

1 you will answer this question 'No.'

2 "Answer:" -- blank.

3 "If you have answered the above issue
4 'No' and the vote is less than unanimous and, in
5 that event only, have the jurors voting 'No'
6 sign below." And there are 10 signature blanks
7 available for signatures.

8 Then signature blank: "John R.
9 Carter, Judge presiding."

10 Ladies and gentlemen, that is the
11 Charge of the Court.

12 All right. Are both sides ready to
13 proceed with final arguments?

14 MR. WALSH: The State is ready,
15 Your Honor.

16 MR. HIGGINBOTHAM: The Defense is
17 ready, Your Honor.

18 THE COURT: All right. Mr. Walsh, you
19 may proceed. I have 6:03.

20
21 OPENING ARGUMENT ON BEHALF OF THE STATE

22 MR. WALSH: Ladies and gentlemen,
23 to put this in perspective, we have spent
24 exactly one month; we started this trial on
25 March 12th, and we finished up yesterday night.

1 We have spent exactly one month, protecting the
2 rights of this Defendant.

3 He came into this courtroom and this
4 courthouse on March 12th presumed to be innocent.
5 He sits before you now, though, as a convicted
6 murderer. Evidence shows he was a convicted
7 murderer before he came to this trial. But by
8 your verdict yesterday, you have convicted him
9 of capital murder. He has had his day in court.
10 Now, let's start talking about what this part of
11 the trial is about.

12 This is the part of the trial that
13 protects society. This is the part of the trial
14 that protects you and me and your family and
15 friends from Henry Lee Lucas and the likes of
16 him. And it's awful ironic that we spend a
17 month protecting his rights and we spend a day
18 on this part of the trial.

19 Judge Carter has given you two
20 questions to answer in this charge. We went
21 over that with all of you during voir dire and
22 jury selection; only two questions, yes or no.
23 The burden of proof is still on the State; we
24 have to prove these issues beyond a reasonable
25 doubt. But I submit to you, ladies and

1 gentlemen, if there ever was a case where we
2 could prove something to a certainty or beyond
3 all doubt, it's this case right here.

4 Judge Carter tells you that you can
5 consider all of the evidence in this trial, not
6 just today, but every piece of evidence, every
7 witness's testimony who has testified here
8 throughout this trial. Let's talk about some of
9 that evidence and let's talk about that first
10 issue.

11 The first issue is whether this
12 killing was deliberate and with the reasonable
13 expectation that the death of the deceased would
14 occur. By his own admission on that roadside
15 tape that was videotaped at the scene, there is
16 one part in that tape where he disagrees with
17 Sheriff Boutwell, when Sheriff Boutwell said,
18 "Well, she refused to have sex, so that's why
19 you killed her." Lucas said, "No, I had already
20 made up my mind that I was going to kill her. I
21 prefer sex after death." He had already made up
22 his mind. Talk about deliberate, premeditated,
23 if you will.

24 This isn't a case of someone all of a
25 sudden getting mad and pulling a gun out and

1 pulling a trigger; this is a case of a killer
2 who had picked this girl up, who knew what he
3 picked her up for, and carried that wish out.
4 What more deliberate can you be when you ask
5 someone to have sex, they say, "No, and try to
6 get out of the car and you pull them back, fight
7 with them and strangle the life out of them with
8 their hands?

9 The next question is probability or
10 dangerousness, as we referred to it in voir dire.
11 And that question is: "Do you find from the
12 evidence beyond a reasonable doubt that there is
13 a probability that the Defendant would commit
14 criminal acts of violence that would constitute
15 a continuing threat to society?" Again, if
16 there ever was a case where we could say
17 somebody was probably a continuing threat to
18 society, it is this case.

19 There were four doctors who testified
20 in this case; three of them were medical
21 doctors, one of them was a Ph.D.-type doctor.
22 All four of those experts, including two of the
23 Defendant's, said the man is dangerous. The
24 first one, the psychologist, hedged a little bit.
25 He said he probably is dangerous. The expert

1 psychiatrist the Defense called, even Dr.
2 Fogelman said the man is dangerous; he needs to
3 be locked away for the rest of his life, is what
4 Dr. Fogelman thinks Henry Lucas needs. He
5 needed -- I forget what he says. He doesn't
6 need outpatient treatment.

7 We know that there is not a
8 probability that Henry Lee Lucas would commit
9 criminal acts of violence; there is a certainty.
10 If we don't know it after he killed his mother,
11 after he killed his mother maybe we might have a
12 little doubt about that. After he killed Kate
13 Rich, an 84-year-old lady, would we have any
14 doubt that he is probably guilty -- not
15 probably guilty but that he would probably
16 commit future acts of violence that would
17 constitute a threat. But he didn't stop there;
18 he killed Becky, a 15-year-old girl. He killed
19 our victim in Williamson County, this
20 unidentified girl.

21 He killed Sandra Dubbs, and I'm so
22 glad, ladies and gentlemen, that we're finally
23 able to present to you the evidence of Sandra
24 Dubbs. That makes the blonde-headed woman in
25 the field and the "I've got one on the other

1 side of Austin" make a whole lot more sense.
2 And look at that picture; look at the way he
3 killed Sandra Dubbs. Look at that statement he
4 made to Officer Cutler, and look at the way that
5 he and Ottis Toole killed Sandra Dubbs.

6 Henry Lucas doesn't just kill
7 hitchhikers; you're not safe anywhere from Henry
8 Lucas. Lynne Grey thought she was safe there at
9 her job at the savings and loan in Abilene; look
10 what he did to her. And it's interesting in
11 that statement concerning Lynne Grey, Lucas sort
12 of put that off as an accident, that the gun he
13 had had a hair trigger and something scared him
14 and it just went off, and she got shot in the
15 back of the head. And he took about a thousand
16 dollars of that money.

17 The only answer to these questions is
18 "Yes," ladies and gentlemen. The only answer is
19 "Yes." Nothing that I can say is going to make
20 it any more clear. Nothing that these lawyers
21 are going to say here next can change that.

22 I'm going to sit down and I'll have an
23 opportunity to respond to whatever they do
24 argue.

25 THE COURT: You used eight minutes,