dire examination concluded on a Friday afternoon. The jury was selected Monday morning, giving the parties the weekend to plan their peremptory challenges. The qualified panel from which the jury was selected included four blacks. The district attorney exercised peremptory challenges against each of the four black \*738 jurors. Foster timely raised an issue of racial discrimination in the prosecution's exercise of peremptory challenges. See *Batson v. Kentucky*, 476 U.S. 79, 106 S.Ct. 1712, 90 L.Ed.2d 69 (1986). The trial court ruled that a prima facie case had been established, and required the prosecutor to explain his exercise of peremptory challenges. See *Gamble v. State*, 257 Ga. 325(2), 357 S.E.2d 792 (1987). Foster contends the trial court erred by finding that the state successfully rebutted the prima facie case. As we stated in *Gamble* (quoting from *Batson*):

The [prosecutor's] explanation [of his peremptory challenges] “need not rise to the level justifying exercise of a challenge for cause,” but it must be “neutral,” “related to the case to be tried,” and a “‘clear and reasonably specific,’ explanation of his ‘legitimate reasons’ for exercising the challenges.” [Cit.]

*Gamble*, supra at 327, 357 S.E.2d 792.

The defense in this case centered around Foster's deprived background and his use of drugs and alcohol. Many of the defendant's witnesses were social workers. Part of his defense was that when he was a juvenile he had not been committed to a Youth Development Center for the commission of armed robbery, notwithstanding the contemporaneous recommendation of a psychiatrist that only incarceration and strict discipline could possibly have any “lasting impact” on his anti-social behavior. Instead, he was returned by the state to an un-

suitable and harmful family environment which included heavy drug use by his own parents and a girlfriend who “sold [her] body” for cocaine. Foster contended he was mentally ill and, further, that he was involuntarily intoxicated by alcohol, marijuana and cocaine.

The prosecutor was familiar with Foster's background and knew that Foster intended to assert a defense involving mental illness and drug usage. He explained his challenges of the four black prospective jurors as follows, taking them in the order in which they underwent voir dire:

**\*\*192** The first juror has a son the same age as the defendant who has been convicted of a misdemeanor theft offense. His wife works at the Northwest Georgia Regional Hospital, a mental health facility. His brother was once a drug consultant. During the *Witherspoon* questioning, the juror appeared to be reluctant to say that he could vote for a death sentence, and he is a member of a church whose members, in the experience of the prosecutor, tend to be very reluctant to impose the death penalty.

The defendant concedes the prosecutor was justified in striking the second juror, who, among other things, had talked to the defendant's mother before entering the courtroom.

**\*739** The third juror claimed to be the half-sister of the district attorney's chief investigator (who is black). The investigator, however, denied being related in any way to this juror. Moreover, the juror denied having a friend or relative accused or convicted of a crime of violence and denied knowing anyone with a drug or alcohol problem notwithstanding that her brother is a repeat offender whose crimes involve theft by taking, burglary and drugs, and that her husband has been convicted for carrying a concealed weapon.

The fourth juror is a social worker involved with low-income, underprivileged children. Her first cousin was arrested by the Metro Drug Task force on serious drug charges and the cousin lost

her job as a consequence.

The prosecutor explained that he did not want social workers on the jury in a death penalty case, as they tended to sympathize with criminal defendants, especially at the penalty phase. Moreover he preferred not to allow on the jury anyone who was closely related to someone with a drug or alcohol problem, since the defendant in this case planned to blame the crime on his own drug and alcohol problem. He further stated that he could not trust someone who gave materially untruthful answers on voir dire, as did the third juror. Finally, he was prepared to challenge peremptorily any juror who was reluctant to impose the death penalty as a matter of conscience where the juror's opposition to the death penalty did not rise to the level justifying a disqualification for cause.

The prosecutor's explanations were related to the case to be tried, and were clear and reasonably specific. The trial court did not err by finding them to be sufficiently neutral and legitimate. The court's determination that the prosecutor successfully rebutted the prima facie case is entitled to “great deference,” *Batson supra*, 106 S.Ct. at 1724 (fn. 21) and is not clearly erroneous in this case.

[5] 3. There was no abuse of discretion in the court's conduct of the week-long voir dire examination of prospective jurors. *Childs v. State*, 257 Ga. 243(6), 357 S.E.2d 48 (1987).

[6] 4. The trial court did not err by denying Foster's post-trial motion to review *in camera* the state's jury-selection notes. An attorney's work product is generally non-discoverable. A defendant's right to exculpatory evidence under *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963), is not involved here, and non-exculpatory information in an attorney's work product does not become discoverable simply because the opposing attorneys might find it strategically useful.

[7] 5. There was no error in the trial court's



denial of funds for expert assistance to examine fingerprints, shoe prints and blood spatters. *Roseboro v. State*, 258 Ga. 39(3), 365 S.E.2d 115 (1988); *Crawford v. State*, 257 Ga. 681(5), 362 S.E.2d 201 (1987).

[8] \*740 6. The evidence presented by the defendant in support of his motion for change of venue does not show such an inundation of pretrial publicity as would give rise to a presumption of prejudice. Compare *Coleman v. Kemp*, 778 F.2d 1487 (11th Cir.1985). The voir dire examination and qualification of prospective jurors support the trial court's determination that a change of venue was unnecessary. *Lee v. State*, 258 Ga. 82(9), 365 S.E.2d 99 (1988).

[9] 7. On the day the crime was discovered, an investigator equipped with a \*\*193 video camera filmed the crime scene. The resulting videotape depicts the exterior of the victim's home (including the window through which the defendant entered), the path which he apparently took from the house (dropping things along the way and leaving footprints), the interior of the victim's home (and the extent to which it had been ransacked), and, finally, the victim's body (before and after the removal of the blanket covering her).

The trial court overruled Foster's objection that the videotape was inflammatory and duplicative of the still photographs of the scene and of the body which the state also introduced in evidence.

The videotape clearly was relevant. There was no abuse of discretion in the court's ruling. *Hicks v. State*, 256 Ga. 715(13), 352 S.E.2d 762 (1987); *Jones v. State*, 250 Ga. 498(3), 299 S.E.2d 549 (1983).

8. Foster was interrogated by the police on the afternoon of the day he was arrested. Mike Reynolds, the lead investigator, testified it was "the first time I had ever talked with [Foster] ... [and] I really didn't expect a confession, [so] I didn't turn any of the video equipment on." However, after being ad-

vised of his rights, Foster confessed. Reynolds "didn't want to stop him ... to go turn everything on," so he let him confess, and this first confession was not recorded.

Reynolds showed Foster the crime scene photographs. Foster denied raping the victim, but admitted molesting her with a salad-dressing bottle. Foster stated that he took the air-conditioner out of one of the bedroom windows, set it on the ground, and entered the house. He found some suitcases and began filling them. He found two pocketbooks and searched them for valuables. The victim woke up and went to the bathroom, without turning on any lights. Then, Foster stated, she returned to her bedroom and, turning on the lamp by her bed, saw the defendant for the first time, in the living room. She came into the living room armed with a knife, and chased Foster around the living room chair. He got a piece of wood from beside the fireplace and hit her on the head. After being hit, she ran to the bedroom and fell to the floor. Foster denied strangling the victim, claiming that he had merely wrapped a sheet around her neck. He admitted dumping white powder on her, "because it cools the body off." He could not explain why he "stuck" the salad-dressing bottle "up her," but he covered her body with a blanket so he would not have to look at her. \*741 He left by the back door, and hid what he had taken in a nearby empty house until he could return for it the next day.

After giving the above statement, Reynolds tried to persuade Foster to confess a second time with the video recording equipment turned on. Reynolds testified Foster "was a little hesitant about confessing a second time." He and detective Craft spent "eight or nine minutes ... trying to talk him into confessing to us a second time." Foster expressed concern that he might not say exactly the same thing the second time. The officers assured him that they were not trying to "trap" or "trick" him, and that "it would be better just to put it on tape ... and it will be correct." The interview continued:

Craft: Just tell us again on tape one more time. It ain't going to hurt nothing.

Foster: Why can't we just leave it at that?

Reynolds: If ... you want to leave it at this and not put it on tape, that is fine with me.... Let's just leave it. What this means is that Wayne and I are going to have to sit up all night long and write about you.

Craft: Yeah. But if we put it on tape can't nobody change what the tape says, you know. Okay? This is—this is as much for your benefit as it is ours ... so let's just go through it right quick one more time and get it over with ... Okay?

Reynolds: Tim, I haven't lied to you through the whole night, and I haven't tried to trick you through the whole night, and I am not trying now.... [Y]ou [sat] in here and told two police officers everything about it.... I am not trying to push you or bluff you or \*\*194 anything. It will just make it a lot easier on all of us.

Craft: Tim, let's go ahead and get this thing over with tonight. You told us about it already one time. Okay? Hey, let's run back through it right quick and get it over with and be done with it. Okay? ... Do you want to do that? It ain't going to hurt, not a thing.

Craft: [Y]ou told us about it one time already. It ain't going to hurt, you know. I mean I think you will agree that it ain't \*742 going to hurt, you know, for us to run back through it again right quick....

Thus encouraged, Foster was interviewed a second time on videotape. His second confession was identical in all material respects with the first.

[10] (a) Foster contends first that his confessions were induced by a “hope of benefit,” [OCGA § 24-3-50](#), because he was informed that he would

not be charged with rape. There is no merit to this contention. Foster was simply told that no rape would be charged, based on his statement that no rape occurred. No benefit was offered to induce a confession.

[11] (b) Foster contends further that it was error to admit the second statement in evidence because it was elicited only after he was told repeatedly that it was not going to hurt “a thing,” and that it would be “as much for your benefit as ours.” We agree. An accused must be warned that anything he says can and will be used against him in court. [Miranda v. Arizona](#), 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966). Telling him that a confession is not going to hurt and, on the contrary, will benefit him as much as the police, is not consistent with the warnings required by [Miranda](#).

[12] Nevertheless, there is no reversible error. The videotaped confession was merely cumulative to the first, non-recorded confession, and that confession and the remaining evidence overwhelmingly establish Foster's guilt. Any error here is harmless beyond a reasonable doubt. [Vaughn v. State](#), 248 Ga. 127(2), 281 S.E.2d 594 (1981).

[13] 9. A defense psychiatrist testified that Foster was so intoxicated from the ingestion of alcohol, marijuana and cocaine that he did not know the difference between right and wrong at the time of the crime. He also testified that Foster has an anti-social personality disorder, but that when he is sober he is neither insane nor mentally ill under Georgia law.

On cross-examination, the prosecutor asked the psychiatrist if it was true that most people in prison have an anti-social personality disorder. The psychiatrist agreed that it was true. Then the state asked:

So any one of those people that took cocaine and marijuana and beer in the quantities by his story that you say that this defendant took it, would be entitled to walk out of the courtroom as



found acquitted on the basis of insanity. Is that what you're saying?

Foster objected and moved for a mistrial. The trial court denied the mistrial, but sustained the objection and instructed the jury to \*743 disregard the question. The court did not err by refusing to declare a mistrial.

10. The court charged on voluntary and involuntary intoxication as follows:

Our law provides that voluntary intoxication shall not be an excuse for any criminal act. It provides further that if a person's mind when unexcited by intoxicants is capable of distinguishing between right and wrong and reason and acting rationally, and he voluntarily deprives himself of reason by consuming intoxicants and while under the influence of such intoxicants, he commits a criminal act, he is criminally responsible for such act to the same extent as if he were sober. Whether or not the defendant was voluntarily intoxicated at or during the time alleged in this indictment is a matter solely for you, the jury, to determine.

**\*\*195** A person shall not be found guilty of a crime when, at the time of the conduct constituting the crime, the person, because of involuntary intoxication, did not have sufficient mental capacity to distinguish between right and wrong in relation to the criminal act.

Involuntary intoxication means intoxication caused by (a) consumption of a substance through excusable ignorance, or (b) the coercion, fraud, artifice or contrivance of another person.

These instructions set forth the principles contained in [OCGA § 16-3-4](#).

Foster contends the court erred by refusing his request to charge in addition:

If, because of the influence of alcohol, drugs, or narcotics, one's mind becomes so impaired as to

render him incapable of forming an intent to do the act charged, or to understand that a certain consequence would likely result from it, he would not be criminally responsible for the act.

[14] The law of intoxication contained in [OCGA § 16-3-4](#) must be read in light of [OCGA § 16-3-2](#), which provides:

A person shall not be found guilty of a crime if, at the time of the act, omission, or negligence constituting the crime, the person did not have mental capacity to distinguish between right and wrong in relation to such act, omission or negligence.\*744

[OCGA § 16-3-4](#) limits the reach of [OCGA § 16-3-2](#) so that the inability to distinguish between right and wrong is *not* a defense if the inability is a consequence of voluntary intoxication (but remains a defense if the inability is a consequence of *involuntary* intoxication).

[15] Neither code section speaks of an inability *to form an intent* to commit the act. Persons are not excused from criminal liability under either of these code sections because they are incapable of forming criminal intent. As we observed in [Pope v. State, 256 Ga. 195 at 208, 345 S.E.2d 831 \(1986\)](#), a person can be capable of forming an intent to kill but incapable of understanding the difference between right and wrong.<sup>FN4</sup> Lack of intent is a defense, but it is not implicated by either [OCGA § 16-3-2](#) or [OCGA § 16-3-4](#). In [Jones v. State, 29 Ga. 594\(2\) \(1860\)](#), this court explained:

**FN4.** Foster's own psychiatrist testified that although Foster was incapable of distinguishing between right and wrong at the time of the crime, he *was* capable of forming the intent to do the acts he committed.

[T]he minimum of mind which can furnish the necessary mental element in crime, is a far smaller quantity than was claimed by the argument for the accused....

Whoever ... has mind enough to form the simple intention to kill a human being, has mind enough to have malice, and to furnish the mental constituents of murder....

And this brings [us] to a consideration of the great perversions which have been made of the doctrine that drunkenness is no excuse for crime. The foundation stone of these perversions, not distinctly shaped in the argument, but unconsciously assumed in it, is a feeling or notion that the exemption of insane persons and young children from criminal responsibility, is not the result of positive law excusing them, but is the simple consequence of their mental deficiency, which is supposed to be so complete as not to be capable of furnishing the mental element of crime; while the drunken man, with the same actual mental deficiency, is held responsible for his actions, not because they are crimes having the mental and physical element of crime, but by virtue of a certain *destructive* capacity infused into him, from reasons of policy, by the law which declares that drunkenness shall be no excuse for crime. The reverse of all this is the true philosophy of the law. The law deals with all of these classes of \*745 people, as having a sufficient quantum of mind to have bad passions, and evil intentions, and carelessness in their actions, and so to furnish the mental element of crime, but as laboring also under an infirmity of reason, which serves to betray them into these evil intentions and carelessness, and at \*\*196 the same time breaks down this power of resisting temptation. The law comes in then, and excuses the young and the insane, out of tenderness towards an infirmity which is involuntary, and at the same time, to guard against the possibility that men might make the same excuse whenever there is the same infirmity of reason, the law takes special care to exclude drunken men from the excuse, because their infirmity is voluntary.

The result is, that the young and the involuntarily insane occupy a platform of their own, by virtue

of an exception made in their favor, while the voluntary insanity of drunkenness being excluded from the exception, stands just as if no exception had been made, and the drunk man and sober man occupy the same great platform of responsibility for the crimes which they commit....

*Id.* at 609–10.

[16] Foster's requested charge is misleading, because it implies that the intoxication defense involves a lack of intent to commit the crime, when intent is, in fact, a separate issue.

The trial court charged on intent, including the state's burden to prove intent beyond a reasonable doubt. The court did not err by refusing to give in addition the defendant's requested charge on inability to form intent as a result of intoxication. *Gilreath v. State*, 247 Ga. 814(13), 279 S.E.2d 650 (1981).

[17] 11. “The statutory provision that ... mental illness be proved beyond a reasonable doubt is not constitutionally infirm. [Cit.]” *Spivey v. State*, 253 Ga. 187, 189, 319 S.E.2d 420 (1984).

[18] 12. The state urged the presence of two statutory aggravating circumstances at the sentencing phase of the trial: (1) the murder was committed while the offender was engaged in the commission of burglary, and (2) the murder was outrageously or wantonly vile, horrible or inhuman in that it involved torture, depravity of mind, or an aggravated battery to the victim. OCGA § 17–10–30(b)(2) and (b)(7). The court's charge included an instruction that if the jury should find the § b(7) circumstance, its verdict should specify which of the three elements of § b(7)—torture, depravity of mind, or an aggravated battery—the jury found. See *West v. State*, 252 Ga. 156, 162 (Appendix), 313 S.E.2d 67 (1984).

\*746 A type-written verdict form was submitted to the jury as follows:

The following aggravated circumstances as to

Murder has [sic] been submitted by the State of Georgia and must have been proved to the satisfaction of the jury beyond a reasonable doubt before a verdict recommending the death penalty is authorized, to wit.

1. The offense of murder was committed while the offender was engaged in the commission of Burglary.

2. The offense of murder was outrageously or wantonly vile, horrible, or inhuman in that it involved torture, depravity of mind or an aggravated battery to the victim.

The jury will answer the following questions:

1. Did you find beyond a reasonable doubt the aggravated circumstances to exist as to the murder?

2. If so, write the aggravated circumstances below as to murder.

3. As to murder: (A) We the jury recommend the death penalty. YES ( ) NO ( )

B. We the jury recommend Life Imprisonment. YES ( ) NO ( )

The jury filled in the form by writing “yes” after the first question, and by writing after the second question:

Torture—powdered body, eyes & nose, salad bottle in vagina, strangulation

Depravity of mind—powdered body, salad bottle in vagina, strangulation

Aggravated battery—hit with stick (log) disfigured face, strangulation

Finally, the jury checked “yes” to 3(A) and drew a line through 3(B).

The jury convicted Foster of burglary and answered “yes” to the question whether it had

found beyond a reasonable doubt the proffered “aggravated circumstances” \*\*197 (plural), one of which was burglary. However, the jury failed to list burglary in the space provided under \*747 the second “question”. Although it is likely that the jury meant to find that the commission of the offense of burglary was a statutory aggravating circumstance of the murder, we cannot be sure that the jury intended to do so, and we shall not consider burglary as a statutory circumstance supporting the imposition of a death sentence. [OCGA § 17-10-30\(c\)](#).

That leaves the § b(7) circumstance. Since no one at trial objected to the form of the verdict, the question here is not whether the form of the verdict might be objectionable, but whether “the jury's intent [was] shown with sufficient clarity that this court can rationally review the jury's finding.” [Romine v. State](#), 251 Ga. 208, 213, 305 S.E.2d 93 (1983). We are satisfied that the jury intended to find the § b(7) circumstance in its entirety and to follow the trial court's instructions by specifying in particular that it had found each of the three principal elements of § b(7). See [Hance v. State](#), 245 Ga. 856(3), 268 S.E.2d 339 (1980).

The evidence showed that Foster hit the victim with a fireplace log hard enough to break her jaw, sexually molested her, poured talcum powder all over her face, and then strangled her to death. The jury's § b(7) finding is supported by the evidence. [OCGA § 17-10-35\(c\)\(2\)](#). Compare [Phillips v. State](#), 250 Ga. 336(6), 297 S.E.2d 217 (1982).

[19] 13. The death sentence was not imposed under the influence of passion, prejudice or other arbitrary factor, and is neither excessive nor disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant. [OCGA § 17-10-35\(c\)\(1\)](#) and (c)(3). The similar cases listed in the Appendix support the imposition of a death sentence in this case.

JUDGMENT AFFIRMED.

All the Justices concur.

APPENDIX

*Blankenship v. State*, 258 Ga. 43, 365 S.E.2d 265 (1988); *Crawford v. State*, 257 Ga. 681, 362 S.E.2d 201 (1987); *Parker v. State*, 256 Ga. 543, 350 S.E.2d 570 (1986); *Devier v. State*, 253 Ga. 604, 323 S.E.2d 150 (1984); *Allen v. State*, 253 Ga. 390, 321 S.E.2d 710 (1984); *Felker v. State*, 252 Ga. 351, 314 S.E.2d 621 (1984); *Brown v. State*, 250 Ga. 66, 295 S.E.2d 727 (1982); *Messer v. State*, 247 Ga. 316, 276 S.E.2d 15 (1981); *Justus v. State*, 247 Ga. 276, 276 S.E.2d 242 (1981); *Green v. State*, 246 Ga. 598, 272 S.E.2d 475 (1980); *Cape v. State*, 246 Ga. 520, 272 S.E.2d 487 (1980); *Thomas v. State*, 245 Ga. 688, 266 S.E.2d 499 (1980); *Gates v. State*, 244 Ga. 587, 261 S.E.2d 349 (1979); *Brooks v. State*, 244 Ga. 574, 261 S.E.2d 379 (1979); *Collins v. State*, 243 Ga. 291, 253 S.E.2d 729 (1979); *Davis v. State*, 242 Ga. 901, 252 S.E.2d 443 (1979); *Johnson v. State*, 242 Ga. 649, 250 S.E.2d 394 (1978); *Moore v. State*, 240 Ga. 807, 243 S.E.2d 1 (1978); *Gibson v. State*, 236 Ga. 874, 226 S.E.2d 63 (1976).

Ga., 1988.

*Foster v. State*

258 Ga. 736, 374 S.E.2d 188

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# APPENDIX D

IN THE SUPERIOR COURT OF FLOYD COUNTY  
STATE OF GEORGIA

THE STATE OF GEORGIA

VS.

TIMOTHY TYRONE FOSTER

CRIMINAL ACTION  
NO. 86-2218-2

ORDER ON MOTION FOR NEW TRIAL

This matter having come on regularly to be heard, and after consideration of the arguments, briefs, and transcript in the above-styled case, the Court denies the Defendant's Motion for New Trial.

In his motion, Defendant argues that this Court erred by finding that the District Attorney had exercised the state's peremptory strikes in a racially neutral manner as required by *Batson v. Kentucky*, 476 U.S. \_\_\_, 106 S.Ct. 1712 (1986).

The Georgia Supreme Court decision of *Gamble v. State*, 257 Ga. 325, 357 S.E.2d 792 (1987) was rendered on July 9, 1987, after the trial of this case. However counsel on both sides have addressed the strikes in its light in their arguments and briefs on the motion for a new trial.

At trial, the Court found that the Defendant Foster met his burden under Batson of showing a prima facie case of purposeful discrimination in selection of the petit jury. This finding was based upon, first, the fact that the Defendant is a member of a cognizable racial group. Next, that the victim in the case was white, and the defendant Foster is black. Further, that the prosecutor did exercise four of his peremptory strikes

against venire members of the Defendant's race, which eliminated the venire members who shared the Defendant's race. However, this Court did not believe that these factors alone were sufficient to constitute a prima facie showing entitling Defendant Foster to an explanation of the state's use of its peremptory challenges to strike black veniremen. The final factor was that, although the Defendant's counsel suggested the peculiar notion at trial that the defense did not have the burden as movant, they did argue to the Court that there were no reasons independent of race for the striking of the four black veniremen. Although the facts argued were not extensive, merely pointing out that none of the four, except Mrs. Hardge, had met or knew the Defendant's family, or had read the local newspaper a great deal, in combination with the previous factors no other particular reason stood out about these potential jurors other than race (except for Mrs. Hardge). Therefore, the Court found that a prima facie showing had been made.

In response to the Court's statement that the burden had shifted to the state, the prosecutor elucidated reasons (Trial Transcript at 1357 - 1377) for the strikes of each of the four black jurors which comported with the mandate in Batson for "clear and reasonably specific" explanations of his "legitimate reasons." Batson, 106 S.C. at 1723, n. 20. Before addressing the specific reasons the prosecution gave for each of the contested strikes, some preliminary observations are in order.

Batson instructs that the Equal Protection Clause permits

strikes for reasons which are related to the prosecutor's view of the outcome of the case; however a challenge solely due to race is impermissible. Batson, 106 S.C. at 1719. This Court evaluated the prosecutor's reasons in light of his stated objective, namely that of obtaining a jury capable of rendering the death penalty. The Court, knowing the nature of the crime and this prosecutor, finds that a completely credible statement.

In addition, voir dire took place from Monday, April 20, 1987 to Friday, April 24, 1987. The actual jury selection occurred on the morning of Monday, April 27, 1987. This means that both the prosecution and the defense had the intervening weekend to carefully assess the prospective jurors. In this particular case, where each venireman had filled out a five-page questionnaire, and was questioned in voir dire for approximately 30 minutes, clearly both sides had a lot of material to digest in determining their strikes. In light of the obvious attentiveness that the prosecuting attorneys displayed to the answers given on the written questionnaire and during the extensive voir dire, and the lengthy period which was used to determine strikes, the Court believes that the prosecutors involved undertook long and careful assessments based on many factors. This contributes to the Court's view that the prosecutor's use of strikes was based upon the required non-racial grounds. See U.S. v. Matthews, 803 F.2d 325, 332 (7th Cir. 1987).

Additionally, the nature of this selection process is one



involving many, many aspects of each venireman. The possible permutations are mind-boggling. While each side has marshalled numbers stricken on this or that basis, in point of fact, it is the unique combination of factors that makes a venireman more or less desirable; a comparison in that manner is infinitely more complex than the already complex comparison of many separate attributes among an entire group of people.

Next, the Court notes that the reasons given "need not rise to the level justifying exercise of a challenge for cause." Batson, at 1723. Further, to use the terminology of Gamble, the Defendant's prima facie showing was not strong, thus it may be more readily rebutted. Gamble, 257 Ga. at 327.

While the defense argues in its brief that the prosecutor indulged in "100 percent discrimination," this is not correct. In Gamble, the disparity between blacks and whites was determined by computing the percentage of blacks on the panel of 42, and using that percentage as the basis for assigning a percentage to represent the disparity. Using that method yields 7.1 percent ( $3/42 = 0.071428571$ , or 7.1 percent), as the defense has not challenged the state's strike of Mrs. Hardge. This figure is far below the level in Gamble, though Gamble was almost a worst-case scenario. (If the striking of Mrs. Hardge had been challenged, the figure would have been 9.5 percent ( $4/42 = 0.095238095$ , or 9.5 percent), still far below the 23.8 percent level in Gamble.) Further, unlike the prosecutor in Gamble, the state in this case offered many legitimate reasons for its strikes of the black jurors.

Moving to the first challenged strike, that of venireman Eddie Hood (venireman number 9):

The defense recounted that venireman Hood read the local paper, knew about the Defendant's earlier escape, but did not know the defense witnesses, the Defendant's family, or the victim's family, and did not think his knowledge about the escape could hurt the state's case [Trial Transcript at 1354].

The prosecution's response, although conceding that Mr. Hood was in the age range wanted, included a welter of factors which rationally militated against choosing this particular juror to sit on the panel. Most persuasive to the Court was, first, that Mr. Hood had a son close to the age of the Defendant who had been convicted of theft-by-taking. Cf. U.S. v. Cartlidge, 808 Fed 2d 1064, 1071 (5th Cir. 1987). Further, the facts available indicated that this son lived at home. An apprehension that this would tend to, perhaps only subconsciously, make the venireman sympathetic to the Defendant was a rational one. See U.S. v. Forbes, 816 Fed. 2d 1006. While the defense asserts that the state used different standards for the white jurors, insofar as many of them had children near the age of the Defendant, the Court believes that the conviction is a distinction that makes the difference. (Venireman Martha Duncan, number 88, the state failed to strike despite her nephew's conviction of armed robbery. The defense argues that this shows shifting standards, however, the Court must disagree. A person's feelings for a son are ordinarily much stronger than for a nephew; one's interest in a person living

under one's own roof is ordinarily much stronger than one's interest in someone living in another town.)

This venireman had become ill during voir dire, and had to be hospitalized. While he was available and seemed well on the day of jury selection, it is understandable that the state would not want to take a chance on his continued good health. As it was, one juror was excused after the start of the trial due to illness.

The prosecution stated that Mr. Hood's religion was a factor, too, because their experience in trying death penalty cases (approximately 22 between the two prosecutors trying the case) indicated to them that members of his church, the Church of Christ, were more likely to have difficulty imposing the death penalty. The state also had reservations about Roman Catholics. The Court notes that of those prospective veniremen excused for cause, 12 indicated they would not vote for the death penalty. The numbers here break down as follows:

Three (3) were Roman Catholics.

Three (3) were Methodists.

Two (2) were Church of Christ members.

One (1) was a Baptist.

One (1) identified himself as both Baptist and  
Methodist.

One (1) was a member of the Church of God.

One (1) had no religious affiliation.

The Court finds very credible the state's concern regarding religious affiliation.

Also, Mr. Hood's wife was a supervisor in the food service department at Northwest Georgia Regional Hospital. The defense planned to set up defenses of mental illness and insanity. The defense argues that this factor does not hold up in light of the strikes of white veniremen; that a white venireman was kept who had been connected with the same hospital in the past. However, the Court is convinced that the same factor may have more or less influence with one individual than with another, depending on the presence or absence of other factors. This is not an unusual concept, and the Court declines to analyze human beings as disconnected parts with disconnected attributes as the defense invites it to do. In any event, knowing ignorance of what kind of exposure and discussions Mr. Hood had with his wife concerning patients there, and what kind of impressions such may have had, the decision to forego the risk is an understandable one. Fortunately, on voir dire counsel cannot watch a videotape of the venireman's entire life before determining strikes. To go into depth about all the areas both sides were concerned about could literally have taken years. Perfect knowledge is not possible, and if sought, can only lead to disappointment.

Finally, the state believed that Mr. Hood was soft-spoken and slow in responding to the death penalty questions. The Court notes that his particular confusion about the death penalty questions was not unusual. In light of the fact that

the death penalty was being sought, however, the Court again finds the state's explanation to be credible. Individuals on this jury were to face a very difficult decision, the state would get no "second bite at the apple," and thus, a desire for "strong jurors" was completely understandable.

The state's peremptory strike of Mrs. Evelyn Hardge (venireman number 22) is not challenged by the defense, and the Court agrees that the state had ample reason to excuse her.

The state's peremptory strike of Mrs. Mary Turner (venireman number 38) has been challenged by the defense. The defense alleges that the state used Mrs. Turner's affiliation with Northwest Georgia Regional Hospital as a "sham" reason, to cover racially discriminatory intent. The Court finds this reason somewhat weak in the particular case of Mrs. Turner; however, in Mrs. Turner's case the prosecution gave other reasons which satisfy the Court that she was struck for race neutral reasons. As the Gamble court instructs, a court determining the question at hand "may be less troubled by one relatively weak explanation for striking a black juror when all the remaining explanations are persuasive than where several of the prosecutor's proffered justifications are questionable." Gamble, 257 Ga. at 327.

The district attorney, Stephen Lanier, during the course of this action, has explained that he consulted with Mr. Douglas Pullen, Mr. Clayton Lundy and others to determine his strikes. Mr. Lundy, the state's chief investigator, by his own affidavit and by the district attorney's admission, advised

against selecting this particular venireman. Mr. Lundy stated he advised against selecting her because of what he thought her inclinations would be as a result of facts which she conspicuously omitted in her answer to an important question. Specifically, Mrs. Turner answered question number 32 of the questionnaire in the negative. Question number 32 asks:

Do you have a close friend or relative who has been accused or convicted of a crime of violence? (If so, state the offense, the date of conviction, sentence imposed or if the charges were dismissed.)

The district attorney stated that the prospective juror had a step-brother, Mr. Otis Turner, who had a criminal history. In her affidavit submitted by the defense as Exhibit A to its "Argument" in support of the motion for a new trial, she states that Mr. Turner is her brother-in-law, and that she did not list the charges against him because she "did not interpret burglary convictions as crimes of violence." The state, in its "Brief in Response to Defendant's Batson Argument for a New Trial," attached an Exhibit B which shows that in May of 1986 Mr. Turner was indicted for aggravated assault (with a baseball bat) and burglary. In September of 1986, a nolle prosequi was entered on this indictment. In addition, the investigator knew that her husband also had a criminal history, and she did not mention him, either. In light of these facts, the investigator did not believe she could be a fair and impartial juror in this

case. Under these circumstances, the Court finds credible the state's unease with this venireman.

Further, there appears to be some private disagreement between the prosecutor's chief investigator, Mr. Clayton Lundy, and this venireman. Mrs. Turner claims she and Mr. Lundy are half-brother and half-sister, while Mr. Lundy states in his affidavit that this is not the case. Mr. Lundy actively assisted with the prosecution of this case; this kind of friction could not have been conducive to that prosecution.

The state also expressed concern about eye contact between this venireman and the Defendant. If as a result of this observation the prosecutors believed that there was a certain rapport between this venireman and the Defendant and defense counsel, then, as a strategic matter the state should have struck the venireman as it did. While the defense suggests to the Court that it should "flatly reject" this concern of the prosecution, it declines to do so. Cf. U.S. v. Mathews, 803 Fed 2d 325, 331 (7th Cir. 1986). As the defense has related in its brief, Mr. Hood was said to have no eye contact, Mrs. Garrett looked at the ground, and Mrs. Turner kept eye contact with the Defendant. The defense states that the prosecution has failed to explain the correct way for a venireman to look, and speculates that all that is left is looking at the ceiling. This hyperbole fails to note the obvious: looking at the state's attorneys would be the "correct" way. The defense has insisted that "body language" is important in the selection of a jury (Trial Transcript at 107), and the Court must agree;

further, it is just as important to the state as the defense, and the Court rules on that basis.

The final peremptory which the defense challenges is that exercised by the state against Mrs. Marilyn Garrett (venireman number 86). The state indicated that it was "bothered" by her association with Head Start because that program deals with "low-income, underprivileged" children (Trial Transcript at 1375). As the defense counsel informed the Court before voir dire, they were trying to find jurors who possessed some empathy, or could possess some empathy, for the "socially, culturally and educationally deprived life-style" of the Defendant (Trial Transcript at 85 - 89). Given this, the prosecutor's strike was sound.

The state's investigator also recommended that this juror not be selected. Although it is unclear when the district attorney knew the reasons for his investigator's advice, it is clear the investigator believed that Mrs. Garrett's relationship with a Miss Angela Garrett was a cause for concern. Miss Garrett had just recently lost her teaching and coaching job due to a violation of the Georgia Controlled Substances Act, and the investigator was concerned about this connection.

In addition, the state thought that the venireman's own financial situation might have made her more likely to identify with the Defendant. While the Court believes there is room for disagreement on its likelihood, the Court also believes that the state is honest in voicing its concern that the combination



of holding down two jobs and being the divorced mother of two indicates a less stable home environment, and acknowledges that that was the prime defense in this case. Cf. Cartlidge, 808 Fed. 2d at 1071; Evans v. State, 183 Ga. App. 436, 440 (1987).

Again, the defense's questioning of this prospective juror was abbreviated; that the state took note of that fact and reacted is hardly surprising.

Further, as the district attorney suggested, jury selection can be likened to a game of chess: decisions now affect the existence of options later. The morning of jury selection, Mrs. Powell, venireman number 67, was excused for cause because she had discovered over the weekend that close friends of hers were related to the Defendant, and she could not be fair and impartial. Mrs. Powell had expressed great hesitation over the death penalty. In its brief, the state explained that her excusal changed the dynamics of choosing this jury: venireman Cadle, substituted for venireman Powell, was acceptable to the state. As a result of this movement, one of the state's planned strikes for jurors was rendered unnecessary. Therefore, the state had an opportunity to be slightly more selective about its "keeps" than it had anticipated.

The state indicates that at this point it had two "questionables" left in the panel, and as far as it knew, one strike left uncommitted: Veniremen Blackmon and Garrett. The state's position is that venireman Blackmon (number 83) was a better choice than venireman Garrett, despite her affiliation

with the Catholic church, and her past employment with Northwest Georgia Regional Hospital. (The Court notes that this argument is not invalid because the state used only nine of its 10 strikes. It had reserved a strike for venireman Grindstaff due to her serious reservations about the death penalty. The state could not know in advance that the jury would be selected before she was reached.) In comparing these two, the state noted that Mrs. Blackmon listed her church attendance as "irregular," that her answers on the insanity question were much more favorable to the state's position than Mrs. Garrett's, her home environment appeared more stable (she had been married for over 13 years), and she had no ties to any groups whose purpose was to aid "disadvantaged youth."

In the totality of the circumstances surrounding venireman Garrett, the Court finds credible the prosecuting attorney's position that there was no discriminatory intent, and that there existed reasonably clear, specific, and legitimate reasons for excusal of this prospective juror.

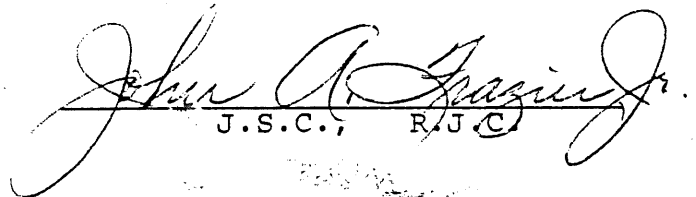
The Defendant's eighth enumeration argues that the Court erred by charging the jury that the Defendant had to prove he was mentally ill beyond a reasonable doubt. However, the case of *Spivey v. State*, 253 Ga. 187, 188 (1984), is directly on point, and the Court is bound by that case.

Defendant's ninth enumeration of error is the failure to give Defendant's request to charge number 13 on the effect of intoxicants on criminal intent, from *Pope v. State*, 256 Ga. 196, 208 (1986). The Pope case does not stand for the

proposition that charges on voluntary intoxication and incapacity to form intent must be given together, which is what the defense seemed to suggest at trial (Trial Transcript at 2441). Indeed, the court in that case was responding to a defendant's argument that such a combination in charge was error because it was "hopelessly contradictory." Pope, 256 Ga. at 208. The court in Pope found that the combination was not error, and never addressed any question as to whether the combination challenged was required. As this is the case, the Court finds this enumeration without merit.

Wherefore, the Defendant's motion for a new trial is denied.

So ordered this 22<sup>nd</sup> day of February, 1988.

  
J.S.C., R.J.C.

# APPENDIX E

1 THE COURT: Is anybody in the courtroom that has  
2 a subpoena?

3 (No affirmative response).

4 THE COURT: Well, I take it that they would  
5 think they are a witness, if they have got a subpoena.  
6 Let's take care of the black jurors first. Do you  
7 have their names?

8 THE CLERK: I don't know who they are, Judge.

9 MR. FINNELL: Your Honor, I can tell the Court  
10 who they are. There was Eddie Hood --

11 THE COURT: Eddie Hood.

12 MR. LANIER: Hold it. We are probably going  
13 to take this up outside their presence.

14 THE COURT: Wait a minute. Just stay out there.

15 MR. FINNELL: Evelyn Hardge, Mary Turner and  
16 Marilyn Garrett.

17 THE COURT: All right. The first one is Mr. Hood.

18 MR. LANIER: Your Honor, first of all under the  
19 Batson challenge, they are the movants. And they have  
20 to -- what the Supreme Court in Batson said, they have  
21 to make out a prima facie case of discrimination more  
22 -- and, of course, the Supreme Court said, "Striking  
23 all blacks resulting in an all-white jury, the Supreme  
24 Court did not find as a matter of law that a prima  
25 facie case had been made by Batson. Rather, there has

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1 to be something else. So they are the movant, and I.  
2 will -- they have the burden of proof.

3 MR. WYATT: No, sir. We contend that the prima  
4 facie case has been made. The State had four blacks  
5 to choose from. They have ten strikes. Out of  
6 forty-two jurors, that is an average of less than one  
7 out of four on the average that they should use  
8 on any particular juror. They used all four on  
9 black jurors. Batson states that the practice  
10 violates their protection clause of the 14th  
11 Amendment to the United States Constitution.

12 In his concurrent opinion, Justice Marshall  
13 indicates that the pernicious nature of the racial  
14 discriminatory use of peremptory challenge is repugnant  
15 to the Equal Protection clause. We have made a prima  
16 facie showing by the mere fact there are no blacks on  
17 the jury despite the State having an opportunity  
18 to keep four blacks.

19 We also contend there is no independent reason  
20 to strike Eddie Hood. Eddie Hood reads the Rome News-  
21 Tribune daily and knew about the escape, but some  
22 twenty-nine of the forty-two jurors read the Rome  
23 News-Tribune daily. We do not see how knowledge of  
24 the escape hurts the State's case. He did not know any  
25 of the defense witnesses or the defendant's family,

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1 and he did not know the victim's family. We con-  
2 tend that there is no showing at all that Eddie  
3 Hood other than race itself --

4 I will now go further into Batson, and they  
5 say, "The prosecutor" -- on page 1723 -- "Once the  
6 defendant makes a prima facie showing, the burden  
7 then shifts to the State to come forth with a  
8 neutral explanation for challenging black jurors.  
9 Though this requirement imposes the limitations in  
10 some cases on the full peremptory character of the  
11 historic challenge" --

12 THE COURT: Now don't get too fast.

13 MR. WYATT: Yes, sir. "-- We emphasize the  
14 prosecution's explanation need not rise to the  
15 level justified in exercise for cause." But then  
16 it goes further, "But the prosecutor may not rebut  
17 the defendant's prima facie case of discrimination  
18 by stating merely that he challenged jurors in  
19 defendant's race on the assumption or his intuitive  
20 judgment that they would be partial to the defendant  
21 because of their shared race."

22 We go to page 1721, and Batson doesn't even  
23 talk about total discrimination; it also talks about  
24 seriously disproportionate exclusion of Negroes  
25 in the jury venires. But we don't even have seriously

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1 disproportionate in this case. We have total,  
2 100 percent, discrimination by the State and ..  
3 using its four challenges to challenge every  
4 black juror in this case. That is repugnant to  
5 the Equal Protection Clause as the Batson v. Kentucky  
6 decision states.

7 Going to the other black jurors, Mary Turner  
8 -- Evelyn Hardge, first of all, did know the  
9 defendant's mother, had met her in the hallway,  
10 but she did not know any of the State's witnesses.

11 Mary Turner did not -- I believe my recollection  
12 is right -- did not know the defendant's family,  
13 but did know some of the -- perhaps somebody involved  
14 in the case, but did not know the family at all.

15 Then the other black juror was Marilyn Garrett  
16 who did not know the defendant or his family and  
17 who only read the paper on Sundays and knew very  
18 little about the case. We contend that the State  
19 can absolutely not come up with any sort of explana-  
20 tion for excluding all four blacks. We at this time  
21 interpose as strong an objection as we can from this  
22 case and this selection of the jury in this case.

23 THE COURT: All right. According to the Court's  
24 understanding of the Batson decision, the burden  
25 now shifts to you, Mr. Lanier.

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1 MR. LANIER: According to the Batson decision,  
2 again it says, "The mere striking of all blacks  
3 in a particular jury is not in and of itself making  
4 out a prima facie case. There has to be something  
5 else." The mere fact that the State uses its  
6 peremptory challenges to challenge all blacks in  
7 a particular jury, then that is not of itself made  
8 a prima facie case. In fact, under Batson, it says,  
9 "The defendant is not entitled to a jury composed  
10 in whole or in part of persons of his own race;  
11 however, the prosecutor is entitled to exercise  
12 permitted peremptory challenges for any reason at  
13 all as long as that reason is related to his view  
14 of the outcome of the case."

15 Your Honor, the State, in Batson v. Kentucky,  
16 that was an armed robbery, and the prosecutor  
17 excused three of the -- of all of the black jurors  
18 in that particular case on an armed robbery case  
19 of a convenience store. In this case, we have a  
20 death penalty, and I want to state for the record  
21 that when I look at a death penalty, I look for more  
22 reasons than race. Race is not a factor. Age of  
23 the person is a factor of the witness -- of the  
24 juror. The gender, female or male, the religious  
25 preference is something I always look at. When I

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1 strike a jury, I look at those combinations. As  
2 we contend -- as has been shown by the number of  
3 people that were excused, generally in my experience  
4 having prosecuted five -- well, this is my fifth  
5 death penalty case, women appear to be more sympathetic  
6 to jurors (sic) in a death penalty case than men.  
7 As indicative of the strikes that I used on my ten,  
8 I struck eight women. Eighty percent of my strikes  
9 were women.

10 Of the thirteen people that were excused by  
11 the Court for cause, because of their views on the  
12 death penalty, nine were women. So again, eighty  
13 percent to eighty-five percent of the people that  
14 were opposed to the death penalty that were excused  
15 for cause were women.

16 The second thing, men appear to be -- in my  
17 opinion -- to be more death penalty advocates than  
18 women. That has been borne out by the number of  
19 excusals under the death penalty. That has been  
20 born out by my strikes that I use. Again, in the  
21 forty-one cases that were excused for cause, and  
22 it is now forty-two due to Ms. Powell, the forty-two  
23 cases that were excused for cause and by agreement,  
24 thirty of them were women. Again, that is more than --  
25 sixty, seventy percent were women, and twelve men.

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1 Women have a tendency in a case of this nature  
2 where the death penalty is being sought -- they have  
3 serious reservations, time conflicts or whatever  
4 it may be, but that is what I look at when I am  
5 trying a death penalty case, and it is borne out  
6 by the fact of the excusals and agreements, that  
7 over seventy-five percent because of death penalty  
8 and other excuses were women who got off the jury  
9 panel.

10 In a case of this nature, when I am looking  
11 at the facts of this particular case, I look at the  
12 age of the victim, and I look at the age of the  
13 defendant. The defendant is nineteen years old now.  
14 The age of the victim was approaching eighty years.  
15 If you will recall, Your Honor, we had eleven blacks  
16 that were coming to this courtroom on April 20th,  
17 eleven.

18 Mr. Hood, a Mrs. Wilson, who was excused for  
19 cause. She was sixty-eight years old. Mr. Hood  
20 is forty-seven years old. Mrs. Wilson was  
21 sixty-eight years old, excused for cause. Mr.  
22 Hine was sixty-five years old and excused for  
23 cause. Again, these are sixty-eight and sixty-five  
24 years old, and I was looking for older, preferably  
25 living alone or retired, stable background, long-term

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community ties.

Mrs. Wilson was excused for cause. She was sixty-eight years old. Mr. Hines was excused for cause. He was sixty-five years old. Mr. Hardge, during the process, got a medical excuse, and he was excused by the Court. He was sixty-nine years old. Mr. Johnson, fifty-six years old. Ms. Turner was thirty-two. Wofford, excused for cause, was sixty-four years old. Powell, who has just been excused, was twenty-five. Garrett was thirty-five. Mrs. Taylor, at the beginning of Court when we called the jurors on April 20th, she came up, and the Court excused her because of medical reasons. She was seventy-three. Brand was excused for medical reasons, and he was sixty-one.

One thing I failed to mention about Ms. Johnson, Juror No. 28, she didn't even show. I don't know why Ms. Johnson didn't show. There was no explanation given, and the sheriff was directed to go out and contact her. But of the eleven black jurors that were put upon the State, only four were left. So in other words, seven potential jurors had been excused for various reasons. Our position, the death penalty, age, medical reasons and familiarity with the defendant.

1 So that left me with four. Now with respect  
2 to Mr. Hood, I saw no problem with his age. He was  
3 exactly what I was looking for in terms of the age,  
4 between forty and fifty, good employment and married.  
5 The only thing that I was concerned about, and I  
6 will state it for the record. He has an eighteen  
7 year old son which is about the same year old as  
8 the defendant.

9 In my experience in prosecuting over twenty-  
10 five murder cases, I have had several cases where  
11 individuals having the same son (sic) as the defendant  
12 who is charged with murder has serious reservations  
13 and are more sympathetic and lean toward that parti-  
14 cular person.

15 It is ironic that his son, and I don't know  
16 which son it is -- Darrell Hood has been sentenced  
17 by my court, by the Court here, to theft by taking  
18 on April 4th, 1982.

19 THE COURT: That is his son?

20 MR. LANIER: That is Darrell Hood who resides  
21 at 13 Copeland Street, his same address. And he  
22 does say on his questionnaire that he has three boys  
23 ages 26, 22 and 18. There is a Darrell Hood that  
24 we have a conviction on that resides at that address,  
25 13 Copeland Street, who was sentenced on April 12th,

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1 1982, twelve months suspended sentence for theft  
2 by taking. Again, theft by taking is basically the  
3 same thing that this defendant is charged with.

4 Mr. Hood's wife also worked at Northwest Regional.  
5 All of my cases that I have excused are people that  
6 have worked at Northwest Regional, because again,  
7 insanity is a defense in this case. Northwest  
8 Regional deals a lot with mentally disturbed, mentally  
9 ill people, and I did not want anybody from Northwest  
10 Georgia Regional. My experience in the past where  
11 insanity cases are involved that they intend to be  
12 more sympathetic and are for the underdog.

13 The juror himself questioned and asked to be  
14 off the jury. He said he had part-time commitments  
15 and other time commitments, and he wanted off. For  
16 no other reason than that, I could have excused  
17 him. But he asked and expressed a desire to be off.

18 During the course of the jury selection, as  
19 the Court will recall, he got food poisoning, and  
20 was hospitalized in the hospital. We were not sure  
21 exactly when and if he was going to be here. He  
22 did show up today, but for medical reasons obviously  
23 if somebody has a serious case of food poisoning  
24 and is hospitalized during jury selection, I was  
25 not sure of his medical -- or health capability.

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1 He appeared in answering to his questions con-  
2 fused, in my opinion, soft-spoken, slow in response  
3 to questions, and certainly was very, very confused  
4 about the use of the word "automatic" and "death  
5 penalty" and life imprisonment. He was definitely  
6 slow in responding to the death penalty questions.  
7 He even hesitated.

8 His answers were very ambiguous and more  
9 importantly to me, he had no eye contact. One of  
10 the things that concerned me, Your Honor, is religious  
11 preference of jurors. His religious preference is  
12 Church of Christ. There have been four other jurors  
13 that have been excused for cause by agreement that  
14 belong to the Church of Christ, Juror No. 35, 53  
15 and 78.

16 Evidently the question was not asked of him  
17 whether or not his church took a stand against the  
18 death penalty. He did not respond to that. His  
19 church took a stand against alcohol. But it is my  
20 experience that the Church of Christ definitely takes  
21 a stand against the death penalty.

22 He also said that his brother counsels people  
23 in drugs, his brother. That concerned me, the fact  
24 that he had a relative who did counsel people involving  
25 drugs. And again, that is the primary defense in

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1 this case.

2 One other question that bothered me about Mr.  
3 Hood is that the defense did not ask him a lot of  
4 questions. I mean they were -- you know, spent  
5 twenty-seven to thirty minutes on every white juror  
6 that we had here. But I will be able to establish  
7 that the average time spent on the four remaining  
8 black jurors was about seven to eight minutes.  
9 The defense did not ask a lot of questions. They  
10 spent ten minutes on him and didn't ask him questions  
11 about insanity, his views on it, about his church  
12 relation to the death penalty, about his membership  
13 of any social or fraternal organizations, his knowledge  
14 of the victim -- did not ask him any questions  
15 involving his attitude on race or the attitude or  
16 the pressure of the community. He did not ask him  
17 any information on whether or not he knew somebody  
18 with an alcohol or drug problem. And again -- or  
19 what his feelings about the race situation involving  
20 Murray v. Turner.

21 He didn't ask him any question about the age  
22 of the defendant in the death penalty cases. You  
23 recall that they asked everyone of the jurors that  
24 question, but did not ask Mr. Hood. They did not  
25 ask him about his feelings about criminal responsibility

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involved in insanity, did not ask him about his feelings about Cocaine use, publicity or the community attitude or pressure.

Given the fact -- again, he was exactly what I was looking for, because I think a crime of this nature transcends any racial bounds. I think people in the black community are just as offended about this as the whites. However, Mr. Hood was not asked all the right questions. He didn't answer all the right questions. He has a son about the same age, and he has another son -- I don't know which age he is -- but again, he has been convicted of theft by taking. All of those reasons are why I said and I struck Mr. Hood. Again, under Batson, I don't have to strike anybody that amounts to cause. All I have to do is have a race neutral reason, and all of these reasons that I have given the Court are racially neutral.

MR. WYATT: Well, in explaining race, he also has now shown his opposition to the female sex, gender discrimination in this case. If you exclude the two black women, the numbers come down on the number of strikes that he used. Some women that he mentioned were excused by cause at our request, Your Honor. So he now gets to the age -- having an older child

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like Tim Foster. We have several people who were selected on the jury -- had children who are about the defendant's age or a little older. Billy Graves has several children. Mr. Dedeurwaerder had five children. Mr. Haulk has children twenty-five and twenty-six years old. Mr. Hall, ages twenty-eight and twenty-three. That is not a -- age of the defendant and that being the reason because Mr. Hood has an eighteen-year-old child -- is not a reason.

Further as far as us only questioning black defendants (sic) seven or eight minutes, the State has had the same right to question potential jurors in any length that they want to. I did not sit down with a stop watch. I don't know who has for the record. But I believe the State inquired more into the black defendants than we did.

MR. LANIER: That is absolutely incorrect.

MR. WYATT: As I said, I did not keep a stop watch. But we contend there is nothing that has been shown in the State's explanation, and they do have the burden of proof now that it has switched to them that shows that the four strikes were nothing but based on race, Your Honor.

THE COURT: Well, the Court overrules the motion and finds that Batson has been met. All right.

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1 What is next?

2 MR. LANIER: Ms. Hardge, H-a-r-d-g-e, Juror  
3 No. 22.

4 THE COURT: Well, I thought that we had covered  
5 the whole --

6 MR. LANIER: No, sir. I want to perfect the  
7 record on giving my reasons for the excusal of everyone  
8 of these jurors, because I think that five or ten  
9 years down the line I need to give a neutral explana-  
10 tion, and I have my explanations given. and I want  
11 the Court to know my reasons for it.

12 With respect to Ms. Hardge, Juror No. 22, if  
13 you will recall, when she took the witness stand  
14 or took the stand, she admitted to the Court and  
15 to us that she had just talked to the defendant's  
16 mother outside the courtroom; however, she said that  
17 would not affect her. The fact that she did talk  
18 to the mother of the defendant concerns me. She  
19 was, in my opinion -- she was seventy years old,  
20 but her answers were totally incoherent. She had  
21 a son, she said, that was twenty-three years old  
22 -- again close to the age of the defendant.

23 She had always noted in her questionnaire that  
24 she had been dismissed from prior jury service.  
25 The defense asked no questions, did not ask her a

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1 single question; however, we spent thirty minutes  
2 on an average to every other juror.

3 MR. FINNELL: Your Honor, let me just interpose  
4 an objection with regard to what the defense asked.  
5 The defense can ask whatever it cares to or does not  
6 care to ask. The State has gone so far as to copy  
7 the defense's questionnaire. So the State had every  
8 opportunity to ask all those questions if they  
9 thought they were pertinent. We don't have the  
10 burden here. They do. I object to Mr. Lanier  
11 trying to shift what we do or do not do. The burden  
12 rests with him and not with us.

13 MR. LANIER: Again, she said at first she was  
14 opposed to the death penalty. But if facts warranted  
15 -- she appeared confused -- ambiguous answers. She was  
16 very slow to answer the death penalty questions.  
17 She stated several times she would automatically vote  
18 for the death penalty, would automatically vote for  
19 life. When asked about death penalty questions, she  
20 made the statement, "What is going to be will be."  
21 And then she said, "I will vote for life regardless  
22 of the evidence. I am against the death penalty,  
23 but despite my beliefs on death penalty, I could  
24 vote for it." If death penalty could be avoided,  
25 like it that way." Didn't answer all the questions

1 on the questionnaire, and the Court had to take  
2 the time to make her fill it out again. She answered  
3 Question No. 27 mistakenly. She wanted off jury  
4 duty, have to see about her husband who is a double  
5 amputee. She did not list church affiliation and  
6 wasn't asked by the defendant anything about her  
7 religious beliefs. In my opinion, and its unfortu-  
8 nate -- Mrs. Hardge is an extremely nice person  
9 -- but she just did not answer the questions cor-  
10 rectly. She appeared confused, very easily swayed,  
11 irrational, bewildered, incoherent. That is my  
12 concern about Mrs. Hardge. Mary Turner --

13 MR. WYATT: For the record, we have no response  
14 to his argument on Ms. Hardge.

15 MR. LANIER: Okay. On Mary Turner --

16 THE COURT: No response?

17 MR. WYATT: No response.

18 THE COURT: Well, I can rule on Ms. Hardge now.  
19 I feel that the State had ample reason to excuse  
20 her.

21 MR. LANIER: Yes, sir. On Mary Turner, again,  
22 she worked at Northwest Regional. Again, I did not  
23 want jurors who worked at Northwest Georgia Regional regard-  
24 less of their capacity. She claims in Question  
25 No. 23 to be my investigator's half-sister, Clayton

1 Lundy's step-sister.

2 THE COURT: Half-sister, she said.

3 MR. LANIER: Pardon?

4 THE COURT: Half-sister.

5 MR. LANIER: Half-sister. My investigator,  
6 who is black, for the record said that she was not  
7 his half-sister. She appeared to me to be hostile  
8 to the Court and counsel when answering questions.  
9 She did not answer Question 32 correctly.

10 If you will recall, 32 is a question that says,  
11 "Do you have a close friend or relative who has  
12 been ever accused or convicted of a crime of violence?"  
13 She did not state in the record, but one of her  
14 step-brothers is Otis Turner. Otis Turner, Your  
15 Honor, if you will recall, is a repeat offender  
16 with this Court. In fact, he is on a particular  
17 drug charge right now. He has a lot of theft by  
18 taking and burglary charges, Otis Turner. When  
19 she did not answer the question posed by the defense,  
20 whether or not -- she was asked whether or not she  
21 knew anybody with an alcohol or a drug problem,  
22 she said, "No."

23 Again, it is the position of the Court that  
24 she was being less than candid, because her half-  
25 brother is Otis Turner, who has been charged on

1 five to seven different occasions with theft, burglary  
2 and drugs. My experience in that she said -- her  
3 occupation is dispensing drugs throughout the State  
4 of Georgia, yet no one -- she knows no one when  
5 asked the question about any drug problems. Again,  
6 she stated she didn't know anybody, and again, Otis  
7 Turner who is charged in this court with Violation  
8 of the Georgia Controlled Substances Act -- she  
9 said she didn't know anybody. That is inconceivable  
10 to the State.

11 She was more -- in questioning, she was more  
12 courteous and pleasant to defense counsel when  
13 answering the questions, and she appeared hostile  
14 to the State's questions. She became very defensive.

15 The thing that concerned me most about Mrs.  
16 Turner was that she kept looking at the defendant  
17 when she was answering the questions, and she would  
18 not look at the State's counsel. She kept a constant  
19 eye contact with the defendant, and I looked at  
20 the defendant, and he kept a constant eye contact  
21 with her.

22 She appeared nervous when asked by the State  
23 regarding any question about the defendant. She  
24 hesitated very strongly when answering the death  
25 penalty question. She did not like answers to

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1 insanity -- no, excuse me. I did not like her  
2 answers on the insanity questions as posed by the  
3 defense. She appeared confused at times, had to  
4 have questions repeated. Pictures made her sick,  
5 nervous stomach. Didn't like the question on race,  
6 "depends on person and where they come from." Now  
7 that was her answer.

8 Your Honor, it said -- she said, "It depends  
9 on the person and where they come from." As the  
10 Court is well aware, the defense in this case is  
11 that the defendant is an underprivileged kid that  
12 because of his environment is the one that committed  
13 this act. That is their defense, mentally ill.  
14 So again, her answer, "Depends on the person and  
15 where they come from," that is the whole basis for  
16 the defense. That is one of the reasons why I struck  
17 Mary Turner.

18 Again, when answering questions on temporary  
19 insanity said no. She said that she would not believe  
20 in temporary insanity, and they made no motion to  
21 excuse her for cause like they did on Mrs. Barbogello.  
22 There were repeated questions by the defense con-  
23 cerning her views on temporary insanity. She said  
24 she didn't believe in it. Yet, they made no motion  
25 to excuse her for cause, just like they did on Mrs.



1 Barbogello, So I felt that my opinion that they  
2 obviously did not want to pursue it further with  
3 her -- and I struck her. With respect to Mrs.  
4 Garrett --

5 THE COURT: Well, I think he is wanting to  
6 answer as to Mrs. Turner.

7 MR. LANIER: Okay.

8 MR. WYATT: First of all, it is our choice  
9 whether to excuse Ms. Turner for cause. He  
10 didn't ask to excuse her for cause either at that  
11 point. Working at the TB Control Unit, I don't  
12 see what that has to do with knowledge of the  
13 insanity defense, Your Honor. But still somebody  
14 what the State has said on both him and Mr. Hood  
15 is that he wants somebody ignorant on our defenses.  
16 I don't know if that is a good reason. I don't  
17 know what statistics has been done on eye contact  
18 and who is great at eye contacts or whether eye  
19 contacts are on the record in this case. That  
20 is certainly an --

21 THE COURT: Anyway, in the interest of  
22 time, I think he has explained satisfactorily to  
23 the Court as to this last one -- what is her name,  
24 Turner?

25 MR. LANIER: Yes. Mary Turner.

THE COURT: All right.

MR. LANIER: And with respect to the last juror, No. 86, this probably was the most potential witness -- juror that I had. She was thirty-seven years old. The thing that concerned me about Mrs. Garrett, and again, when the -- that is what is great about the State having -- and the defense having voir dire. In some courts, the Court does the voir dire, and that leaves the attorneys out of that area. We have only about five or ten minutes to judge a person, how they would vote in a case, by the way they look, by the questions that are posed, answers given and about how they appear in Court. I looked at her, and she would not look at the Court during the voir dire, kept looking at the ground.

Again, that to me, concerned me. Her answers were very short, if the Court will recall. In fact, Doug Pullen put down in his notes, "Almost curt and impudent. Said yeah to the Court on four occasions. Shows a complete disrespect for the Court and its authority." She appeared very shaky, very nervous. Her voice quivered. Not a very strong juror. She, in my opinion, was too young. She was thirty-four years old. She said she was not familiar with the North Rome area, and unfortunately,

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ROME, GEORGIA  
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1 in her questionnaire, she grew up -- she went to  
2 Main Elementary or Main School, which is again two  
3 blocks from where this crime happened. She said  
4 -- and yet she drives by the North Rome area every  
5 day from Morton Bend Road when she goes to work.  
6 She is divorced. Again, I was looking for stability.  
7 She has two jobs working seventy-eight hours a week  
8 and has two children, and yet she didn't ask off  
9 for any reason because of sequestration, with two  
10 jobs and two children didn't ask off.

11 The defense did not ask her questions about  
12 race, about integrated schools, about feelings about  
13 integration, about criminal responsibility, insanity,  
14 temporary or what, against alcohol, no questions  
15 -- not much questions on publicity and no questions  
16 on pressure or attitude.

17 The thing that bothered me probably the most  
18 about this case and about this juror, and I would  
19 have taken her except for this one thing, her  
20 association and involvement in Head Start. Again,  
21 Head Start deals with low income, underprivileged  
22 children. From what I understand from the defense,  
23 that is the central issue in their defense, that this  
24 defendant came from a low income underprivileged,  
25 disadvantaged youth, which caused what happened

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1 to Ms. White. Again, her affiliation, her relation-  
2 ship with Head Start and her age being so close  
3 to the defendant, and all the above questions caused  
4 me the greatest concern about Ms. Marilyn Garrett.  
5 So I then chose to use my last -- one of my peremptory  
6 strikes on her.

7 I again emphasize to the Court that eighty percent  
8 of my strikes were women. Unfortunately, three  
9 of the four blacks were women, and I -- do you  
10 remember Tim Pape who is now a judge, -- when the  
11 defense said I am now against women; I am not.

12 I look for the cause of the case, which is the death  
13 penalty. Right from the very start, in this case  
14 -- right from the very start, we have been striking  
15 a jury for the death penalty. If the Court is  
16 aware -- I am sure the Court is -- there have been  
17 offers of pleas in this case. We are not here,  
18 and I am not here for the guilt/innocence case.

19 I think we have a jury, and any one of those jurors  
20 would have been good for the guilt/innocence. I  
21 am looking at this case primarily for the death  
22 penalty, and despite the offers of pleas, I am going  
23 for the death penalty in this case. So my whole  
24 objective in striking eighty percent women and two  
25 men were their views on death penalty and their

1 relationship to their environment and the defendant.

2 That is my whole purpose, certainly race neutral.

3 Thank you.

4 MR. WYATT: Just one comment on that. Now he  
5 has gone from "I am not striking them because they  
6 are black, because they can identify with low income  
7 people." I don't think we need statistics to show  
8 that most blacks are on the lower economic level  
9 of society in this town, Your Honor.

10 We contend -- he said that was his main purpose  
11 because she had worked with Head Start. We contend  
12 that is absolutely no reason to strike her.

13 THE COURT: Well, the Court is satisfied that  
14 Batson has been satisfied. The motion is overruled.

15 MR. FINNELL: Your Honor, I would like to make  
16 one addition on the record, and afterwards, the  
17 Court might want to direct an inquiry about it.

18 THE COURT: Do what?

19 MR. FINNELL: I would like to make an observa-  
20 tion on the record concerning this, and the Court  
21 might want a follow-up inquiry into it by the State.  
22 That is, I am extremely impressed with the prepara-  
23 tion that the State has done with regard to this  
24 Batson hearing. I am wondering -- I am very curious,  
25 Your Honor, the statistics, the knowledge, everything

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1 that Mr. Lanier had laid out, I don't think he did  
2 it this morning. I think it was preplanned, and  
3 I think, Your Honor, that the Court might want to  
4 inquire as to the State as to whether or not they  
5 have done this with every juror, if they could give  
6 statistics like that in relationship to any other  
7 juror other than the four blacks. I almost bet  
8 they can't. If they can't, Your Honor, that shows  
9 that they arranged this entire stage. They did  
10 all these statistics in evidence just so they could  
11 justify their discrimination. Now if Mr. Lanier  
12 has that kind of background statistical data that  
13 he did on every juror, then I will be silent. But  
14 I have got a feeling that it was just done on those  
15 four to five potential black jurors. If it was,  
16 Your Honor, then that showed that up there in the  
17 district attorney's office, they were up there saying,  
18 "Okay, guys, how are we going to have to justify  
19 striking these black jurors? Well, let's start  
20 pulling out the statistics on each one and comparing  
21 them to the pool as a whole, and then we will put  
22 that on the record. And when we do, then we can  
23 say we are race neutral."

24 But if those acts took place, Your Honor, and  
25 if they don't have that on every juror, then I would

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1 suggest to the Court that that would be evidence  
2 of purposeful discrimination on behalf of the State.

3 MR. LANIER: I want to make the observation,  
4 Your Honor, -- of course, defense counsel has  
5 obviously not read Batson v. Kentucky. Batson v.  
6 Kentucky does not require the State to list any  
7 reasons for their excusals, peremptory or otherwise,  
8 of any white juror. But the thing that concerns  
9 me is that we made out of the four jurors, the black  
10 jurors, we made motions to excuse two of them for  
11 cause, and, of course, they were rehabilitated;  
12 and they remained in the jury pool.

13 There is a thing that also concerns me about  
14 this particular -- about what the defense counsel  
15 is saying -- as I told the defense counsel, and  
16 I told this Court, this crime crosses race boundaries.  
17 This crime offends black community just as much  
18 as it does white. I am sorry that I had to have  
19 -- pick from eleven potential jurors, I only had  
20 to have four to pick from. By process of attrition,  
21 seven of them have left us through medical, death  
22 penalty and otherwise.

23 I resent the implication, and I think Justice  
24 Rheinguest in the decision in Batson v. Kentucky  
25 said it perfectly well. "This Batson decision

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1 makes the prosecutor have to state on the record,  
2 and I don't like stating on the record anymore than  
3 anybody else my reasons for excusing potential jurors.  
4 I look at it color-blind. I have my reasons for  
5 excusing the white jurors just as well. But under  
6 Batson v. Kentucky, I don't have to give them.

7 THE COURT: Well, the Court has made its ruling,  
8 and the ruling shall stand. All right. I think  
9 we have these lists now. I want you to listen,  
10 Gentlemen. If you have any objections to any of  
11 the things that -- all right. This is Nancy Cadle.  
12 She wants a hair brush, comb and lift -- what in  
13 the world is a lift? Is that those things with  
14 the --

15 THE CLERK: The prong things. Yes, sir. We  
16 have to have those.

17 THE COURT: Make-up, toothpaste, toothbrush,  
18 Collagen and Elasten lotion, gown, robe, house shoes,  
19 underwear, red Levi pants, red and white blouse,  
20 white shirt jacket, black pants and sweater, blue  
21 pants on cedar chest, blue sweater, white shoes,  
22 knee -- I guess knee his -- needlepoint, yarn, needle  
23 and scissors in den, carton of cigarettes. "Buy  
24 cat food and feed cats. The car is in parking deck  
25 on third deck." Here are the keys. Here is the

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# APPENDIX F

REPORT NO JUR100-01

FLOYD COUNTY SUPERIOR COURT

SD NO: 53 PAGE 1

REPORT DATE: 01/21/87

TRAVERSE JURY

APRIL 20, 1987

DGE: ROBERT G WALTHER

JURORS REQUESTED: 130

TIME: 9:30 A.M.

001. DEMPSEY NEAL BARRY  
129 BARRON RD NE  
ROME GA 30161

002. HARPER BONNIE *oper. Desota Beauty Shop Note: She is Ronnie Duck's 3 PRIMULAS DR G. best Aunt*  
ROME GA 30161

003. LANIER SARAH Elaine *CLK. Belk's*  
711 LEE AVENUE  
ROME GA 30161

004. RATLIFF WILEY KELVIN *works at Revco Pharmacist*  
4915 CALHOUN RD NE  
ROME GA 30161

005. HACKETT MARY A *husb. V. Pres. Valley vend see attached sheet*  
3 MITCHELL CIR  
ROME GA 30161

~~006. CECIL KIP ALAN WM~~  
~~52 PINERIDGE DR~~  
~~SILVER CREEK~~ GA 30173

007. BEYSIEGEL MARY ELLEN *Co. Dept. family & child. services*  
4 NORTHWOOD DR  
ROME GA 30161

008. CAGLE RICKEY *Fireman City of Rome see attached sheet*  
3651 CAVE SPRING RD SW  
ROME GA 30161

009. HOOD EDDIE *Age 47 hlp. G.A. Kraft see attached sheet*  
13 COPELAND ST  
ROME GA 30161

010. NICHOLSON JOYCE M *techr. Elm. sch. Elem. Sch.*  
5 CONWAY PL  
ROME GA 30161

011. MCGINNIS NONA ADLINE *Retired*  
7 MCGINNIS DR SE  
ROME GA 30161

~~012. CLEMENTS J TERRY~~  
~~201 TURNER CHAPEL RD~~  
~~ROME~~ GA 30161

013. HOELZER MARGARET D *husb. Pediatricist on Blvd. st.*  
907 EAST 2ND AVE  
ROME GA 30161

014. STANSELL MARY H *husb. works for Power Co.*  
1928 L TEXAS VLY RD NW  
ROME GA 30161

015. WILSON LOUISE *Age 68 Retired owns her home see attached sheet*  
1603 FLANNERY ST  
ROME GA 30161

016. BARBOGELLO MAUREEN B *husb. is Super. Triplitt Sales Inc.*  
207 AUSBURN RD  
ROME GA 30161

017. CARR ANNA W *Retired*  
31 MAPLEWOOD SQ  
ROME GA 30161

018. BING PATRICIA A *OK*  
5452 FOSTER MILL RD SW  
CAVE SPRINGS GA 30124

019. HINES CORRIE LEE *Age 65 Retired owns his home see attached sheet*  
131 CHAMBERS ST  
ROME GA 30161

020. EVANS MYRTLE FRANCES  
186 TURK MT RD NE  
ARMUCHEE GA 30105

021. BLACK DOROTHY M  
5117 ALA RD SW  
ROME GA 30161

022. HARDGE EVELYN *Age 69 Retired her & her husb. own their home*  
334 WEST ROSS ST  
ROME GA 30161

023. COULTAS ANNE B *Works for Security Berry College*  
482 OLD BELLS FERRY RD  
ROME GA 30161

024. HOBGOOD LOU ELLA *husband is officer w/ GA. State Bank*  
28 PINE VALLEY RD  
ROME GA 30161

025. DEDEURWAERDER VICTOR *Retired owns his home*  
28 WINGFIELD ST  
ROME GA 30161

~~026. STANLEY RUBY BARNES~~  
~~296 PAINTER RD NE~~  
~~ROME~~ GA 30161

027. HOUSE CHARLOTTE *She is related to Mrs Hubbard neighbor of Mrs White*  
333 FREEMAN FERRY RD *husb. w/ GA. Power*  
ROME GA 30161

028. JOHNSON BOBBIE JEAN *Age 56*  
5 ROONEY RD  
ROME GA 30161



REPORT NO JUR100-01  
REPORT DATE: 01/21/87  
JUDGE: ROBERT G WALTHER

FLOYD COUNTY SUPERIOR COURT  
TRAVERSE JURY  
JURORS REQUESTED: 130

SD NO: 53 PAGE  
APRIL 20, 1987  
TIME: 9:30 A.M.

029. TATE RAY ALLEN  
5809 BIG TEXAS VLY RD NW  
ROME GA 30161

043. <sup>Superd. Janitor At Berry College</sup>  
FUQUA MERRIAM A  
820 WARREN RD NE  
ROME GA 30161

~~030. NIXON KENNETH LEWIS~~  
18 KINGS COURT  
ROME GA 30161

044. <sup>works for S. Railway</sup>  
HALL DONALD H  
79 HALL RD  
SILVER CREEK GA 30173

031. <sup>Field Wkr. State Dept of Labor</sup>  
GRAVES BILLY E  
8 MONTRE CIRCLE SE  
SILVER CREEK GA 30173

045. <sup>Retired owns his home</sup>  
MCMAHON GEORGE J  
2624 LAKERIDGE CIR  
ROME GA 30161

~~032. SALMON JODY OBELL~~  
325 SOUTH MELIN ST.  
ROME GA 30161

046. <sup>works at GA. Kraft (owns his home)</sup>  
LEROY CLAIBORNE R  
579 OLD ROCKMART RD SE  
SILVER CREEK GA 30173

033. <sup>owns his home</sup>  
COCHRAN JAMES T  
6 LINDBERG DRIVE  
ROME GA 30161

~~047. GARNER JAMES C JR~~  
203 DODD ST  
ROME GA 30161

034. HAWKINS DEENA LOUISE  
RT 1 FLOYD SPRINGS RD  
ARMUCHEE GA 30105

048. HAMMOND SELENA D  
3 FRANKLIN ST  
ROME GA 30161

035. <sup>husb. is mktg. Rep. Ga. Power Co.</sup>  
TERRY THELMA B  
632 SPOUT SPRINGS RD  
ROME GA 30161

~~049. GRAY ROLAND L~~  
206 BROOKWOOD AVE  
ROME GA 30161

036. HOWSE ELIZABETH B  
886 HORSELEG CRK RD  
ROME GA 30161

050. <sup>Tech. N.W. Reg. Hosp. owns his home</sup>  
HENSON SCOTT R JR  
100 CHATILLON ROAD  
ROME GA 30161

037. <sup>Retired owns his home</sup>  
HILL DORSEY B  
404 ROBINHOOD RD  
ROME GA 30161

~~051. HANSON LARRY J~~  
23 FANNIN STREET  
CAVE SPRINGS GA 30124

038. <sup>Age 37 office clk. N.W. Ga. Reg. Hosp. owns his home</sup>  
TURNER MARY B  
504 WOODBINE AVE  
ROME GA 30161 *attached sheet*

052. HOLT ROBIN A  
100 DAVIS ROAD SW  
CAVE SPRINGS GA 30124

039. <sup>Dir. Berry College</sup>  
HAULK CHARLES F  
109 JOHN ROSS DR  
ROME GA 30161

053. <sup>see attached sheet</sup>  
GREEN GERTRUDE  
950 OLD DALTON RD NE  
ROME GA 30161

040. <sup>much more background story</sup>  
BISHOP BILLY P  
8 GREEN ST *see attached sheet*  
ROME GA 30161

054. GALE ANNA JO  
205 1/2 OAKWOOD ST  
ROME GA 30161

041. <sup>Doyal? see attached sheet</sup>  
RICHARDSON BEVERLY KAY  
VALLEY ROAD  
CAVE SPRINGS GA 30124

~~055. GREEN DORIS ANN~~  
305 PARK ST  
LINDALE GA 30147

~~042. CAMP VICKY K~~  
10 KYLE ST  
ROME GA 30161

056. HOUSE VIRGINIA W  
5 DON DR  
ROME GA 30161



REPORT NO JUR100-01

FLOYD COUNTY SUPERIOR COURT

SD NO: 53 PAGE 3

REPORT DATE: 01/21/87

TRAVERSE JURY

APRIL 20, 1987

JUDGE: ROBERT G WALTHER

JURORS REQUESTED: 130

TIME: 9:30 A.M.

Husb. owns Rhinehart Equip. on 27th.  
owns his home

057. RHINEHART IRALYNE K  
14 GARDEN CT S  
ROME GA 30161

071. FINCHER LINDA KAY  
14 RED FOX DRIVE  
ROME GA 30161

~~058. SMITH DONALD E  
317 RIDGEDALE DRIVE  
SILVER CREEK GA 30173~~

072. HIBBERT MARGARET S  
113 HOSEA AVE  
ROME GA 30161

~~059. HOLLINGSWORTH FLORENCE W  
11 WHEELER STREET  
ROME GA 30161~~

073. MILAM ROBERT E  
SUMMITT DR  
LINDALE GA 30147

~~060. BIRDSONG ELIZ D  
345 BOOZE MTN RD  
LINDALE GA 30147~~

~~074. HUNT ROBERT L  
21 RIVERVIEW RD  
ROME GA 30161~~

~~061. CRISCOM MARY K  
4 RIVER ST  
CAVE SPRINGS GA 30124~~

~~075. RUSSELL INDEE ANN  
113 DELWOOD DR  
ROME GA 30161~~

062. Dir. Rebecca Blacklock Nursery  
LYON JANE K Husb. owns Lyon's Den on T. McCall  
241 MARGO TR  
ROME GA 30161

076. JACKSON SHIRLEY A *see attached sheet*  
6 OREBURG RD  
ROME GA 30161

3. Controller State Mut. Ins. Homeowner  
STRAUSS ROBERT JOSEPH  
28 MARGO TRAIL  
ROME GA 30161

077. Prod. Supr. Berry College  
HIBBERTS KATHY A  
1060 ROSEDALE RD NE  
ARMUCHEE GA 30105

064. ROBERSON ELBERT J owns Auto collision  
9 GREENBRIAR LANE on Dean St.  
ROME *see sheet* GA 30161

078. Husb. is Lawyer w/Preferred Research  
WATERS VONDA F  
209 OAKWOOD RD  
ROME GA 30161

065. PHILLIPS BARBARA JEAN  
24 BROOKVALLEY COURT  
ROME GA 30161

079. HARRISON A STEVEN  
100 GRAY ROCK DRIVE  
ROME GA 30161

*Age 64*  
066. WOFFORD FANNIE L  
142 HASTY RD  
ROME GA 30161

080. ODOM JEFFREY KINSEY *see attached sheet*  
47 LAKEVIEW DRIVE SE  
LINDALE GA 30147

*Age 25*  
067. POWELL SHIRLEY A *see attached sheet*  
E 11TH ST  
ROME GA 30161

V.P. Southern Color? Chemical Homeowner  
081. GARRETT C A JR  
25 MAPLEWOOD SQ  
ROME GA 30161

068. VANN ALVIS  
491 LOONEY DR SW  
ROME GA 30161

082. FREEMAN E LYNNE *techn. St. Mary's*  
48 GLENWOOD APTS  
ROME GA 30161

Drive GA. Hwy. Express  
069. HOBAN JOHN W Homeowner  
12 NOTTINGHAM WAY NE  
ROME GA 30161

husb. w/ G.E. Homeowner  
083. BLACKMON ARLENE M  
1122 PARK BLVD  
ROME GA 30161

070. HORNER STEPHEN RAY *GA. Kraft Homeowner*  
117 HYCLIFF RD  
ROME GA 30161

~~084. BLANTON OWEN L JR  
11 CRESTRIDGE DR  
ROME GA 30161~~



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FLOYD COUNTY SUPERIOR COURT

SD NO: 53 PAGE 4

REPORT DATE: 01/21/87

TRAVERSE JURY

APRIL 20, 1987

DE: ROBERT G WALTHER

JURORS REQUESTED: 130

TIME: 9:30 A.M.

~~085. HUFF FRANCES C~~  
~~301 CLARKE DR~~  
~~ROME GA 30161~~

~~35 works at Peppercorn Mills~~

086. GARRETT MARILYN H  
306 EAST 18TH ST  
ROME GA 30161

087. MOORE IRMA B  
RT 1 CULPEPPER RD  
CALHOUN GA 30701

088. DUNCAN MARTHA F *cl. Revco Drugs*  
112 PENNCREST DR  
ROME GA 30161

089. HOLDER TEDDY R  
49 HAMMOND DR SW  
ROME GA 30161

~~8 age~~ 090. TAYLOR LUCILE *see attached sheet*  
513 WEST 12TH ST  
ROME GA 30161

~~091. SALMON STACY LEIGH~~  
~~18 DEPOT ST NE~~  
~~ARMUCHEE GA 30105~~

092. FLOYD MARK EDWIN  
5514 BIG TEXAS VLY RD  
ROME GA 30161

093. HILL MILDRED S *Retired Homeowner*  
404 ROBINHOOD RD  
ROME GA 30161

~~094. STEGALL SANDRA LEE~~  
~~RT 1 OLD ROCKMART RD~~  
~~SILVER CREEK GA 30173~~

095. CAMP MARY BOLT  
291 ACRON RD SE  
ROME GA 30161

~~096. HUFF ROBERT W JR~~  
~~301 CLARKE DR~~  
~~ROME GA 30161~~

097. EARLY CAROLYN J *Retired Homeowner*  
4 CHRISTOPHER PL  
ROME GA 30161

~~8 age~~ 098. BRAND EDGAR SR *Retired Lives w/ his son. Jr. works at Reg. Hosp. son & his wife own home at 114 Perkins*  
114 PERKINS ST  
ROME GA 30161

099. HUBBARD HUGH L  
71 FRED KELLEY RD  
ROME GA 30161

~~100. BORCHOFF OSCAR~~  
~~311 EAST 9TH ST~~  
~~ROME GA 30161~~

101. PLUMMER BETH *see attached sheet*  
1037 OLD RIVER RD SW  
ROME GA 30161

~~102. MOORE ORPHA~~  
~~988 BARKER RD SW~~  
~~ROME GA 30161~~

103. GODFREY KENNETH LEON *see attached sheet*  
592 GADSDEN RD SW  
CAVE SPRINGS GA 30124

104. HYDE PAMELA M  
408 SPRING VILLAGE RD  
LINDALE GA 30147

105. GRAHAM JESSIE L  
31 BLACK BLUFF RD  
ROME GA 30161

*Pres. Buss. Benefits Inc. Homeowner*  
106. HUFFMAN DON M  
792 MELSON RD  
CAVE SPRINGS GA 30124

107. HATCH LESLIE R *Retired Homeowner see attached sheet*  
3 N PENNINGTON AVE  
ROME GA 30161

108. HATCH ROY HOMER  
217 FLORA AVE  
ROME GA 30161

109. GREEN MICHAEL STEVEN  
783 JONES MILL RD NE  
ROME GA 30161

110. GRINDSTAFF BOBBIE M  
47 DOGWOOD ST  
ROME GA 30161

111. CADLE NANCY L *see attached sheet?*  
146 S AVERY RD SW  
ROME GA 30161

~~112. SMITH MARGARET K~~  
~~406 FRED KELLY RD NE~~  
~~ROME GA 30161~~ [906]



REPORT NO JUR100-01

REPORT DATE: 01/21/87

JUDGE: ROBERT G WALTHER

FLOYD COUNTY SUPERIOR COURT

TRAVERSE JURY

JURORS REQUESTED: 130

SD NO: 53 PAGE 5

APRIL 20, 1987

TIME: 9:30 A.M.

113. BEVELS JAMES H  
Wife w/World BAZAAR  
499 FRED KELLEY RD NE  
ROME GA 30161

114. BERRY VIRGINIA G  
87 ANTIOCH RD NW  
ROME GA 30161

115. HOWELL WILLIAM JEFFREY  
mach. oper. Bekeart Homeowner  
25 VIEW DR SE  
ROME GA 30161

116. MIXON LEWIS WM  
Works w/Atlanta Gas Light - Homeowner -  
wife w/GA. Power Co.  
18 KINGS COURT  
ROME GA 30161

117. SUMNERS ROBERT E  
Dir. Berry College  
43 WESTWOOD CIR  
ROME GA 30161

118. FUQUA WALTER S  
706 LEE AVE  
ROME GA 30161

119. BETHEL MARGARET W  
Retired - Homeowner  
8 RIDGEWOOD RD  
ROME GA 30161

120. WALTERS SHIRLEY Y  
Works At Crestwell Nursing Home  
Homeowner see attached sheet  
10 WILLINGHAM ST  
ROME GA 30161

121. HARTIS ELIZABETH A  
Tex. Wkr. Horizon Carpets -  
Homeowner  
201 B REECE ST  
ROME GA 30161

122. TALIAFERRO ORVIL KBA-KRAFT-O.K.  
23 FAIRHAVEN DR NW  
ROME GA 30161

123. HAGGARD LEONARD  
Const. Wkr. - Union Pipe Fitter  
30 ASH ST  
ROME GA 30161

124. STARR NANCY S  
husb. Doctor  
3 RIDGEWOOD RD  
ROME GA 30161

125. SMITH CAROLYN T  
Dir. Berry College  
BOX 599  
MOUNT BERRY GA 30149  
see attached sheet!

126. HOLCOMBE ODESSA MOORE  
32 GLENVIEW DR NE  
ROME GA 30161

127. EVANS ADELE A  
311 EAST 2ND AVE  
ROME GA 30161

128. COX CHARLES F  
Retired - Homeowner  
611 CEDAR AVE  
ROME GA 30161

129. OTWELL WM CRAIG JR see attached  
758 HOLLAND RD NW sheet  
ROME GA 30161

130. WOODALL LILLIE C  
109 HEMLOCK ST  
ROME GA 30161

131. Wanda D. Watter  
521 Billy Eyle Rd  
husb. works for MANAGEMENT Co. P.  
Homeowner

132. Louise Hmaker  
6 Garden Ct. South  
husb. works for Sears  
Homeowner

133. A D. Branton  
302 Paradise Rd S W  
Oper. Branton Ser. STA.  
Came Sp.

134. Louise D. Bagley  
35 Black Bluff Rd  
V.P. Branton Plow  
Homeowner see attached sheet

135. Ricky Shedd  
30 Dickinson St.

136. Darlene Graham  
Rt 6 Hasty Rd  
see attached sheet

137. Jo Ann Taylor  
459 Old Paradise Rd. N.E.  
Ar. muckee, Ga  
husb. works for Riddle Office Supply

- HAIGWOOD, DIANNE M. <sup>Home owner - works</sup>  
At Redmond Park Hosp.  
13 John's Drive. N.E.
- ✓ 139. GUY C. GRIFFIN  
382 Collier Rd. NE.
- ✓ 140. POOLE, Barbara Ann <sup>see attached sheet</sup>  
656 Abrams Rd.  
Silver Creek, Ga.
- ✓ 141. HITT, Reid <sup>Works for Valley View</sup>  
<sup>Home owner</sup>  
241 Cave Spring St.  
Rome
- ✓ 142. NORTON, Helen G. <sup>Retired - Homeowner</sup>  
514 Cooper Dr.
- ✓ 143. BOOKER, James H., Jr. <sup>Assoc. w/ Lanich, Huffman, Robertson Ins. (Huffman's Son-in-law)</sup>  
<sup>Home owner</sup>  
511 E. 9th St.
- ✓ 144. WALKER, Ruby  
2 Walker Dr.  
Rome, Ga.
- ✓ 145. Chambers, Carol L. <sup>Works at Belk's</sup>  
3108 Kingston Hwy. S.E.  
Rome, Ga.
- ✓ 146. FREEMAN, Christopher E.  
21 Highland Blvd. N.W.  
Rome
- ✓ 147. MONTGOMERY, Idalee D. <sup>Sec. At Battery Mach.</sup>  
49 Haywood Valley Rd. N.W.  
Armuchee, Ga.
- ✓ 148. CROUCH, Barbara <sup>Husb. is Ins. Agent - Homeowner</sup>  
103 Rolling Oaks Dr.
- ✓ 149. GILBREATH, Steven G. <sup>Mach. oper. Pepperell mfg.</sup>  
1021 Booze Mtn. Rd.  
Lindale,
- ✓ 150. SAUNDERS, Claude H.  
504 E. 10th St.  
Rome
- ✓ 151. LITTLEJOHN, Myra Jane B.  
Atteriam Heights  
Rome
- ✓ 152. LOYD, James Wm. <sup>Truck driver for ITT Baking</sup>  
3121 Choun Hwy.
- ✓ 153. GARNER, Lynn <sup>Former Sher, Lt of Floyd Co</sup>  
7 E. 19th St.
- ✓ 154. HOLLIFIELD, Inez <sup>Works at Carrie's Bridal Shop</sup>  
<sup>Shopper - Homeowner</sup>  
517 Elliot Dr.
- ✓ 155. TREADAWAY, Noel O. <sup>Crane oper. W.A. Kraft - Home</sup>  
600 Billy Pyle Rd.



REPORT NO JUR100-01

FLOYD COUNTY SUPERIOR COURT

SD NO: 53 PAGE 1

REPORT DATE: 01/21/87

TRAVERSE JURY

APRIL 20, 1987

DGE: ROBERT G WALTHER

JURORS REQUESTED: 130

TIME: 9:30 A.M.

001. DEMPSEY NEAL BARRY

129 BARRON RD NE

ROME GA 30161

002. HARPER BONNIE *oper. Desota Beauty Shop*  
3 PRIMULAS DR *NOTE: She is Ronnie Duck's Aunt*  
ROME GA 30161

003. LANIER SARAH Elaine *CLK. Belk's*

711 LEE AVENUE

ROME GA 30161

004. RATLIFF WILEY KELVIN *works at Revo Pharmacist*  
4915 CALHOUN RD NE  
ROME GA 30161

005. HACKETT MARY A *husb. V. Pres. Valley vend*  
3 MITCHELL CIR *see attached sheet*  
ROME GA 30161

~~006. CECIL KIP ALAN WM~~  
~~52 PINERIDGE DR~~  
~~SILVER CREEK~~ GA 30173

007. BEYSIEGEL MARY ELLEN *Co. Dept. Family & child. Services*  
4 NORTHWOOD DR  
ROME GA 30161

008. CAGLE RICKEY *Fireman City of Rome*  
3651 CAVE SPRING RD SW *see attached sheet*  
ROME GA 30161

009. HOOD EDDIE *Age 47 hlp. Co. Kraft*  
13 COPELAND ST *see attached sheet*  
ROME GA 30161

010. NICHOLSON JOYCE M *techr. Elm. St. Elem. Sch.*  
5 CONWAY PL  
ROME GA 30161

011. MCGINNIS NONA ADLINE *Retired*  
7 MCGINNIS DR SE  
ROME GA 30161

~~012. CLEMENTS J TERRY~~  
~~201 TURNER CHAPEL RD~~  
~~ROME~~ GA 30161

013. HOELZER MARGARET D *husb. Podiatrist on Brd. St.*  
907 EAST 2ND AVE  
ROME GA 30161

014. STANSELL MARY H *husb. works for Power Co.*  
1928 L TEXAS VLY RD NW  
ROME GA 30161

015. WILSON LOUISE *B. Age 68 Retired owns her home*  
1603 FLANNERY ST *see attached sheet*  
ROME GA 30161 *no veds m.*

016. BARBOGELLO MAUREEN B *husb. is Superv. Tripl. H Sales Inc.*  
207 AUSBURN RD  
ROME GA 30161

017. CARR ANNA W *Retired*  
31 MAPLEWOOD SQ  
ROME GA 30161

018. BING PATRICIA A *OK*  
5452 FOSTER MILL RD SW  
CAVE SPRINGS GA 30124

019. HINES CORRIE LEE *B. Age 65 Retired owns his home*  
121 CHAMBERS ST *see attached sheet*  
ROME GA 30161 *NO. 22 Why is*

020. EVANS MYRTLE FRANCES  
186 TURK MT RD NE  
ARMUCHEE GA 30105

021. BLACK DOROTHY M  
5117 ALA RD SW  
ROME GA 30161

022. HARDGE EVELYN *B. Age 69 Retired hndlr her husb. own their home*  
334 WEST ROSS ST *NO WAY*  
ROME GA 30161

023. COULTAS ANNE B *works for Security Berry College*  
482 OLD BELLS FERRY RD  
ROME GA 30161

024. HOBGOOD LOU ELLA *husband is officer w/ GA. State Bank.*  
28 PINE VALLEY RD *BUB*  
ROME GA 30161 *Farrall Best Friend*

025. DEDEURWAERDER VICTOR *Retired owns his home*  
28 WINGFIELD ST  
ROME GA 30161

~~026. STANLEY RUBY BARNES~~  
~~296 PAINTER RD NE~~  
~~ROME~~ GA 30161

027. HOUSE CHARLOTTE *she is related to Mrs Hubbard neighbor of Mrs White*  
333 FREEMAN FERRY RD *husb. w/ GA. Power*  
ROME GA 30161

028. JOHNSON BOBBIE JEAN *B. Age 56*  
5 ROONEY RD  
ROME GA 30161



REPORT NO JUR100-01

REPORT DATE: 01/21/87

JUDGE: ROBERT G WALTHER

FLOYD COUNTY SUPERIOR COURT  
TRAVERSE JURY

JURORS REQUESTED: 130

SD NO: 53 PAGE  
APRIL 20, 1987  
TIME: 9:30 A.M.

029. TATE RAY ALLEN  
5809 BIG TEXAS VLY RD NW  
ROME GA 30161

043. <sup>SuperV. Janitor At Berry College</sup>  
FUQUA MERRIAM A  
820 WARREN RD NE  
ROME GA 30161

~~030. NIXON KENNETH LEWIS~~  
18 KINGS COURT  
ROME GA 30161

044. <sup>works for S. Railway</sup>  
HALL DONALD H  
79 HALL RD  
SILVER CREEK GA 30173

031. <sup>Field Wkr. State Dept. of Labor</sup>  
GRAVES BILLY E  
8 MONTRE CIRCLE SE  
SILVER CREEK GA 30173

045. <sup>Retired owns his home</sup>  
MCMAHON GEORGE J  
2624 LAKERIDGE CIR  
ROME GA 30161

~~032. SALMON JUDY ODELL~~  
325 SOUTH MELIN ST.  
ROME GA 30161

046. <sup>Works At GA. Kraft (owns his home)</sup>  
LEROY CLAIBORNE R  
579 OLD ROCKMART RD SE  
SILVER CREEK GA 30173

033. <sup>owns his home</sup>  
COCHRAN JAMES T  
6 LINDBERG DRIVE  
ROME GA 30161

~~047. GARDNER JAMES C JR~~  
203 DODD ST  
ROME GA 30161

034. HAWKINS DEENA LOUISE  
RT 1 FLOYD SPRINGS RD  
ARMUCHEE GA 30105

048. <sup>sel. n.w. H. Ann Mrs. D</sup>  
HAMMOND SELENA D  
3 FRANKLIN ST  
ROME GA 30161

035. <sup>husb. is mktg. Rep. Ga. Power Co.</sup>  
TERRY THELMA B  
632 SPOUT SPRINGS RD  
ROME GA 30161

~~049. GRAY ROLAND L~~  
206 BROOKWOOD AVE  
ROME GA 30161

036. HOWSE ELIZABETH B  
886 HORSELEG CRK RD  
ROME GA 30161

050. <sup>Tech. N.W. Reg. Hosp. owns his home</sup>  
HENSON SCOTT R JR  
100 CHATILLON ROAD  
ROME GA 30161

037. <sup>Retired owns his home</sup>  
HILL DORSEY B  
404 ROBINHOOD RD  
ROME GA 30161

~~051. HANSON LARRY J~~  
23 FANNIN STREET  
CAVE SPRINGS GA 30124

038. <sup>A age 37 office clk. N.W. Ga. Reg. Hosp. owns her home</sup>  
TURNER MARY B  
504 WOODBINE AVE  
ROME GA 30161

052. HOLT ROBIN A  
100 DAVIS ROAD SW  
CAVE SPRINGS GA 30124

039. <sup>Dir. Berry College</sup>  
HAULK CHARLES F  
109 JOHN ROSS DR  
ROME GA 30161

053. <sup>see attached sheet</sup>  
GREEN GERTRUDE  
950 OLD DALTON RD NE  
ROME GA 30161

040. <sup>Arch. per Robert Street</sup>  
BISHOP BILLY P  
8 GREEN ST  
ROME GA 30161

054. GALE ANNA JO  
205 1/2 OAKWOOD ST  
ROME GA 30161

041. <sup>Doyal? see Attached Sheet</sup>  
RICHARDSON BEVERLY KAY  
VALLEY ROAD  
CAVE SPRINGS GA 30124

~~055. GREEN BORIS ANN~~  
305 PARK ST  
LINDALE GA 30147

~~042. CAMP VICKY R~~  
10 KYLE ST  
ROME GA 30161

056. HOUSE VIRGINIA W  
5 DON DR  
ROME GA 30161



REPORT NO JUR100-01

FLOYD COUNTY SUPERIOR COURT

SD NO: 53 PAGE 3

REPORT DATE: 01/21/87

TRAVERSE JURY

APRIL 20, 1987

JUDGE: ROBERT G WALTHER

JURORS REQUESTED: 130

TIME: 9:30 A.M.

Husb. owns Rhinehart Equip. on 27th.  
owns his home

057. RHINEHART IRALYNE K

14 GARDEN CT S

ROME

GA 30161

071. FINCHER LINDA KAY

14 RED FOX DRIVE

ROME

GA 30161

058. SMITH DONALD E

317 RIDGEDALE DRIVE

SILVER CREEK

GA 30173

072. HIBBERT MARGARET S

113 HOSEA AVE

ROME

GA 30161

059. HOLLINGSWORTH FLORENCE W

11 WHEELER STREET

ROME

GA 30161

073. MILAM ROBERT E

SUMMITT DR

LINDALE

GA 30147

060. BIRDSONG ELIZ D

345 BOOZE MTN RD

LINDALE

GA 30147

074. HUNT ROBERT L

21 RIVERVIEW RD

ROME

GA 30161

061. GRISSOM MARY K

4 RIVER ST

CAVE SPRINGS

GA 30124

075. RUSSELL INDEE ANN

113 DELWOOD DR

ROME

GA 30161

062. LYON JANE K Husb. owns Lyon's Den on T. McCall

241 MARGO TR

ROME

GA 30161

076. JACKSON SHIRLEY A

6 OREBURG RD

ROME

GA 30161

063. Controllor State Mut. Ins. Homeowner

28 MARGO TRAIL

ROME

GA 30161

077. HIBBERTS KATHY A

1060 ROSEDALE RD NE

ARMUCHEE

GA 30105

064. ROBERSON ELBERT J owns Auto collision

9 GREENBRIAR LANE on Dean St.

ROME

GA 30161

078. WATERS VONDA F Husb. is Lawyer w/ Preferred Research

209 OAKWOOD RD

ROME

GA 30161

065. PHILLIPS BARBARA JEAN

24 BROOKVALLEY COURT

ROME

GA 30161

079. HARRISON A STEVEN,

100 GRAY ROCK DRIVE

ROME

GA 30161

066. WOFFORD FANNIE L

142 HASTY RD

ROME

GA 30161

080. ODOM JEFFREY KINSEY

47 LAKEVIEW DRIVE SE

LINDALE

GA 30147

067. POWELL SHIRLEY A

E 11TH ST

ROME

GA 30161

081. GARRETT C A JR

25 MAPLEWOOD SQ

ROME

GA 30161

068. VANN ALVIS

491 LOONEY DR SW

ROME

GA 30161

082. FREEMAN E LYNNE

48 GLENWOOD APTS

ROME

GA 30161

069. HOBAN JOHN W Homeowner

12 NOTTINGHAM WAY NE

ROME

GA 30161

083. BLACKMON ARLENE M

1122 PARK BLVD

ROME

GA 30161

070. HORNER STEPHEN RAY

117 HYCLIFF RD

ROME

GA 30161

084. BLANTON OWEN L JR

11 CRESTRIDGE DR

ROME

GA 30161

[911]



REPORT NO JUR100-01

FLOYD COUNTY SUPERIOR COURT

SD NO: 53 PAGE 4

REPORT DATE: 01/21/87

TRAVERSE JURY

APRIL 20, 1987

JUDGE: ROBERT G WALTHER

JURORS REQUESTED: 130

TIME: 9:30 A.M.

~~085. HUFF FRANCES C~~  
~~301 CLARKE DR~~  
ROME GA 30161

*Age 35 works at Peppercorn Mills*  
~~086. GARRETT MARILYN H~~  
~~306 EAST 18TH ST~~  
ROME GA 30161

~~087. MOORE IRMA B~~  
~~RT 1 CULPEPPER RD~~  
CALHOUN GA 30701

*OK. Revco Drugs*  
~~088. DUNCAN MARTHA~~  
~~112 PENNCREST DR~~  
ROME GA 30161

~~089. HOLDER TEDDY R~~  
~~49 HAMMOND DR SW~~  
ROME GA 30161

*Age 73 husb. runs Beech Tavern on W 12th*  
~~090. TAYLOR LUCILE~~  
~~513 WEST 12TH ST~~  
ROME GA 30161

~~SALMON STACY LEIGH~~  
~~18 DEPOT ST NE~~  
ARMUCHEE GA 30105

~~092. FLOYD MARK EDWIN~~  
~~5514 BIG TEXAS VLY RD~~  
ROME GA 30161

*Retired Homeowner*  
~~093. HILL MILDRED S~~  
~~404 ROBINHOOD RD~~  
ROME GA 30161

~~094. STEGALL SANDRA LEE~~  
~~RT 1 OLD ROCKMART RD~~  
SILVER CREEK GA 30173

~~095. CAMP MARY BOLT~~  
~~291 ACRON RD SE~~  
ROME GA 30161

~~096. HUFF ROBERT W JR~~  
~~301 CLARKE DR~~  
ROME GA 30161

*Retired Homeowner*  
~~097. EARLY CAROLYN J~~  
~~4 CHRISTOPHER PL~~  
ROME GA 30161

*Age 61 Retired Lives w/11 son. Jr. works at Reg. Hosp.*  
~~098. BRAND EDGAR SR~~  
~~114 PERKINS ST~~  
ROME GA 30161

~~099. HUBBARD HUGH L~~  
~~71 FRED KELLEY RD~~  
ROME GA 30161

~~100. BORCHOFF OSCAR~~  
~~311 EAST 9TH ST~~  
ROME GA 30161

*see attached sheet*  
~~101. PLUMMER BETH~~  
~~1037 OLD RIVER RD SW~~  
ROME GA 30161

~~102. MOORE ORPHA~~  
~~988 BARKER RD SW~~  
ROME GA 30161

*see attached sheet*  
~~103. GODFREY KENNETH LEON~~  
~~592 GADSDEN RD SW~~  
CAVE SPRINGS GA 30124

~~104. HYDE PAMELA M~~  
~~408 SPRING VILLAGE RD~~  
LINDALE GA 30147

~~105. GRAHAM JESSIE L~~  
~~31 BLACK BLUFF RD~~  
ROME GA 30161

*Pres. Buss. Benefits Inc. Homeowner*  
~~106. HUFFMAN DON M~~  
~~792 MELSON RD~~  
CAVE SPRINGS GA 30124

*Retired Homeowner*  
~~107. HATCH LESLIE R~~  
~~3 N PENNINGTON AVE~~  
ROME GA 30161 *Bob resp. Farnell*

~~108. HATCH ROY HOMER~~  
~~217 FLORA AVE~~  
ROME GA 30161

~~109. GREEN MICHAEL STEVEN~~  
~~783 JONES MILL RD NE~~  
ROME GA 30161

~~110. GRINDSTAFF BOBBIE M~~  
~~47 DOGWOOD ST~~  
ROME GA 30161

*see attached sheet?*  
~~111. CADLE NANCY L~~  
~~146 S AVERY RD SW~~  
ROME GA 30161

~~112. SMITH MARGARET K~~  
~~406 FRED KELLY RD NE~~  
ROME GA 30161 [912]



PORT NO JUR100-01  
REPORT DATE: 01/21/87  
JUDGE: ROBERT G WALTHER

State v Foster 86-F-2218-2  
FLOYD COUNTY SUPERIOR COURT SD NO: 53 Page 03 5  
TRAVERSE JURY  
JURORS REQUESTED: 130  
APRIL 20, 1987  
TIME: 9:30 A.M.

Wife w/ World BAZAAR  
3. BEVELS JAMES H  
499 FRED KELLEY RD NE  
ROME GA 30161

114. BERRY VIRGINIA G  
87 ANTIOCH RD NW  
ROME GA 30161

115. mach. oper. BeKart Home owner  
HOWELL WILLIAM JEFFREY  
25 VIEW DR SE  
ROME GA 30161

116. Works w/ Atlanta Gas Light - Home owner -  
MIXON LEWIS WM Wife w/ GA Power Co.  
18 KINGS COURT  
ROME GA 30161

117. Dir. Berry College  
SUMNERS ROBERT E  
43 WESTWOOD CIR  
ROME GA 30161

118. FUQUA WALTER S  
706 LEE AVE  
ROME GA 30161

119. Retired - Home owner  
BETHEL MARGARET W  
8 RIDGEWOOD RD  
ROME GA 30161

120. Works At Chestwell Nursing Home  
WALTERS SHIRLEY Y Home owner see attached sheet  
10 WILLINGHAM ST  
ROME GA 30161

121. Tex. Wkr. Horizon Carpets -  
HARTIS ELIZABETH A Home owner  
201 B REECE ST  
ROME GA 30161

122. TALIAFERRO ORVIL K GA Kraft - O.K.  
23 FAIRHAVEN DR NW  
ROME GA 30161

123. Const. wkr. - Union Pipe Fitter  
HAGGARD LEONARD  
30 ASH ST  
ROME GA 30161

124. STARR NANCY S husb - Doctor  
3 RIDGEWOOD RD  
ROME GA 30161

125. Dir. Berry College  
SMITH CAROLYN T see attached sheet  
BOX 599  
MOUNT BERRY GA 30149

~~HOLCOMBE OBESSA MOORE~~  
32 GLENVIEW DR NE  
ROME GA 30161

127. EVANS ADELE A  
311 EAST 2ND AVE  
ROME GA 30161

128. Retired - Home owner  
COX CHARLES P  
611 CEDAR AVE  
ROME GA 30161

129. OTWELL WM CRAIG JR see attached sheet  
758 HOLLAND RD NW  
ROME GA 30161

~~130. WOODALL LILLIE G~~  
109 HEMLOCK ST  
ROME GA 30161

131. Wanda D. Watter husb. works for  
521 Billy Pyle Rd MANAGEMENT G.A.P.  
Home owner

132. Louise Hmake husb. works for Sears  
6 Garden Ct. South Home owner

133. A. D. Branton Oper. Branton Ser. Sta.  
302 Randall Rd S W  
Came Sp.

134. Louise D. Bagley V.P. Branton Plow see attached sheet  
35 Black Butte Rd Home owner

135. Ricky Shedd  
300 Quikens St

136. Darlene Graham see attached sheet  
Rt. 6 Hasty Rd

137. husb. works for Riddle office Supply  
Jo Ann Taylor  
1459 Old Randall Rd. n g  
Ar. Muckee, Ga.

- HAIGWOOD, DIANNE M. <sup>Home owner - works At Redmond PARK Hosp.</sup>  
13 John's Drive. N.E.
- ✓ 139. GUY C. GRIFFIN  
382 Collier Rd. NE.
- ✓ 140. POOLE, Barbara Ann <sup>see attached sheet</sup>  
656 Abrams Rd.  
Silver Creek, Ga.
- ✓ 141. HITT, Reid <sup>works for Valley View Home owner</sup>  
241 Cave Spring St.  
Rome
- ✓ 142. NORTON, Helen G. <sup>Retired - Homeowner</sup>  
514 Cooper Dr.
- ✓ 143. BOOKER, James H., Jr. <sup>Assoc. w Lanier, Huffman, Robertson Ins. (Huffman's Son-in-Law) Home owner</sup>  
511 E. 9th St.
- ✓ 144. WALKER, Ruby  
2 Walker Dr.  
Rome, Ga.
- ✓ 145. Chambers, Carol L. <sup>works At Bell's</sup>  
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21 Highland Blvd. N.W.  
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49 Haywood Valley Rd. N.W.  
Armuchee, Ga.
- ✓ 148. CROUCH, Barbara <sup>Husb. is Ins. Agent - Homeowner</sup>  
103 Rolling Oaks Dr.
- ✓ 149. GILBREATH, Steven G. <sup>Mach. oper. Pepperell Mfg.</sup>  
1021 Booze Mtn. Rd.  
Lindale,
- ✓ 150. SAUNDERS, Claude H.  
504 E. 10th St.  
Rome
- ✓ 151. LITTLEJOHN, Myra Jane B.  
Atteriam Heights  
Rome
- ✓ LOYD, James Wm. <sup>Truck driver for ITT BAKING</sup>  
3121 Choun Hwy.
- ✓ 153. GARNER, Lynn <sup>Former Sheriff of Floyd Co.</sup>  
7 E. 19th St.
- ✓ 154. HOLLIFIELD, Inez <sup>works At Catholic's Bridal Fair Shoppe - Homeowner</sup>  
517 Elliot Dr.
- ✓ 155. TREADAWAY, Noel O. <sup>Crane oper. W.A. Kraft - Homeowner</sup>  
600 Billy Pyle Rd.



REPORT NO JUR100-01

REPORT DATE: 01/21/87

JUDGE: ROBERT G WALTHER

FLOYD COUNTY SUPERIOR COURT

TRAVERSE JURY

JURORS REQUESTED:

SD NO: 53 PAGE 1

APRIL 20, 1987

TIME: 9:30 A.M.

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129 BARRON RD NE  
ROME GA 30161

002. HARPER BONNIE *oper. Decota Beauty Shop*  
3 PRIMULAS DR *she is Ronnie Duck's Great Aunt*  
ROME GA 30161

003. LANIER SARAH Elaine *CLK. Belk's*  
711 LEE AVENUE  
ROME GA 30161

004. RATCLIFF WILEY KELVIN *works at Revo Pharmacist*  
4915 CALHOUN RD NE  
ROME GA 30161

005. HACKETT MARY A *husb. V. Pres. Valley vend see attached sheet*  
3 MITCHELL CIR  
ROME GA 30161

006. CECIL KIP ALAN WM  
52 PINERIDGE DR  
SILVER CREEK GA 30173

007. BEYSIEGEL MARY ELLEN *Co. Death Family & Child Services*  
4 NORTHWOOD DR  
ROME GA 30161

008. CAGLE RICKEY J *Fireman City of Rome see attached sheet*  
3651 CAVE SPRING RD SW  
ROME GA 30161

009. HOOD EDDIE *Age 47 hlp. Ca. Kraft see attached sheet*  
13 COPELAND ST  
ROME GA 30161

010. NICHOLSON JOYCE M *techr. Elm. st. Elem. Sch.*  
5 CONWAY PL  
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011. MCGINNIS NONA ADLINE *Retired*  
7 MCGINNIS DR SE  
ROME GA 30161

012. CLEMENTS J TERRY  
201 TURNER CHAPEL RD  
ROME GA 30161

013. HOELZER MARGARET D *husb. Pediatr. Dist. on 5rd. st.*  
907 EAST 2ND AVE  
ROME GA 30161

014. STANSELL MARY H *husb. works for Power Co.*  
1928 L TEXAS VLY RD NW  
ROME GA 30161

015. WILSON LOUISE *Age 68 Retired owns her home see attached sheet*  
1603 FLANNERY ST  
ROME GA 30161

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ROME GA 30161

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31 MAPLEWOOD ST  
ROME GA 30161

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CAVE SPRINGS GA 30124

019. HINES CURRIE LEE *Age 65 Retired owns his home see attached sheet*  
121 CHAMBERS ST  
ROME GA 30161

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186 TURK MT RD NE  
ARMUCHEE GA 30105

021. BLACK DOROTHY M  
5117 ALA RD SW  
ROME GA 30161

022. HARDGE EVELYN *Age 69 Retired her & her husb. own their home*  
334 WEST ROSS ST  
ROME GA 30161

023. COULTAS ANNE B *Works for Security Berry College*  
482 OLD BELLS FERRY RD  
ROME GA 30161

024. HOBGOOD LOU ELLA *husband is officer w/ Ga. State Bank*  
28 PINE VALLEY RD  
ROME GA 30161

025. DEDEURWAERDER VICTOR *Retired owns his home*  
28 WINGFIELD ST  
ROME GA 30161

026. STANLEY RUBY BARNES  
296 PAINTER RD NE  
ROME GA 30161

027. HOUSE CHARLOTTE S *she is related to Mrs Hubbard neighbor of Mrs. White*  
333 FREEMAN FERRY RD  
ROME GA 30161

028. JOHNSON BOBBIE JEAN *Age 56*  
5 RODNEY RD  
ROME GA 30161



REPORT NO JUR100-01

REPORT DATE: 01/21/87

JUDGE: ROBERT G WALTHER

FLOYD COUNTY SUPERIOR COURT

TRAVERSE JURY

JURORS REQUESTED:

130

SD NO: 53

PAGE 2

APRIL 20, 1987

TIME: 9:30 A.M.

9. TATE RAY ALLEN *OK*  
5809 BIG TEXAS VLY RD NW  
ROME GA 30161
- ~~030. NIXON KENNETH LEWIS *off*~~  
18 KINGS COURT  
ROME GA 30161
031. *Field Wkr. State Dept. of Labor*  
GRAVES BILLY E  
8 MONTRE CIRCLE SE  
SILVER CREEK GA 30173
- ~~032. SALMON JUDY ODELL *off*~~  
325 SOUTH MELIN ST.  
ROME GA 30161
033. *owns his home*  
COCHRAN JAMES T  
6 LINDBERG DRIVE  
ROME GA 30161
034. HAWKINS DEENA LOUISE  
RT 1 FLOYD SPRINGS RD  
ARMUCHEE GA 30105 *after 6 PM*
035. *husb. is mktg. Rep. Ga. Power Co.*  
TERRY THELMA B  
632 SPOUT SPRINGS RD  
ROME GA 30161
036. HOWSE ELIZABETH B  
886 HORSELEG CRK RD  
ROME GA 30161
037. *Retired owns his home*  
MILL DORSEY B  
404 ROBINHOOD RD  
ROME GA 30161
038. *Age 37 office clk. N.W. Ga. Reg. Hosp. owns net home*  
TURNER MARY B  
504 WOODBINE AVE  
ROME GA 30161 *see attached sheet*
039. *Dir. Berry College*  
HAULK CHARLES F  
109 JOHN ROSS DR  
ROME GA 30161 *hesitated when asked about auto life insurance*
040. *much more detailed sheet*  
BISHOP BILLY P  
8 GREEN ST  
ROME GA 30161 *see attached sheet*
041. *Dogal's see attached sheet*  
RICHARDSON BEVERLY KAY  
VALLEY ROAD  
CAVE SPRINGS GA 30124
042. *off*  
CAMP WICKY R  
10 KYLE ST  
ROME GA 30161
043. *Superv. Janitor At Berry College*  
FUQUA MERRIAM A  
820 WARREN RD NE  
ROME GA 30161 *excused for case*
044. *works for S. Railway*  
HALL DONALD H  
79 HALL RD  
SILVER CREEK GA 30173
045. *Retired owns his home*  
MCMAHON GEORGE J  
2624 LAKERIDGE CIR  
ROME GA 30161
046. *Works At GA. Kraft (owns his home)*  
LEROY CLAIBORNE R  
579 OLD ROCKMART RD SE  
SILVER CREEK GA 30173 *see*
- ~~047. GARDNER JAMES C JR *off*~~  
203 DODD ST  
ROME GA 30161
048. HAMMOND SELENA D  
3 FRANKLIN ST  
ROME GA 30161 *sin for the death penalty Panel*
- ~~049. GRAY ROLAND L *off*~~  
206 BROOKWOOD AVE  
ROME GA 30161
050. *Tech. N.W. Reg. Hosp. owns his home*  
HENSON SCOTT E JR  
100 CHATILLON ROAD  
ROME GA 30161 *excused for case*
- ~~051. HANSON LARRY J *off*~~  
23 FANNIN STREET  
CAVE SPRINGS GA 30124
052. HOLT ROBIN A  
100 DAVIS ROAD SW  
CAVE SPRINGS GA 30124 *excused for case*
053. GREEN GERTRUDE *see attached sheet*  
950 OLD DALTON RD NE  
ROME GA 30161 *excused for case*
054. GALE ANNA JO  
205 1/2 OAKWOOD ST  
ROME GA 30161
- ~~055. GREEN DORIS ANN *off*~~  
305 PARK ST  
LINDALE GA 30147
056. HOUSE VIRGINIA W  
5 DON DR  
ROME GA 30161 [916]



REPORT NO JUR100-01

FLOYD COUNTY SUPERIOR COURT

SD NO: 53 PAGE 3

REPORT DATE: 01/21/87

TRAVERSE JURY

APRIL 20, 1987

JUDGE: ROBERT G WALTHER

JURORS REQUESTED: 130

TIME: 9:30 A.M.

*Husb. owns Rhinehart Equip. on 270. owns his home*~~037. RHINEHART IRALYNE K~~~~14 GARDEN ST S~~~~ROME~~~~GA 30161~~

071. FINCHER LINDA KAY

14 RED FOX DRIVE

ROME

GA 30161

~~038. SMITH DONALD E~~~~317 RIDGEDALE DRIVE~~~~SILVER CREEK~~~~GA 30173~~

072. HIBBERT MARGARET S

113 HOSEA AVE

ROME

GA 30161

~~039. HOLLINGSWORTH FLORENCE W~~~~11 WHEELER STREET~~~~ROME~~~~GA 30161~~

073. MILAM ROBERT E

SUMMITT DR

LINDALE

GA 30147

~~040. BIRDSONG ELIZ D~~~~345 BOOZE MTN RD~~~~LINDALE~~~~GA 30147~~~~074. HUNT ROBERT L~~~~21 RIVERVIEW RD~~~~ROME~~~~GA 30161~~~~041. CRISCOM MARY K~~~~4 RIVER ST~~~~CAVE SPRINGS~~~~GA 30124~~~~075. RUSSELL INDEE ANN~~~~113 DELWOOD DR~~~~ROME~~~~GA 30161~~062. LYON JANE K *Dir. Rebecca Blaylock Nursery Husb. owns Kyer's Den on T. McCall*

241 MARGO TR

ROME

GA 30161

076. JACKSON SHIRLEY A *see attached sheet*

6 OREBURG RD

ROME

GA 30161

063. STRAUSS ROBERT JOSEPH *Controller State Mut. Ins. Homeowner*

28 MARGO TRAIL

ROME

GA 30161

077. HIBBERTS KATHY A *Phd. Supv. Berry College*

1060 ROSEDALE RD NE

ARMUCHEE

GA 30105

064. ROBERSON ELBERT J *owns Auto collision on Dean St.*

9 GREENBRIAR LANE

ROME

GA 30161

078. WATERS VONDA F *Husb. is Lawyer w/ preferred Research*

209 OAKWOOD RD

ROME

GA 30161

065. PHILLIPS BARBARA JEAN

24 BROOKVALLEY COURT

ROME

GA 30161

079. HARRISON A STEVEN.

100 GRAY ROCK DRIVE

ROME

GA 30161

Age 64

066. WOFFORD FANNIE L

142 HASTY RD

ROME

GA 30161

080. ODOM JEFFREY KINSEY *see attached sheet*

47 LAKEVIEW DRIVE SE

LINDALE

GA 30147

Age 25

067. POWELL SHIRLEY A *see attached sheet*

E 11TH ST

ROME

GA 30161

081. GARRETT C A JR *V.P. Southern Color Chemical Homeowner*

25 MAPLEWOOD SQ

ROME

GA 30161

068. VANN ALVIS

491 LOONEY DR SW

ROME

GA 30161

082. FREEMAN E LYNNE *tehr. St. Mary's*

48 GLENWOOD APTS

ROME

GA 30161

069. HOBAN JOHN W *Drives GA. Hwy. Express Homeowner*

12 NOTTINGHAM WAY NE

ROME

GA 30161

083. BLACKMON ARLENE M *husb. w/ G.E. Homeowner*

1122 PARK BLVD

ROME

GA 30161

070. HORNER STEPHEN RAY *GA. Kraft Homeowner*

117 HYCLIFF RD

ROME

GA 30161

~~084. BLANTON OWEN L JR~~~~11 CRESTRIDGE DR~~~~ROME~~~~GA 30161~~



REPORT NO JUR100-01

FLOYD COUNTY SUPERIOR COURT

SD NO: 53

PAGE 4

REPORT DATE: 01/21/87

TRAVERSE JURY

APRIL 20, 1987

GE: ROBERT G WALTHER

JURORS REQUESTED: 130

TIME: 9:30 A.M.

~~85. HUFF FRANCES C~~  
301 CLARKE DR  
ROME GA 30161

*Age 35 works at Peppersell mills*

~~86. GARRETT MARILYN H~~  
306 EAST 18TH ST  
ROME GA 30161

~~87. MOORE IRMA B~~  
RT 1 CULPEPPER RD  
CALHOUN GA 30701

~~88. DUNCAN MARTHA F~~ *olk. Revco Drugs*  
112 PENNCREST DR  
ROME GA 30161 *see attached sheet*

~~89. HOLDER TEDDY R~~  
49 HAMMOND DR SW  
ROME GA 30161

~~90. TAYLOR LUCILE~~ *see attached sheet*  
513 WEST 12TH ST  
ROME GA 30161 *excused*

~~91. SALMON STACY LEIGH~~  
18 DEPOT ST NE  
ARMUCHEE GA 30105

~~92. FLOYD MARK EDWIN~~  
5514 BIG TEXAS VLY RD  
ROME GA 30161

~~93. HILL MILDRED S~~ *Retired Homeowner*  
404 ROBINHOOD RD  
ROME GA 30161

~~94. STEGALL SANDRA LEE~~  
RT 1 OLD ROCKMART RD  
SILVER CREEK GA 30173

~~95. CAMP MARY BOLT~~  
291 AGRON RD SE  
ROME GA 30161

~~96. HUFF ROBERT W JR~~  
301 CLARKE DR  
ROME GA 30161

~~97. EARLY CAROLYN J~~ *Retired Homeowner*  
4 CHRISTOPHER PL  
ROME GA 30161

~~98. BRAND EDGAR SR~~ *Retired Lives w/ his son Jr. works at Reg. Hosp. His son & his wife own home at 114 Perkins*  
114 PERKINS ST  
ROME GA 30161 *see attached sheet*

~~99. HUBBARD HUGH L~~  
71 FRED KELLEY RD  
ROME GA 30161

~~100. BORCHHOFF OSCAR~~  
311 EAST 9TH ST  
ROME GA 30161

~~101. PLUMMER BETH~~ *see attached sheet*  
1037 OLD RIVER RD SW  
ROME GA 30161

~~102. MOORE ORPHA~~  
988 BARKER RD SW  
ROME GA 30161

~~103. GODFREY KENNETH LEON~~ *see attached sheet*  
592 GADSDEN RD SW  
CAVE SPRINGS GA 30124

~~104. HYDE PAMELA M~~  
408 SPRING VILLAGE RD  
LINDALE GA 30147

~~105. GRAHAM JESSIE L~~  
31 BLACK BLUFF RD  
ROME GA 30161

~~106. HUFFMAN DON M~~ *Pres. Buss. Benefits Inc. Homeowner*  
792 MELSON RD  
CAVE SPRINGS GA 30124

~~107. HATCH LESLIE R~~ *Retired Homeowner* *see attached sheet*  
3 N PENNINGTON AVE  
ROME GA 30161

~~108. HATCH ROY HOMER~~  
217 FLORA AVE  
ROME GA 30161

~~109. GREEN MICHAEL STEVEN~~  
783 JONES MILL RD NE  
ROME GA 30161

~~110. GRINDSTAFF BOBBIE M~~  
47 DOGWOOD ST  
ROME GA 30161

~~111. CADLE NANCY L~~ *see attached sheet?*  
146 S AVERY RD SW  
ROME GA 30161

~~112. SMITH MARGARET K~~  
406 FRED KELLY RD NE  
ROME GA 30161



REPORT NO JUR100-01  
REPORT DATE: 01/21/87  
JUDGE: ROBERT G WALTHER

FLOYD COUNTY SUPERIOR COURT  
TRAVERSE JURY  
JURORS REQUESTED: 130

State v Foster 86-F-2218-2  
SD NO: 53 PAGE 103 5  
APRIL 20, 1987  
TIME: 9:30 A.M.

Wife w/ World BAZAAR  
114. BEVELS JAMES H  
499 FRED KELLEY RD NE  
ROME GA 30161

115. BERRY VIRGINIA G  
87 ANTIOCH RD NW  
ROME GA 30161

116. mach. oper. Bekeant Home owner  
HOWELL WILLIAM JEFFREY  
25 VIEW DR SE  
ROME GA 30161

117. Works w/ Atlanta Gas Light - Home owner -  
MIXON LEWIS WM wife w/ GA Power Co.  
18 KINGS COURT  
ROME GA 30161

118. Dir. Berry College  
SUMNERS ROBERT E  
43 WESTWOOD CIR  
ROME GA 30161

119. Retired - Home owner  
FUQUA WALTER S  
706 LEE AVE  
ROME GA 30161

120. Retired - Home owner  
BETHEL MARGARET W  
8 RIDGEWOOD RD  
ROME GA 30161

121. Works At Crestwell Nursing Home  
WALTERS SHIRLEY Y Home owner see attached sheet  
10 WILLINGHAM ST  
ROME GA 30161

122. Tex. wkr. Horizon Carpets -  
HARTIS ELIZABETH A Home owner  
201 B REECE ST  
ROME GA 30161

123. Const. wkr. Union Pipe Fitter  
TALIAFERRO ORVIL KGA Kraft O.K.  
23 FAIRHAVEN DR NW  
ROME GA 30161

124. Const. wkr. Union Pipe Fitter  
HAGGARD LEONARD  
30 ASH ST  
ROME GA 30161

125. Dir. Berry College  
SMITH CAROLYN T see attached sheet  
BOX 599  
MOUNT BERRY GA 30149

126. HOLCOMBE OBESSA MOORE off  
32 GLENVIEW DR NE  
ROME GA 30161

127. EVANS ADELE A  
311 EAST 2ND AVE  
ROME GA 30161

128. Retired - Home owner  
COX CHARLES P  
611 CEDAR AVE  
ROME GA 30161

129. OTWELL WM CRAIG JR see attached  
758 HOLLAND RD NW sheet  
ROME GA 30161

130. WOODALL LILLIE C off  
109 HEMLOCK ST  
ROME GA 30161

131. Wanda D. Wuttker husb. works for  
521 Billy Eyle Rd MANAGEMENT C.A. Per.  
Home owner

132. Louise Hinkle husb. works for Sears  
6 Garden Ct. South Home owner

133. A. D. Branton Oper. Branton Ser. Sta.  
302 Randale Rd S W  
Cane Sp.

134. Louise D. Bagley V.P. Branton Plow Home owner see attached sheet  
35 Black Bluff Rd

135. Ricky Shedd  
300 Wilkins St

136. Darlene Graham see attached sheet  
St. 6 Hasty Rd

137. husb. works for Riddle office Supply  
Jo Ann Snyder  
1459 Old Rosedale Rd. N G  
Armuckee, Ga

- 1 HAIGWOOD, DIANNE M. <sup>Home owner - works</sup>  
At Redmond Park Hosp.  
13 John's Drive. N.E.
- ✓ 139. GUY C. GRIFFIN  
382 Collier Rd. NE.
140. POOLE, Barbara Ann <sup>see attached sheet</sup>  
656 Abrams Rd.  
Silver Creek, Ga.
- ✓ 141. HITT, Reid <sup>works for Valley Vend</sup>  
<sup>Home owner</sup>  
241 Cave Spring St.  
Rome
- ✓ 142. NORTON, Helen G. <sup>Retired - Homeowner</sup>  
514 Cooper Dr.
- ✓ 143. BOOKER, James H., Jr. <sup>Assoc. w Lanier, Huffman, Robertson INS. (Huffman's Son-In-Law)</sup>  
<sup>Home owner</sup>  
511 E. 9th St.
- ✓ 144. WALKER, Ruby  
2 Walker Dr.  
Rome, Ga.
- ✓ 145. Chambers, Carol L. <sup>works at Belk's</sup>  
3108 Kingston Hwy. S.E.  
Rome, Ga.
- ✓ 146. FREEMAN, Christopher E.  
21 Highland Blvd. N.W.  
Rome
- ✓ 147. MONTGOMERY, Idalee D. <sup>Sec. At Battery Mach.</sup>  
49 Haywood Valley Rd. N.W.  
Armuchee, Ga.
- ✓ 148. CROUCH, Barbara <sup>Husb. is Ins. Agent - Homeowner</sup>  
103 Rolling Oaks Dr.
- ✓ 149. GILBREATH, Steven G. <sup>Mach. oper. Pepperell mfg.</sup>  
1021 Booze Mtn. Rd.  
Lindale,
- ✓ 150. SAUNDERS, Claude H.  
504 E. 10th St.  
Rome
- ✓ 151. LITTLEJOHN, Myra Jane B.  
Ateriam Heights  
Rome
- ✓ 152. LOYD, James Wm. <sup>Truck driver for ITT Baking</sup>  
3121 Choun Hwy.
- ✓ 153. GARNER, Lynn <sup>Former Sheriff of Floyd Co</sup>  
7 E. 19th St.
- ✓ 154. HOLLIFIELD, Inez <sup>works at Cathie's Bridal & Fairs</sup>  
<sup>Shopper - Homeowner</sup>  
517 Elliot Dr.
- ✓ 155. TREADAWAY, Noel O. <sup>Crane oper. G.A. Kraft - Homeowner</sup>  
600 Billy Pyle Rd.



State v Foster 86-F-2218-2  
24/103

State v Foster 86-F-2218-2  
24/103

REPORT NO JUR100-01

FLOYD COUNTY SUPERIOR COURT

SD NO: 53 PAGE 1

REPORT DATE: 01/21/78

TRAVERSE JURY

APRIL 20, 1987

DGE: ROBERT G WALTHER

JURORS REQUESTED: 130

TIME: 9:30 A.M.

001. DEMPSEY NEAL BARRY  
129 BARRON RD NE  
ROME GA 30161
002. HARPER BONNIE *oper. DeSota Beauty Shop N.C. 7e*  
3 PRIMULAS DR *she is Ronnie Duck's Great Aunt*  
ROME GA 30161
003. LANIER SARAH Elaine *CLK. Belk's*  
711 LEE AVENUE  
ROME GA 30161
004. RATLIFF WILEY KELVIN *works at Revco Pharmacist*  
4915 CALHOUN RD NE  
ROME GA 30161
005. HACKETT MARY A *husb. V. Pres. Valley Vend see attached sheet*  
3 MITCHELL CIR  
ROME GA 30161
006. CECIL KIP ALAN WM *off leave*  
52 PINERIDGE DR  
SILVER CREEK GA 30173
007. BEYSIEGEL MARY ELLEN *Co. Dept. Family & child. Services*  
4 NORTHWOOD DR  
ROME GA 30161
008. CAGLE RICKEY J *Fireman City of Rome see attached sheet*  
3651 CAVE SPRING RD SW  
ROME GA 30161
009. HOOD EDDIE *Age 47 hlp. Co. Kraft see attached sheet*  
13 COPELAND ST  
ROME GA 30161
010. NICHOLSON JOYCE M *techr. Elm. st. Elem. Sch.*  
5 CONWAY PL  
ROME GA 30161
011. MCGINNIS NONA ADLINE *Retired*  
7 MCGINNIS DR SE  
ROME GA 30161
012. CLEMENTS J TERRY *off returned*  
201 TURNER CHAPEL RD  
ROME GA 30161
013. HOELZER MARGARET D *husb. Pediatrician ON Bd. st.*  
907 EAST 2ND AVE  
ROME GA 30161
014. STANSELL MARY H *husb. works for Power Co.*  
1928 TEXAS VLY RD NW  
ROME GA 30161
015. WILSON LOUISE *Age 68 Retired owns her home see attached sheet*  
1603 FLANNERY ST  
ROME GA 30161
016. BARBOGELLO MAUREEN B *husb. is Superv. Triplitt Sales Inc.*  
207 AUSBURN RD  
ROME GA 30161
017. CARR ANNA W *Retired*  
31 MAPLEWOOD SQ  
ROME GA 30161
018. BING PATRICIA A *OK*  
5452 FOSTER MILL RD SW  
CAVE SPRINGS GA 30124
019. HINES CORRIE LEE *Age 65 Retired owns his home see attached sheet*  
121 CHAMBERS ST  
ROME GA 30161
020. EVANS MYRTLE FRANCES  
186 TURK MT RD NE  
ARMUCHEE GA 30105
021. BLACK DOROTHY M  
5117 ALA RD SW  
ROME GA 30161
022. HARDGE EVELYN *Age 69 Retired her & her husb. own their home*  
334 WEST ROSS ST  
ROME GA 30161
023. COULTAS ANNE B *Works for Security Berry College*  
482 OLD BELLS FERRY RD  
ROME GA 30161
024. HOBGOOD LOU ELLA *husband is officer w/ GA. State Bank.*  
28 PINE VALLEY RD  
ROME GA 30161
025. DEDEURWAERDER VICTOR *Retired owns his home*  
28 WINGFIELD ST  
ROME GA 30161
026. STANLEY RUBY BARNES *returned*  
296 PAINTER RD NE  
ROME GA 30161
027. HOUSE CHARLOTTE *She is related to Mrs Hubbard. Neighbor of Mrs. White*  
333 FREEMAN FERRY RD *husb. w/ GA. Power*  
ROME GA 30161
028. JOHNSON BOBBIE JEAN *Age 56*  
5 ROONEY RD  
ROME GA 30161



REPORT NO JUR100-01  
REPORT DATE: 01/21/87  
JUDGE: ROBERT G WALTHER

FLOYD COUNTY SUPERIOR COURT  
TRAVERSE JURY  
JURORS REQUESTED: 130

SD NO: 53 PAGE  
APRIL 20, 1987  
TIME: 9:30 A.M.

027. TATE RAY ALLEN  
5809 BIG TEXAS VLY RD NW  
ROME GA 30161

043. <sup>Superd. Janitor At Berry College</sup>  
FUQUA MERRIAM A  
820 WARREN RD NE  
ROME GA 30161

~~028. NIXON KENNETH LEWIS~~  
18 KINGS COURT  
ROME GA 30161

044. <sup>works for S. Railway</sup>  
HALL DONALD H  
79 HALL RD  
SILVER CREEK GA 30173

031. <sup>Field Wkr. State Dept. of Labor</sup>  
GRAVES BILLY E  
8 MONTRE CIRCLE SE  
SILVER CREEK GA 30173

045. <sup>Retired owns his home</sup>  
MCMAHON GEORGE J  
2624 LAKERIDGE CIR  
ROME GA 30161

~~029. SALMON JUDY ODELL~~  
325 SOUTH MCILIN ST.  
ROME GA 30161

046. <sup>works at GA. Kraft (owns his ho.)</sup>  
LEROY CLAIBORNE R  
579 OLD ROCKMART RD SE  
SILVER CREEK GA 30173

033. <sup>owns his home</sup>  
COCHRAN JAMES T  
6 LINDBERG DRIVE  
ROME GA 30161

~~047. GARDNER JAMES C JR~~  
203 DODD ST  
ROME GA 30161

034. HAWKINS DEENA LOUISE  
RT 1 FLOYD SPRINGS RD  
ARMUCHEE GA 30105

048. HAMMOND SELENA D  
3 FRANKLIN ST  
ROME GA 30161

035. <sup>husb. is mktg. Rep. Ga. Power Co.</sup>  
TERRY THELMA B  
632 SPOUT SPRINGS RD  
ROME GA 30161

~~049. GRAY ROLAND L~~  
206 BROOKWOOD AVE  
ROME GA 30161

036. HOWSE ELIZABETH B  
886 HORSELEG CRK RD  
ROME GA 30161

050. <sup>Tech. N.W. Reg. Hosp. owns his home</sup>  
HENSON SCOTT R JR  
100 CHATILLON ROAD  
ROME GA 30161

037. <sup>Retired owns his home</sup>  
HILL DORSEY B  
404 ROBINHOOD RD  
ROME GA 30161

~~051. HANSON LARRY J~~  
23 FANNIN STREET  
CAVE SPRINGS GA 30124

038. <sup>Age 37 office clk. N.W. Ga. Reg. Hosp. owns her home</sup>  
TURNER MARY B  
504 WOODBINE AVE  
ROME GA 30161

052. HOLT ROBIN A  
100 DAVIS ROAD SW  
CAVE SPRINGS GA 30124

039. <sup>D.P. Berry College</sup>  
HAULK CHARLES F  
109 JOHN ROSS DR  
ROME GA 30161

053. GREEN GERTRUDE  
950 OLD DALTON RD NE  
ROME GA 30161

040. <sup>each son attached sheet</sup>  
BISHOP BILLY P  
8 GREEN ST  
ROME GA 30161

054. GALE ANNA JO  
205 1/2 OAKWOOD ST  
ROME GA 30161

041. <sup>Doyal? see Attached sheet</sup>  
RICHARDSON BEVERLY KAY  
VALLEY ROAD  
CAVE SPRINGS GA 30124

~~055. GREEN BERTIS ANN~~  
305 PARK ST  
LINDALE GA 30147

~~042. CAMP VICKY K~~  
10 KYLE ST  
ROME GA 30161

056. HOUSE VIRGINIA W  
5 DON DR  
ROME GA 30161



REPORT NO JUR100-01

FLOYD COUNTY SUPERIOR COURT

SD NO: 53 PAGE 3

REPORT DATE: 01/21/87

TRAVERSE JURY

APRIL 20, 1987

JUDGE: ROBERT G WALTHER

JURORS REQUESTED: 130

TIME: 9:30 A.M.

Husb. owns Rhinehart Equip. on 27th.  
owns his home

057. RHINEHART IRALYNE K

14 GARDEN CT S

ROME

GA 30161

071. FINCHER LINDA KAY

14 RED FOX DRIVE

ROME

GA 30161

058. SMITH DONALD E

317 RIDGEDALE DRIVE

SILVER CREEK

GA 30173

072. HIBBERT MARGARET S

113 HOSEA AVE

ROME

GA 30161

059. HOLLINGSWORTH FLORENCE W

11 WHEELER STREET

ROME

GA 30161

073. MILAM ROBERT E

SUMMITT DR

LINDALE

GA 30147

060. BIRDSONG ELIZ D

345 BOOZE MTN RD

LINDALE

GA 30147

074. HUNT ROBERT L

21 RIVERVIEW RD

ROME

GA 30161

061. GRISSOM MARY K

4 RIVER ST

CAVE SPRINGS

GA 30124

075. RUSSELL INDEE ANN

113 DELWOOD DR

ROME

GA 30161

062. LYON JANE K Husb. owns Lyon's Den on T. McCall

241 MARGO TR

ROME

GA 30161

076. JACKSON SHIRLEY A

6 OREBURG RD

ROME

GA 30161

3. Controller State Mut. Ins. Homeowner

063. STRAUSS ROBERT JOSEPH

28 MARGO TRAIL

ROME

GA 30161

077. HIBBERTS KATHY A

1060 ROSEDALE RD NE

ARMUCHEE

GA 30105

064. ROBERSON ELBERT J owns Auto collision  
9 GREENBRIAR LANE on Dean St.

ROME

GA 30161

078. WATERS VONDA F Husb. is Lawyer w/Preferred Research

209 OAKWOOD RD

ROME

GA 30161

065. PHILLIPS BARBARA JEAN

24 BROOKVALLEY COURT

ROME

GA 30161

079. HARRISON A STEVEN

100 GRAY ROCK DRIVE

ROME

GA 30161

B Age 64

066. WOFFORD FANNIE L

142 HASTY RD

ROME

GA 30161

080. ODOM JEFFREY KINSEY

47 LAKEVIEW DRIVE SE

LINDALE

GA 30147

B Age 25

067. POWELL SHIRLEY A

E 11TH ST

ROME

GA 30161

081. GARRETT C A JR

25 MAPLEWOOD SQ

ROME

GA 30161

068. VANN ALVIS

491 LOONEY DR SW

ROME

GA 30161

082. FREEMAN E LYNNE

48 GLENWOOD APTS

ROME

GA 30161

069. HOBAN JOHN W Homeowner

12 NOTTINGHAM WAY NE

ROME

GA 30161

083. BLACKMON ARLENE M

1122 PARK BLVD

ROME

GA 30161

070. HORNER STEPHEN RAY

117 HYCLIFF RD

ROME

GA 30161

084. BLANTON OWEN L JR

11 CRESTRIDGE DR

ROME

GA 30161

[923]



REPORT NO JUR100-01

FLOYD COUNTY SUPERIOR COURT

SD NO: 53 PAGE 4

REPORT DATE: 01/21/87

TRAVERSE JURY

APRIL 20, 1987

NAME: ROBERT G WALTHER

JURORS REQUESTED: 130

TIME: 9:30 A.M.

~~085. HUFF FRANCES C. off New York City~~  
301 CLARKE DR  
ROME GA 30161

099. HUBBARD HUGH L  
71 FRED KELLEY RD  
ROME GA 30161

~~086. GARRETT MARILYN H~~  
306 EAST 18TH ST  
ROME GA 30161

~~100. BOROCHOFF OSCAR off 84 yrs old~~  
311 EAST 9TH ST  
ROME GA 30161

087. MOORE IRMA B wants off medical reasons  
RT 1 CULPEPPER RD  
CALHOUN GA 30701

101. PLUMMER BETH B. excused for cancer attached sheet  
1037 OLD RIVER RD SW  
ROME GA 30161

088. DUNCAN MARTHA F. Revco Drugs  
112 PENNCREST DR  
ROME GA 30161

102. MOORE ORPHA  
988 BARKER RD SW  
ROME GA 30161

089. HOLDER TEDDY R  
49 HAMMOND DR SW  
ROME GA 30161

103. GODFREY KENNETH LEON see attached sheet  
592 GADSDEN RD SW  
CAVE SPRINGS GA 30124

090. TAYLOR LUCILE see attached sheet  
513 WEST 12TH ST  
ROME GA 30161

104. HYDE PAMELA M  
408 SPRING VILLAGE RD  
LINDALE GA 30147

~~091. SALMON STACY LEIGH off lives in Ga. 1/2 yr~~  
18 DEPOT ST NE  
ARMUCHEE GA 30105

105. GRAHAM JESSIE L  
31 BLACK BLUFF RD  
ROME GA 30161

092. FLOYD MARK EDWIN  
5514 BIG TEXAS VLY RD  
ROME GA 30161

106. HUFFMAN DON M  
792 MELSON RD  
CAVE SPRINGS GA 30124

093. HILL MILDRED S Retired Homeowner  
404 ROBINHOOD RD  
ROME GA 30161

107. HATCH LESLIE R Retired Homeowner see attached sheet  
3 N PENNINGTON AVE  
ROME GA 30161

~~094. STEGALL SANDRA LEE off returned~~  
RT 1 OLD ROCKMART RD  
SILVER CREEK GA 30173

108. HATCH ROY HOMER  
217 FLORA AVE  
ROME GA 30161

095. CAMP MARY BOLT she's 83 yrs old  
291 ACRON RD SE  
ROME GA 30161

109. GREEN MICHAEL STEVEN  
783 JONES MILL RD NE  
ROME GA 30161

~~096. HUFF ROBERT W. JR off son technical school~~  
301 CLARKE DR  
ROME GA 30161

110. GRINDSTAFF BOBBIE M  
47 DOGWOOD ST  
ROME GA 30161

097. EARLY CAROLYN J Retired Homeowner  
4 CHRISTOPHER PL  
ROME GA 30161

111. CADLE NANCY L see attached sheet?  
146 S AVERY RD SW  
ROME GA 30161

098. BRAND EDGAR SR His son & wife own home  
114 PERKINS ST  
ROME GA 30161

~~112. SMITH MARGARET K off returned~~  
406 FRED KELLY RD NE  
ROME GA 30161



REPORT NO JUR100-01  
REPORT DATE: 01/21/87  
JUDGE: ROBERT G WALTHER

FLOYD COUNTY SUPERIOR COURT  
TRAVERSE JURY  
JURORS REQUESTED: 130

State v Foster 86-F-2218-2  
SD NO: 53 PAGE 03 5  
APRIL 20, 1987  
TIME: 9:30 A.M.

3. BEVELS JAMES H <sup>Wife w/ World BAZAAR</sup>  
499 FRED KELLEY RD NE  
ROME GA 30161
114. BERRY VIRGINIA G  
87 ANTIOCH RD NW  
ROME GA 30161
115. HOWELL WILLIAM JEFFREY <sup>mach. oper. Bekeant Homeowner</sup>  
25 VIEW DR SE  
ROME GA 30161
116. MIXON LEWIS WM <sup>works w/ Atlanta Gas Light - Homeowner - wife w/ GA Power Co.</sup>  
18 KINGS COURT  
ROME GA 30161
117. SUMNERS ROBERT E <sup>Dir. Berry College</sup>  
43 WESTWOOD CIR  
ROME GA 30161
118. FUQUA WALTER S  
706 LEE AVE  
ROME GA 30161
119. BETHEL MARGARET W <sup>Retired - Homeowner</sup>  
8 RIDGEWOOD RD  
ROME GA 30161
120. WALTERS SHIRLEY Y <sup>works at Crestwell Nursing Home - Homeowner see attached sheet</sup>  
10 WILLINGHAM ST  
ROME GA 30161
121. HARTIS ELIZABETH A <sup>Tex. wkr. Horizon Carpets - Homeowner</sup>  
201 B REECE ST  
ROME GA 30161
122. TALIAFERRO ORVIL K <sup>GA - Kraft - O.K.</sup>  
23 FAIRHAVEN DR NW  
ROME GA 30161
123. HAGGARD LEONARD <sup>Const. wkr. - Union Pipe Fitter</sup>  
30 ASH ST  
ROME GA 30161
124. STARR NANCY S <sup>husb. Doctor (needs to be off on Thurs only)</sup>  
3 RIDGEWOOD RD  
ROME GA 30161
125. SMITH CAROLYN T <sup>Dir. Berry College see attached sheet</sup>  
BOX 599  
MOUNT BERRY GA 30149
- ~~126. HOLCOMBE ODESSA MOORE~~ <sup>off disabled</sup>  
32 GLENVIEW DR NE  
ROME GA 30161
127. EVANS ADELE A  
311 EAST 2ND AVE  
ROME GA 30161
128. COX CHARLES P <sup>Retired - Homeowner</sup>  
611 CEDAR AVE  
ROME GA 30161
129. OTWELL WM CRAIG <sup>see attached sheet</sup>  
758 HOLLAND RD NW  
ROME GA 30161
- ~~130. WOODALL LILLIE S~~ <sup>off In 22 years off Nursing Home Springwood</sup>  
109 HEMLOCK ST  
ROME GA 30161
131. Wanda D. Wuttker <sup>husb. works for MANAGEMENT G.A.P. Homeowner</sup>  
521 Billy Eyle Rd
132. Louise Hmake <sup>husb. works for Sears Homeowner</sup>  
6 Garden Ct. South
133. A. D. Branton <sup>oper. Branton Ser. STA.</sup>  
302 Randall Rd S W  
Came Sp.
134. Louise D. Bagley <sup>V.P. Branton Plow Homeowner see attached sheet</sup>  
35 Black Bluff Rd
135. Ricky Shedd <sup>N/A</sup>  
30 S. Wilkins St
136. Darlene Graham <sup>see attached sheet</sup>  
Rt 6 Harty Rd
137. John Parker <sup>husb. works for Riddle office Supply</sup>  
1459 Old Roadside Rd. N.E.  
Armauer, Ga



- HAIGWOOD, DIANNE M. <sup>Home owner - works</sup>  
At Redmond Park Hosp.  
13 John's Drive. N.E.
- ✓ 139. GUY C. GRIFFIN  
382 Collier Rd. NE.
140. POOLE, Barbara Ann <sup>see attached sheet</sup>  
656 Abrams Rd.  
Silver Creek, Ga.
- ✓ 141. HITT, Reid <sup>works for Valley View Home owner</sup>  
241 Cave Spring St.  
Rome
- ✓ 142. NORTON, Helen G. <sup>Retired - Homeowner</sup>  
514 Cooper Dr.
- ✓ 143. BOOKER, James H., Jr. <sup>Assoc. w Lanier, Huffman, Robertson Ins. (Huffman's Son-in-law)</sup>  
Home owner  
511 E. 9th St.
- ✓ 144. WALKER, Ruby  
2 Walker Dr.  
Rome, Ga.
- ✓ 145. Chambers, Carol L. <sup>works at Belk's</sup>  
3108 Kingston Hwy. S.E.  
Rome, Ga.
- ✓ 146. FREEMAN, Christopher E.  
21 Highland Blvd. N.W.  
Rome
- ✓ 147. MONTGOMERY, Idalee D. <sup>Sec. At Battery Mach.</sup>  
49 Haywood Valley Rd. N.W.  
Armuchee, Ga.
- ✓ 148. CROUCH, Barbara <sup>Husb. is Ins. Agent - Homeowner</sup>  
103 Rolling Oaks Dr.
- ✓ 149. GILBREATH, Steven G. <sup>mach. oper. Pepperell mfg.</sup>  
1021 Booze Mtn. Rd.  
Lindale,
- ✓ 150. SAUNDERS, Claude H.  
504 E. 10th St.  
Rome
- ✓ 151. LITTLEJOHN, Myra Jane B.  
Atteriam Heights  
Rome
- ✓ 152. LOYD, James Wm. <sup>Truck driver for ITT Baking</sup>  
3121 Choun Hwy.
- ✓ 153. GARNER, Lynn <sup>Former Sher. Lt of Floyd Co</sup>  
7 E. 19th St.
- ✓ 154. HOLLIFIELD, Inez <sup>works at Carrie's Bridal & Fur Shoppe - Homeowner</sup>  
517 Elliot Dr.
- ✓ 155. TREADAWAY, Noel O. <sup>Crane oper. G.A. Kraft - Home</sup>  
600 Billy Pyle Rd.
- off at rec. surgery apt 20*

- ✓ 156. FOSS, Elizabeth H. *husband - Jim - attorney*  
1388 Old Summerville Rd. N.W.  
Rome, Ga.
- ✓ 157. HOLDEN, Barbara *retired - Floyd Medical Center Bldg. - In Service Bldg.*  
206 E. Valley Rd.  
Rome, Ga.
- ✓ 158. FLOWERS, Juanita  
133 Jim Lee Dr.
- ✓ 159. BRIERLY, Raymond A. *current discussion investigator for Police*  
399 Warren Rd. N.E.  
Rome, Ga.
- ✓ 160. COOK, Opal *retired - home owner*  
107 Burnett Ferry Rd.
161. BREEDEN, J.D. *see attached sheet*  
282 McGrady Rd.
162. DEMPSEY, Dallas *asst. Dempsey Bros. Lnc. Agcy. see attached sheet*  
505 E. 11th Street
- ✓ 163. GRESHAM, Louise *Peggy Leithouser N/A*  
797 Turner Chapel Rd., S.E.
- ✓ 164. BOHANNON, Sherry *sec. P.O. - home owner*  
7 Battey Dr.
- ✓ 165. WILLIAMS, Pauline *retired - home owner*  
107 Woodcrest Drive
166. DEAN, Peggy *paint room opr. Alcan Bldg. Prod.*  
208 Stonewall St. *see attached sheet*
- ✓ 167. PERRY, Ralph *retired - home owner*  
104 W. Lakeshore
168. CROWE, Clayton  
8 Maplewood Sq.
- ✓ 169. SHARP, Selma *quality control home owner*  
Box 90  
Boyd Valley Rd. *N/A*
- ✓ 170. HIGHTOWER, Delorres C.  
929 Moran Lake Rd.
- ✓ 171. McELWEE, Gary John *typ. wrk. Klopman*  
2120 Calhoun Rd., N.E.
- ✓ 172. WEST, Vera *husband - West Signs Co. - home owner*  
5 Ridge Dr.
- ✓ 173. HALE, Roberta  
928 Turner Chapel Rd.
174. LEITHAUSER, Peggy *related to Don - contractor - home owner*  
100 Saddle Mt. Rd. *see attached sheet*
- ✓ 175. GOBLE, Rebecca Elaine  
3 Wood Valley Rd.
- ✓ 176. WAKEFIELD, George E. *elasmn. Susan Allen & Co. - home owner*  
33 Doncaster Dr.
177. YOUNG, Betty R. *techr. inst. Rome Hl. School*  
17 Donley Dr. *see attached sheet*
- ✓ 178. SHEFFIELD, Jean B. *letter - Caligen Fed. Soc. & Loan - home owner*  
402 Deberry Lane

APRIL 20, 1987 - CONTINUED JURY LIST

179. STUART, Kelly F. *Keith A. Aughr. Burl. Indus. - Homeowner*  
✓ 105 4th Street  
.....Shannon, GA...30172.....

PLEASE PROVIDE VERIFICATION ON THE NAME, ADDRESS, RACE, SEX AND AGE OF THE FOLLOWING PERSONS:

Neal Barry Dempsey (1)  
3 Primulus Dr  
Rome, GA 30161  
W M (21 yrs) D/B 5/5/65

Sarah H. Lanier (3)  
711 Lee Ave  
Rome, GA  
w f (31) d/b 5/1/55

Mary A. Hackett (5)  
3 Mitchell Circle  
Rome, GA  
w f (30) d/b 9/24/56

Mary Ellen Beyseigel (7)  
4 Northwood Drive  
Rome, GA  
w f (53) d/b 7/15/33

Eddie Hood (9)  
13 Copeland St.  
Rome, GA  
b m (46) d/b 5/26/40

Nora Adline McGinnis (11)  
7 McGinnis Dr., SE  
Rome, GA  
w f (70) d/b 1-8-17

Margaret D. Hoelzer (13)  
907 E. 2nd Ave.  
Rome, GA  
w f (65) d/b 10-17-21

Louise Wilson (15)  
1603 Flannery St.  
Rome, GA  
b f (67) d/b 11/4/19

Anna W. Carr (17)  
31 Maplewood Sq.  
Rome, GA  
w f (67) d/b 5/28/19

Corrie Lee Hines (19)  
121 Chambers St.  
Rome, GA  
b m (65) d/b 1/1/22

Dorothy M. Black (21)  
5117 Alabama Rd., SW  
Rome, GA  
w f (65) d/b 8/29/21

Bonnie Harper (2)  
129 Barron Road, NE  
Rome, GA  
W F (68) D/B 3/27/19

Wiley Kelvin Ratliff (4)  
4915 Calhoun RD NE  
Rome, GA  
W M (24) D/B 3/12/63

Kip Alan Wm Cecil (6) OFF  
52 Pineridge DR  
Rome, GA  
w m (29) d/b 3/16/58

Rickey J. Cagle (8)  
3651 Cave Spring RD  
Rome, GA  
w m (33) d/b 7-6-53

Joyce M. Nicholson (10)  
5 Conway Pl.  
Rome, GA  
w f (35) d/b 12/1/51

J. Terry Clements (12) OFF  
201 Turner Chapel Rd.  
Rome, GA  
w m (30) d/b 8-2-56

Mary H. Stansell (14)  
1928 Little Texas Valley Rd., NW  
Rome, GA  
w f (53) d/b 1/8/34

Maureen B. Barbogello (16)  
207 Ausburn Rd.  
Rome, GA  
w f (54) d/b 8/20/32

Patricia A. Bing (18)  
5452 Fosters Mill Rd., SW  
Cave Spring, GA  
w f (38) d/b 2-18-49

Myrtle Frances Evans (20)  
186 Turkey Mountain Rd.  
Armuchee, GA  
w f (44) d/b 5/14/42

Evelyn Hardge (22)  
334 West Ross St.  
Rome, GA  
b f (68) d/b 12/8/18

B. Coultas (23)  
Olds Bell Ferry Rd  
Rome, GA  
w f (36) d/b 1-12-51

Victor Deduerwaerder (25)  
28 Wingfield St  
Rome, GA  
w m (67) d/b/ 5/14/19

Charlotte S. House (27)  
333 Freeman Ferry Rd  
Rome, GA 9-20-37  
w f (49) d/b/ 9-2-37

Ray Allen Tate (29)  
5809 Big Texas Valley Rd  
Rome, GA  
w m (48) d/b/ 7-12-38

Billy E. Graves (31)  
8 Montre Circle  
Silver Creek, GA 1-19-34  
w m (53) d/b 1-17-34

James T. Cochran (33)  
6 Lindbergy Drive  
Rome, GA  
w m (57) 7/7/29

Thelma B. Terry (35)  
632 Spout Springs Rd  
Rome, GA  
w f (38) d/b 3/4/49

Dorsey B. Hill (37)  
404 Robinhood Rd  
Rome, GA  
w m (69) d/b 6-25-17

Charles F. Haulk (39)  
109 John Ross Drive  
Rome, GA  
w m (48) d/b 8/22/38

Beverly Kay Richardson (41)  
Valley Road  
Cave Spring, GA  
w f (27) d/b 8/28/59

Merriam A. Fuqua (43)  
820 Warren Rd NE  
Rome, GA  
w f (57) d/b 12/19/29

George J. McMahn (45)  
2624 Lakeridge Circle  
Rome, GA  
w m (71) d/b 5/17/15

Lou Ella Hobgood (24)  
28 Pine Valley Rd State v Foster 86-F-2218-2  
Rome, GA 33/103  
w f (29) d/b 11-13-57

Ruby Barnes Stanely (26)  
296 Painter Rd  
Rome, GA  
w f (64) d/b 11-13-22

Bobbie Jean Johnson (28)  
5 Rounney Rd  
Rome, GA  
b f (55) d/b/ 11/29/31

Kenneth Lewis Mixon (30)  
18 King Court  
Rome, GA  
w m (25) d/b/ 7-4-61

Jody Odell Salmon (32)  
325 South McLin St.  
Rome, GA  
w m (24) d/b 4/14/63

Deena Louise Hawkins (34)  
Rt. 1, Floyd Springs RD  
Armuchee, GA  
w f (22) d/b 10-3-64

Elizabeth B. Howse (36)  
886 Horseleg Creek Rd  
Rome, GA  
w f (34) d/b 8/30/52

Mary B. Turner (38)  
504 Woodbine  
Rome, GA  
b f (37) d/b 1/6/60

Billy P. Bishop (40)  
8 Green Street  
Rome, GA  
w m (48) d/b 5/26/38

Vicky K. Camp (42)  
10 Kyle St  
Rome, GA  
w f (33) d/b 10/17/53

Donald H. Hall (44)  
79 Hall Rd  
Rome, GA  
w m (54) d/b 8/11/32

Clairborne R. Leroy (46)  
579 Old Rockmart Rd SE  
Silver Creek, GA  
w m (55) d/b 3/22/32

W. C. Gardner, Jr. (47)  
3 Dodd Street  
Rome, GA  
w m (60) d/b 6/28/26

Roland L. Gray (49) OFF  
206 Brookwood 4/02/20  
w m (67) d/b 4/20/20

Larry . Hanson (51)  
23 Fannin Street  
Cave Spring, GA  
w m (34) d/b 3/8/53

Gertude Green (53)  
950 Old Dalton Rd NE  
Rome, GA  
w f (69) d/b 12/3/17

Doris Ann Green (55)  
305 Park St  
Lindale, GA  
w f (51) d/b 6/26/35

Iralyne K. Rhinehart (57)  
14 Garden Court S  
Rome, GA  
w f (67) d/b 7/5/19

Florence W. Hollingsworth (59)  
11 Wheeler St  
Rome, GA  
w f (73) d/b 11/7/14

Mary K. Grisson (61) OFF  
4 River St  
Cave Spring  
w f (79) 12/10/07

Robert Joseph Strauss (63)  
28 Margo Trail  
Rome  
w m (40) d/b 12/17/46

Barbara Jean Phillips (65)  
24 Brook Valley Ct  
Rome, GA  
w f (22) d/b 4/24/64

Shirley A. Powell (67)  
E 11th  
Rome  
b f (25) d/b 4/1/62

Selena D. Hammond (48) State Foster 86-F-2218-2  
3 Franklin Street (Big Tex Valley Rd) 34/103  
Rome, GA  
w f (26) d/b 7/19/60

Scott R. Henson, Jr. (50)  
100 Chatillon Rd (100 Westmore Rd)  
w m (28) d/b 6-17-58

Robin A. Holt (52)  
100 Davis Road (20 Norwood)  
Cave Spring, GA  
w f (28) d/b 12/27/58

Anna Jo Gale (54)  
205-1/2 Oakwood St  
Rome, GA  
w f (59) d/b 10/19/27

Virginia W. Howse (56)  
5 Don Drive  
Rome, GA  
w f (66) d/b 1/18/21

Donald E. Smith (58) OFF  
317 Ridgedlae Dr  
Silver Crk, GA  
w m (56) d/b 9/25/30

Elizabeth D. Birdsong (60) OFF  
345 Booze Mtn Rd  
Lindale, GA  
w f (28) d/b 8/11/58

Jane K. Lyon (62)  
241 Margo Trail  
Rome  
w f (55) 7/4/31

Elbert J. Roberson (64)  
9 Greenbriar Lane  
Rome  
w m (53) d/b 8/5/33

Fannie L. Wofford (66)  
142 Hasty Rd  
Rome  
b f (64) d/b 3/7/23

Vann Alvis (68)  
491 Looney Dr SW  
Rome  
w f (74) d/b 3/11/13

(69)  
W. Hoban  
Nottingham Way NE  
ome,  
w m (62) d/b 2/1/25

(71)  
Linda Kay Fincher  
14 Red Fox Dr  
Rome  
w f (34) 6/24/52

(73)  
Robert E. Milam  
Summitt Dr.  
Lindale  
w m (50) d/b 11/22/36

(75)  
Indee Ann Russell  
113 Delwood Dr.  
Rome, GA  
w f (20) d/b 4/19/67

(77)  
Kathy A. Hibberts  
1060 Rosedale Rd NE  
Armuchee  
w f (32) d/b 6/25/54

(79)  
A. Steven Harrison  
100 Gray Rock Dr.  
Rome  
w f (31) d/b 7/22/55

(81)  
C. A. Garrett, Jr.  
25 Maplewood Sq.  
Rome  
w m (40) d/b 11/14/46

(83)  
Arlene M. Blackman  
1122 Park Blvd  
Rome  
w f (47) d/b 6/4/39

(85)  
Frances C. Huff  
301 Clarke Dr  
Rome,  
w f (27) d/b 6/17/59

(87)  
Irma B. Moore  
Rt 1, Culpepper Rd  
Calhoun  
w f (65) d/b 6/12/21

(89)  
Teddy R. Holder  
49 Hammond Dr, SW  
Rome  
w m (35) d/b 10/5/51

(70)  
Stephen Ray Horner  
117 Hycliff Rd  
Rome  
w m (32) d/b 6/30/54

(72)  
Margaret S. Hibbert  
113 Hosea Dr  
Rome  
w f (44) d/b 8/25/42

(74)  
Robert L. Hunt  
21 Riverview Dr  
Rome  
w m (20) d/b 10/5/66

(76)  
Shirley A. Jackson  
6 Oreberg Dr  
Rome, GA  
w f (52) d/b 12/29/34

(78)  
Vonda L. Waters  
209 Oakwood Rd  
Rome  
w f (26) d/b 4/24/50

(80)  
Jeffrey Kinsey Odom  
47 LAkeview Dr SE  
Lindale  
w m (23) 8/9/63

(82)  
E. Lynne Freeman  
48 Glenwood Apt  
Rome  
w f (28) 7/12/58

(84)  
Owen L. Blanton, Jr.  
11 Crestridge Dr  
Rome  
w m (57) d/b 8/4/29  
OFF

(86)  
Marilyn H. Garrett  
306 E 18 St  
Rome  
b f (34) d/b 6/23/52

(88)  
Martha F. Duncan  
112 Penncrest Dr  
Rome  
w f (43) d/b 10/19/43

(90)  
Lucile Taylor  
513 W 12th St  
Rome  
b f (72) d/b 10/1/14

Leigh Salmon (91)  
Depot St NE off  
Rmuchee  
w f (24) d/b 10/3/62

Mildred S. Hill (93)  
404 Robinhood Rd  
Rome  
w f (55) d/b/ 9/17/21

Mary Bolt Camp (95)  
291 Arcon Rd SE  
Rome, GA  
w f (73) d/b 12/19/13

Carolyn J. Early (97)  
4 Christopher Place  
Rome  
w f (55) d/b 12/22/31

Hugh L. Hubbard (99)  
71 Fred Kelley Rd  
Rome  
w m (55) d/b 9/30/31

Beth B. Plummer (101)  
1037 Old River Rd SW  
Rome  
w f (51) 11/10/35

Kenneth Leon Godfrey (103)  
592 Gadsen Rd SW  
Cave Spring  
w m (57) d/b 8/18/29

Jessie L. Graham (105)  
31 Black Bluff Rd  
Rome  
w f (74) d/b/ 10/9/12

Leslie R. Hatch (107)  
3 North Pennington Dr  
Rome  
w m (44) d/b 10/13/42

Michael Steven Green (109)  
783 Janes Mill Rd NE  
Rome  
w m (25) d/b 3/28/62

Nancy L. Cadle (111)  
146 S. Avery Rd SW  
Rome  
w f (47) d/b 8/16/39

Mark Edwin Floyd (92)  
5514 Big Texas Valley Rd  
Rome  
w m (21) d/b 3/22/66

Sandra Lee Stegall (94)  
Rt 1, Old Rockmart Rd off  
Silver Crk  
w f (20) d/b 7/13/66

Robert W. Huff, Jr. (96)  
301 Clarke Dr off  
Rome, GA  
w m (34) d/b 7/26/52

Edgar Brand, Sr (98)  
114 Perkins St  
Rome  
b m (51) d/b 1/2/26

Oscar Borochoff (100)  
311 E 9th St off  
Rome  
w m (84) d/b 8/5/02

Orpha Moore (102)  
988 Barker Rd SW off  
Rome  
w f (67) d/b 6/6/19

Pamela M. Hyde (104)  
408 Spring Village Rd  
Lindale  
w f (41) d/b 9/29/45

Don M. Huffman 106  
792 Melson Rd  
Cave Spring  
w m (21) d/b 3/30/66

Roy Homer Hatch 1/01/20<sup>108</sup>  
217 Flora Ave  
Rome  
w m (67) d/b 1/10/20

Bobbie M. Grindstaff (110)  
47 Dogwood St  
Rome  
w f (47) d/b 2/21/30

Margaret K. Smith (112)  
406 Fred Kelly Rd NE off  
Rome  
w f (37) d/b 3/5/50



(113)  
H. Bevels  
9 Fred Kelley Rd NE  
Rome  
w m (37) d/b 2/8/50

(115)  
William Jeffrey Howell  
25 View Drive SE  
Rome  
w m (31) d/b/ 5/25/55

(117)  
Robert E. Sumners  
43 Westwood Circle  
Rome  
w m (56) d/b 4/10/31

(119)  
Margaret W. Bethel  
8 Ridgewood Rd  
Rome  
w f (77) d/b 11/11/09

(121)  
Elizabeth A. Hartis  
201 B. Reece St (10B Rosemary C1)  
Rome  
w f (36) d/b 2/28/51

(123)  
Leonard Haggard  
30 Ash St  
Rome  
w m (60) d/b 9/9/26

(125)  
Carolyn T. Smith  
Box 599 (Mount Berry)  
Rome  
w f (55) d/b 5/8/31

(127)  
Adele A. Evans  
311 E. 2nd Ave  
Rome  
w f (66) d/b 11/20/20

(129)  
Willaim Craig Otwell, Jr.  
758 Holland NW  
Rome  
w m (29) d/b 9/20/57

(131)  
Wanda D. Watkins  
521 Billy Pyle Rd  
Rome  
w f (30) d/b 2/8/57

(133)  
A. D. Branton  
302 Randall Rd SW  
Cave Spring  
w m (71) d/b 12/11/15

(Rogers) (114)  
Virginia G. Berry  
87 Antioch Rd NW  
Rome  
w f (36) d/b 1/8/51

(116)  
Lewis William Mixon  
18 Kings Coury  
Rome  
w m (51) d/b 9/27/35

(118)  
Walter S. Fuqua  
706 Lee Ave (1804 Gordon Ave)  
Rome  
w m (38) d/b 1/20/49

(120)  
Shirley Y. Walters  
10 Willingham St  
Rome  
w f (43) d/b 10/10/43

(122)  
Orvil K. Taliaferro  
23 Fairhaven Dr NW  
Rome  
w m (56) d/b 2/25/31

(124)  
Nancy S. Starr  
3 Ridgewood Rd  
Rome  
w f (62) d/b/ 5/22/24

(126)  
Odessa Moore Holcombe  
32 Glenview Dr NE  
Rome  
w f (65) d/b 9/23/21

(128)  
Charles P. Cox  
611 Cedar Ave  
Rome  
w m (67) d/b 1/15/20

(130)  
Lillie C. Woodall  
109 Hemlock St  
Rome  
w f (76) d/b 1/21/11

(132)  
Louise Honaker  
6 Garden Court S  
Rome  
w f (65) d/b 5/1/21

(134)  
Louise D. Bagley  
35 Blacks Bluff Rd  
Rome  
w f (-) no birthdate

ky Shedd (Eugene) (135)  
D Wilkins St or *white male*  
4691 Huffacre Rd  
Rome  
w f (21) d/b/ 10/11/65

Jo Ann Parker (137)  
459 Old Rosedale Road (Armuchee)  
401 N. 5th Ave  
Rome  
w f (55) d/b/ 1/6/32

Guy C. Griffin (139)  
382 Collier Rd NE  
Rome  
w m (76) d/b 11/11/10

Reid Hitt (141)  
241 Cave Spring St  
Rome  
w m (64) d/b/ 11/6/22

James H. Booker, Jr. (143)  
511 E 9th St  
Rome  
w m (37) d/b 1/26/50

Carol L. Chambers (145)  
3108 Kingston Hwy SE  
Rome  
w f (21) d/b 1/11/66

Idalee Montgomery (147)  
49 Haywood Valley Rd NW  
Armuchee  
w f (48) d/b 3/30/39

Steven G. Gilbreath (149)  
1121 Booze Mt Rd  
Lindale  
w m (39) d/b 8/7/47

Myra Jane Littlejohn (151)  
Atteriam Heights  
(formerly Myra Jane Bice)  
501 Calhoun Ave  
w f (41) d/b 830/45

Lynn Garner (153)  
7 E 10th  
Rome  
w m (64) d/b 9/18/22

Noel Treadway (155)  
600 Billy Rd  
Rome  
w m (52) d/b 5/9/34

Darlene Graham (136)  
R 6, Hasty Rod  
Rome  
b f (28) d/b 6/25/58

Dianne M Haigwood (138)  
13 Johns Drive NE  
Rome  
w f (40) d/b 5/27/46

Barbara Ann Poole (140)  
656 Abrams Rd SE  
Silver Creek  
w f (43) d/b 4/6/44

Helen G. Norton (142)  
514 Cooper Dr  
Rome  
w f (71) d/b 1/11/16

Ruby Walker (144)  
2 Walker Dr  
Rome  
w f (65) d/b 1/11/22

Christopher E. Freeman 146  
21 Highland Blvd NW  
Rome  
w m (21) d/b 9/3/65 148

Barbara H Couch  
103 Rolling Oaks Drive  
Rome  
w f (55) d/b 1/20/32

Claud H. Sanders (150)  
504 E 10th St  
Rome  
w m (40) d/b 12/10/46

James William Loyd (152)  
3121 Calhoun Hwy  
Rome  
w m (42) d/b 7/23/44

Inez P. Hollifield (154)  
517 Elliott Drive  
Rome  
w f (66) d/b 4/28/20

Elizabeth H Foss (156)  
1388 Old Summerville Rd NW  
Rome  
w f (43) d/b 7/12/43

Para Holden (157)  
6 E. Valley Rd  
Rome,  
w f (64) d/b 10/21/22

Raymond A Brierley (159)  
399 Warren Rd NE  
Rome  
w m (44) d/b 7/21/42

J. D. Breeden (161)  
282 McGrady Rd  
Rome  
w m (66) d/b 5/13/20

Louise Gresham (163)  
797 Turner Chapel Rd SE  
Rome  
w f (57) d/b 4/18/30

Pauline Williams (165)  
107 Woodcrest Dr  
Rome  
w f (76) d/b 9/13/10

Ralph Perry (167)  
104 West Lakeshore Dr  
Rome  
w m (60) d/b 8/2/26

Selma Sharpe (169)  
90 Boyd Valley Rd  
Rome  
w f (66) d/b 4/22/20

Gary John McElwee (171)  
2120 Calhoun Rd NE  
Rome  
w m (23) d/b 7/25/63

Roberta Hale (173)  
928 Turner Chapel Rd  
Rome  
w f (63) d/b 12/11/23

Rebecca Elaine Goble (175)  
3 Wood Valley Dr  
Rome  
w f (36) d/b 6/8/50

Betty Roe Young (177)  
17 Donley Dr  
Rome  
w f (35) d/b 4/26/51

Kelly F. Stuart (179)  
105 4th St  
Shannon  
w m (23) d/b 6/3/63

Juanita Flowers (158) State v Foster 86-F-2218-2  
133 Jim Lee Dr 39/103  
Rome  
w f (57) d/b 7/11/29

Opal Cook (160)  
107 Burnette Ferry Rd  
Rome  
w f (65) d/b 10/21/21

Dallas Dempsey (162)  
505 E 11th St  
Rome  
w m (64) d/b 8/27/22

Sherry Bohanon (164)  
7 Battey Dr  
Rome  
w f (48) d/b 12/15/38

Peggy Dean (166)  
208 Stonewall  
Rome  
b f (40) d/b 4/24/46

Clayton Crowe (168)  
8 Maplewood Sq  
Rome  
w m (60) d/b 9/8/26

Delores C. Hightower (170)  
929 Moran Lake Rd  
Rome  
w f (46) 11/10/46

Vera West (172)  
5 Ridge Dr  
Rome  
w f (66) d/b 1/1/21

Peggy Leithauser (174)  
100 Saddle Mt Rd  
Rome  
w f (47) d/b 7/18/39

George E. Wakefield (176)  
35 Doncaster Dr  
Rome  
w m (35) d/b 3/30/52

Jean B Sheffield (178)  
402 Dewberry Lane  
Lindale  
w f (29) d/b 12/11/57

1 [REDACTED]  
2 2. BONNIE HARPER *D*  
3 [REDACTED]  
4 4. WILEY KELVIN RATLIFF  
5 *N* 5. MARY A. HACKETT *N*  
6 [REDACTED]  
7 *N* 9. EDDIE HOOD *N*  
8 10. JOYCE M. NICHOLSON  
[REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED] LO  
12 [REDACTED]  
13 18. PATRICIA A. BING  
14 [REDACTED]  
15 20. MYRTLE FRANCES EVANS  
16 2 [REDACTED]  
17 22. *N* EVELYN HARDGE *N*  
18 23. ANNE B. COULTAS *D*  
19 24. *N* LOU ELLA HOBGOOD *N*  
20 25. VICTOR DEDEURWAERDER  
21 [REDACTED]  
[REDACTED]  
22 *N* 29. RAY ALLEN TATE *D*

23 31. BILLY E. GRAVES  
24 33. JAMES T. COCHRAN  
25 [REDACTED] *Capitla*  
26 [REDACTED]  
27 37. DORSEY B. HILL  
28 *N* 38. MARY B. TURNER *N*  
29 39. CHARLES F. HAULK  
30 [REDACTED]  
31 41. [REDACTED]  
32 [REDACTED]  
33 44. DONALD H. HALL  
34 45. *N* GEORGE J. McMAHON *N*  
35 46. CLAIBORNE R. LEROY  
36 48. SELENA D. HAMMOND  
37 [REDACTED]  
38 [REDACTED]  
39 [REDACTED]  
40 54. *N* ANNA JO GALE *N*  
[REDACTED]  
41 [REDACTED]  
42 [REDACTED]  
43 [REDACTED]  
64. ELBERT J. ROBERSON

*Jury Selection*

1 [REDACTED]  
2 2. BONNIE HARPER D  
3 [REDACTED]  
4 4. WILEY KELVIN RATLIFF  
5 5N MARY A. HACKETT N  
6 [REDACTED]  
7 9N EDDIE HOOD N  
8 10. JOYCE M. NICHOLSON  
[REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED] LO  
12 [REDACTED]  
13 18. PATRICIA A. BING  
14 [REDACTED]  
15 20. MYRTLE FRANCES EVANS  
16 2 [REDACTED]  
17 22. N EVELYN HARDGE N  
18 23. ANNE B. COULTAS  
19 24N LOU ELLA HOBGOOD N  
20 25. VICTOR DEDEURWAERDER  
21 [REDACTED]  
[REDACTED]  
22 29. RAY ALLEN TATE

23 31. BILLY E. GRAVES  
24 33. JAMES T. COCHRAN  
25 [REDACTED] *Cochran*  
26 [REDACTED]  
27 37. DORSEY B. HILL  
28 38N MARY B. TURNER N  
29 39. CHARLES F. HAULK  
30 [REDACTED]  
31 41. [REDACTED]  
32 [REDACTED]  
33 44. DONALD H. HALL  
34 45. N GEORGE J. McMAHON N  
35 46. CLAIBORNE R. LEROY  
36 48. SELENA D. HAMMOND  
37 [REDACTED]  
38 [REDACTED]  
39 [REDACTED]  
40 54N ANNA JO GALE N  
[REDACTED]  
41 [REDACTED]  
42 [REDACTED]  
43 [REDACTED]  
64. ELBERT J. ROBERSON

*Jury Selection*

46-65. [REDACTED] PS  
47 [REDACTED]  
48-67. N SHIRLEY A. POWELL N  
49-69. JOHN W. HOBAN  
50-70. STEPHEN RAY HORNER  
51-71. LINDA KAY FINC HER  
52-72. MARGARET S. HIBBERT  
53-73. ROBERT E. MILAM  
54-74. SHIRLEY A. JACKSON  
55-75. [REDACTED] S  
56-76. [REDACTED]  
57-77. [REDACTED]  
58-78. [REDACTED]  
59-79. C. A. GARRETT, JR.  
[REDACTED]  
60-80. ARLENE M. BLACKMON  
61-81. N MARILYN H. GARRETT N  
X [REDACTED]  
62-82. MARTHA F. DUNCAN  
63 [REDACTED]  
[REDACTED]  
64-83. MARK EDWIN FLOYD  
65-84. MILDRED S. HILL D

66 [REDACTED]  
67 [REDACTED]  
68 [REDACTED]  
69-99. HUGH L. HUBBARD D  
70-101. BETH B. PLUMMER  
71 [REDACTED]  
72-102. PAMELA M. HYDE  
[REDACTED]  
73-103. DON M. HUFFMAN  
74-104. LESLIE R. HATCH  
75-105. ROY HOMER HATCH  
76 [REDACTED]  
77 [REDACTED]  
78-110. N BOBBIE M. GRINDSTAFF N  
79-111. NANCY L. CADLE  
80-112. JAMES H. BEVELS  
81-113. VIRGINIA G. BERRY  
82-114. WILLIAM JEFFREY HOWELL  
83-115. LEWIS WM. MIXON  
84-116. ROBERT E. SUMNERS  
85-117. WALTER S. FUQUA  
86-118. MARGARET W. BETHEL  
87-119. SHIRLEY Y. WALTERS  
88-120. ELIZABETH A. HARTIS  
89-121. ORVIL K. TALIAFERRO

46-65. [REDACTED] RS  
47 [REDACTED]  
48-87. N SHIRLEY A. POWELL N  
49-69. JOHN W. HOBAN  
50-70. STEPHEN RAY HORNER  
51-71. LINDA KAY FINC HER  
52-72. MARGARET S. HIBBERT  
53-73. ROBERT E. MILAM  
54-74. SHIRLEY A. JACKSON  
55-75. [REDACTED] S  
56-76 [REDACTED]  
57-77. [REDACTED]  
58-80. [REDACTED]  
59-81. C. A. GARRETT, JR.  
[REDACTED]  
61-83. ARLENE M. BLACKMON  
62-86. N MARILYN H. GARRETT N  
[REDACTED]  
63-88. MARTHA F. DUNCAN  
[REDACTED]  
[REDACTED]  
69-92. MARK EDWIN FLOYD  
69-93. MILDRED S. HILL D

69 [REDACTED]  
68 [REDACTED]  
69-90. HUGH L. HUBBARD D  
70-101. BETH B. PLUMMER  
71 [REDACTED]  
72-104. PAMELA M. HYDE  
[REDACTED]  
73-106. DON M. HUFFMAN  
74-107. LESLIE R. HATCH  
75-108. ROY HOMER HATCH  
76 [REDACTED]  
77-110. N BOBBIE M. GRINDSTAFF N  
79-111. NANCY L. CADLE  
80-112. JAMES H. BEVELS  
81-113. VIRGINIA G. BERRY  
82-114. WILLIAM JEFFREY HOWELL  
83-115. LEWIS WM. MIXON  
84-116. ROBERT E. SUMNERS  
85-117. WALTER S. FUQUA  
86-118. MARGARET W. BETHEL  
87-119. SHIRLEY Y. WALTERS  
88-120. ELIZABETH A. HARTIS  
89-121. ORVIL K. TALIAFERRO

Voir Dire  
Foster

1) Cover questionnaire.

2) Relationship to  $\Delta$   
Parents  
Sister

3) Relationship to Counsel - ~~Appointed~~  
Mr. Fennell  
Mr. Wyatt

4) You, any member of family or close friend seen & treated by the ~~appointed~~ psychiatrist - Dr. Douglas K. Laipple  
or Dr. Frank Pratt  
LIPPEL Wt. Res. Clinic

5) Would you apply the tests of common sense and reason to all the testimony in this case including experts.

6) Can you decide this case based on the facts & not at all on favor, affection or sympathy?

7) The defense in this case has served notice that the defense might be insanity. Have you had any personal experience with insanity or mental illness that would affect your ability to be a fair and impartial juror?

8) Do you have any training <sup>or education</sup> in either psychology or psychiatry?

Photographs & accounts of the crime are horrible & that affect your ability to be a juror?



- 9.) Primary source of news?
- 10.) Believe everything you read in paper or see on T.
- 12.) Know Y.
- 13.) We want a fair & impartial jury who can base its verdict solely on evidence presented in courtroom.  
Can you put aside news accounts and base your verdict solely on the evidence presented in the courtroom?
- 14.) Discuss case w/ anyone who claimed to have knowledge of the facts.
- 15.) Put out of mind & base solely on evid presented in courtroom.

1. Louise Wilson

1603 Flannery St. Age 68

X Husband

Lives In East Rome Area. (Pr. Black)

Goes to ~~Great Mount Cal.~~ Church Met. United

House is <sup>worth</sup> 17,500 very neat older lady

~~no car~~ Brown Car (Coke Coltray Ford)

2. Shirley Powell - Young Lady  
(Crazy)

Take warrant out on G. Plant who's work  
at Library. Also G. Plant has take warrant  
out on her. (I believe she would not be  
a very good person.)

3. Marilyn Garrett -  
306 E 18<sup>th</sup> Street.

Live in A Apt. on 18<sup>th</sup> Street. Drives a Brown  
Sub. - A Cousin of Angela Garrett. She  
was rise in the Coosa Area. Very  
Low Income.

4. Edgar Brand (Crazy) 30 older  
114 Perkins St. Red must.

Live at home with parent. Has gone  
to Calif. with no money.

5. Corrie Hines - (very neat House)  
121 Chamber

Be careful of this person.

Son was put on Prob For 12 months (Forsee.)

Evelyn Harzge  
334 West Ross St.

Live in North Rome, Goes to St. Paul AME  
Church. Might be the best one to put  
on Jury. Husband is very sick man if  
he's still alive. (House worth 17,500)

for Mary B Turner (Belinda)  
504 Woodbine

She Thinks that she Clayton 1/2 sister.

Married to ~~Be~~ Terry Turner

B#1

Eddie Hood

N

hesitated - when asked about DP

(yes)

" " " " auto voting for life imprisonment

unsure of use of word automatically -

psychiatric questions - "never had it" didn't ask  
question!

discussion w/ co-workers about his trying to escape  
or son - 1941s. old

WORK Demands / didn't ask a lot of questions

didn't know procedure

B#2

- Batson issue

#15

Louise Wilson

have heard facts over radio - when asked format or  
expressed any opinion

hesitated when asked?

prejudice or bias

I don't believe in capital punishment  
I don't know - when asked learn other  
way

I don't know -

I'm afraid  
learn more  
yes

excused excused for cause

B#3

Corrie Hines  
answered affirmatively to Question # 41

Age - 64 yrs

Sequestration - hardship Question # 42.

Excuse & for cause



prosecutor is entitled to exercise permitted peremptory challenges  
for any reason at all - as long as that reason is related to his  
view of the outcome.

27W  
12 → UNDER BATSON - A  $\Delta$  is not entitled to a jury composed in whole or in part of persons of his or her race

Neutral explanation for challenging blacks

- explanation need not rise to level of challenge for cause

- prosecutor is not compelled to justify use of peremptory challenges against members not of the  $\Delta$  race -

however - when I strike a juror I look primarily at male/female combination and past experiences.

① generally - women appear to be sympathetic to juror in D.P. case.

② men appear to be more D.P. advocates

Consequently - usually strike more women than men

③ in the <sup>41</sup> cases that were excused for cause/agreement -

29 women 12 men - 70% were women who were excused

④ in the ten death penalty excusals - 9 women 1 man - 90%

This follows trend that women are excused more than men -

especially in my selection of a juror in light of 10 yrs experience & selection Jones

- 10 strikes - 8 women 2 men

- in a case of this nature - if I select women, they should be older, preferably living alone or retired, stable background, long term community ties

# JURORS

State v Foster 86-F-2218-2  
52/103

JUROR  
#

002	Bonnie Harper		WF
004	WILEY K. Radcliff		WM
005 N	MARY HACKETT	N	WF
009 N	Eddie Hood	N	BM
010	Joyce Nicholson		WF
018	Patricia BING		WF
020	MYRTLE EVANS		WF
022 N	Evelyn HARDGE	N	BF
023	Ann Coultas		WF
024 N	Loella Hobgood	N	WF
025	VICTOR DeDeurwaerder		WM
029	Ray Allen Tate		WM
031	Billy Graves		WM
033	James T. Cochran		WM
037	Dorsey Hill		WM
038 N	MARY TORNER	N	BF
039	Charles Hawk		WM
044	Donald H. Hall		WM
045 N	George McMAHON	N	WM
046	Clarborne LEROY		WM
048	Selena Hammond		WF
054 N	Anna Joe Gab	N	WF
064	ELBERT ROBERSON		WM
067 N	Shirley Powell	N	BF
069	John Hoban		WM
070	Stephen Horner		WM
071	Lurban Kay Fincher		WF
072	Margaret Hibbert		WF
073	Robert Milam		WM
076	Shalee Jackson		WF
081	C.A. Garrett		WM
083	ARLENE BLACKMON		WF

086 N	Marilyn H. Garrett	N	BF
088	Martha Duncan		WF
092	MARK FLOYD		WM
093	Mildred Hill		WF
099	Hugh Hubbard		WM
104	Pamela Hyde		WF
106	Don Huffman		WM
107	Les Hatch		WM
108	Roy Hatch		WM
109 N	Bobbie Grundstaff	N	WF

ALTERNATES

011	Nancy Cadle		WF
013	<del>01</del> James Bevels	<del>01</del>	WM
114	Virginia Berry		WF
115	N Wm. Jeff Howell	N	WM
117	Robert Sumner		WM
118	Walter S. Fuqua		WM
121	N Elizabeth Hartis	N	WF
122	Orvil Taliaferro		WM

ADD ONs

125	Carolyn Smith	
133	A.D. Branton	

definite NO's

① Hood

② HARDGE reiser

③ Powell

④ Garrett

⑤ Turner

⑥ Grindstaff

Questionables

N ① Hobgood

N ⑤ McMAHON

N ③ Gale

④ Hatch

~~⑥ Harell~~

Alternates

① Bevels

N ② Howell

N HARTIS

Harcutt  
Blackmon

HATCH or  
BLACKMON

Union of Christ

Don't have central office

Car  
Gaffer

Specia as in So Bapt

don't take a stand on <sup>each</sup> D. Penalty  
left for each individual member

Romans - capital punishment  
Lord decreed

obey laws of land  
uphold " "

DP have advocated  
regard life as precious

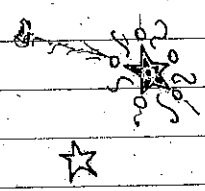
WR Central merged

NO

Small

NO Black Church

Left up to individual preachers



- 1) ~~Bandy DeMurray~~ - young WM - appears nervous -  
Δ might have worked for J's father - relation to Δ -
- 4 2) Bonnie Harper - Y's hair dresser - had not seen  
in 13 yrs - next door neighbor is black - about 50  
children - children did not attend integrated schools  
visits neighbor in yard - no blks in church - P. is  
bad - messes up your mind.
- 3+/4 ④ Wiley Kelvin Ratliff - Young WM Pharmacist -  
Wife - Student M.C. - Athens -
- 3/3+ ⑤ Mary E. Hackett - Homely mean-looking WF Catholic  
big glasses - Slow D.P. - no opinion - could not find it.  
Neighbors went to funeral -
- ~~⑥ Rick Cagle - chewing gum - basic PN - Cause~~
- 2 ⑦ Eddie Hood See Q 8 - not answered - W - was ~~happy~~  
Slow D.P. answers - Church of Christ - very ambiguous answers  
V confused No eye-contact very soft spoken - bro-  
advised people involved in drugs - against alcohol  
based on church - strange eyes - roll round & round &  
bug out - I did not ~~answer~~ asked most questions  
asked of other jurors (at 22-27 mins per J - here < 11 mins)  
See Juror 35 Q 8 C
- 3/3+4 ⑩ Joyce M. Nicholson - attractive school Teacher -
- ⑬ Margaret Heelzer - Against D.P. Cause 953  
Touched all Cases
- ⑭ Louise J. Wilson - older BF - sour disposition  
short at heart - Slow answers to Court's questions  
did not respond properly - does not believe in D.P.  
but no motivation



3/3+ (16) Maureen B. Barbogello - MAUF English  
formerly lived in ~~the~~ Charming - garden & read  
books & feels church opposes DP. Insanity overplayed  
a little -  
See Church  
View -

(17) Anna C. Cabell A. Knew V

3-/3 (18) Patricia Larson King - skinny young WF - casual  
processed hair - good DP. Went to Ross Clinic  
Would consider age as mitigation. Insanity defense  
possible - marijuana can have permanent effect.  
cocaine worse than pot.  
This lady will be a juror!

(19) Corrie L. Hines 65 YO BM See P#4/  
Knows - the judge in case - don't know about  
case - know through family for # of yrs -  
opposed to DP.

4 (20) Myrtle Francis Evans - Knew V just to see -  
H. GBI agent -

(21) Dorothy Black - older WF, confused by questions,  
gives conflicting answers to Judge's Q.  
EXCUSED - Cause

2 (22) Evelyn Hardge, older BF  
opposed to death penalty but if facts warrant it  
- CONFUSED "I'm for it"  
would vote for DP; slow to answer  
will automatically vote for DP; will auto vote for LIFE  
CONFUSED; news on DP = what's going to be  
ATSON 954

Evelyn Hardye (cont.)

will be; if it could be avoided = I would vote for LIFE  
regardless of evidence

STEVE: never been juror in murder; never heard  
my church's views on DP; I'm against DP;  
but despite my beliefs on DP I could vote for DP

3+/9 (23) ANNE BANDY COULTAS 023

direct, precise answers to Judge; WF testified in Ct -  
some backward because no blacks in business/leadership role

? X (24) Lou Ella Hobgood - attractive young WF friend of I's lawyer  
See Steve

3+/4 (25) Victor J. DeDeurwaerder - older WM - smily  
Weakling - Yankee - here 34 yrs LA Law -  
playing w/ Wyatt -

(26) Charlotte S. [unclear] - attractive MA WF  
friend of V - [unclear]

3+/4 (29) Ray Allen Tate - MA WM - knows V's nephew -

4 (31) Billy E. Graves

(35) Cause

3-/3+ (38) Dorsey B. Hill - older WM - friend of I's wife taught  
children - Weak D.P.

- 1  
③ Mary B. Turner - Claims to Lundy's 1/2 sister  
Hostile to the Court - not opposed to D.P. Did not  
answer question about Bro-Lu-Lu's record -  
Hostile to me - more cordial - smiled @ Wyatt -  
Rape relations OK - Clayton says NOT / Looked @ approval  
Difference in % by defense - Pictures made better -
- 3/4  
③ Chas F. Hunk - MANN - Good D.P. - Basic RN -  
Seen Wyatt @ Church - Fingell taught @ School  
D/A Problem was pitiful - Very computer center - works  
w/ Blacks - former Marine
- ④ Billy Bishop Cause
- ④ Beverly H. Richardson - Law Dept. ~~left~~ - opposed to D.P.
- ④ Merriam Sugar Cause
- 3+/4  
④ Donald H. Hall - Railroad - (B.R.N.W/Venue)
- 2  
④ <sup>Mc Mann</sup> Geo. J. McMahon WM 72 - from Mass.  
Mixed feeling re D.P. could vote for D.P. - very weak on D.P.
- 3+/4+  
④ Claiborne LeRoy -
- 3+  
④ Selena D. Hammond - shy - glasses for D.P.  
1:31
- ⑤ Scott Henson opposed to D.P. Cause -
- ⑤ Robin A. Holt - seen @ jail - Cause

(57) Pinchot Cause

⑥2 Jane Lyon - Class

⑥3 Robert T. Strauss - John's Brother Cause -

3-4 64 Elbert J. Leberon - Basic Redneck

65 Moody - cause

Arrest (6) James R. Weaver - older BF neatly dressed -  
 minor <sup>important</sup> ~~important~~ Chase defense - for justice to be done.

W. King (b) Sharp, Powell, H. F. Knows family - registers with  
has seen G. - cause

9 (b) John W. Hoban - V taught children

- 3/4+ (70) Stephen Nerner - young beard
- 3/4+ (71) Kay Fincher - preacher's wife
- 4/4+ (72) Margaret S. Hebert
- 3+/4+ (73) Robert E. Milam - On Craft - Union Man - Pres
- 3+/4+ (74) Shirley A. Jackson - MAWF Widow HUS & mother  
Good D.P. -
- (75) Kathy ~~McCluskey~~ - Attractive VWF - housewife
- (76) Steve ~~McCluskey~~ - CPA - L.B. Wimp - soft spoken
- 3+ (81) C.A. Garrett - good D.P. Beard - from Troup County -
- (82) Lyndal ~~McCluskey~~ - y W.F. (Carrying Text book)
- 3/3+ (83) Arlene Blackmon - frumpy MAWF Cath. cousin's P.I.  
Good D.P. 2 Black Friends - great answers on Sinity  
Cocaine - mess up your brain -
- 3- (84) Marilyn Spirett - Brawl for - would not look at during V.D.  
very short answers - almost impudent - not opposed to D.P.  
said "yeah" to judge on 4 occasions - 2 jobs  
What changed questions on insanity - Strong reaction to 1st  
question - felt the judge - looked at floor during D.P.
- 3/4 (88) Martha J. Duncan - y W.F. D.P. - strong response on D.P.  
Nephew in jail - A.R. Knew S's social worker - Tim Strickland

- 4/4+ (89) Teddy Randall Holder - young looking - smiley -  
pleasant type - blue jeans - slow talking
- 3 (92) Mark Floyd - young wm - for D.P.
- 3-/4+ (93) Mildred Hill - for D.P. (Wife of #37)
- (97) Carolyn Early 55 y.o. Teacher
- (98) Edgar L. Brand, Jr. - BM Q41 did not understand  
YD Q3 - Bad Slow - Wyatt's reps - not questioned  
re insane - Slow -
- 4+ (99) Hugh Hubbard - MAWM - knew V -
- (101) Beth B. Edwards - knows V's niece, Mr. Fletcher
- (103) Kenneth L. Godfrey - Cause
- 3/3+ (104) Pamela Hyde  
Will be a Jewer
- (105) Cause
- 3 (106) Don Mark Huffman - young wm -
- 3+/3 (107) Leslie R. Hatch - Rick Pertuski  
Knows Everybody
- 3+/4 (108) Ray H. Hatch #107's Uncle



(109) Michael Steven Green - young mustache - single  
opposed to D.P. - ~~Cliff~~

(NO) (110) ~~Robert M. Green~~ - Red/White/Blue - Pleasant  
miffed feeling on D.P. - long hesitation to vote

3+ (111) Nancy L. Cadle

2/3- (113) James H. Bevels - ATT Tech - believes insane to murder  
Weak sister

3+ (114) Virginia James Berry - plump pleasant school teacher  
Good D.P. knows teachers who gave to reward fund.

3+ (115) William Jeffery Shubel YUM - Beard - appears  
spacey misunderstood race question  
→ knows Wayne Graft, Gary Clayton  
answered yes to ag questioning re determining life or death

(116) Nixon - excused for cause

(117) Summers - Sin not against Death Penalty  
Strong answers - very forceful, "I've wanted to be on  
G.J. for a long time"  
Sin not too much on the insanity defense - I find it  
hard to prove possibly could  
Strong answers on insanity !!

118 Walter S. Fagua - effeminate, young, unmarried  
lived in neighborhood w/o  
I think DP should be in effect prepared to  
vote for D.P. Strong Q's + answers.

THE FOLLOWING LIST OF QUESTIONS HAVE BEEN PROPOUNDED BY THE COURT TO FACILITATE THE JURY SELECTION PROCESS. THE QUESTIONS ARE NOT INTENDED TO PRY INTO YOUR PRIVATE AFFAIRS NOR TO EMBARRASS YOU, BUT TO ASSURE ALL PARTIES THE BEST POSSIBLE JURY FOR THIS CASE.

NOTE: SHOULD YOU REQUIRE ADDITIONAL SPACE FOR YOUR ANSWERS, ATTACHED HERETO IS A BLANK SHEET OF PAPER FOR YOUR USE. PLEASE INDICATE THE QUESTION NUMBER IN WHICH YOU ARE ANSWERING. THERE IS NO NEED TO WRITE THE QUESTION IF YOU WILL INDICATE THE QUESTION NUMBER ONLY.

1. NAME: Louis J. Wilson
2. ADDRESS: 1603 Flannery St  
What area of Floyd County?  
North ☐ South ☐ East ☒ West ☐
3. PLACE OF BIRTH: Bartow
4. DATE OF BIRTH: 10 Nov 4 1919 RACE: Black
5. LENGTH OF TIME IN FLOYD COUNTY: 46 years
6. PARENTS: FATHER'S NAME Thomas Lee Jones  
Living ☐ Deceased ☒  
If living, where \_\_\_\_\_  
Place of Birth Bartow County  
MOTHER'S NAME Ida Mae Templeton Jones  
Living ☐ Deceased ☒  
If living, where \_\_\_\_\_  
Place of Birth Bartow C
7. HAVE YOU LIVED AT ANY OTHER ADDRESS DURING THE LAST TEN (10) YEARS? YES ☐ NO ☒  
IF YES, WHAT ADDRESS(ES)?  
(A) \_\_\_\_\_  
Date: \_\_\_\_\_  
(B) \_\_\_\_\_  
Date: \_\_\_\_\_  
(C) \_\_\_\_\_  
Date: \_\_\_\_\_
8. PLEASE STATE THE SCHOOLS WHICH YOU HAVE ATTENDED:  
(A) GRADE SCHOOL Bartow Co DATE 1929-1936  
night (B) JUNIOR HIGH Bartow adult class DATE 9 months  
(C) HIGH SCHOOL \_\_\_\_\_ DATE \_\_\_\_\_  
(D) COLLEGE \_\_\_\_\_ DATE \_\_\_\_\_

ANTI-SOCIAL  
PAGE 1

Is she related to Willie James Wilson  
resides at 1606 Flannery St.

(E) GRADUATE SCHOOL \_\_\_\_\_ DATE \_\_\_\_\_

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(F) VOCATIONAL OR TECHNICAL SCHOOLS \_\_\_\_\_  
DATE \_\_\_\_\_

DEGREE, CERTIFICATE, DIPLOMAS HELD \_\_\_\_\_  
DATE \_\_\_\_\_

(G) PROFESSIONAL SCHOOL \_\_\_\_\_ DATE \_\_\_\_\_

9. OCCUPATION: (Please be definite. If you are self-employed, state what your business is; if you are employed, state your employer; if you are a teacher, state what grade or subjects and at what school; if you are in civil service, state what you do and where; if you are in the Armed Forces, state your rank and branch; if you are retired, please explain your principle employment before you retired.)

*Retired from a Cook Empire Home  
STEP do day work 3 day-3 or 4 hour*

10. WHAT IS YOUR POSITION, AND WHAT ARE YOUR DUTIES IN THAT POSITION? \_\_\_\_\_

11. HOW LONG HAVE YOU BEEN WITH THE SAME EMPLOYER? \_\_\_\_\_

12. FOR WHOM ELSE HAVE YOU WORKED IN THE PAST TEN YEARS?

(A) \_\_\_\_\_ DATES \_\_\_\_\_

(B) \_\_\_\_\_ DATES \_\_\_\_\_

(C) \_\_\_\_\_ DATES \_\_\_\_\_

13. HAVE YOU EVER BEEN IN MILITARY SERVICE? *no* \_\_\_\_\_

WHAT BRANCH? \_\_\_\_\_ DATES \_\_\_\_\_

14. MARITAL STATUS: Married \_\_\_\_\_ Separated \_\_\_\_\_

Single \_\_\_\_\_ Divorced \_\_\_\_\_ Other *widow*

If Married, how many years? \_\_\_\_\_

15. SPOUSE'S NAME \_\_\_\_\_

16. SPOUSE'S OCCUPATION (Follow the same instructions as to your own occupation in Question Number 9 above):  
\_\_\_\_\_  
\_\_\_\_\_

17. SPOUSE'S EDUCATION LEVEL: \_\_\_\_\_

18. YOUR RELIGIOUS AFFILIATION: *United Methodist*

19. HOW OFTEN DO YOU ATTEND CHURCH? *every Sunday and  
Some Weekday*

20. HOW MANY CHILDREN DO YOU HAVE? \_\_\_\_\_  
Boys: \_\_\_\_\_ Ages: \_\_\_\_\_  
Girls: \_\_\_\_\_ Ages: \_\_\_\_\_
21. IF CHILDREN ARE EMPLOYED, PLEASE STATE OCCUPATIONS:  
\_\_\_\_\_  
\_\_\_\_\_
22. HAVE YOU EVER, IN ANY WAY, BEEN INVOLVED IN ANY FORM OR KIND OF LAW ENFORCEMENT WORK INCLUDING, BUT NOT LIMITED TO, SECURITY GUARD, POLICE, SHORE PATROL, MILITARY POLICE, AIR POLICE, SHERIFF, OR DEPUTY SHERIFF, IRS INVESTIGATOR, F.B.I., G.B.I., PRIVATE INVESTIGATOR, PRISON OR JAIL GUARD, ET CETERA? (If so, please state when, where and in what capacity.) *no*  
\_\_\_\_\_  
\_\_\_\_\_
23. DO YOU HAVE A CLOSE FRIEND OR RELATIVE WHO IS NOW OR HAS EVER BEEN, IN ANY WAY, INVOLVED IN LAW ENFORCEMENT AS MENTIONED ABOVE? (If so, please state who, what relation to you, when, where, and in what capacity.)  
\_\_\_\_\_  
\_\_\_\_\_
24. HAVE YOU EVER BEEN THE VICTIM OF A CRIME OF VIOLENCE? (If so, please state what, where and when.)  
\_\_\_\_\_  
\_\_\_\_\_
25. DO YOU HAVE A CLOSE FRIEND OR RELATIVE WHO HAS BEEN A VICTIM OF A CRIME OF VIOLENCE? (If so, please state what kind of case and when it occurred.) *no*  
\_\_\_\_\_  
\_\_\_\_\_
26. HAVE YOU EVER BEEN A WITNESS IN A CRIMINAL CASE (INCLUDING COURT MARTIAL)? (If so, please state what kind of case, where, and when.)  
\_\_\_\_\_  
\_\_\_\_\_
27. HAVE YOU EVER SERVED ON A GRAND JURY? \_\_\_\_\_  
If Yes, please answer the following questions:  
DID YOU SERVE IN THE FEDERAL COURT? *yes*  
DID YOU SERVE IN SUPERIOR COURT? *yes*  
DID YOU SERVE AS FOREPERSON? \_\_\_\_\_
28. HAVE YOU EVER SERVED ON A JURY IN A CRIMINAL CASE? \_\_\_\_\_  
If Yes, please answer the following questions:  
DID YOU SERVE IN THE FEDERAL COURT? *yes*  
DID YOU SERVE IN SUPERIOR COURT? \_\_\_\_\_

DID YOU SERVE AS FOREPERSON IN EITHER TYPE? 015

WHAT KIND OF CASE? \_\_\_\_\_

DID YOU REACH A VERDICT? \_\_\_\_\_

29. HAVE YOU EVER SERVED ON A TRIAL JURY IN A CIVIL OR DOMESTIC CASE? If Yes, please answer the following questions:

DID YOU SERVE IN THE FEDERAL COURT? \_\_\_\_\_

DID YOU SERVE IN SUPERIOR COURT? \_\_\_\_\_

DID YOU SERVE AS FOREPERSON IN EITHER TYPE? \_\_\_\_\_

WHAT KIND OF CASE? \_\_\_\_\_

DID YOU REACH A VERDICT? \_\_\_\_\_

30. HAVE YOU EVER SERVED ON A COURT MARTIAL? \_\_\_\_\_  
If Yes, please answer the following questions:

WHAT KIND OF CASE? \_\_\_\_\_

DID YOU REACH A VERDICT? \_\_\_\_\_

31. HAVE YOU EVER BEEN CONVICTED OF ANY CRIME OTHER THAN MINOR TRAFFIC OFFENSES? (If so, state the offense, date of conviction and the sentence imposed.)

32. DO YOU HAVE A CLOSE FRIEND OR RELATIVE WHO HAS BEEN ACCUSED OR CONVICTED OF A CRIME OF VIOLENCE? (If so, state the offense, the date of conviction, sentence imposed or if the charges were dismissed.)

33. HAVE YOU EVER BEEN ELECTED OR APPOINTED TO PUBLIC OFFICE? If so, to what office, where and when?

34. WITHIN THE LAST FIVE (5) YEARS, HAVE YOU BELONGED TO ANY BUSINESS, SOCIAL, FRATERNAL SERVICE, OR CHARITABLE CLUB?

Church work - Judge - Note Singing

35. WITHIN THE LAST FIVE (5) YEARS, HAVE YOU BEEN ELECTED OR APPOINTED TO HOLD AN OFFICE IN ANY BUSINESS, SOCIAL, FRATERNAL CLUB, OR ON ANY BOARD OF DIRECTORS OR TRUSTEES? If so, to what office, where and when?

36. ARE YOU RENTING OR BUYING YOUR PRESENT RESIDENCE? \_\_\_\_\_
37. WHAT HOBBIES OR SPECIAL INTERESTS DO YOU HAVE NOW, OR HAVE YOU HAD IN THE PAST?  
\_\_\_\_\_  
\_\_\_\_\_
38. WHAT IS YOUR PRIMARY SOURCE OF NEWS INFORMATION?  
NEWSPAPER \_\_\_\_\_ T. V. X RADIO X OTHER \_\_\_\_\_
39. WHAT NEWSPAPERS DO YOU READ AND HOW MANY TIMES PER WEEK WITH EACH ONE?  
\_\_\_\_\_  
\_\_\_\_\_
40. ARE THE PEOPLE YOU USUALLY RUN INTO IN YOUR NEIGHBORHOOD:  
All White \_\_\_\_\_ All Black \_\_\_\_\_  
Both Black and White X \_\_\_\_\_
41. THE DEFENDANT, TIMOTHY TYRONE FOSTER, IS A MEMBER OF THE NEGRO RACE. THE VICTIM, QUEEN MADGE WHITE, WAS A WHITE CAUCASIAN. WILL THESE FACTS PREJUDICE YOU AGAINST TIMOTHY TYRONE FOSTER OR AFFECT YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT BASED SOLELY UPON THE EVIDENCE?  
YES \_\_\_\_\_ NO \_\_\_\_\_
42. IF YOU ARE SELECTED TO SERVE AS A MEMBER OF THIS JURY, YOU AND OTHER JURORS WILL BE SEQUESTERED; THAT IS, YOU WILL BE STAYING IN A MOTEL APART UNTO YOURSELVES WHEN NOT ATTENDING THE TRIAL ITSELF. WOULD BEING ON SUCH A JURY CAUSE YOU ANY UNDUE HARDSHIP OR DIFFICULTIES? IF SO, PLEASE EXPLAIN.  
\_\_\_\_\_  
\_\_\_\_\_
43. DO YOU HAVE ANY HEALTH PROBLEMS THAT MIGHT CAUSE YOU ANY DIFFICULTY OR HARDSHIP IF YOU WERE SELECTED AS A JUROR IN THIS CASE? IF YES, PLEASE EXPLAIN.  
\_\_\_\_\_  
\_\_\_\_\_
44. DO YOU HAVE ANY PERSONAL, FAMILY OR BUSINESS PROBLEMS THAT WOULD CAUSE YOU DIFFICULTY OR HARDSHIP IF YOU WERE SELECTED AS A JUROR IN THIS CASE? IF YES, PLEASE EXPLAIN.  
\_\_\_\_\_  
\_\_\_\_\_

Louise J. Wilson  
JUROR, PLEASE SIGN FULL NAME HERE

4-20-87  
DATE SIGNED



JUROR NUMBER: 015

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THE FOLLOWING LIST OF QUESTIONS HAVE BEEN PROFOUNDED BY THE COURT TO FACILITATE THE JURY SELECTION PROCESS. THE QUESTIONS ARE NOT INTENDED TO PRY INTO YOUR PRIVATE AFFAIRS NOR TO EMBARRASS YOU, BUT TO ASSURE ALL PARTIES THE BEST POSSIBLE JURY FOR THIS CASE.

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- EXCLUDED  
Motion By  
STATE: no  
OBJECTION  
BY
1. NAME: FANNIE L. WOOD
  2. ADDRESS: Hasty Rd Box 142  
What area of Floyd County?  
North ☒ South ☐ East ☐ West ☐
  3. PLACE OF BIRTH: Bartow County
  4. DATE OF BIRTH: 3-7-23 RACE: Black
  5. LENGTH OF TIME IN FLOYD COUNTY: 14 years
  6. PARENTS: FATHER'S NAME Walter M. Clure  
Living ☐ Deceased ☒  
If living, where \_\_\_\_\_  
Place of Birth Bartow County  
MOTHER'S NAME Minnie Nell McClure  
Living ☐ Deceased ☒  
If living, where \_\_\_\_\_  
Place of Birth Bartow County
  7. HAVE YOU LIVED AT ANY OTHER ADDRESS DURING THE LAST TEN (10) YEARS? YES ☐ NO ☒  
IF YES, WHAT ADDRESS(ES)?  
(A) \_\_\_\_\_  
Date: \_\_\_\_\_  
(B) \_\_\_\_\_  
Date: \_\_\_\_\_  
(C) \_\_\_\_\_  
Date: \_\_\_\_\_
  8. PLEASE STATE THE SCHOOLS WHICH YOU HAVE ATTENDED:  
(A) GRADE SCHOOL \_\_\_\_\_ DATE 19-29-1936  
(B) ~~JUNIOR HIGH~~ Basic Adult Program DATE 19-65-1966  
(C) HIGH SCHOOL \_\_\_\_\_ DATE \_\_\_\_\_  
(D) COLLEGE \_\_\_\_\_ DATE \_\_\_\_\_

(E) GRADUATE SCHOOL \_\_\_\_\_ DATE \_\_\_\_\_

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(F) VOCATIONAL OR TECHNICAL SCHOOLS \_\_\_\_\_  
DATE \_\_\_\_\_

DEGREE, CERTIFICATE, DIPLOMAS HELD  
High School level DATE 19-66

(G) PROFESSIONAL SCHOOL \_\_\_\_\_ DATE \_\_\_\_\_

9. OCCUPATION: (Please be definite. If you are self-employed, state what your business is; if you are employed, state your employer; if you are a teacher, state what grade or subjects and at what school; if you are in civil service, state what you do and where; if you are in the Armed Forces, state your rank and branch; if you are retired, please explain your principle employment before you retired.)

*(Retired)*  
I was a Carton Farmer at Union Carbide  
in Carterville, Ga

10. WHAT IS YOUR POSITION, AND WHAT ARE YOUR DUTIES IN THAT POSITION? \_\_\_\_\_

11. HOW LONG HAVE YOU BEEN WITH THE SAME EMPLOYER? \_\_\_\_\_

12. FOR WHOM ELSE HAVE YOU WORKED IN THE PAST TEN YEARS?

(A) \_\_\_\_\_ DATES \_\_\_\_\_

(B) \_\_\_\_\_ DATES \_\_\_\_\_

(C) \_\_\_\_\_ DATES \_\_\_\_\_

13. HAVE YOU EVER BEEN IN MILITARY SERVICE? \_\_\_\_\_

WHAT BRANCH? \_\_\_\_\_ DATES \_\_\_\_\_

14. MARITAL STATUS: Married \_\_\_\_\_ Separated \_\_\_\_\_

Single \_\_\_\_\_ Divorced \_\_\_\_\_ Other Widow

If Married, how many years? \_\_\_\_\_

15. SPOUSE'S NAME \_\_\_\_\_

16. SPOUSE'S OCCUPATION (Follow the same instructions as to your own occupation in Question Number 9 above):  
\_\_\_\_\_  
\_\_\_\_\_

17. SPOUSE'S EDUCATION LEVEL: \_\_\_\_\_

18. YOUR RELIGIOUS AFFILIATION: Baptist

19. HOW OFTEN DO YOU ATTEND CHURCH? Every Sunday

20. HOW MANY CHILDREN DO YOU HAVE? \_\_\_\_\_

Boys: 1 Ages: 45  
Girls: 1 Ages: 47

21. IF CHILDREN ARE EMPLOYED, PLEASE STATE OCCUPATIONS:

Married and son in Cantonville  
Daughter in Detroit Micho!22. HAVE YOU EVER, IN ANY WAY, BEEN INVOLVED IN  
ANY FORM OR KIND OF LAW ENFORCEMENT WORK  
INCLUDING, BUT NOT LIMITED TO, SECURITY GUARD, POLICE,  
SHORE PATROL, MILITARY POLICE, AIR POLICE, SHERIFF, OR  
DEPUTY SHERIFF, IRS INVESTIGATOR, F.B.I., G.B.I., PRIVATE  
INVESTIGATOR, PRISON OR JAIL GUARD, ET CETERA? (If so,  
please state when, where and in what capacity.)None23. DO YOU HAVE A CLOSE FRIEND OR RELATIVE WHO IS NOW OR HAS  
EVER BEEN, IN ANY WAY, INVOLVED IN LAW ENFORCEMENT AS  
MENTIONED ABOVE? (If so, please state who, what relation  
to you, when, where, and in what capacity.)No24. HAVE YOU EVER BEEN THE VICTIM OF A CRIME OF VIOLENCE? (If  
so, please state what, where and when.)No25. DO YOU HAVE A CLOSE FRIEND OR RELATIVE WHO HAS BEEN A  
VICTIM OF A CRIME OF VIOLENCE? (If so, please state what  
kind of case and when it occurred.)No26. HAVE YOU EVER BEEN A WITNESS IN A CRIMINAL CASE (INCLUDING  
COURT MARTIAL)? (If so, please state what kind of case,  
where, and when.)27. HAVE YOU EVER SERVED ON A GRAND JURY? Yes  
If Yes, please answer the following questions:

DID YOU SERVE IN THE FEDERAL COURT? \_\_\_\_\_

DID YOU SERVE IN SUPERIOR COURT? YesDID YOU SERVE AS FOREPERSON? No28. HAVE YOU EVER SERVED ON A JURY IN A CRIMINAL CASE? No  
If Yes, please answer the following questions:

DID YOU SERVE IN THE FEDERAL COURT? \_\_\_\_\_

DID YOU SERVE IN SUPERIOR COURT? \_\_\_\_\_

DID YOU SERVE AS FOREPERSON IN EITHER TYPE? no

WHAT KIND OF CASE? \_\_\_\_\_

DID YOU REACH A VERDICT? \_\_\_\_\_

29. HAVE YOU EVER SERVED ON A TRIAL JURY IN A CIVIL OR DOMESTIC CASE? If Yes, please answer the following questions:

DID YOU SERVE IN THE FEDERAL COURT? \_\_\_\_\_

DID YOU SERVE IN SUPERIOR COURT? \_\_\_\_\_

DID YOU SERVE AS FOREPERSON IN EITHER TYPE? \_\_\_\_\_

WHAT KIND OF CASE? \_\_\_\_\_

DID YOU REACH A VERDICT? \_\_\_\_\_

30. HAVE YOU EVER SERVED ON A COURT MARTIAL? no  
If Yes, please answer the following questions:

WHAT KIND OF CASE? \_\_\_\_\_

DID YOU REACH A VERDICT? \_\_\_\_\_

31. HAVE YOU EVER BEEN CONVICTED OF ANY CRIME OTHER THAN MINOR TRAFFIC OFFENSES? (If so, state the offense, date of conviction and the sentence imposed.)

\_\_\_\_\_

32. DO YOU HAVE A CLOSE FRIEND OR RELATIVE WHO HAS BEEN ACCUSED OR CONVICTED OF A CRIME OF VIOLENCE? (If so, state the offense, the date of conviction, sentence imposed or if the charges were dismissed.)

no  
\_\_\_\_\_

33. HAVE YOU EVER BEEN ELECTED OR APPOINTED TO PUBLIC OFFICE? If so, to what office, where and when?

no  
\_\_\_\_\_

34. WITHIN THE LAST FIVE (5) YEARS, HAVE YOU BELONGED TO ANY BUSINESS, SOCIAL, FRATERNAL SERVICE, OR CHARITABLE CLUB?

\_\_\_\_\_

35. WITHIN THE LAST FIVE (5) YEARS, HAVE YOU BEEN ELECTED OR APPOINTED TO HOLD AN OFFICE IN ANY BUSINESS, SOCIAL, FRATERNAL CLUB, OR ON ANY BOARD OF DIRECTORS OR TRUSTEES? If so, to what office, where and when?

\_\_\_\_\_

36. ARE YOU RENTING OR BUYING YOUR PRESENT RESIDENCE? Renting
37. WHAT HOBBIES OR SPECIAL INTERESTS DO YOU HAVE NOW, OR HAVE YOU HAD IN THE PAST?  
Walking 15 miles a day  
Gardening
38. WHAT IS YOUR PRIMARY SOURCE OF NEWS INFORMATION?  
NEWSPAPER \_\_\_\_\_ T. V. \_\_\_\_\_ RADIO X OTHER \_\_\_\_\_
39. WHAT NEWSPAPERS DO YOU READ AND HOW MANY TIMES PER WEEK WITH EACH ONE?  
Tribune News & Daily
40. ARE THE PEOPLE YOU USUALLY RUN INTO IN YOUR NEIGHBORHOOD:  
All White \_\_\_\_\_ All Black \_\_\_\_\_  
Both Black and White X
41. THE DEFENDANT, TIMOTHY TYRONE FOSTER, IS A MEMBER OF THE NEGRO RACE. THE VICTIM, QUEEN MADGE WHITE, WAS A WHITE CAUCASIAN. WILL THESE FACTS PREJUDICE YOU AGAINST TIMOTHY TYRONE FOSTER OR AFFECT YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT BASED SOLELY UPON THE EVIDENCE?  
YES \_\_\_\_\_ NO X
42. IF YOU ARE SELECTED TO SERVE AS A MEMBER OF THIS JURY, YOU AND OTHER JURORS WILL BE SEQUESTERED; THAT IS, YOU WILL BE STAYING IN A MOTEL APART UNTO YOURSELVES WHEN NOT ATTENDING THE TRIAL ITSELF. WOULD BEING ON SUCH A JURY CAUSE YOU ANY UNDUE HARDSHIP OR DIFFICULTIES? IF SO, PLEASE EXPLAIN.  
\_\_\_\_\_  
\_\_\_\_\_
43. DO YOU HAVE ANY HEALTH PROBLEMS THAT MIGHT CAUSE YOU ANY DIFFICULTY OR HARDSHIP IF YOU WERE SELECTED AS A JUROR IN THIS CASE? IF YES, PLEASE EXPLAIN.  
\_\_\_\_\_  
\_\_\_\_\_
44. DO YOU HAVE ANY PERSONAL, FAMILY OR BUSINESS PROBLEMS THAT WOULD CAUSE YOU DIFFICULTY OR HARDSHIP IF YOU WERE SELECTED AS A JUROR IN THIS CASE? IF YES, PLEASE EXPLAIN.  
\_\_\_\_\_  
\_\_\_\_\_

Fannie L. Wofford  
JUROR, PLEASE SIGN FULL NAME HERE

4/20/87  
DATE SIGNED

JUROR NUMBER: \_\_\_\_\_

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JUROR NUMBER: 067

70.  
67

THE FOLLOWING LIST OF QUESTIONS HAVE BEEN PROPOUNDED BY THE COURT TO FACILITATE THE JURY SELECTION PROCESS. THE QUESTIONS ARE NOT INTENDED TO PRY INTO YOUR PRIVATE AFFAIRS NOR TO EMBARRASS YOU, BUT TO ASSURE ALL PARTIES THE BEST POSSIBLE JURY FOR THIS CASE.

NOTE: SHOULD YOU REQUIRE ADDITIONAL SPACE FOR YOUR ANSWERS, ATTACHED HERETO IS A BLANK SHEET OF PAPER FOR YOUR USE. PLEASE INDICATE THE QUESTION NUMBER IN WHICH YOU ARE ANSWERING. THERE IS NO NEED TO WRITE THE QUESTION IF YOU WILL INDICATE THE QUESTION NUMBER ONLY.

1. NAME: Shirley A. Powell
2. ADDRESS: 727 N. 4<sup>th</sup> Ave. Apt. #5  
What area of Floyd County?  
North ☐ South ☐ East ☐ West ☒
3. PLACE OF BIRTH: Chicago - Ill. Cook County
4. DATE OF BIRTH: 4-1-62 RACE Black
5. LENGTH OF TIME IN FLOYD COUNTY: 20 years
6. PARENTS: FATHER'S NAME Veloyd Atkins  
Living ☒ Deceased ☐  
If living, where Chicago Ill.  
Place of Birth Chicago Ill.  
MOTHER'S NAME Frances Atkins  
Living ☒ Deceased ☐  
If living, where Rome Georgia  
Place of Birth Rome Georgia
7. HAVE YOU LIVED AT ANY OTHER ADDRESS DURING THE LAST TEN (10) YEARS? YES ☒ NO ☐  
IF YES, WHAT ADDRESS(ES)?
  - (A) 118 East 11<sup>th</sup> Street  
Date: 1985 - 1987
  - (B) 111 East 13<sup>th</sup> Street  
Date: 1984 - 1982
  - (C) 101 East 13<sup>th</sup> Street  
Date: 1982 -
8. PLEASE STATE THE SCHOOLS WHICH YOU HAVE ATTENDED:
  - (A) GRADE SCHOOL South east Ele. DATE 1974 - 1967
  - (B) JUNIOR HIGH East Rome High DATE 1976 - 1974
  - (C) HIGH SCHOOL East Rome High DATE 1976 - 1978
  - (D) COLLEGE \_\_\_\_\_ DATE \_\_\_\_\_

JUROR NUMBER: 067

(E) GRADUATE SCHOOL East Rome High DATE Didn't Graduate

(F) VOCATIONAL OR TECHNICAL SCHOOLS

None DATE \_\_\_\_\_

DEGREE, CERTIFICATE, DIPLOMAS HELD

None DATE \_\_\_\_\_

(G) PROFESSIONAL SCHOOL None DATE \_\_\_\_\_

9. OCCUPATION: (Please be definite. If you are self-employed, state what your business is; if you are employed, state your employer; if you are a teacher, state what grade or subjects and at what school; if you are in civil service, state what you do and where; if you are in the Armed Forces, state your rank and branch; if you are retired, please explain your principle employment before you retired.)

Cardinal Glover. Manipulatory

10. WHAT IS YOUR POSITION, AND WHAT ARE YOUR DUTIES IN THAT POSITION? Inspector

11. HOW LONG HAVE YOU BEEN WITH THE SAME EMPLOYER? March 2nd Week 1987

12. FOR WHOM ELSE HAVE YOU WORKED IN THE PAST TEN YEARS?

(A) Floyd Medical Ctr. DATES 1987 Jan. - March  
(B) S. J. Spector (sister for mother) DATES Jan 1987 - Feb. 1985  
(C) Holiday Inn DATES Feb. 1985 - July 1984

13. HAVE YOU EVER BEEN IN MILITARY SERVICE? No  
WHAT BRANCH? \_\_\_\_\_ DATES \_\_\_\_\_

14. MARITAL STATUS: Married \_\_\_\_\_ Separated ✓  
Single \_\_\_\_\_ Divorced \_\_\_\_\_ Other \_\_\_\_\_

If Married, how many years? 5 yrs.

15. SPOUSE'S NAME Alvin Powell

16. SPOUSE'S OCCUPATION (Follow the same instructions as to your own occupation in Question Number 9 above):

Unknown

17. SPOUSE'S EDUCATION LEVEL: 13th grade Graduate

18. YOUR RELIGIOUS AFFILIATION: Holiness

19. HOW OFTEN DO YOU ATTEND CHURCH? Once a month

JUROR NUMBER: \_\_\_\_\_

20. HOW MANY CHILDREN DO YOU HAVE? 1

Boys: 1 Ages: 8

Girls: \_\_\_\_\_ Ages: \_\_\_\_\_

21. IF CHILDREN ARE EMPLOYED, PLEASE STATE OCCUPATIONS:

\_\_\_\_\_

\_\_\_\_\_

22. HAVE YOU EVER, IN ANY WAY, BEEN INVOLVED IN ANY FORM OR KIND OF LAW ENFORCEMENT WORK INCLUDING, BUT NOT LIMITED TO, SECURITY GUARD, POLICE, SHORE PATROL, MILITARY POLICE, AIR POLICE, SHERIFF, OR DEPUTY SHERIFF, IRS INVESTIGATOR, F.B.I., G.B.I., PRIVATE INVESTIGATOR, PRISON OR JAIL GUARD, ET CETERA? (If so, please state when, where and in what capacity.)

No

23. DO YOU HAVE A CLOSE FRIEND OR RELATIVE WHO IS NOW OR HAS EVER BEEN, IN ANY WAY, INVOLVED IN LAW ENFORCEMENT AS MENTIONED ABOVE? (If so, please state who, what relation to you, when, where, and in what capacity.)

No

24. HAVE YOU EVER BEEN THE VICTIM OF A CRIME OF VIOLENCE? (If so, please state what, where and when.)

No

25. DO YOU HAVE A CLOSE FRIEND OR RELATIVE WHO HAS BEEN A VICTIM OF A CRIME OF VIOLENCE? (If so, please state what kind of case and when it occurred.)

No

26. HAVE YOU EVER BEEN A WITNESS IN A CRIMINAL CASE (INCLUDING COURT MARTIAL)? (If so, please state what kind of case, where, and when.)

No

27. HAVE YOU EVER SERVED ON A GRAND JURY? No  
If Yes, please answer the following questions:

DID YOU SERVE IN THE FEDERAL COURT? No

DID YOU SERVE IN SUPERIOR COURT? No

DID YOU SERVE AS FOREPERSON? No

28. HAVE YOU EVER SERVED ON A JURY IN A CRIMINAL CASE? No  
If Yes, please answer the following questions:

DID YOU SERVE IN THE FEDERAL COURT? No

DID YOU SERVE IN SUPERIOR COURT? No

JUROR NUMBER: 061DID YOU SERVE AS FOREPERSON IN EITHER TYPE? NoWHAT KIND OF CASE? NoneDID YOU REACH A VERDICT? + No

29. HAVE YOU EVER SERVED ON A TRIAL JURY IN A CIVIL OR DOMESTIC CASE? If Yes, please answer the following questions:

DID YOU SERVE IN THE FEDERAL COURT? NoDID YOU SERVE IN SUPERIOR COURT? NoDID YOU SERVE AS FOREPERSON IN EITHER TYPE? NoWHAT KIND OF CASE? NoneDID YOU REACH A VERDICT? No

30. HAVE YOU EVER SERVED ON A COURT MARTIAL? No  
If Yes, please answer the following questions:

WHAT KIND OF CASE? NoneDID YOU REACH A VERDICT? No

31. HAVE YOU EVER BEEN CONVICTED OF ANY CRIME OTHER THAN MINOR TRAFFIC OFFENSES? (If so, state the offense, date of conviction and the sentence imposed.)

No

32. DO YOU HAVE A CLOSE FRIEND OR RELATIVE WHO HAS BEEN ACCUSED OR CONVICTED OF A CRIME OF VIOLENCE? (If so, state the offense, the date of conviction, sentence imposed or if the charges were dismissed.)

No

33. HAVE YOU EVER BEEN ELECTED OR APPOINTED TO PUBLIC OFFICE? If so, to what office, where and when?

No

34. WITHIN THE LAST FIVE (5) YEARS, HAVE YOU BELONGED TO ANY BUSINESS, SOCIAL, FRATERNAL SERVICE, OR CHARITABLE CLUB?

No

35. WITHIN THE LAST FIVE (5) YEARS, HAVE YOU BEEN ELECTED OR APPOINTED TO HOLD AN OFFICE IN ANY BUSINESS, SOCIAL, FRATERNAL CLUB, OR ON ANY BOARD OF DIRECTORS OR TRUSTEES? If so, to what office, where and when?

No

JUROR NUMBER: 067

36. ARE YOU RENTING OR BUYING YOUR PRESENT RESIDENCE? Renting  
37. WHAT HOBBIES OR SPECIAL INTERESTS DO YOU HAVE NOW, OR HAVE YOU HAD IN THE PAST? None

38. WHAT IS YOUR PRIMARY SOURCE OF NEWS INFORMATION?

NEWSPAPER ✓ T. V. ✓ RADIO ✓ OTHER \_\_\_\_\_

39. WHAT NEWSPAPERS DO YOU READ AND HOW MANY TIMES PER WEEK WITH EACH ONE?

Home News Every day

40. ARE THE PEOPLE YOU USUALLY RUN INTO IN YOUR NEIGHBORHOOD:

All White \_\_\_\_\_ All Black \_\_\_\_\_  
Both Black and White ✓

41. THE DEFENDANT, TIMOTHY TYRONE FOSTER, IS A MEMBER OF THE NEGRO RACE. THE VICTIM, QUEEN MADGE WHITE, WAS A WHITE CAUCASIAN. WILL THESE FACTS PREJUDICE YOU AGAINST TIMOTHY TYRONE FOSTER OR AFFECT YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT BASED SOLELY UPON THE EVIDENCE?

YES \_\_\_\_\_ NO ✓

42. IF YOU ARE SELECTED TO SERVE AS A MEMBER OF THIS JURY, YOU AND OTHER JURORS WILL BE SEQUESTERED; THAT IS, YOU WILL BE STAYING IN A MOTEL APART UNTO YOURSELVES WHEN NOT ATTENDING THE TRIAL ITSELF. WOULD BEING ON SUCH A JURY CAUSE YOU ANY UNDUE HARDSHIP OR DIFFICULTIES? IF SO, PLEASE EXPLAIN.

My son is 8 yrs. old, there will be no problem getting someone to get him to school and take care of him in our area.

43. DO YOU HAVE ANY HEALTH PROBLEMS THAT MIGHT CAUSE YOU ANY DIFFICULTY OR HARDSHIP IF YOU WERE SELECTED AS A JUROR IN THIS CASE? IF YES, PLEASE EXPLAIN.

No

44. DO YOU HAVE ANY PERSONAL, FAMILY OR BUSINESS PROBLEMS THAT WOULD CAUSE YOU DIFFICULTY OR HARDSHIP IF YOU WERE SELECTED AS A JUROR IN THIS CASE? IF YES, PLEASE EXPLAIN.

My son and job need me.

Shirley Annette Powell  
JUROR, PLEASE SIGN FULL NAME HERE

4-30-87  
DATE SIGNED



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NOTE: SHOULD YOU REQUIRE ADDITIONAL SPACE FOR YOUR ANSWERS, ATTACHED HERETO IS A BLANK SHEET OF PAPER FOR YOUR USE. PLEASE INDICATE THE QUESTION NUMBER IN WHICH YOU ARE ANSWERING. THERE IS NO NEED TO WRITE THE QUESTION IF YOU WILL INDICATE THE QUESTION NUMBER ONLY.

1. NAME: Eddie Hood
2. ADDRESS: 13 Copehand St. Rome, GA  
What area of Floyd County?  
North ☒ South ☐ East ☐ West ☐
3. PLACE OF BIRTH: Piedmont ALA.
4. DATE OF BIRTH: 5-26-40 RACE: (BLACK)
5. LENGTH OF TIME IN FLOYD COUNTY: 39 yrs.
6. PARENTS: FATHER'S NAME OCTAVIUS HOOD  
Living ☐ Deceased ☒  
If living, where \_\_\_\_\_  
Place of Birth Piedmont ALA.  
MOTHER'S NAME LAURA NEAL  
Living ☒ Deceased ☐  
If living, where CAVE SPRING, GA  
Place of Birth INDIANOLA, IOWA
7. HAVE YOU LIVED AT ANY OTHER ADDRESS DURING THE LAST TEN (10) YEARS? YES ☐ NO ☒  
IF YES, WHAT ADDRESS(ES)?  
(A) \_\_\_\_\_  
Date: \_\_\_\_\_  
(B) \_\_\_\_\_  
Date: \_\_\_\_\_  
(C) \_\_\_\_\_  
Date: \_\_\_\_\_
8. PLEASE STATE THE SCHOOLS WHICH YOU HAVE ATTENDED:  
(A) GRADE SCHOOL 8 DATE 1946-1951  
(B) JUNIOR HIGH 4 DATE 1951-1955  
(C) HIGH SCHOOL 4 DATE 1955-1958  
(D) COLLEGE \_\_\_\_\_ DATE \_\_\_\_\_

Anti-social - look for eye contact etc



(E) GRADUATE SCHOOL \_\_\_\_\_ DATE \_\_\_\_\_

(F) VOCATIONAL OR TECHNICAL SCHOOLS \_\_\_\_\_

DATE \_\_\_\_\_

DEGREE, CERTIFICATE, DIPLOMAS HELD \_\_\_\_\_

DATE \_\_\_\_\_

(G) PROFESSIONAL SCHOOL \_\_\_\_\_ DATE \_\_\_\_\_

9. OCCUPATION: (Please be definite. If you are self-employed, state what your business is; if you are employed, state your employer; if you are a teacher, state what grade or subjects and at what school; if you are in civil service, state what you do and where; if you are in the Armed Forces, state your rank and branch; if you are retired, please explain your principle employment before you retired.)

GA KYART Co. TITLE RESISTANCE COOK  
IN PULP MILL

10. WHAT IS YOUR POSITION, AND WHAT ARE YOUR DUTIES IN THAT POSITION? ASSISTANCE COOK IN PULP MILL  
dept.
11. HOW LONG HAVE YOU BEEN WITH THE SAME EMPLOYER? 17 yrs.
12. FOR WHOM ELSE HAVE YOU WORKED IN THE PAST TEN YEARS?
- (A) \_\_\_\_\_ DATES \_\_\_\_\_
- (B) \_\_\_\_\_ DATES \_\_\_\_\_
- (C) \_\_\_\_\_ DATES \_\_\_\_\_
13. HAVE YOU EVER BEEN IN MILITARY SERVICE? NO
- WHAT BRANCH? \_\_\_\_\_ DATES \_\_\_\_\_
14. MARITAL STATUS: Married YES Separated \_\_\_\_\_
- Single \_\_\_\_\_ Divorced \_\_\_\_\_ Other \_\_\_\_\_
- If Married, how many years? 26 yrs
15. SPOUSE'S NAME ELNORA HADD
16. SPOUSE'S OCCUPATION (Follow the same instructions as to your own occupation in Question Number 9 above):
- NORTHWEST Georgia Regional Hospital  
supervisor in Food Service
17. SPOUSE'S EDUCATION LEVEL: 11 GRADS
18. YOUR RELIGIOUS AFFILIATION: Church of Christ
19. HOW OFTEN DO YOU ATTEND CHURCH? every Sunday

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20. HOW MANY CHILDREN DO YOU HAVE? 4Boys: 3Ages: 26 22 18Girls: 1Ages: 24

21. IF CHILDREN ARE EMPLOYED, PLEASE STATE OCCUPATIONS:

1 ASSISTANCE MANAGERIAL BRIGER KING  
2 SHIPPING DEPT. HELPER BATTERY MACHINE CO.

22. HAVE YOU EVER, IN ANY WAY, BEEN INVOLVED IN ANY FORM OR KIND OF LAW ENFORCEMENT WORK INCLUDING, BUT NOT LIMITED TO, SECURITY GUARD, POLICE, SHORE PATROL, MILITARY POLICE, AIR POLICE, SHERIFF, OR DEPUTY SHERIFF, IRS INVESTIGATOR, F.B.I., G.B.I., PRIVATE INVESTIGATOR, PRISON OR JAIL GUARD, ET CETERA? (If so, please state when, where and in what capacity.)

No

23. DO YOU HAVE A CLOSE FRIEND OR RELATIVE WHO IS NOW OR HAS EVER BEEN, IN ANY WAY, INVOLVED IN LAW ENFORCEMENT AS MENTIONED ABOVE? (If so, please state who, what relation to you, when, where, and in what capacity.)

No

24. HAVE YOU EVER BEEN THE VICTIM OF A CRIME OF VIOLENCE? (If so, please state what, where and when.)

No

25. DO YOU HAVE A CLOSE FRIEND OR RELATIVE WHO HAS BEEN A VICTIM OF A CRIME OF VIOLENCE? (If so, please state what kind of case and when it occurred.)

No

26. HAVE YOU EVER BEEN A WITNESS IN A CRIMINAL CASE (INCLUDING COURT MARTIAL)? (If so, please state what kind of case, where, and when.)

No27. HAVE YOU EVER SERVED ON A GRAND JURY? No  
If Yes, please answer the following questions:

DID YOU SERVE IN THE FEDERAL COURT? \_\_\_\_\_

DID YOU SERVE IN SUPERIOR COURT? \_\_\_\_\_

DID YOU SERVE AS FOREPERSON? \_\_\_\_\_

28. HAVE YOU EVER SERVED ON A JURY IN A CRIMINAL CASE? Yes  
If Yes, please answer the following questions:

DID YOU SERVE IN THE FEDERAL COURT? \_\_\_\_\_

DID YOU SERVE IN SUPERIOR COURT? Yes

DID YOU SERVE AS FOREPERSON IN EITHER TYPE? \_\_\_\_\_

WHAT KIND OF CASE? \_\_\_\_\_

DID YOU REACH A VERDICT? YES

29. HAVE YOU EVER SERVED ON A TRIAL JURY IN A CIVIL OR DOMESTIC CASE? If Yes, please answer the following questions:

DID YOU SERVE IN THE FEDERAL COURT? \_\_\_\_\_

DID YOU SERVE IN SUPERIOR COURT? yes

DID YOU SERVE AS FOREPERSON IN EITHER TYPE? \_\_\_\_\_

WHAT KIND OF CASE? Civil

DID YOU REACH A VERDICT? YES

30. HAVE YOU EVER SERVED ON A COURT MARTIAL? NO  
If Yes, please answer the following questions:

WHAT KIND OF CASE? \_\_\_\_\_

DID YOU REACH A VERDICT? \_\_\_\_\_

31. HAVE YOU EVER BEEN CONVICTED OF ANY CRIME OTHER THAN MINOR TRAFFIC OFFENSES? (If so, state the offense, date of conviction and the sentence imposed.)

NO

32. DO YOU HAVE A CLOSE FRIEND OR RELATIVE WHO HAS BEEN ACCUSED OR CONVICTED OF A CRIME OF VIOLENCE? (If so, state the offense, the date of conviction, sentence imposed or if the charges were dismissed.)

NO

33. HAVE YOU EVER BEEN ELECTED OR APPOINTED TO PUBLIC OFFICE? If so, to what office, where and when?

NO

34. WITHIN THE LAST FIVE (5) YEARS, HAVE YOU BELONGED TO ANY BUSINESS, SOCIAL, FRATERNAL SERVICE, OR CHARITABLE CLUB?

NO

35. WITHIN THE LAST FIVE (5) YEARS, HAVE YOU BEEN ELECTED OR APPOINTED TO HOLD AN OFFICE IN ANY BUSINESS, SOCIAL, FRATERNAL CLUB, OR ON ANY BOARD OF DIRECTORS OR TRUSTEES? If so, to what office, where and when?

NO

36. ARE YOU RENTING OR BUYING YOUR PRESENT RESIDENCE? Buying
37. WHAT HOBBIES OR SPECIAL INTERESTS DO YOU HAVE NOW, OR HAVE YOU HAD IN THE PAST?  
House Painter  
PART TIME
38. WHAT IS YOUR PRIMARY SOURCE OF NEWS INFORMATION?  
NEWSPAPER L T. V. ✓ RADIO ✓ OTHER \_\_\_\_\_
39. WHAT NEWSPAPERS DO YOU READ AND HOW MANY TIMES PER WEEK WITH EACH ONE?  
Rome News Daily
40. ARE THE PEOPLE YOU USUALLY RUN INTO IN YOUR NEIGHBORHOOD:  
All White \_\_\_\_\_ All Black \_\_\_\_\_  
Both Black and White ✓
41. THE DEFENDANT, TIMOTHY TYRONE FOSTER, IS A MEMBER OF THE NEGRO RACE. THE VICTIM, QUEEN MADGE WHITE, WAS A WHITE CAUCASIAN. WILL THESE FACTS PREJUDICE YOU AGAINST TIMOTHY TYRONE FOSTER OR AFFECT YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT BASED SOLELY UPON THE EVIDENCE?  
YES \_\_\_\_\_ NO ✓
42. IF YOU ARE SELECTED TO SERVE AS A MEMBER OF THIS JURY, YOU AND OTHER JURORS WILL BE SEQUESTERED; THAT IS, YOU WILL BE STAYING IN A MOTEL APART UNTO YOURSELVES WHEN NOT ATTENDING THE TRIAL ITSELF. WOULD BEING ON SUCH A JURY CAUSE YOU ANY UNDUE HARDSHIP OR DIFFICULTIES? IF SO, PLEASE EXPLAIN.  
I work part time as a house painter. I have work that I need to complete.
43. DO YOU HAVE ANY HEALTH PROBLEMS THAT MIGHT CAUSE YOU ANY DIFFICULTY OR HARDSHIP IF YOU WERE SELECTED AS A JUROR IN THIS CASE? IF YES, PLEASE EXPLAIN.  
No
44. DO YOU HAVE ANY PERSONAL, FAMILY OR BUSINESS PROBLEMS THAT WOULD CAUSE YOU DIFFICULTY OR HARDSHIP IF YOU WERE SELECTED AS A JUROR IN THIS CASE? IF YES, PLEASE EXPLAIN.  
I have several accepted Bids of House painting jobs.

Eddie Hood  
JUROR, PLEASE SIGN FULL NAME HERE

4-20-87  
DATE SIGNED

THE FOLLOWING LIST OF QUESTIONS HAVE BEEN PROPOUNDED BY THE COURT TO FACILITATE THE JURY SELECTION PROCESS. THE QUESTIONS ARE NOT INTENDED TO PRY INTO YOUR PRIVATE AFFAIRS NOR TO EMBARRASS YOU, BUT TO ASSURE ALL PARTIES THE BEST POSSIBLE JURY FOR THIS CASE.

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NOTE: SHOULD YOU REQUIRE ADDITIONAL SPACE FOR YOUR ANSWERS, ATTACHED HERETO IS A BLANK SHEET OF PAPER FOR YOUR USE. PLEASE INDICATE THE QUESTION NUMBER IN WHICH YOU ARE ANSWERING. THERE IS NO NEED TO WRITE THE QUESTION IF YOU WILL INDICATE THE QUESTION NUMBER ONLY.

- Excused for medical reasons*
1. NAME: Edgar L Brand Sr
  2. ADDRESS: 114 Perkins St city  
What area of Floyd County?  
North ☒ South ☐ East ☐ West ☐
  3. PLACE OF BIRTH: Tellico Ohio
  4. DATE OF BIRTH: 1936 RACE color
  5. LENGTH OF TIME IN FLOYD COUNTY: \_\_\_\_\_
  6. PARENTS: FATHER'S NAME James Brand Sr  
Living ☐ Deceased ☒  
If living, where \_\_\_\_\_  
Place of Birth Rome, Ga  
MOTHER'S NAME Bertha Brand  
Living ☐ Deceased ☒  
If living, where \_\_\_\_\_  
Place of Birth Rome, Ga
  7. HAVE YOU LIVED AT ANY OTHER ADDRESS DURING THE LAST TEN (10) YEARS? YES ☐ NO ☒  
IF YES, WHAT ADDRESS(ES)?  
(A) \_\_\_\_\_  
Date: \_\_\_\_\_  
(B) \_\_\_\_\_  
Date: \_\_\_\_\_  
(C) \_\_\_\_\_  
Date: \_\_\_\_\_
  8. PLEASE STATE THE SCHOOLS WHICH YOU HAVE ATTENDED:  
(A) GRADE SCHOOL Rome, Hi DATE \_\_\_\_\_  
(B) JUNIOR HIGH \_\_\_\_\_ DATE \_\_\_\_\_  
(C) HIGH SCHOOL Yes Dnf in War II DATE 1942  
(D) COLLEGE \_\_\_\_\_ DATE \_\_\_\_\_

(E) GRADUATE SCHOOL \_\_\_\_\_ DATE \_\_\_\_\_

(F) VOCATIONAL OR TECHNICAL SCHOOLS \_\_\_\_\_

DATE \_\_\_\_\_

DEGREE, CERTIFICATE, DIPLOMAS HELD \_\_\_\_\_

DATE \_\_\_\_\_

(G) PROFESSIONAL SCHOOL \_\_\_\_\_ DATE \_\_\_\_\_

9. OCCUPATION: (Please be definite. If you are self-employed, state what your business is; if you are employed, state your employer; if you are a teacher, state what grade or subjects and at what school; if you are in civil service, state what you do and where; if you are in the Armed Forces, state your rank and branch; if you are retired, please explain your principle employment before you retired.)

North West Sonoma Regional Hospital State

10. WHAT IS YOUR POSITION, AND WHAT ARE YOUR DUTIES IN THAT POSITION? Housekeeping Department

11. HOW LONG HAVE YOU BEEN WITH THE SAME EMPLOYER? 10 Yrs

12. FOR WHOM ELSE HAVE YOU WORKED IN THE PAST TEN YEARS?

(A) \_\_\_\_\_ DATES \_\_\_\_\_

(B) \_\_\_\_\_ DATES \_\_\_\_\_

(C) \_\_\_\_\_ DATES \_\_\_\_\_

13. HAVE YOU EVER BEEN IN MILITARY SERVICE? Yes

WHAT BRANCH? NAVY DATES 1942

14. MARITAL STATUS: Married Yes Separated \_\_\_\_\_

Single \_\_\_\_\_ Divorced \_\_\_\_\_ Other \_\_\_\_\_

If Married, how many years? 27

15. SPOUSE'S NAME Leah Mae Brand

16. SPOUSE'S OCCUPATION (Follow the same instructions as to your own occupation in Question Number 9 above):

Championing Store on Third Ave city  
15 Yrs

17. SPOUSE'S EDUCATION LEVEL: DIPLOMAS MAJ High

18. YOUR RELIGIOUS AFFILIATION: Baptist

19. HOW OFTEN DO YOU ATTEND CHURCH? EVER Sunday of the

36. ARE YOU RENTING OR BUYING YOUR PRESENT RESIDENCE? \_\_\_\_\_
37. WHAT HOBBIES OR SPECIAL INTERESTS DO YOU HAVE NOW, OR HAVE YOU HAD IN THE PAST?  
\_\_\_\_\_  
\_\_\_\_\_
38. WHAT IS YOUR PRIMARY SOURCE OF NEWS INFORMATION?  
NEWSPAPER ☒ T. V. ☒ RADIO ☒ OTHER \_\_\_\_\_
39. WHAT NEWSPAPERS DO YOU READ AND HOW MANY TIMES PER WEEK WITH EACH ONE?  
\_\_\_\_\_  
\_\_\_\_\_
40. ARE THE PEOPLE YOU USUALLY RUN INTO IN YOUR NEIGHBORHOOD:  
All White \_\_\_\_\_ All Black \_\_\_\_\_  
Both Black and White ☒
41. THE DEFENDANT, TIMOTHY TYRONE FOSTER, IS A MEMBER OF THE NEGRO RACE. THE VICTIM, QUEEN MADGE WHITE, WAS A WHITE CAUCASIAN. WILL THESE FACTS PREJUDICE YOU AGAINST TIMOTHY TYRONE FOSTER OR AFFECT YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT BASED SOLELY UPON THE EVIDENCE?  
YES ☒ NO \_\_\_\_\_
42. IF YOU ARE SELECTED TO SERVE AS A MEMBER OF THIS JURY, YOU AND OTHER JURORS WILL BE SEQUESTERED; THAT IS, YOU WILL BE STAYING IN A MOTEL APART UNTO YOURSELVES WHEN NOT ATTENDING THE TRIAL ITSELF. WOULD BEING ON SUCH A JURY CAUSE YOU ANY UNDUE HARDSHIP OR DIFFICULTIES? IF SO, PLEASE EXPLAIN.  
\_\_\_\_\_  
\_\_\_\_\_
43. DO YOU HAVE ANY HEALTH PROBLEMS THAT MIGHT CAUSE YOU ANY DIFFICULTY OR HARDSHIP IF YOU WERE SELECTED AS A JUROR IN THIS CASE? IF YES, PLEASE EXPLAIN.  
\_\_\_\_\_  
\_\_\_\_\_
44. DO YOU HAVE ANY PERSONAL, FAMILY OR BUSINESS PROBLEMS THAT WOULD CAUSE YOU DIFFICULTY OR HARDSHIP IF YOU WERE SELECTED AS A JUROR IN THIS CASE? IF YES, PLEASE EXPLAIN.  
No  
\_\_\_\_\_

Edgar Louis Brand Sr.  
JUROR, PLEASE SIGN FULL NAME HERE

4-20-87  
DATE SIGNED



THE FOLLOWING LIST OF QUESTIONS HAVE BEEN PROPOUNDED BY THE COURT TO FACILITATE THE JURY SELECTION PROCESS. THE QUESTIONS ARE NOT INTENDED TO PRY INTO YOUR PRIVATE AFFAIRS NOR TO EMBARRASS YOU, BUT TO ASSURE ALL PARTIES THE BEST POSSIBLE JURY FOR THIS CASE.

NOTE: SHOULD YOU REQUIRE ADDITIONAL SPACE FOR YOUR ANSWERS, ATTACHED HERETO IS A BLANK SHEET OF PAPER FOR YOUR USE. PLEASE INDICATE THE QUESTION NUMBER IN WHICH YOU ARE ANSWERING. THERE IS NO NEED TO WRITE THE QUESTION IF YOU WILL INDICATE THE QUESTION NUMBER ONLY.

- 29  
turn in sheet  
attached to Gaudy
1. NAME: Darlene Graham
2. ADDRESS: Rt 6 Hasty Rd 87-C  
What area of Floyd County?  
North ☒ South ☐ East ☐ West ☐
3. PLACE OF BIRTH: Memphis TN (Shelby)
4. DATE OF BIRTH: 6-25-58 RACE (Negro)
5. LENGTH OF TIME IN FLOYD COUNTY: 14 yrs
6. PARENTS: FATHER'S NAME Walter A. Harrell  
Living ☒ Deceased ☐  
If living, where Memphis TN  
Place of Birth Memphis TN  
MOTHER'S NAME Annie Harrell  
Living ☒ Deceased ☐  
If living, where 111 Jackson St. Rome  
Place of Birth Rome
7. HAVE YOU LIVED AT ANY OTHER ADDRESS DURING THE LAST TEN (10) YEARS? YES ☒ NO ☐  
IF YES, WHAT ADDRESS(ES)?  
(A) 117 A Smith St Rome  
Date: June 78 - 80  
(B) \_\_\_\_\_  
Date: \_\_\_\_\_  
(C) \_\_\_\_\_  
Date: \_\_\_\_\_
8. PLEASE STATE THE SCHOOLS WHICH YOU HAVE ATTENDED:  
(A) GRADE SCHOOL Lester / Hollywood DATE -70  
(B) JUNIOR HIGH Cypress DATE 70-72  
(C) HIGH SCHOOL Pepperell DATE 72-75  
(D) COLLEGE Floyd Junior DATE 75-78

(E) GRADUATE SCHOOL \_\_\_\_\_ DATE \_\_\_\_\_

(F) VOCATIONAL OR TECHNICAL SCHOOLS \_\_\_\_\_  
DATE \_\_\_\_\_

DEGREE, CERTIFICATE, DIPLOMAS HELD \_\_\_\_\_  
DATE \_\_\_\_\_

(G) PROFESSIONAL SCHOOL \_\_\_\_\_ DATE \_\_\_\_\_

9 OCCUPATION: (Please be definite. If you are self-employed, state what your business is; if you are employed, state your employer; if you are a teacher, state what grade or subjects and at what school; if you are in civil service, state what you do and where; if you are in the Armed Forces, state your rank and branch; if you are retired, please explain your principle employment before you retired.)

*See Stokes & Stokes Attached*  
Radio Operator for State Patrol

10. WHAT IS YOUR POSITION, AND WHAT ARE YOUR DUTIES IN THAT POSITION? R/O maintain radio and other duties: paperwork needed.

11. HOW LONG HAVE YOU BEEN WITH THE SAME EMPLOYER? 1wk.

12. FOR WHOM ELSE HAVE YOU WORKED IN THE PAST TEN YEARS?

(A) K-mart DATES 75-87

(B) \_\_\_\_\_ DATES \_\_\_\_\_

(C) \_\_\_\_\_ DATES \_\_\_\_\_

13. HAVE YOU EVER BEEN IN MILITARY SERVICE? NO

WHAT BRANCH? \_\_\_\_\_ DATES \_\_\_\_\_

14. MARITAL STATUS: Married ☒ Separated \_\_\_\_\_

Single \_\_\_\_\_ Divorced \_\_\_\_\_ Other \_\_\_\_\_

If Married, how many years? 8

15. SPOUSE'S NAME John

16. SPOUSE'S OCCUPATION (Follow the same instructions as to your own occupation in Question Number 9 above):

Labor / Diocesan Cons.

17. SPOUSE'S EDUCATION LEVEL: High School

18. YOUR RELIGIOUS AFFILIATION: Baptist

19. HOW OFTEN DO YOU ATTEND CHURCH? Regularly

20. HOW MANY CHILDREN DO YOU HAVE? 2  
Boys: 2 Ages: 8 and 17 mos.  
Girls: \_\_\_\_\_ Ages: \_\_\_\_\_
21. IF CHILDREN ARE EMPLOYED, PLEASE STATE OCCUPATIONS:  
\_\_\_\_\_  
\_\_\_\_\_

22. HAVE YOU EVER, IN ANY WAY, BEEN INVOLVED IN ANY FORM OR KIND OF LAW ENFORCEMENT WORK INCLUDING, BUT NOT LIMITED TO, SECURITY GUARD, POLICE, SHORE PATROL, MILITARY POLICE, AIR POLICE, SHERIFF, OR DEPUTY SHERIFF, IRS INVESTIGATOR, F.B.I., G.B.I., PRIVATE INVESTIGATOR, PRISON OR JAIL GUARD, ET CETERA? (If so, please state when, where and in what capacity.)

R/O State Patrol / Rome / presently

23. DO YOU HAVE A CLOSE FRIEND OR RELATIVE WHO IS NOW OR HAS EVER BEEN, IN ANY WAY, INVOLVED IN LAW ENFORCEMENT AS MENTIONED ABOVE? (If so, please state who, what relation to you, when, where, and in what capacity.)

bro: Walter Hamell Calhoun PD / Frank Kendrick guard

24. HAVE YOU EVER BEEN THE VICTIM OF A CRIME OF VIOLENCE? (If so, please state what, where and when.)

NO

25. DO YOU HAVE A CLOSE FRIEND OR RELATIVE WHO HAS BEEN A VICTIM OF A CRIME OF VIOLENCE? (If so, please state what kind of case and when it occurred.)

NO

26. HAVE YOU EVER BEEN A WITNESS IN A CRIMINAL CASE (INCLUDING COURT MARTIAL)? (If so, please state what kind of case, where, and when.)

NO

27. HAVE YOU EVER SERVED ON A GRAND JURY? NO  
If Yes, please answer the following questions:

DID YOU SERVE IN THE FEDERAL COURT? NO

DID YOU SERVE IN SUPERIOR COURT? NO

DID YOU SERVE AS FOREPERSON? NO

28. HAVE YOU EVER SERVED ON A JURY IN A CRIMINAL CASE? NO  
If Yes, please answer the following questions:

DID YOU SERVE IN THE FEDERAL COURT? NO

DID YOU SERVE IN SUPERIOR COURT? NO

NO

[illegible]

OR  
g/N C

---

\_\_\_\_\_

No

100

ND

N 0

NO

ND

36. ARE YOU RENTING OR BUYING YOUR PRESENT RESIDENCE? *owned by mother-in-law*37. WHAT HOBBIES OR SPECIAL INTERESTS DO YOU HAVE NOW, OR HAVE YOU HAD IN THE PAST? *Ceramics / reading*

38. WHAT IS YOUR PRIMARY SOURCE OF NEWS INFORMATION?

NEWSPAPER \_\_\_\_\_ T. V. ☒ RADIO \_\_\_\_\_ OTHER \_\_\_\_\_

39. WHAT NEWSPAPERS DO YOU READ AND HOW MANY TIMES PER WEEK WITH EACH ONE?

*Rome News / once*

40. ARE THE PEOPLE YOU USUALLY RUN INTO IN YOUR NEIGHBORHOOD:

All White \_\_\_\_\_ All Black \_\_\_\_\_  
Both Black and White ☒

41. THE DEFENDANT, TIMOTHY TYRONE FOSTER, IS A MEMBER OF THE NEGRO RACE. THE VICTIM, QUEEN MADGE WHITE, WAS A WHITE CAUCASIAN. WILL THESE FACTS PREJUDICE YOU AGAINST TIMOTHY TYRONE FOSTER OR AFFECT YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT BASED SOLELY UPON THE EVIDENCE?

YES ☒ NO ☐

42. IF YOU ARE SELECTED TO SERVE AS A MEMBER OF THIS JURY, YOU AND OTHER JURORS WILL BE SEQUESTERED; THAT IS, YOU WILL BE STAYING IN A MOTEL APART UNTO YOURSELVES WHEN NOT ATTENDING THE TRIAL ITSELF. WOULD BEING ON SUCH A JURY CAUSE YOU ANY UNDUE HARDSHIP OR DIFFICULTIES? IF SO, PLEASE EXPLAIN.

*NO*

43. DO YOU HAVE ANY HEALTH PROBLEMS THAT MIGHT CAUSE YOU ANY DIFFICULTY OR HARDSHIP IF YOU WERE SELECTED AS A JUROR IN THIS CASE? IF YES, PLEASE EXPLAIN.

*NO*

44. DO YOU HAVE ANY PERSONAL, FAMILY OR BUSINESS PROBLEMS THAT WOULD CAUSE YOU DIFFICULTY OR HARDSHIP IF YOU WERE SELECTED AS A JUROR IN THIS CASE? IF YES, PLEASE EXPLAIN.

*NO**Darlene Graham*  
JUROR, PLEASE SIGN FULL NAME HERE*4-24-87*  
DATE SIGNED



I, Clayton Lundy, assisted Doug Pullen and Steve Lanier in the jury 96/103

selection of Tim Foster. Before the jury was selected I did a background check on several of the black jurors who have been selected to serve on the jury of the Tim Foster case. The check on the jurors was done before, during and upon picking of the jury for the Tim Foster Case. My evaluation of the jurors are as follows:

SHIRLEY POWELL

Mrs. Powell lives on East 11th Street in a low income area, possibly went to East Rome High School. If so, she probably knows the family of Tim Foster. She has had a warrant taken out on her by Greg Plant and she has taken a warrant for Greg Plant. Both warrants were dismissed due to cross warrant situations, in my opinion, I don't think Ms. Powell would be a good juror for this case due to her age and possible relationships with the family of Tim Foster.

During jury selection it was apparent that Ms. Powell knew the family of Tim Foster and had been associating with the family. I recommend that we do not keep Shirley Powell. But, if it come down to the bottom line we might take a long look at her.

Upon picking of the jury and evaluating all the jurors I find that Ms. Powell would be alright to serve in this case.

EDDIE HOOD

Mr. Hood lives in a middle class neighborhood. I think Mr. Hood works at Georgia Kraft, and has been employed there for a long period of time. I think he has established himself in the community as being well-known and a good family person. *A criminal check reveals that his son has a misdemeanor conviction for theft by taking. In a non death penalty case I feel Mr. Hood would be a good juror. However, because of his answers in voir dire*  
~~During jury selection I found out that Mr. Hood would not be a good juror because of his religious beliefs. Also, Mr. Hood, did not believe in the death penalty. So I do not recommend Mr. Hood.~~  
*and hesitation concerning the imposition of the death penalty, I recommended that he not be selected in this case*



Since the ~~was a death penalty~~ 2

State v Foster 86-F-2218-2  
During the picking of the jury, I recommend strongly that Mr. Hood not 97/103

be selected.

EVELYN HARDGE

Ms. Hardge lives on Ross Street in a middle class setting in North Rome. Ms. Hardge lives with her husband who, I think has been sick for several years. Ms. Hardge has one son, who is in college somewhere in Tennessee. Also, Ms. Hardge, belongs to St. Paul AME Church and is very active in the Church. Since Ms. Hardge lives in the North Rome Area she possibly could have heard something about the case.

During the jury selection it was apparent also, that Ms. Hardge due to illness of her husband and her belief ~~not in~~ <sup>Against</sup> the death penalty. Also, that I believe Ms. Hardge would be easily persuaded and irrational. She also has a son who is approximately the same age as Tim Foster. Also, in her statement she would vote for life instead of the death penalty.

Upon picking of the jury I recommend she not be chosen.

MARY TURNER

Ms. Turner resides in a middle class neighborhood. Ms. Turner works at North West Georgia Regional Hospital. Ms. Turner is basically a good person and provides for her family. But Mrs. Turner's husband has family members with criminal records. Due to the criminal activities of Ms. Turner's husband's family, with which she has to identify with; I don't think in my opinion, she could be a fair juror in this case. Also, Ms. Turner has stated that she is my half-sister but ~~my family does not recognize her as a member of our family.~~ <sup>this is not true.</sup>

During the jury selection of Ms. Turner, she answered some of the questions on the questionnaire wrong. She denied having any criminal history in her family or husband's family. Also, during jury selection she stated she was my half-sister, and as I stated before ~~our family does not recognize her as part of the~~ <sup>this is not true.</sup>

~~Concern~~ was  
~~Lundy family~~. My biggest ~~question in my mind~~, she never mentioned Otis Turner as having a criminal history or her husband.

Upon picking the jury, I recommend that we do not select this juror.

MARILYN GARRETT

Ms. Garrett lives at 306 East 18th Street, which is a low to middle income range. She lives in a possible duplex apartment. Mrs. Garrett comes from a neighborhood called Morton Bend, a community near Coosa, Georgia. The community is possibly all related. Ms. Garrett works possibly two jobs. One job, is at Pepperell and the other is at Headstart. Ms. Garrett deals everyday with low income parents and children that live in the projects close to where Tim Foster ~~possibly~~ lived. ~~Be very careful in picking Ms. Garrett for a juror in this case~~ due to the case we have on Angela Garrett who lost a teaching and coaching job due to a ~~drug~~ <sup>Cocaine arrest</sup> violation. ~~If it comes down to having to pick one of the black jurors, Ms. Garrett, might be okay. This is solely my opinion.~~

During jury selection I observed Ms. Garrett, that she was nervous and short with her answers. I was shocked when Ms. Garrett said that she was not familiar with the North Rome area when she worked <sup>9</sup> in this area, possibly two to three blocks away from the area where Mrs. White was killed.

I still in my mind have to say no to Ms. Garrett, the relationship with Anglea Garrett whom we have warrants on for Violation of Georgia Controlled Substance Act.

~~Upon picking of the jury after listening to all of the jurors we had to pick, if we had to pick a black juror I recommend that Ms. Garrett be one of the jurors; with a big doubt still remaining.~~

INCILLE TAYLOR

Ms. Taylor lives in a low to low-middle class neighborhood. I personally do not know Ms. Taylor, but I knew her husband. Ms. Taylor's husband had been

arrested for several different violations concerning alcohol. <sup>State v Foster, 86-F-2218-2</sup> ~~MS. Taylor~~ <sup>99/103</sup>  
husband ran a beer tavern and cooked barbeque on the side. Ms. Taylor's  
family are good people. <sup>De</sup> ~~Due~~ to age of Ms. Taylor, if her health is good,  
she would be a good juror but also consider her husband's criminal history.

During jury selection Ms. Taylor was excused for cause.

EDGAR BRAND

Mr. Brand lives at 114 Perkins Street. He lives in a middle class setting.  
Mr. Brand is retired from North West Regional Hospital. Mr. Brand has a son  
by the name of Edgar Brand who lives with him and has been charged with  
Theft by Shoplifting. His son plead guilty and received a sentence of 12  
months probation and \$250 fine. I have a question in my mind whether Mr. Brand  
would be a fair juror on this case.

During jury selection he was excused for medical reasons.

BOBBIE JEAN JOHNSON

She lives in a middle class neighborhood and is well-liked. My personal  
opinion, she will be a good juror. I don't know very much about this lady.  
But because of her age, I think, she would be a good juror to keep.

During jury selection, this juror did not make a appearance.

LOUISE WILSON

Ms. Wilson lives in a middle class neighborhood before her health got bad.  
Mrs. Wilson belongs to the Metropolitan, a United Methodist Church, and is very  
active in the Church. I do not know very much about Ms. Wilson. In my opinion,  
Ms. Wilson, would be a good juror because she can identify with Mrs. White,  
who lived alone. They both are associated and very active in the church.

During jury selection she was excused for cause.

CORRIE HINES

Mr. Hines lives in a middle class neighborhood. I think Mr. Hines is retired

from either Ga. Kraft or GE. Mr. Hines lives in the same neighborhood with the Foster's. He possibly could know Tim Foster's father. Mr. Hines could possibly know more about this case because the neighborhood he lives in is where this happened. No more than two or three blocks away. In my opinion, Mr. Hines, would not vote for the death penalty because Tim Foster is black. Mr. Hines has a son that has been charged on two different occasions for Forgery and Criminal Damage to Property. His son is possibly the age of 20 to 28 years old. Do not let the other side sneak Mr. Hines in on us. Be very careful of picking Mr. Hines to serve on this jury.

During jury selection he was excused for cause.

JURORS

JUROR  
H

002	Bonnie Harper		WF
004	WILEY K. Radcliff		WM
005 N	MARY HACKETT	N	WF
009 N	Eddie Hood	N	BM
010	Joyce Nicholson		WF
018	Patricia BING		WF
020	MYRTLE EVANS		WF
022 N	Evelyn HARDGE	N	BF
023	ANN Coulter		WF
024 N	LOELLA Hobgood	N	WF
025	VICTOR DeDeurwaerder		WM
029	Ray Allen Tate		WM
031	Billy Graves		WM
033	James T. Cochran		WM
037	Dorsey Hill		WM
038 N	MARY TORNEIR	N	BF
039	Charles Haulk		WM
044	Donald H. Hall		WM
045 N	George McMAHON	N	WM
046	Clairborne LEROY		WM
048	Salena Hammond		WF
054 N	Anna Joe Gab	N	WF
064	ELBERT Roberson		WM
067 N	<del>Shirley Powell</del>	N <del>Dancy</del> Cadle	BF
069	John Hoban		WM
070	Stephen Horner		WM
071	Lillian Kay Fincher		WF
072	Margaret Hibbert		WF
073	Robert Milam		WM
076	Shalee Jackson		WF
081	C.A. Garrett		WM
083	ARLENE BLACKMON		WF

086	N Marilyn H. Garrett	N	BF
088	Martha Duncan		WF
092	MARK FLOYD		WM
093	Mildred Hill		WF
099	Hugh Hubbard		WM
104	<del>Pamela Hyde</del> James Bevels		WF
106	Don Huffman		WM
107	Les Hatch		WM
108	Roy Hatch		WM
109	N Bobbie Grundstaff	N	WF

ALTERNATES

011	Nancy Cadle		WF
013	<del>James</del> James Bevels <del>James</del>		WM
114	Virginia Berry		WF
115	N Wm. Jeff Howell	N	WM
117	Robert SUMNER		WM
118	Walter S. Fuqua		WM
121	N Elizabeth Hartis	N	WF
122	Orvil Taliaferro		WM

ADD ONs

125	Carolyn Smith	
133	A.D. Branton	

- ① Looking for qualified Black jurors to avoid "white lynch mob" argument
- ② Anticipated "STAR WITNESS" Lisa Stubbs was black
- ②A CASE TRANSCENDS RACE
- ✓ ③ "call" not "select" jury
- ④ generally used only those jurors weakest on D.P.
- ⑤ remove people w/ families w/ criminal connections
- ✓ ⑥ DON'T TAKE SOCIAL WORKERS
- ⑦ CATHOLICS - LAST NAMES END IN VOWELS
- ⑧ Avoid Batson claim -