

September 2015

Rape, Race, and Capital Punishment in North Carolina: A Qualitative Approach to Examining an Enduring Cultural Legacy

Douglas Wholl

University of South Florida, poseidondw@aol.com

Follow this and additional works at: <http://scholarcommons.usf.edu/etd>

 Part of the [Behavioral Disciplines and Activities Commons](#), [Criminology and Criminal Justice Commons](#), and the [Other Social and Behavioral Sciences Commons](#)

Scholar Commons Citation

Wholl, Douglas, "Rape, Race, and Capital Punishment in North Carolina: A Qualitative Approach to Examining an Enduring Cultural Legacy" (2015). *Graduate Theses and Dissertations*.
<http://scholarcommons.usf.edu/etd/5797>

This Dissertation is brought to you for free and open access by the Graduate School at Scholar Commons. It has been accepted for inclusion in Graduate Theses and Dissertations by an authorized administrator of Scholar Commons. For more information, please contact scholarcommons@usf.edu.

Rape, Race, and Capital Punishment in North Carolina: A Qualitative Approach to
Examining an Enduring Cultural Legacy

by

Douglas J. Wholl

A dissertation submitted in partial fulfillment
of the requirements for the degree of
Doctor of Philosophy
Department of Criminology
College of Behavioral and Community Sciences
University of South Florida

Co-Major Professor: John K. Cochran, Ph.D.
Co-Major Professor: M. Dwayne Smith, Ph.D.
Wilson R. Palacios, Ph.D.
Lyndsay N. Boggess, Ph.D.

Date of Approval:
July 6, 2015

Keywords: Capital Sentencing, Qualitative Hypothesis Testing, Analytic Induction

Copyright © 2015, Douglas J. Wholl

Dedication

I would not have been able to reach the end of this journey without the understanding, love, and support of my family and friends. Thank you all for being there for me through this challenging process.

Acknowledgments

I am incredibly grateful to have worked closely with Drs. Cochran and Palacios since my first semester as a graduate student. I have benefited from their knowledge, guidance, and support throughout my entire graduate career. I would like to give special thanks to Dr. Cochran for the time and effort he put into working with me to develop my dissertation; I would not have been able to reach the end of this journey without his unwavering support. I would also like to thank Dr. Smith for allowing me to utilize his data set and providing me with insight into how I could approach the data he spent years collecting and organizing. Dr. Palacios has been a qualitative mentor to me throughout my development as a graduate student since the inception of the Professional Thieves Working Group and I am grateful for his continued guidance as I worked through this arduous process. Dr. Boggess fostered my interest in the death penalty when I shadowed her graduate course; I appreciate her support of all my endeavors within the graduate program. I would also like to give special thanks to Drs. Heide and Cass who have provided me with a number of opportunities and experiences that have made my graduate career both rewarding and enjoyable. Finally, I would like to thank the faculty and graduate students within the Department of Criminology who offered me academic and emotional support throughout my entire graduate career.

Table of Contents

List of Tables	iii
List of Figures	v
Abstract	vi
Chapter One Introduction	1
Law as Social Control	3
Lethal Vengeance in the South	6
A Peculiar Chivalry	8
Racial Discrimination in the Contemporary Capital Punishment Process	10
The Current Study	11
Chapter Two Literature Review	20
A Socio-legal History of Black Oppression in the South	23
The Law of Slavery	23
Reconstruction & Lethal Vengeance	32
Rape & Racial Discrimination in Death Penalty Sentencing in the 20th Century	35
The Capital Punishment Process	40
Evolution of the Contemporary Capital Punishment Process	40
An Overview of the Empirical Evidence of Racial Discrimination in the Capital Punishment Process	45
Empirical Research on Racial Discrimination and the Death Penalty using the North Carolina Capital Sentencing Project Dataset	47
An Overview of Qualitative Studies of Capital Juries	49
Aggravating Factors in the North Carolina Capital Punishment Process	53
Geographical Variations in the use of the Death Penalty	56
An Enduring Cultural Legacy	60
Chapter Three Methods	66
Analytic Induction	66
Sample	68
Boundary Conditions for Case Requirements	69
Coding and Impact of the ECL Dimensions	74
Analytic Plan	86

Chapter Four Results	90
The Hypothesis Reclassification Process	174
Geographical Variations in Death Penalty Recommendations	180
Chapter Five Discussion & Conclusion	182
Reliability and Validity	188
Limitations	190
Future Research	191
Conclusion	193
References	195
Appendices	204
Appendix A: North Carolina Capital Punishment Statistics (G.S. 15A-2000); Aggravating Circumstances	205
Appendix B: North Carolina Capital Punishment Statistics (G.S. 15A-2000); Mitigating Circumstances	206
Appendix C: Hypothesis Reclassifications by Trial and Year (n=58)	207
Appendix D: Trial Synopses	208
B _d W _v , Death Penalty, Liberated Jury	208
W _d W _v , Life, Liberated Jury	210
B _d W _v , Life, Liberated Jury	212
W _d W _v , Death, Liberated Jury	213
B _d W _v , Death, Non-Liberated Jury	218
W _d W _v , Death, Non-Liberated Jury	219
B _d W _v , Life, Non-Liberated Jury	221

List of Tables

Table 1	Variations in the Quantity of Law.	21
Table 2	Slaves Convicted by North Carolina Slave Courts or Killed by the Authorities, 1748-1772.	26
Table 3	Capital Crimes for Whites, Slaves, and Free Blacks, and Justified Killings of Slaves, Tennessee Slave Code, 1858.	29
Table 4	Levels of Death Penalty Intensity by State.	57
Table 5	Trials Excluded from the Analysis.	71
Table 6a	Emic Category Codes, Emic Subcategory Codes, Definitions, and Examples.	77
Table 6b	Etic Category Codes, Etic Subcategory Codes, Definitions, and Examples.	80
Table 7	Death Sentence Recommendations across B_dW_v and W_dW_v trials by Total Number of Aggravators Accepted (n=58).	83
Table 8	Initial Hypothesis Classifications (n=58).	91
Table 9	Hypothesis Reclassifications (n=58).	92
Table 10	Acceptance of the HAC Aggravator across Hypothesis Reclassifications (n=58).	93
Table 11a	Results of Qualitative Analysis: B_dW_v , Death Penalty, Liberated Jury (n=17).	96
Table 11b	Results of Qualitative Analysis: W_dW_v , Life, Liberated Jury (n=24).	112
Table 11c	Results of Qualitative Analysis: B_dW_v , Life, Liberated Jury (n=7).	128
Table 11d	Results of Qualitative Analysis: W_dW_v , Death Penalty, Liberated Jury (n=26).	135

Table 11e	Results of Qualitative Analysis: B _d W _v , Death Penalty, Non-Liberated Jury (n=8).	158
Table 11f	Results of Qualitative Analysis: W _d W _v , Death Penalty, Non-Liberated Jury (n=6).	164
Table 11g	Results of Qualitative Analysis: B _d W _v , Life, Non-Liberated Jury (n=3).	171
Table 12	Temporal Variation in Hypothesis Reclassifications (n=58).	173
Table 13	Hypothesis Reclassifications Pre- and Post- <i>McKoy</i> (n=58).	174
Table 14	Geographical Variation in Hypothesis Reclassifications (n=58).	181

List of Figures

Figure 1	Theoretical Framework.	4
Figure 2	Percent of North Carolina Slavery Population by County, 1860.	60

Abstract

Despite positive steps toward the suppression of racial discrimination in the United States capital punishment process, the enduring effects of a cultural legacy of Black oppression (e.g., slavery; segregation; lynching) and historic and systemic racial discrimination in the criminal justice system have persisted to the present day. The purpose of the current study is to explore whether this enduring cultural legacy still exists by examining whether juries in rape-involved capital murder trials in North Carolina are more likely to recommend a sentence of death when the defendant is a Black male and the victim is a White female (compared to White male victims and White female victims). Within an analytic induction framework, the current study utilizes qualitative hypothesis testing to critically test each of the rape-involved homicide cases in an effort to elucidate the legal (e.g., circumstances of the case) and extra-legal (e.g., race of the defendant and victim, respectively; multiple dimensions of the ECL) factors that influence death sentence recommendations in North Carolina during this time period. The qualitative analysis involves the comprehensive reading and documentation of case narratives and newspaper articles in which I re-sort (i.e., reclassify) the hypothesis-supporting, hypothesis-non-supporting, and hypothesis-rejecting cases while considering the salient circumstances of the trial (e.g., aggravating circumstances; perceived brutality of the crimes committed) and the influence of multiple dimensions of the ECL (e.g., the liberation hypothesis; credibility of the White female victim). Findings from the qualitative analysis failed to show support for the ECL hypothesis (24.1% of trials showed support for the hypothesis, 19% of trials rejected the hypothesis, 57% of trials did not show support for or reject the hypothesis). While the findings did not show support

for the ECL hypothesis in any context, the rich information uncovered in the extensive review of LexisNexis case narratives and newspaper articles that had a direct bearing on the qualitative findings and interpretations that could not be identified in a quantitative approach to the data (e.g., a juror's expression of racial attitudes that was the single greatest piece of evidence showing support for the ECL; detailed descriptions of especially brutal trial circumstances that may have influenced jury sentencing decisions; the perceived credibility or chastity of the victim; the inclusion of relevant trials and exclusion of trials not appropriate for analysis) demonstrates the value of a qualitative approach to the study of racial discrimination in jury sentencing decisions.

Chapter One

Introduction

Despite positive steps toward the suppression of racial discrimination in the United States capital punishment process, the enduring effects of a cultural legacy of Black oppression (e.g., slavery; segregation; lynching) and historic and systemic racial discrimination in the criminal justice system have persisted to the present day (Bohm, 1991; Bowers, Pierce, & McDevitt, 1984; Jacobs, Carmichael, & Kent, 2005; Messner, Baller, & Zevenbergen, 2005; Paternoster, 1991; Phillips, 1987; Poveda, 2006; Vandiver Giacopassi, & Curley, 2003; Zimring, 2003). This enduring cultural legacy (ECL) has permeated the contemporary capital punishment process by perpetuating the belief that Blacks are inferior, do not deserve the full protection of the law, and deserve harsher treatment than Whites convicted of similar crimes, especially with regard to capital cases of rape-involved homicides committed by Black men against White women (Messner et al., 2005, p.637; Vandiver et al., 2003). The purpose of the current study is to explore whether this ECL still exists by examining whether juries in rape-involved capital murder trials in North Carolina are more likely to recommend a sentence of death when the defendant is a Black male and the victim is a White female (compared to White male victims and White female victims).

The socio-legal forms of Black oppression have evolved over the past five centuries to coincide with shifts in race relations in the United States (Dorr, 2000). The Colonial Slave Codes of the early 1700s were modified and expanded throughout the mid-1800s in the antebellum South and were later reinforced through the Black Codes and Jim Crow Laws in the

late 1800's; these codes were each created and developed in an effort to maintain racial hierarchies and preserve White hegemony in the South (Kennedy, 1997; Paternoster, 1991). The state-sanctioned executions and extra-legal lynchings of Blacks that were utilized to maintain control of the Black population in the colonial and antebellum South evolved into "legal lynchings" in the early twentieth century in which Blacks faced incredible discrimination in the courtroom (Bardaglio, 1994; Dorr, 2000; Rise, 1992, p. 462). The established southern tradition of brutal retaliation against Black men (e.g., torture and execution) accused of raping White women in the colonial and antebellum South that was designed to punish Black men and defend the honor of White women still expresses itself today by exacerbating racial discrimination in rape-involved capital homicide cases (Bardaglio, 1994; Cash, 1941; Kay & Cary, 1995; Paternoster, 1991). The ECL hypothesis suggests that jury decisions in contemporary rape-involved homicide cases still reflect the values of a long-standing southern tradition of race-based lethal violence and vigilantism targeted against Black men who rape and kill White women.

The North Carolina Capital Sentencing Project (NCCSP) offers a comprehensive data-set in which multiple analytical approaches may be used to assess the relationships between defendant and victim race combinations and a jury's likelihood of producing a sentence of death (while considering additional factors such as aggravating and mitigating circumstances) across the total population of rape-involved capital murder trials from 1977 through 2009 (Kavanaugh-Earl, Cochran, Smith, Fogel, & Bjerregaard, 2010). Since rape-involved homicide is a rare event (155 capital trials in North Carolina during the 32 year period under investigation), the current study employed qualitative hypothesis testing within an analytic induction framework to critically test each of the rape-involved homicide trials in North Carolina. This type of

qualitative analysis relied on a comprehensive reading of each of the rape-involved capital homicide case narratives (and supplementary materials) in the qualitative data set and offered an innovative approach to the data that elucidated the legal (e.g., circumstances of the case) and extra-legal (e.g., race of the defendant and victim, respectively; multiple dimensions of the ECL) factors that influence death sentence recommendations in North Carolina during this time period.

Over the past 25 years, the Capital Jury Project (CJP) has demonstrated the value of qualitative approaches to the study of capital juries related to: the selection process and objectivity (Sandys, 1995; Sandys & McClellan, 2003); comprehension of or misinterpretations of instructions or responsibilities (Barner, 2014; Eisenberg & Wells, 1993; Eisenberg, Garvey, & Wells, 1996; Garvey, Johnson, & Marcus, 2000; Bowers, Fleury-Steiner, & Antonio, 2003; Bowers & Steiner, 1999; Foglia, 2001), and feelings (e.g., empathy; anger) toward the victim and defendant, respectively, at both the guilt and sentencing stages of the process (Antonio, 2006; Bowers, Sandys, & Steiner, 1998; Sundby, 1998, 2003). The current study adds to a body of compelling empirical evidence of racially discriminatory practices in the United States capital punishment process that has failed to garner much legislative or judicial attention (Johnson, 2003; Kavanaugh-Earl et al., 2010; Ware, 2007). The following section provides an introduction to the main socio-legal factors that have contributed to a southern ECL of racial oppression and discrimination that may continue to impact jury death sentencing in the contemporary capital punishment process (see Figure 1).

Law as Social Control

Slave codes were created in the colonial South and modified throughout the antebellum period to ensure the submissiveness of slaves and regulate their behavior (Paternoster, 1991).

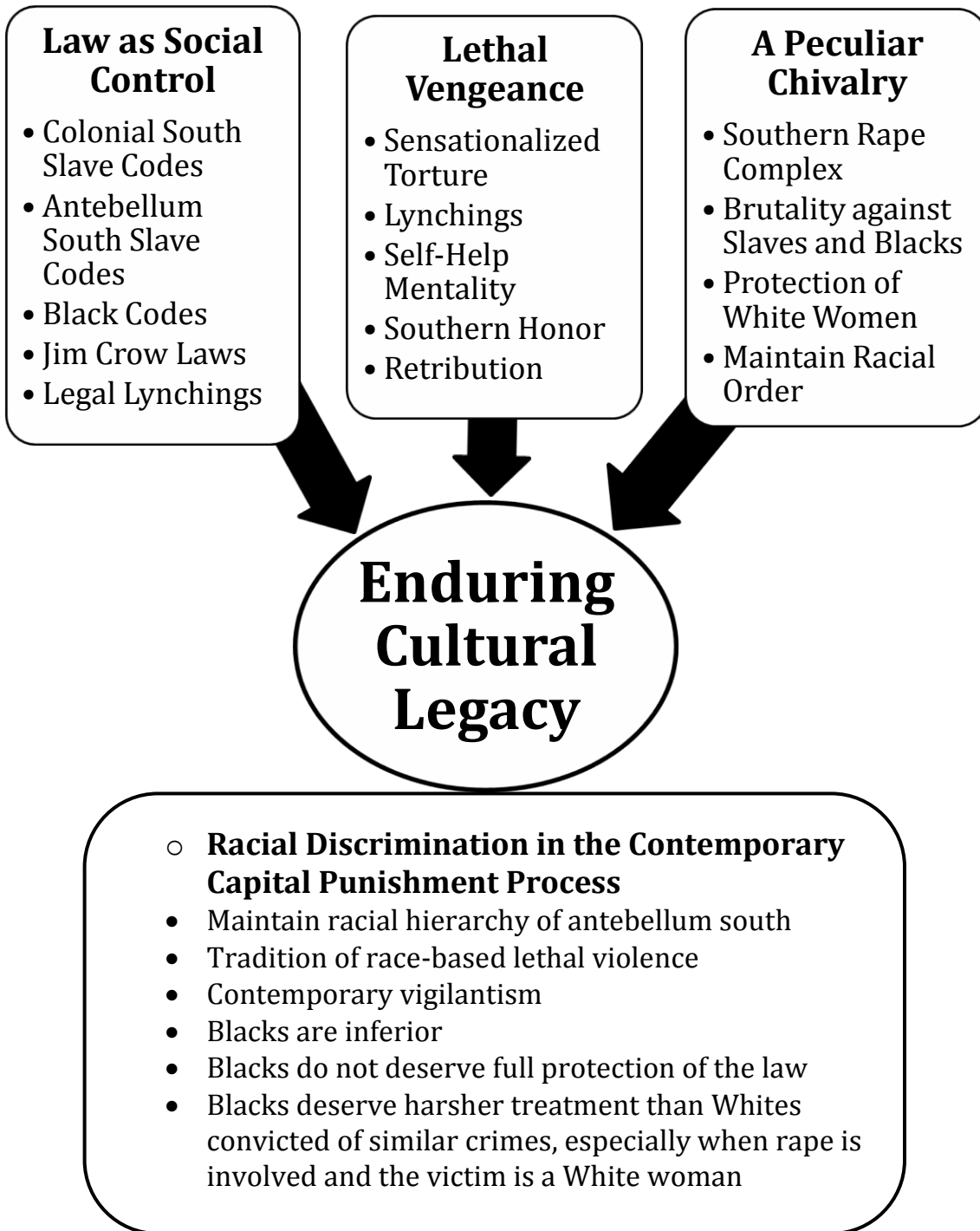


Figure 1. Theoretical Framework.

These codes defined slaves as inheritable property (an inescapable life-long status) unprotected from the decriminalized brutality inflicted upon them by Whites (Kennedy, 1997; Paternoster, 1991). Slaves were generally unable to own property, engage in legal matters, or benefit from any of the rights possessed by a free man (Flanigan, 1974; Imes, 1919; Paternoster, 1991). In addition, slaves experienced harsher punishments than Whites for numerous crimes in most slave states (Flanigan, 1974; Vandiver et al., 2003, Dorr, 2004). Many acts that Blacks committed in the antebellum South were considered crimes for which Whites were immune, upgraded to felonies when committed by Blacks, and typically carried heavier penalties (e.g., capital punishment) for Blacks than Whites convicted of the same crime (Johnson, 1941; Paternoster, 1991). For example, slaves or free Blacks found guilty of rape or assault with intent to rape were punished with the death penalty while Whites convicted of the same crime were punished with prison terms (Bardaglio, 1994; Paternoster, 1991).

In colonial North Carolina, the institution of slavery secured positions of power for the “slave-holding elite” and provided them with the opportunity to “mold the laws that expressed its ideology and needs” (i.e., an “expected conjunction of wealth, power, and status” within an established racial hierarchy) (Kay & Cary, 1995, p. 54). A system of “plantation justice,” which existed outside of the judicial system and statutory law, was designed to ensure the absolute control of slaves on each individual plantation and authorized slave-owners to use any means necessary to punish slaves for certain transgressions (e.g., theft; slave-on-slave assault) (Kay & Cary, 1995, p. 73). Prior to 1774, it was legal to willfully and maliciously attack, maim, or kill a slave in North Carolina (Kay & Cary, 1995). When more serious crimes were committed by slaves (e.g., murder of a White; running away), the North Carolina public criminal justice system established specialized slave courts with absolute power to engage in arbitrary judicial

procedures and execute slaves (Kay & Cary, 1995). In addition, deputized citizens and police officers were often granted authority to kill slave runaways or criminal transgressors (Kay & Cary, 1995).

After slavery was abolished following the Civil War, the spirit of the slave codes was retained in the Black Codes and Jim Crow laws as the White population passed new legislation to maintain racial hierarchies and preserve White hegemony in the South (Paternoster, 1991). The Black Codes clearly identified Blacks as belonging to a separate and inferior class and established laws that dealt with issues such as crime and punishment, the judicial system, and labor contracts (Shofner, 1977). The “Jim Crow” laws that began in 1876 legalized the existing custom and conditions of segregation and prevented Blacks from having a fair defense in legal or economic matters (Shofner, 1977). Black defendants often faced incredible discrimination in the courtroom as their due process rights were ignored by judges and juries who were able to utilize procedural practices to hide their discriminatory intentions while convictions of innocent Black defendants known as “legal lynchings” overwhelmed the criminal justice system well into the twentieth century (Rise, 1992, p. 462; Dorr, 2000).

Lethal Vengeance in the South

From the late 1800’s through the middle of the 20th century, White southerners often used lynching to control and terrorize Blacks while uniting the White population across class and gender lines, protecting the economic and political status of Whites, upholding notions of southern honor, achieving retribution for crimes committed by Black men that threatened the racial hierarchy, and assuring the personal safety of Whites (Dorr, 2000; Newkirk, 2009). and (Bardaglio, 1994; Dorr, 2000; Shofner, 1977; Greenberg & Messner et al., 2005; Himmelstein, 1969; Jacobs et al., 2005; Rise, 1992). State governments in the colonial and antebellum South

often sanctioned the lynchings of Blacks for the most trivial offenses (e.g., arguing with Whites; staring at a White woman; testifying in court; violating a contract) (Newkirk, 2009). Throughout this time period, White southerners also adopted a “self-help” mentality and punished Blacks by lynching them without legal authorization (Messner et al., 2005, p. 633).

Lynching and mob violence facilitated a "climate of terror" that Whites in the South used to intimidate Blacks and resist affronts to White hegemony (e.g., political, economic, and social competition between Whites and newly freed Blacks) (Tolnay & Beck, 1995, p. 19, See also Messner et al. 2005; Tolnay, Beck, & Massey, 1989). The immense symbolic power inherent in the lynching experience was a product of its “public and visually sensational” brutality (Wood, 2009, p. 1). The ritualized torture, mutilation, and hanging of Blacks “carried cultural force as a form of racial terror” as the spectacle of lynching was met with public enthusiasm and produced long-lasting effects (e.g., photographs; ballads; narratives) that perpetuated notions of White supremacy (Wood, 2009, p. 2).

While all executed Whites were hanged in North Carolina from 1748-1772, approximately half of the executions of 56 slaves (with known modes of executions for this time period) were especially brutal (Kay & Cary, 1995). Slave executions involved burning, castration, hanging, and decapitation (with their severed heads displayed on stakes) (Kay & Cary, 1995). Outlawed runaways were also shot or beat to death upon capture; some runaways drowned themselves in order to avoid these types of sadistic punishments (Kay & Cary, 1995). The “litany of terror” involved in the executions of slaves during this time period also manifested itself in the court-imposed corporal punishments of slaves (Kay & Cary, 1995, p. 82). Not only did Blacks receive more lashes than Whites for criminal transgressions, 19 slaves were legally castrated (this type of punishment was not imposed on Whites) and the courts often branded the

faces of slaves or cut off their ears (Whites only had their thumbs branded) in colonial North Carolina (Kay & Cary, 1995).

Lethal vengeance against Blacks continued in the South well into the twentieth century as vigilante justice was carried out in conjunction with a discriminatory criminal justice system (Greenberg & Himmelstein, 1969; Kennedy, 1998; Rise, 1992). For example, the 1906 United States Supreme Court (USSC) appeal of Ed Johnson's death sentence in Tennessee for a rape conviction was preempted by a mob that broke down the jail and hanged the defendant (Kennedy, 1998). The Groveland case from Florida (1954) also demonstrated the existence of vigilante justice as two of the defendants charged with raping a White woman were killed by sheriffs prior to their retrial in court (Greenberg & Himmelstein, 1969). Much like the lynchings in the antebellum South, lethal vengeance in the form of lynchings in the twentieth century was composed of "ritualistic brutalities, flagrant carelessness, [and] mass hysteria" directed at Blacks to maintain racial control and dominance (Kennedy, 1998, p. 46).

A Peculiar Chivalry

Beginning in the colonial era, southern White males were convinced that Black men were "obsessed with the desire to rape White women" (Bardaglio, 1994; p. 752). This "rape complex" expressed itself in laws that sanctioned the castration of Black men who were convicted of the rape (or attempted rape) of White women (Cash, 1941, p. 116; Paternoster, 1991). While the occurrence of a slave raping a White woman in North Carolina in the mid-18th century was incredibly infrequent, punishments for this type of transgression were "ferociously calculated to strike terror in the hearts of slaves" (Kay & Cary, 1995, p. 86). The mere accusation of a slave raping a White woman guaranteed the conviction and execution of the slave, which often involved torture and mutilation (e.g., being tied to a stake and burned alive; being hanged and

then having one's severed head placed on a stake, having one's private parts cut off and thrown in one's face) (Kay & Cary, 1995; Kennedy, 1997). While castrating slaves as punishment for rape was made illegal in North Carolina in 1758, it was a permissible punishment for slaves who attempted to rape White women in Virginia until 1819 (Bardaglio, 1994).

The Southern "peculiar chivalry" (Marquart et al., 1994, p. 65), the customary belief of White men that slaves and free Blacks were predisposed to rape and that this crime only applied to "respectable" White women, continued to fuel the desire of White men to protect White women from slaves and maintain the racial order of the South throughout the antebellum period (Bardaglio, 1994, p. 772; Cash, 1941; Paternoster, 1991). Southern states established criminal codes calling for the mandatory executions of Black men convicted of rape or attempted rape of a White woman (Cash, 1941; Bardaglio, 1994; Paternoster, 1991). Under the slave codes, the Black victim of rape (regardless of chastity) was not viewed as a "man's woman" and was therefore not fully protected by the law since the most severe punishments were only applicable to offenders who committed crimes against Whites (Giacopassi and Wilkinson, 1985, p. 368; Kay & Cary, 1995; Vandiver et al., 2003). In addition to strengthening their positions in the slave community, slave owners who raped their own slaves also increased the labor supply since children born as a result of these rapes became property of the master (Kay & Cary, 1995). Further, the law considered a White man's rape of another man's slave to be a violation against the slave's master as opposed to a crime against the slave herself (Bardaglio, 1994). This "racially selective underprotection" of Blacks (i.e., the lawmaker's refusal to protect Blacks from criminal acts in the same manner as it protected Whites) to aid in the effort to preserve White supremacy in the South is "one of the most destructive forms of racial oppression" (Kennedy, 1997, p. 29).

Racial Discrimination in the Contemporary Capital Punishment Process

Capital punishment has existed in the United States since the 1600s; early executions and extralegal executions (e.g., lynchings) were commonly carried out against unpopular groups (e.g., religious dissenters; those who challenged the slavery system of the South) (Paternoster, 1991). Historically, Black defendants have been disproportionately executed in the United States (Wolfgang & Riedel, 1975). Of the 3,859 executions that took place during the pre-Furman years (1930-1967) (most for murder and most in the southern states), approximately 55% have been Black with approximately 90% of those executed for rape (455 executions) involving Black offenders (Baldus & Woodworth, 1998; Bradmiller & Walters, 1985; Paternoster, 1991; Vandiver et al., 2003; Wolfgang & Riedel, 1975). This trend has not significantly changed since the *Furman* decision (i.e., existing death penalty statutes were in violation of the 8th and 14th Amendments and therefore unconstitutional), as 40% of all those executed since 1977 have been Black, with 80% of homicides involving White victims (Paternoster, 1991; Poveda, 2006).

Since death-eligible offenses in the South were not restricted to homicide in the first half of the 20th century, discrimination against Blacks was especially salient in capital rape cases (Wolfgang & Reidel, 1973, 1975). Wolfgang & Riedel (1973) examined data on 3000 rape convictions in 11 southern states (230 counties) over a 20 year period (1945-1965) and found striking racial differences while controlling for over two dozen variables. These findings were consistent with both previous and subsequent studies that have identified that Black defendants have suffered from racial discrimination and more severe treatment in the criminal justice system with respect to sexual assault cases, especially those involving White victims (see Johnson, 1957; Greenberg & Himmelstein, 1969; Flanigan, 1974; Bradmiller & Walters, 1985; Paternoster, 1991; Dorr, 2000; Williams & Holcomb, 2004; Wolfgang & Riedel, 1975).

In 1977, *Coker v. Georgia* ruled that the death penalty for the rape of an adult woman was unconstitutional under the 8th Amendment clause referring to cruel and unusual punishment since there is no loss of life involved in these particular cases (Paternoster, 1991). In post-*Coker* trials, racial discrimination against Blacks manifested itself in many decision-making points of rape-involved capital murder trials (Wolfgang & Riedel, 1973; Paternoster, 1991). Findings of numerous contemporary studies suggest that Black offenders and those who victimize Whites are more likely to be indicted for and convicted of a capital crime, and are also more likely to be sentenced to death and to have their sentences carried out compared to White offenders and those who victimized Blacks, especially when rape is involved (Baldus & Woodworth, 1998; Paternoster, 1991; Stauffer, Smith, Cochran, Fogel, & Bjerregard, 2006; Vandiver et al., 2003; Wolfgang & Riedel, 1973, 1975).

This chapter has provided a brief introduction to the main socio-legal factors that have contributed to the enduring southern cultural legacy of racial oppression and discrimination that continues to impact jury sentencing in the contemporary capital punishment process. These factors are examined in further detail in the next chapter. The next section identifies the goals and methods of the current study, followed by an outline of the remaining chapters.

The Current Study

Despite the passing of constitutional amendments, decisions by the Supreme Court, and the Civil Rights movement that each aimed to ensure racial equality, the current study contends that the death penalty is utilized today as a partial replacement for past vigilantism in an effort to maintain the racial hierarchy of the colonial and antebellum South (Vandiver et al., 2003, p. 83; See also Bohm, 1991; Bowers et al., 1984; Jacobs et al., 2005; Messner et al., 2005; Paternoster, 1991; Phillips, 1987; Poveda, 2006; Zimring, 2003). More specifically, the current study

contends that an enduring legacy originating in the slave codes, Black codes, and lynchings in the South has facilitated the “emergence of cultural supports for the use of lethal violence” against Black men in a contemporary criminal justice setting (Messner et al., 2005, p.637). This cultural legacy is especially salient with regard to contemporary capital cases of rape-involved homicides committed by Black men against White women as a result of the Southern “peculiar chivalry” (Marquart et al., 1994, p. 65), the customary belief of White men that slaves and free Blacks were predisposed to rape and that this crime only applied to "respectable" White women (Bardaglio, 1994, p. 772).

While racial discrimination can be present at every stage of the capital punishment process (e.g., prosecutorial discretion; the exclusion of minorities from jury duty), the jury makes the final decision of producing a sentence of life or death for the defendant; this decision may be influenced by individual information processing and the group dynamics of the jury (Baldus & Woodworth, 1998; Bohm, 1991; Costanzo & Costanzo, 1992). According to a sociological model of law, juries often make their ultimate sentencing decision based on “their personal beliefs and feelings, and only afterward turn to the written law for a justification” (Black, 1989, p. 5). Juries are intended to function as “a significant and reliable objective index of contemporary values” (*Gregg v. Georgia*, 1976, p. 181) so that the sentencing decision in a capital trial represents “the evolving standards of decency that mark the progress of a maturing society” (*Witherspoon v. Illinois*, 1968, p. 519, quoting *Trop v. Dulles*, 1958, p. 101) (Costanzo & Costanzo, 1992). The ECL hypothesis suggests that jury decisions in contemporary rape-involved homicide cases still reflect the values of a long-standing southern tradition of race-based lethal retaliation targeted against Black men who rape and kill White women. A review of the literature (Chapter 2) presents evidence that supports this hypothesis.

Within the current study, I employed a qualitative approach to test the hypothesis that an ECL continues into the current era in which juries in rape-involved capital murder trials in North Carolina are more likely to recommend a sentence of death when the defendant is a Black male and the victim is a White female compared to White male defendants and White female victims. Within an analytic induction framework, the current study utilized qualitative hypothesis testing to critically test each of the rape-involved homicide cases in an effort to elucidate the legal (e.g., circumstances of the case) and extra-legal (e.g., race of the defendant and victim, respectively; multiple dimensions of the ECL) factors that influence death sentence recommendations in North Carolina during this time period. The qualitative analysis involved the comprehensive reading and documentation of case narratives and newspaper articles in which I re-sorted (i.e., reclassified) the hypothesis-supporting, hypothesis-non-supporting (fails to support or reject the hypothesis), and hypothesis-rejecting cases to reflect the salient circumstances of the trial (e.g., aggravating circumstances, the perceived brutality of the crimes committed) while also considering the influence of multiple dimensions of the ECL (e.g., the liberation hypothesis, credibility of the White female victim, geographical variations in death sentence recommendations).

The universe of cases for the qualitative analysis is all rape involved capital homicide trials in North Carolina from 1977-2009 that involve Black or White male defendants and White female victims. These cases are drawn from a larger North Carolina data set of 1356 death sentencing trials that contain information pertaining to the demographic characteristics of offenders and victims and data on the case itself (e.g., aggravating and mitigating circumstances) for capital murder trials from 1977-2009. A “rape-involved” variable was created to include all cases containing a “yes” response to at least one of the following variables: “sexual assault

mentioned to the jury” or “rape accepted as aggravator.” This revealed 155 death penalty trials that make up the total population of rape-involved capital homicide trials in North Carolina from 1977-2009.

In order to clarify any differences in race-of-victim effects the present study restricts cases in the analyses to those that only involve White female victims and Black or White male offenders (n=99) (Black female victims and “other” racial groups such as Asian, Hispanic, American Indian may reflect different sentencing experiences) (Demuth & Steffensmeier, 2004; see also Stauffer et al., 2006). B_dW_v and W_dW_v trials are the purest types of defendant-victim racial combinations to be used for comparative purposes because they hold the white female victimization constant. During the research process, 34 trials were excluded from the analysis for two main reasons: 1) they did not involve a male committing a rape or sexual offense (or attempted sexual offense) against a female (while she was still alive) (n=17) and/or 2) the victim was under the age of 16 (the age of consent in North Carolina is 16; rape-involved homicide trials involving girls under the age of 16 would reflect different influences on jury sentencing decisions beyond the scope of the current study [e.g., pedophilia]) (n=13). Two additional trials that were excluded involved White female victims who were raped but not murdered, while two other trials were excluded because the cases were retried capitally and had all convictions reversed, respectively. Thus, the final sample of cases (n=58) is comprised of rape-involved homicide trials involving White or Black male defendants who raped (or sexually assaulted) and murdered White female victims who were at least 16 years old.

Each case narrative (i.e., the unit of analysis) included in the qualitative analysis provides detailed summaries of the case (e.g., specific circumstances and aggravating factors of the case) and is available online (found in the “opinion” section of a larger document containing additional

information about the case). These case narratives may be found through the LexisNexis Academic search engine by looking up a legal case, restricting the search to North Carolina, and entering search terms relevant to the case (e.g., defendant name; county). Hard copies of the LexisNexis documents including the case narrative, some of which include highlights and handwritten notes by the coder of the file, are also available in file folders for some of the cases. The file folders are arranged alphabetically by county (where the sentencing took place) and stored in file cabinets; the files are arranged in the file folders alphabetically by the defendant's last name. Each of the files include the NCCSP coding sheet (used to build the quantitative data set of 1356 cases), while some files also include newspapers articles that were utilized for the purposes of triangulation (i.e., multiple sources of data containing a variety of qualitative data points are used to corroborate the findings by offering multiple ways to view and test a phenomenon) (Denzin & Lincoln, 1994; Golafshani, 2003). The richness of data varies from case to case based on the amount and quality of materials available in each folder and found through subsequent online searches for supplementary information.

The current study adds to the Capital Jury Project research and more general empirical research regarding arbitrary race-based sentencing in capital murder trials (Baldus and Woodworth, 1998; 2003; Bowers, Sandys, & Brewer, 2004; Bowers, Steiner, & Sandys, 2001; Bowers & Foglia, 2003; Bowers & Steiner, 1998; Brewer, 2004; Eisenberg, Garvey, & Wells, 2003; Foglia, 2001; Foglia & Schenker, 2001; Kavanaugh-Earl et al., 2010; Kremling et al., 2007, Stauffer et al., 2006; Williams and Holcomb, 2004). This study's value to social science is that if findings are consistent with the ECL hypothesis, then it may be argued that despite positive steps toward the suppression of racial discrimination in the capital punishment process in the United States, the enduring effects of a cultural legacy of Black oppression and historic

and systemic racial discrimination in the criminal justice system have persisted to the present day. More specifically, it may be argued that the ECL is so prevalent in the United States that punishing Black men who rape and murder White women more harshly than White men who rape and murder White women has become the *modus operandi* of the contemporary capital punishment process. Until fundamental changes are made to political and judicial approaches to racial discrimination (e.g., addressing issues of racial biases inherent in jury selection, instruction, and sentencing), racial preconceptions and relative social distance (e.g., White jurors, who want to distance themselves from Blacks who they perceive to be violent, criminal, or inferior, often have less empathy for Black defendants) originating from the ECL will continue to influence capital jury decision-making in the United States (Johnson, 2003).

Chapter 2 begins by tracing the socio-legal history of rape, race, and capital punishment in the United States, specifically the South. This review of the literature begins with an examination of the slave codes, Black codes, and Jim Crow laws in the southern states and the era of lynching with a focus on North Carolina and rape-involved offenses. This chapter identifies important USSC Cases related to rape, race, and capital punishment, including an examination of the 20th Century statutes that called for death sentences for some convicted rapists to the current era where capital punishment is only reserved for first-degree murder (but considers rape as an aggravated factor in these cases). Next, this chapter presents an overview of the empirical evidence of racial discrimination in the capital punishment process and findings from qualitative studies of capital juries. After identifying specific issues concerning jury decision-making and aggravating factors in North Carolina (e.g., juror unanimity and influence of aggravation in death penalty sentencing), as well as an examination of the liberation hypothesis which suggests that racial biases are more likely to influence juries in cases with

moderate evidence (i.e., greater ambiguity in what constitutes a fair sentence), this chapter examines geographical variations in the use of the death penalty. Finally, this chapter offers evidence supporting an ECL of racial oppression and southern violence that continues to affect death penalty sentencing in North Carolina today. The chapter concludes by presenting the following research question and testable hypothesis:

- (R₁) Are juries in rape-involved capital murder trials in North Carolina more likely to recommend a sentence of death when the defendant is a Black male and the victim is a White female compared to White male defendants and White female victims (while accounting for other trial circumstances) (while accounting for other trial circumstances)?
- (H₁) Juries in rape-involved capital murder trials in North Carolina are more likely to recommend a sentence of death when the defendant is a Black male and the victim is a White female compared to White male defendants and White female victims (while accounting for other trial circumstances).

Within an analytic induction framework, the current study utilized qualitative hypothesis testing to critically test each of the rape-involved homicide cases in an effort to elucidate the legal (e.g., circumstances of the case) and extra-legal (e.g., race of the defendant and victim, respectively; multiple dimensions of the ECL) factors that influence death sentence recommendations in North Carolina during this time period. The qualitative analysis involved the comprehensive reading and documentation of case narratives and newspaper articles in which I re-sorted (i.e., reclassified) the hypothesis-supporting, hypothesis-rejecting, and hypothesis-non-supporting (i.e., failing to support or reject the hypothesis) cases while considering the salient circumstances of the trial (e.g., aggravating circumstances; perceived brutality of the crimes committed) and the influence of multiple dimensions of the ECL (e.g., the liberation hypothesis; credibility of the White female victim).

Chapter 3 identifies the study's research design and methods employed. The chapter begins by identifying the sources of data (NCCSP data set, 1977-2009, n=1,356) and the sample

of rape-involved capital homicide trials utilized in the current study (n=58). Next, this chapter identifies the boundary conditions for case requirements (e.g., rape-involve homicide trials involving White or Black male defendants who raped (or sexually assaulted) and murdered White female victims who were at least 16 years old). After describing the types of available data used in the analysis (e.g., LexisNexis case narratives, newspaper articles), this chapter explains the emic (i.e., derived from the data) and etic (i.e., derived from theory) coding process as well as how the ECL dimensions were considered in the analysis (e.g., the liberation hypothesis, the credibility of the White female victim). Next, this chapter explains how qualitative hypothesis testing was employed in the current study within a six-step analytic induction framework [1) defining a phenomenon in a tentative manner; 2) developing a hypothesis about it; 3) considering a single instance to determine if the hypothesis is confirmed; 4) redefining or revising the hypothesis if it is not confirmed; 5) examining additional cases to gain confidence in the hypothesis if it is repeatedly confirmed; 6) reformulating the hypothesis for each negative case until there are no exceptions].

Chapter 4 presents the findings of the qualitative analysis. The chapter begins by defining the original hypothesis classifications and presenting an initial hypothesis classification table which did not tend to show support for the ECL hypothesis (44.6% of trials showed support for the hypothesis, 40.2% of trials rejected the hypothesis, 15.2% of trials did not support the hypothesis). Next, the reclassification table is presented which also failed to show support for the ECL hypothesis (24.1% of trials showed support for the hypothesis, 19% of trials rejected the hypothesis, 57% of trials did not support the hypothesis). Next, this chapter presents summaries and related interpretations of individual table findings (e.g., sentence recommendations across liberated and non-liberated B_dW_v and W_dW_v trials, respectively), including explanations of how

the hypothesis evolved throughout the analytic induction process. Next, this chapter provides examples of trials that represent my approach to the hypothesis reclassification process. The chapter concludes by presenting findings from an analysis of geographical variations in sentencing recommendations which also failed to show support for the ECL hypothesis (25% of trials in the Eastern Region of North Carolina supported the hypothesis, 24% of trials in the Piedmont Region of North Carolina supported the hypothesis, 22% of trials in the Western Region of North Carolina supported the hypothesis).

Chapter 5 presents a discussion of the main findings and concluding remarks of the study. The purpose of the study is revisited, with an examination of how these objectives were approached in the research process, followed by reflections on the main findings. This chapter then presents a discussion on reliability and validity issues, limitations of the study, implications for future research employing qualitative approaches to racial discrimination in the capital punishment process, and concluding remarks.

Chapter Two

Literature Review

A sociological approach to the study of law explores how legal institutions “reflect the society and culture in which they occur” (Black, 1989, p. 5). Law serves as a form of social control in which the standards and customs of a society are formalized into legal doctrines and enforced by those in power (Black, 1976). Throughout history, racial discrimination has been embedded in the law and has divided groups of people based on perceived levels of respectability, punishing and disgracing certain members of society while protecting and preserving the reputation of others (see Table 1) (Black, 1976). Evidence suggests that juries produce the harshest sentences for Blacks who commit crimes against Whites (low status vs. high status) and progressively more lenient sentences for Whites against Whites (high status vs. high status), Blacks against Blacks (low status vs. low status), and Whites against Blacks (high status vs. low status) (see Table 1) (Baldus & Woodworth, 1998; Black, 1989; Dorr, 2000; Garfinkel, 1949; Paternoster, 1991).

The capital punishment process of the present day has evolved from four centuries of racially discriminatory processes that have been historically biased against Blacks (Baldus & Woodworth, 1998; Bohm, 1991; Paternoster, 1991; Wolfgang & Riedel, 1973; Vandiver et al., 2003). While the socio-legal forms of racism and Black oppression were originally blatant (e.g., slavery; segregation; lynching), they evolved into more subtle practices that still exist today (e.g., prosecutorial discretion; the exclusion of minorities from jury duty; jury members who often make decisions based on racial stereotypes) (Baldus & Woodworth, 1998). The review of the

Table 1. Variations in the Quantity of Law.

Phrase	Meaning	Example
<i>Law varies directly with social status</i> (Black, 1989, p. 10)	<p>High status victim vs. high status defendant is handled more severely than low status victim vs. low status defendant.</p> <p>“A sizeable body of evidence from a number of societies and historical periods indicates that, by itself, the social status of a defendant tells us little about how a case will be handled. Instead we must consider simultaneously each adversary’s social status in relation to the other’s.” (Black, 1989, p. 9)</p> <p>“Any advantage associated with high status arises primarily when it entails social superiority over an opposing party, while any disadvantage of low status arises primarily when it entails inferiority.” (Black, 1989, p. 9)</p> <p>“All known legal systems tend to be relatively lenient when people of low status victimize their peers.” (Black, 1989, p. 9)</p>	<p>In modern America, a White defendant/White victim racial combination (W_dW_v) is more likely to result in a death sentence than a Black defendant/Black victim racial combination (B_dB_v)</p> <p>During the 1970s, defendants in W_dW_v homicide cases in Florida, Georgia, Texas, and Ohio were 5x more likely to be sentenced to death than B_dB_v.</p>
<i>Downward law is greater than upward law</i> (Black, 1989, p. 11)	<p>“Those accused of offending someone <i>above them</i> in social status are likely to be handled more severely than those accused of offending someone <i>below</i> them.” (Black, 1989, p. 10)</p> <p>“Crimes against a social inferior receive unusually lenient treatment.” (Black, 1989, p. 10)</p> <p>“Downward cases attract the most law, next cases between people of high status, then those between people of low status, and upward cases attract the least” (p. 11)</p>	<p>The risk of capital punishment in capital homicide cases involving a Black defendant/White victim (B_dW_v) “leaps far beyond every other racial combination.” (Black, 1989, p. 10)</p> <p>B_dW_v death sentence 15x more likely than B_dB_v death sentence in Ohio, 30x in Georgia, 40x in FL, 90x in Texas.</p> <p>In White defendant/Black victim (W_dB_v) cases, “the risk of capital punishment is approximately zero.” (Black, 1989, p. 10)</p> <p>“In Ohio, none of the 47 Whites convicted of killing Blacks received a capital sentence during the five years studied.” (Georgia: 2/71; FL, 0/80; Texas, 1/143) (Black, 1989, p. 9).</p> <p>Likelihood of death sentence in the United States: 1) B_dW_v, 2) W_dW_v, 3) B_dB_v, 4) W_dB_v. “This pattern remains in all cases of all kinds at every stage of legal process.” (Black, 1989, p. 11)</p>

Source: Black (1976; 1989)

Table 1 (Continued). Variations in the Quantity of Law.

Phrase	Meaning	Example
<i>Legal variation is a direct function of social information</i> (Black, 1989, p. 64)	<p>“Legal discrimination of every kind - racial, economic, cultural, organizational, etc. - depends on the amount of social information entering each legal setting.” (Black, 1989, p. 64)</p> <p>“Even if the cases are socially identifiable, different amounts of social information about each will make them appear socially different and introduce variation in how they are handled.” (Black, 1989, p. 64)</p> <p>“Every aspect of the social structure of cases may become more or less visible and thereby have more or less of an impact on how they are handled.” (Black, 1989, p. 64)</p> <p>“Social information is an essential ingredient of discrimination.” (Black, 1989, p. 64)</p>	<p>“If, for example, the defendant’s criminal record (normative information) comes to the attention of a judge or jury in only some instances, only these defendants will be disadvantages.” (Black, 1989, p. 64)</p> <p>“The same applies to economic information (about their wealth), cultural information (about matters such as their ethnicity and religion), relational information (about their intimacy with the victim), and so on.” (Black, 1989, p. 64)</p>
<i>Law varies inversely with other social control</i> (Black, 1976, p. 107)	<p>“Law is stronger where other social control is weaker.” (Black, 1976, p. 107)</p> <p>On the other hand, societies and cultures with other forms of social control may diminish or replace the use of formal law.</p>	Extra legal lynchings and plantation justice.
<i>Law varies directly with respectability</i> (Black, 1976, p. 112)	<p>“Unrespectable people among themselves have less law than more respectable people among themselves.” (Black, 1976, p. 112)</p> <p>A crime by one unrespectable person against another unrespectable person is less serious and less likely to result in legal action.</p>	B _d B _v capital homicide cases.
<i>Law is greater in a direction toward less respectability than toward more respectability</i> (Black, 1976, p. 114)	<p>“The less respectable party is more likely to be subject to law, and he is less likely to have its benefits.” (Black, 1976, p. 114)</p> <p>“A complaint by a respectable party against an unrespectable party is more likely than reverse, and it is more likely to succeed in every way.” (Black, 1976, p. 112)</p>	<p>The underprotection of Blacks in the colonial and antebellum south.</p> <p>The likelihood of death sentences in W_dB_v cases vs. B_dW_v cases.</p>

Source: Black (1976; 1989)

literature explores how the established traditions of slavery, segregation, and lynching have led to a contemporary capital punishment process that serves to maintain the racial hierarchy of the antebellum South through traditions of race-based lethal violence and vigilantism and by perpetuating the belief that Blacks are inferior, do not deserve the full protection of the law, and deserve harsher treatment than Whites convicted of similar crimes, especially with regard to capital cases of rape-involved homicides committed by Black men against White women (Messner et al., 2005; Vandiver et al., 2003). By tracing this well-documented history of racial discrimination from its roots in slavery through its subsequent evolving forms of racial oppression, it will be possible to establish how this enduring cultural legacy (ECL) has maintained its strength and influence over the past four hundred years and continues to affect the capital punishment process today.

A Socio-legal History of Black Oppression in the South

The Law of Slavery

While slaves were first brought to the American colonies in the early 1600's, the codification of English common law that defined the conditions of slavery and granted the White population authority to regulate every movement made by slaves did not take place in the southern slaveholding states until the early 1700's (Paternoster, 1991; Vandiver et al., 2003). One of the earliest slave codes in the United States was implemented in South Carolina (copied from Barbados) and served as a model for other southern states that formulated their own slave codes; these slave codes were passed by the legislatures and were therefore formally institutionalized (Vandiver et al., 2003). Early slave codes defined slaves as inheritable property required to act deferentially towards Whites; these codes, which approved brutality against slaves by Whites, were created to ensure the submissiveness of slaves and regulate their behavior

(Paternoster, 1991). Further, being a slave was an inescapable life-long status and a slave mother who gave birth would pass on her slave status to the child (Paternoster, 1991).

Drawing from their own labor experiences and the statutes of other southern colonies and the West Indies, the creators of the first North Carolina slave code in 1715 codified statutes, judicial procedures, and social customs to restrict the institution of slavery to nonWhites and define slaves as permanent personal property devoid of any form of legal protection (Kay & Cary, 1995). Although slavery was a relatively undeveloped institution in North Carolina, a 1739 slave rebellion in South Carolina and growing uneasiness about the conditions of its own slaves encouraged the construction of a much more detailed slave code in 1741 (Kay & Cary, 1995). A large portion of the North Carolina slave code was concerned with runaways (five of the 21 articles in the 1715 North Carolina code and 22 of the 58 articles in the 1741 code), in which runaways (slaves who removed a gun from their master's property were considered to be runaways if they did not have written permission) were subject to citizen arrest, ordered to be returned to their owners, or were to be killed if they had been absent from their master's property for more than two months or threatened violence against Whites (Kay & Cary, 1995).

According to North Carolina slave law, "inferior offenses" were tried by a justice of the peace and were punished by a maximum 39 lashes; these offenses included trespassing on a free White person's property, engaging in public religious services where multiple slave families gathered, gambling for money or property, slandering a free White person, or engaging in sexual conduct or "indulging in grossly indecent familiarity" with a White woman (Bassett, 1899, p. 13). Legislation also forbid slaves from carrying weapons or hunting, traveling in groups or having meetings with other slaves, or trading with others without approval from their master (Bassett, 1899). Slaves who committed felonies (e.g., conspiracy to rebel) in North Carolina

were tried in a Superior Court and punishment included transportation or death (Bassett, 1899). A slave's attempt to run away (or any individual's attempt to aid a slave in leaving the state) was considered a capital felony punishable by death (from the early 1800's until the Civil War) as this act threatened the institution of slavery (Bassett, 1899; Kay & Cary, 1995).

North Carolina slave courts acted "arbitrarily and summarily" in accordance with the law, providing slave-owning judges with the opportunity to maintain their economic and social status (Kay & Cary, 1995, p. 71). The North Carolina slave code of 1715 contained a clause that reversed the presumption of innocence and instructed the slave courts to try slaves as guilty of any crime or transgression; this reversal was reaffirmed in the slave code of 1741 and continued throughout the colonial period (Kay & Cary, 1995). Between 1715 and 1785, there was a 97% conviction rate among slaves in North Carolina; comparatively, there was a 38% conviction rate for Whites among 3,041 charges with known outcomes from 1670-1776 (Kay & Cary, 1995).

While the legal codes in the southern colonial states generally expressed themselves in the strict control of slaves' movements and behavior, the daily operation of the slavery system varied from state to state (Flanigan, 1974; Imes, 1919). For example, Virginia exhibited the most humanity in the general treatment of slaves but treated slaves much more harshly in matters of the criminal law (Flanigan, 1974). Slave trials in Virginia (beginning as early as 1692) emphasized speed and efficiency over fairness and thus offered slaves little by way of legal protections (Flanigan, 1974). On the other hand, states such as Alabama and Mississippi developed strong institutions of slavery but treated slaves fairly in matters of procedural rights (e.g., statutory protections; appellate courts) compared to other southern states (Flanigan, 1974). Younger states also afforded slaves this type of procedural fairness while eastern states with

established colonial histories preserved traditional systems that treated slaves poorly (Flanigan, 1974).

Beginning in the colonial era and continuing through the antebellum period, Southern states increasingly resorted to capital punishment to punish slaves (Dorr, 2004; Flanigan, 1974; Vandiver et al., 2003). Virginia law identified over seventy capital crimes that slaves could commit (much higher than any other slave state) (Flanigan, 1974). Public authorities in North Carolina frequently and swiftly enforced statutory laws relating to slave transgressions by convicting slaves in specialized slave courts or killing them outside of court (see Table 2) (Kay & Cary, 1995). Records indicate that authorities in North Carolina were ordered to execute over 100 slaves from 1748-1772 (Kay & Cary, 1995). Further, there are no records indicating that death sentences for slaves were ever commuted or voided (e.g., pardon, deportation) in North Carolina during this time period (Kay & Cary, 1995).

Table 2. Slaves Convicted by North Carolina Slave Courts or Killed by the Authorities, 1748-1772.

Crime	Raw Figures	Extrapolation	Percentages	
			Raw	Extrapolation
Murder or attempted murder	23	--	31.9	25.6
Rape	3	--	4.2	3.3
House burning	2	--	2.8	2.2
Outlaws-killed or suicides	13	--	18.1	14.4
Killed while committing a crime	2	--	2.8	2.2
Executed for second felony	1	--	1.4	1.1
Theft	18	+9	25.0	30.0
Hog stealing	4	+4	5.6	8.9
Preparation and use of poison	5	+4	6.9	10.0
Receiving and drinking liquor	<u>1</u>	<u>+1</u>	<u>1.4</u>	<u>2.2</u>
	72	90	100.1	99.9

Note: Because the data for those sentenced to corporal punishments are most severely lacking, a multiplier of 2 was used to attempt to compensate for this missing data. Because the need was minimal and the difficulties and margin of error great, no other extrapolations were made.

Source: Kay & Cary (1995)

In the antebellum South, the view that Blacks were wild, primitive, and inferior to Whites and required “more coercive social control” resulted in harsh codes of punishment for slaves (Kennedy, 1997, p. 77). Harsh physical punishments (e.g., whipping; castration; maiming; branding) were considered appropriate measures for the chastisement of Blacks and correction of slave behavior (Kennedy, 1997). Slave-owners who inflicted violence upon slaves that resulted in death were protected by the law if the violent act was carried out for the purpose of disciplinary subjugation (Kennedy, 1997). For example, a 1798 North Carolina statute criminalized the killing of a slave with the exception of instances where the slave was rebelling against his owner or was killed as a result of corrective action (Kennedy, 1997).

The decriminalization of violent acts inflicted upon slaves and free Blacks was a way to maintain the unrestrained authority and power of Whites in the southern states (Kennedy, 1997). While the law explicitly permitted Whites (especially slave-owners) to brutalize and kill slaves without fear of legal ramifications in most southern states (maiming and emasculating slaves was made illegal in the 1755 Georgia slave code), more informal sources of discipline and social control regulated the behavior of Whites (e.g., concern for one’s reputation; one’s own conscience; consideration of the well-being of one’s economic investment; the belief that a display of honor would help protect the existing system of slavery) (Bardaglio, 1994; Kennedy, 1997). For example, the period of greatest restrictions on slaves in North Carolina (around the turn of the 19th century) coincided with the most humane slave laws and customs (Bassett, 1899). Slave legislation in North Carolina during this time (e.g., forbidding slaves to read or preach to other Blacks) was not a product of the cruelty of slave owners but rather the demands of Southern society to keep the system of slavery intact (Bassett, 1899).

In general, many of the legal codes enacted in the South from 1834-1865 represented the efforts to increase restrictions on slaves and eradicate the existence of free Blacks (Imes, 1919). Within the slave codes of the South, slaves were legally defined as both persons and property that could be sold, mortgaged, insured, and “seized in payment of the master’s debts” (Flanigan, 1974, p. 537; See also Vandiver et al., 2003). Slaves were generally unable to own property, engage in legal matters, or benefit from any of the rights possessed by a free man (Flanigan, 1974; See also Imes, 1919; Paternoster, 1991). Similar to the development of slave codes in Colonial era, slave codes in the antebellum South were often modeled after slave laws that had already been established in other southern states (Vandiver et al., 2003). For example, Tennessee integrated North Carolina’s slave laws into their state’s 1796 Constitution; slave laws were passed and modified in Tennessee over the next 60 years until every state law dealing with slavery was integrated into the Tennessee Code of 1858 (Vandiver et al, 2003).

As a result of custom and sustained by law, many acts that Blacks committed in the antebellum South were considered crimes for which Whites were immune, upgraded to felonies when committed by Blacks, and typically carried heavier penalties (e.g., capital punishment) for Blacks than Whites convicted of the same crime (Johnson, 1941; Paternoster, 1991). Eleven offenses included within the Tennessee Slave Code of 1858 carried a mandatory death penalty for Blacks (compared to two offenses for Whites) and two offenses provided a discretionary death sentence for Blacks; three of these were sexual assault offenses (the death penalty for these cases was restricted to offenses against White victims) (see Table 3) (Rise, 1992; Vandiver et al., 2003). Several laws identified that free Blacks were subject to every capital offense that was applicable to slaves (Imes, 1919; Vandiver et al., 2003).

Table 3. Capital Crimes for Whites, Slaves, and Free Blacks, and Justified Killings of Slaves, Tennessee Slave Code, 1858.

	Whites	Slaves and Free Blacks
<i>Mandatory death sentences for:</i>	Murder in the first degree (Section 401) Accessory before the fact to murder in the first degree (Section 4601)	Murder in the first degree (Section 2625: 1) Accessory before the fact to murder in the first degree (Section 2625: 3) Assault on free White with intent to commit murder in the first degree (Section 2625: 2) Preparing poison with intent to kill any person (Section 2625: 4) Accessory to preparing poison with intent to kill any person (Section 2625: 4) Rape of a free White female (Section 2625: 5) Assault with violence with intent to rape a free White female (Section 2625: 6) Intercourse or attempted intercourse with free White female under 12 (Section 2625: 7) Robbery (Section 2625: 8) Arson (Section 2625: 8) Burglary (Section 2625: 8)
<i>Discretionary sentence for:</i>		Plotting rebellion, insurrection, or murder (Section 2626) Burning certain out-buildings or structures with intent to endanger or destroy life or limb (Section 2628)
<i>Killing of slave justified if:</i>		Ringleader of plot hides or resists arrest (Section 2627) Slave is in act of resistance to master (Section 2651: 2) Slave dies under “moderate correction” (Section 2651: 3)

Source: Vandiver, Giacopassi, & Curley (2008)

The racial hierarchy of the antebellum South was perhaps most clearly illustrated by laws that punished White men found guilty of rape or assault with intent to rape with prison terms but punished slaves or free Blacks convicted of the same crime with the death penalty (Bardaglio, 1994; Paternoster, 1991). Most states in the antebellum south did not create specific statutory definitions of what constituted force in a rape offense, but the Texas legislature (1856) and the Alabama Supreme Court (1860) contended that forceful intent by the offender (without victim consent) was required to support a conviction of rape (Bardaglio, 1994). While a more inclusive definition was created in the 1861 Georgia code, it was not equally applied to the punishment of all defendants convicted of rape (Bardaglio, 1994). A White man found guilty of raping a White woman was punished with a prison term of 2 to 20 years, while the penalty for a Black man convicted of raping a White woman was a sentence of death (Bardaglio, 1994).

During the antebellum period, southern states insisted upon the execution of Black men convicted of rape or attempted rape of a White woman as this act evoked unrelenting feelings of rage that stemmed from the great dishonor inflicted upon the woman and her household (Bardaglio, 1994). While local court records indicate that the rape or attempted rape of a White woman by a Black man was not a frequent occurrence in the South during the time of slavery, White men's fear of this occurrence was so overwhelming that they felt the action required "fierce retribution because it challenged slavery and the racial order of southern society" (Bardaglio, 1994, p. 755). Between 1785 and 1865, 58 slaves were executed for raping White women in Virginia, and throughout the antebellum period White southerners sometimes resorted to the lynching of slaves who were suspected of sexually assaulting White women (Bardaglio, 1994).

Some evidence indicates that slaves accused of raping white women in the antebellum South received relatively fair trials compared to black men accused of similar offenses after the abolishment of slavery (Bardaglio, 1994). In fact, several factors could be considered in rape cases occurring in the antebellum south that aided the defendant (e.g., the amount of resistance offered by the victim demonstrated by injuries showing defense; the victim's credibility determined by her sexual history and respectability in the community; delay in the report of the rape) (Bardaglio, 1994; Dorr, 2000; Giacomassi & Wilkinson, 1985). In Virginia between 1789 and 1833, sixty blacks who were sentenced to death for rape or attempted rape received recommendations of mercy from the judge or jury "based upon the belief that the women had either encouraged or consented to copulation" (Bardaglio, 1994, p. 767). In addition, slaves and free blacks who were charged with rape or attempted rape of a white woman were able to benefit from mistakes or technicalities in the indictment process that resulted in new trials or the reversal of convictions (e.g., dismissal of indictments for rape if the race of the victim or defendant was not explicitly stated; precise terms of the statute must be used in the charging complaint) (Imes, 1919; Bardaglio, 1994).

The widely held belief that rape brought shame and dishonor to a woman's household inexorably tied the race, class, and reputation of the White female victim together in cases involving rape or sexual assault, regardless of the defendant's race (Bardaglio, 1994). With respect to interracial rape trials in the antebellum South, accusations about the White female victim's character were much more frequent in cases involving poor victims or those were not considered respectable) by the community (e.g., lack of social position; behavior did not conform to traditional societal expectations) (Dorr, 2000). In turn, poor women were perceived to lack respect and value in the eyes of the community and this diminished the perceived likelihood that

a rape had taken place in the eyes of judges and juries (Bardaglio, 1994). Regardless of defendant race, judges were convinced that women who came from poor families were more likely to engage in illicit sexual behavior and thus did not deserve the full protection of the law under the existing rape statutes (Bardaglio, 1994). Convictions were reversed or death sentences commuted in some cases involving Black male defendants and poor White female victims who did not maintain social standing in the community (Bardaglio, 1994).

A movement in the mid nineteenth-century displayed the effort of southern law to offer greater procedural fairness for slaves (Flanigan, 1974). In addition to the realization that they were protecting property rights as well as human life, southern judges and jurists were also able to use the appearance of equal justice to strengthen the pro-slavery argument (Bardaglio, 1994; Flanigan, 1974; Vandiver et al., 2003). However, Blacks faced numerous restrictions as procedures that were implemented to encourage fairness for slaves and free Blacks on trial were incredibly flawed (Bardaglio, 1994; Flanigan, 1974; Paternoster, 1991). For example, Blacks could only testify in cases involving Blacks, juries consisted of White men only, and slaves could not contradict the statement of a prosecutor, a White witness, or a White woman in rape cases (Bardaglio, 1994; Dorr, 2000; Flanigan, 1974; Paternoster, 1991). In most states, appellate courts were prohibited from reviewing the circumstances of the case and jury verdicts were rarely scrutinized, while grand juries commonly exhibited vigilante behavior in their harsh reactions to slave crimes (Flanigan, 1974).

Reconstruction & Lethal Vengeance in the South

After the Civil War and the abolishment of slavery in 1865, racial discrimination persisted as southern states quickly responded to the problem of newly freed Black labor and the need to exert control over free Blacks by passing the “Black Codes” (1865-1867) (Paternoster,

1991). These codes were an extension of the Slave Codes and were created so the White population could maintain control over all Blacks (Paternoster, 1991). The Black Codes clearly identified Blacks as belonging to a separate and inferior class and established laws that dealt with issues such as crime and punishment, the judicial system, and labor contracts (Shofner, 1977). Several of these laws identified that free Blacks were subject to every capital offense that was previously applicable to slaves; for example, Blacks who raped White women in South Carolina, Mississippi, and Alabama were eligible for hanging (Shofner, 1977; Imes, 1919; Kennedy, 1997; Vandiver et al., 2003).

The “Jim Crow” laws that began in 1876 legalized the existing custom and conditions of segregation and prevented Blacks from having a fair defense in legal or economic matters (Shofner, 1977). These laws were largely an extension of the slave codes which reinforced racial hierarchies and preserved White hegemony in the South (Paternoster, 1991). For example, Whites in positions of power during the Jim Crow era utilized the criminal law to force Blacks back into positions of “involuntary servitude” (Kennedy, 1997, p. 90). When White employers were in need of Black workers, White law enforcement officials threatened Black men with new statutes criminalizing unemployment and coerced them into signing prejudicial labor contracts (Kennedy, 1997).

The interconnections between race, gender, and class continually shaped the social structure of segregation (Dorr, 2000). When Black men were charged with raping White women, White men weighed white hegemony against gender alliances and class supremacy (Dorr, 2000). White men accepted that sexual assaults committed against White women by Black men varied in degrees of seriousness since not all Black men or White women were equal, respectively (Dorr, 2000). For example, white men sometimes supported black men in cases

where the white female victim came from a poor family or had previously engaged in illicit sexual behavior (Dorr, 2000). Therefore, widely accepted notions about how individuals were supposed to behave across race (i.e., whiteness; blackness) and gender (i.e., maleness; femaleness) lines continually shaped the interaction between race, gender, and class in an effort to maintain the social order (Dorr, 2000).

One of the most prominent examples of racial discrimination in United States history was the failure to protect Blacks from vigilante justice during the Reconstruction era in the South (Paternoster, 1991). From the late 1800's through the middle of the 20th century, White southerners often used lynching to maintain control of the Black population through fear and domination, uphold notions of southern honor, and achieve retribution for crimes committed by Black men that threatened the racial hierarchy (Bardaglio, 1994; Dorr, 2000; Shofner 1977; Jacobs et al., 2005; Greenberg & Himmelstein, 1969; Messner et al., 2005; Rise, 1992). Between 1880 and 1935, nearly 90% of all individuals lynched in the South (approximately 3000) were Black (Tolnay, Beck, & Massey, 1992). Between 1882 and 1930, lynchings were primarily used to punish rape and sex offenses committed by Blacks in Georgia and North Carolina while state executions were primarily used for Blacks convicted of murder (Beck, Massey, & Tolnay, 1989).

Lynching not only demonstrated the power of using lethal violence as a form of social control, but it also signified the "self-help" mentality of Whites who punished Blacks by killing them without legal authorization (Messner et al., 2005, p. 633). In general, these executions were conducted in public and were a product of local control not dependent on state law or authority though many enjoyed the implicit consent and occasionally the active participation of local authorities (Paternoster, 1991). Lynching and mob violence facilitated a "climate of terror" that

Whites in the South used to intimidate Blacks and resist affronts to White hegemony (e.g., political, economic, and social competition between Whites and newly freed Blacks) (Tolnay & Beck, 1995, p. 19, See also Messner et al. 2005; Tolnay, Beck, & Massey, 1989).

Lynching also had significant cultural effects on the communities in which they took place (Baker, 1997). Communities in North Carolina, for example, created lynching-inspired ballads that described the offense and its punishment in an effort to place the lynchings in a meaningful cultural context (Baker, 1997). While the immediate audience was able to take away a limited text from the lynching act itself (e.g., viewing the mutilated corpse; taking souvenirs and photographs), lynching ballads provided the dramatic preservation and reinscription of the deep-rooted messages of lynching: this method of punishing the transgressor was necessary to maintain the social order (Baker, 1997).

Rape & Racial Discrimination in Death Penalty Sentencing in the 20th Century

At the end of the lynching era, Black men in the South still did not receive justice, as convictions of innocent Black defendants known as “legal lynchings” overwhelmed the criminal justice system of the South (Rise, 1992, p. 462; Dorr, 2000). Black defendants often faced incredible discrimination in the courtroom as their due process rights were ignored by judges and juries who were able to utilize procedural practices to hide their discriminatory intentions (Rise, 1992). In Virginia, Black men accused of assaulting White women experienced harsh treatment throughout the entire legal process compared to Whites (e.g., Virginia was one of six states that still had all White male juries in 1938) (Dorr, 2000). Further, Black men accused of raping or attempting to rape White women may have avoided a lynch mob in Virginia but appearing in court did not guarantee them procedural fairness (Dorr, 2000). While White men did not commonly lynch Black men accused of raping White women in Virginia, this crime was still

considered to be “profoundly threatening to the racial hierarchy” and capital punishment was often considered the most appropriate form of punishment (Dorr, 2000, p. 716). Between 1908 and 1963, 56 males were sentenced to death in Virginia for rape, all of whom were Black (Bradmilller & Walters, 1985).

Among 660 convicted rapists inhabiting death row in Raleigh, North Carolina between 1909 (when the local government transferred responsibility for executions to the state) and 1954, the highest execution rates for rapists occurred when the victim was a White female (Johnson, 1957). Findings also suggested the race of the offender was an important factor, with Blacks representing 73.8% of all death row inmates and 88.7% of all rapists on death row (Johnson, 1957). Since the death penalty was most often applied to socially and economically underprivileged individuals, the correlation between race and the disparate application of the death penalty in North Carolina may have been a product of the overrepresentation of Blacks in lower classes of socioeconomic status (Johnson, 1957).

The executions of the *Martinsville Seven* (1949-1951) “more than any other case, demonstrated the power of the southern legal system to enforce codes of racial behavior” as the consistent implementation of discriminatory procedures led to a death sentence for each of the seven Black defendants for a crime that did not involve any form of homicidal intent (i.e., they were convicted of raping a White woman) (Rise, 1992, p. 464). At a time when Blacks were making progress in establishing their civil rights, executing these seven young Black men in the electric chair “provided a stark reminder of the harsh treatment reserved for Blacks who violated southern racial codes” (Rise, 1992, p. 461). While this case possessed certain characteristics that differentiated its proceedings from traditional legal lynchings (e.g., the trial did not result in the unlawful convictions of innocent Blacks based on unfair legal proceedings but rather in

particularly severe punishments), Virginia prosecutors were able to maintain the current racial hierarchy by learning how to deal with the restrictions of new procedural guidelines and circumvent obvious displays of racism in the courtroom (Rise, 1992). This case also illustrated the decline of mob action as the White population put more faith in the local law enforcement and the criminal justice system to “control crime and violence and maintain domestic stability” (Rise, 1992, p. 464).

The reliance on the criminal justice system to dispense justice did not completely eradicate the use of lethal vengeance against Blacks in the mid-20th century. In the Groveland case (1950-1954), one of the four Black males charged with the rape of a White woman was killed by a sheriff’s posse while asleep in the woods (Greenberg & Himmelstein, 1969). One of the two defendants who had their original conviction reversed by the USSC after being sentenced to death was killed by a sheriff as he was on his way to court for a retrial; the other defendant was resentenced to death in court (Greenberg & Himmelstein, 1969). In addition, the sixteen-year-old defendant who was sentenced to life in prison (due to his age or the jury’s doubts about his guilt) would not appeal his life sentence because he was afraid he might receive a death sentence in a second trial (Greenberg & Himmelstein, 1969).

In 1962, a Black male convicted of rape in Arkansas presented statistical evidence to the United States Court of Appeals for the Eighth Circuit in 1962 and 1968 (*Maxwell v. Bishop*) in an effort to demonstrate that Black defendants who raped White women were more likely to receive a death sentence in Arkansas than those who raped Black women (Baldus & Woodworth, 1998; Paternoster, 1991). Despite statistical evidence that supported the existence of racial disparities in death sentences for rape which could not be explained by other factors (and that the racial combination of Black offender and White victim was the most important factor in

determining the likelihood of a death sentence), the United States Court of Appeals for the Eighth Circuit denied the claim that Maxwell's death sentence was unconstitutional based on the equal protection clause of the 14th Amendment (Paternoster, 1991; Baldus & Woodworth, 1998). Not only was the validity of this evidence called into question (i.e., there were not enough racially neutral or legally relevant factors taken into consideration in the analysis), but the Eighth Circuit Court of Appeals also rejected a claim of racial discrimination because there was no direct evidence that the defendant was the subject of racial discrimination in his individual case (Paternoster, 1991; Baldus & Woodworth, 1998). This denial of relief was appealed to the USSC but Maxwell's death sentence was vacated on other grounds by the Eighth Circuit Court of Appeals (Paternoster, 1991; Baldus & Woodworth, 1998).

Wolfgang & Riedel (1973) examined data on 3000 rape convictions in 11 southern states (230 counties) over a 20 year period (1945-1965) and found striking racial differences while controlling for over two dozen variables related to offender/victim characteristics, the offender-victim relationship, characteristics of the offense, and circumstances of the trial. They concluded that rapes in the South involving Black offenders and White victims had a considerably higher likelihood of resulting in a death sentence than rapes involving any other racial combination, and that this differential judicial treatment could not be accounted for by legally relevant differences among rapes or rapists (Wolfgang & Riedel, 1973). In general, Black offenders were six and a half times more likely to be sentenced to death for rape than Whites, and when the victim was a White woman, Blacks were eighteen times more likely to be sentenced to death than rapes involving any other racial combination (Wolfgang & Riedel, 1973). Wolfgang & Riedel (1973) examined the racial effect separately for those rapes involving a contemporaneous offense and the racial effect persisted. Thirty-nine percent of Black offenders who raped White women

while committing another crime were sentenced to death compared to only two percent of all other racial combinations of offender and victim involved in these offenses.

Using a multivariate statistical analysis in a follow-up study, Wolfgang & Riedel (1975) explored a variety of offender, victim, and case characteristics in 361 rape cases from a sample of 25 Georgia counties from 1945-1965 that resulted in a death sentence and found that the racial combination of the offender and victim (Black offender with a White victim) was the most powerful predictor of the death penalty while controlling for 14 legally relevant variables. These findings are consistent with both previous and subsequent studies that have identified that Black defendants have suffered from racial discrimination and more severe treatment in the criminal justice system with respect to sexual assault cases, especially those involving White victims (Bradmilller & Walters, 1985; Dorr, 2000; Flanigan, 1974; Greenberg & Himmelstein, 1969; Johnson, 1957; Marquart et al., 1994; Paternoster, 1991; Williams & Holdcomb, 2004).

In summary, the law has historically been used to maintain social control of segments of the population considered to be inferior. The institution of slavery, the Black codes, the Jim Crow laws, and lynching were all measures taken by the White population to preserve their own dominance in society while subjugating the Black population through fear and violence. Racial discrimination in 20th century death penalty sentencing, especially with regards to the rape of White women by Black men, demonstrated that the effects of racism and racial inequality had survived several centuries of evolving social relations in the United States and remained institutionalized in the criminal justice system and the capital punishment process. The next section examines the capital punishment process itself, including its evolution through statute reforms, a review of the empirical research on racial discrimination in the capital punishment

process and qualitative studies on capital juries, aggravating factors in the North Carolina capital punishment process, and geographical variations in the application of the death penalty.

The Capital Punishment Process

Evolution of the Contemporary Capital Punishment Process

Similar to early attempts at ensuring procedural fairness for slaves and Blacks in the colonial and antebellum periods, a number of contemporary case decisions, laws, and amendments were designed to produce racial equality in the capital punishment process. For example, defendants could appeal their case based on a violation of the “equal protection” clause within the 14th Amendment by showing that purposeful discrimination within their individual case had occurred, and could make an 8th Amendment claim if they could prove that the death sentence had been imposed on them in an arbitrary manner (e.g. the imposition of the death penalty based on “legally impermissible factors” such as race) (Paternoster, 1991, p. 141). It has been suggested that the 14th Amendment was passed by Congress to end the inconsistency in legal treatment (with respect to racial differences) that had been a result of the racial discrimination created by the “Black codes” (Paternoster, 1991). Specifically, this amendment declares that states may not have two different penalties for the same offense based on race and forbids the practice of “differentially prosecuting crimes” depending on the race of the victim (Paternoster 1991, p. 140). However, several cases have demonstrated that social scientific data identifying racial disparities in the criminal justice system has been insufficient in proving the existence of purposeful racial discrimination against an individual defendant as a violation of the 8th and 14th Amendments (e.g., *Maxwell v. Bishop*, 1970; *McClesky v. Kemp*, 1987).

Prior to *Witherspoon v. Illinois* (1968), the voir dire standard (i.e., the process of determining whether or not prospective jurors can be impartial and base their decision on the

facts of the case) excused any individual who was morally opposed to the death penalty (Sandys & McClelland, 2003, p. 387). Since challenges for cause were unlimited based on the Sixth Amendment guarantee of an impartial jury, prospective jurors who were opponents of capital punishment were excluded from capital cases (i.e., cases in which the death sentence was a sentencing option) as they did not meet the death-qualification status (i.e., following the law and exhibiting impartiality in the determination of a fair sentence) (Sandys & McClelland, 2003). Therefore, in capital cases prior to *Witherspoon v. Illinois* (1968), prospective jurors who were considered death-qualified “might be expected overwhelmingly to be proponents of capital punishment and thus differ in significant ways” (p. 387) from individuals excluded from jury service due to their reservations about the morality of the death penalty (Sandys & McClelland, 2003). The *Witherspoon* decision established a new death-qualification standard that excluded a smaller group of prospective jurors who possessed an “unmistakably clear” opposition to capital punishment (i.e., they would “automatically vote against” the death penalty) (Sandys & McClelland, 2003, p. 388).

One of the most important USSC cases related to capital punishment was *Furman vs. Georgia* (1972); this case declared that existing death penalty statutes were in violation of the 8th and 14th Amendments (e.g., cruel and unusual punishment; arbitrary sentencing; violation of due process) and therefore unconstitutional (Paternoster, 1991; Poveda, 1996; Wolfgang & Riedel, 1973; Wolfgang & Riedel 1975; Zimring, 2003). This decision, which identified that full jury discretion in capital punishment sentencing allowed for racial discrimination (i.e., there was no reasonable explanation as to why the infrequent imposition of the death penalty resulted in disparate sentences of life or death for similar heinous crimes) reversed 631 death sentences (Baldus, Woodworth & Pulaski, 1990; Bohm, 1991; Paternoster, 1991; Wolfgang & Riedel,

1973; Wolfgang & Riedel, 1975). While the *Furman* decision declared that the current procedures for imposing the death penalty were unconstitutional, it did not claim that capital punishment itself was unconstitutional as a practice (Paternoster, 1991).

As a swift response to the *Furman* decision, USSC cases such as *Gregg v. Georgia* (1976) *Proffitt v. Florida* (1976), and *Jurek v. Texas* (1976) provided guided discretion statutes in an effort to reinstate the constitutionality of the death penalty (Bohm, 1991; Paternoster, 1991; Wolfgang & Riedel, 1975; Zimring, 2003). These statutes provided sentencing direction to capital juries with respect to consideration of aggravating and mitigating circumstances, called for the review of the appropriateness of the death penalty, and provided for bifurcated capital trials (Paternoster, 1991; Wolfgang & Riedel, 1975; Zimring, 2009). As a result, these decisions effectively reinstated the death penalty for murder in 32 states within three years after the *Furman* decision and death rows began to fill up once again in the mid-1970's (Baldus & Woodworth, 1998; Paternoster, 1991; Wolfgang & Riedel, 1975). However, while these statutes were purportedly created to remove arbitrariness and racial discrimination from the capital punishment process, a continuing disproportionate amount of discretion in each stage of the capital sentencing process (e.g., consideration of aggravating and mitigating circumstances) led many to believe that these statutes were a "cosmetic legislative change" that did little to ensure the constitutionality of the capital punishment process (Zimring, 2003, p. 173).

In 1977, *Coker v. Georgia* ruled that the death penalty for the rape of an adult woman was unconstitutional under the 8th Amendment clause referring to cruel and unusual punishment (Paternoster, 1991). In other words, capital punishment was considered an excessively severe punishment for individuals charged with rape, as there is no loss of life involved in these particular cases (Paternoster, 1991). Therefore, the capital punishment process was also

considered inappropriate for additional offenses that did not result in loss of life (e.g., kidnapping; burglary; armed robbery) (Paternoster, 1991). In a recent case, the Louisiana State Supreme Court contested that the *Coker v. Georgia* decision only applied to the rape of adult women and regarded other non-homicide crimes as open to discretion, and further stated that a trend toward the constitutional implementation of the death penalty for child rape had emerged in the United States (*Kennedy v. Louisiana*, 2007). The USSC, however, overturned the State Supreme Court's decision and claimed that despite the "moral depravity" (p. 4) of the act, the death penalty must be held for "the worst of crimes" (p. 5) (i.e., those crimes in which an individual's life is taken) and therefore Louisiana could not lawfully impose the death penalty for child rape in accordance with the 8th Amendment as it was not a proportional punishment (*Kennedy v. Louisiana*, 2007).

In an effort to offset intentional racial discrimination, the Supreme Court noted in *Batson v. Kentucky* (1986) that "purposefully excluding people from jury service based on their race undermines public confidence in our justice system" while harming both the defendants and the jurors who were wrongfully excluded (Grosso & O'Brien, 2012, p. 1543). However, evidence suggests that this decision did little to counteract the underlying racial discrimination present in jury selection as prosecutors used the majority of preemptory strikes against prospective Black jurors compared to Whites available in the jury pool (Grosso & O'Brien, 2012; Sundby, 2005). Not only does the systematic exclusion of Blacks from capital juries raise questions about underlying racial discrimination and the "perceived legitimacy of the criminal justice system," but it also negatively influences the "jury's deliberative thoroughness" and thus undermines the jury's decision to sentence an individual to life or death (Vidmar, 2012, p. 1972). For example, evidence suggests that all-White juries in North Carolina (or North Carolina juries containing

one Black individual) often misunderstood and disregarded evidence and mitigation factors central to capital cases, resulting in short deliberations and sentences of death (Vidmar, 2012).

In the 1987 case of *McCleskey v. Kemp*, McCleskey, who had been sentenced to death for the murder of a White police officer, appealed to the USSC when statistical analysis conducted by Baldus, Woodworth, and Pulaski (1990) identified extreme racial disparities in Georgia sentencing procedures (Paternoster, 1991). Baldus et al. (1990) conducted a study of over 2,400 Georgia offenders who had been convicted of homicide (1973-1978), collecting information on over 500 variables from each case (e.g., offender and victim characteristics, the nature of the crime, types of evidence/legal representation) and found that an offender's odds of receiving a sentence of death was 4.3 times higher when the victim was White (compared to Black victims) and a Black defendant/White victim had the highest likelihood of leading to a sentence of death among all racial combinations while controlling for all legally relevant and racially neutral variables. Despite this statistical evidence produced by "the most rigorous and most careful study of criminal sentencing yet conducted" (p. 282) demonstrating a general pattern of racial bias in the legal system, McCleskey was executed as he could not legally prove that "intentional discrimination" occurred in his specific case (Paternoster, 1991, p. 144; Baldus & Woodworth, 1998).

The success of contemporary efforts to ensure racial equality in the capital punishment process were similar to early attempts at ensuring procedural fairness for slaves and Blacks in the colonial and antebellum periods. Several of these efforts appeared to be cosmetic in nature with the hidden purpose of justifying the use of the death penalty and easing concerns of racial discrimination. Further, statistical evidence demonstrating the racial biases inherent in the capital punishment process was insufficient in generating the judicial and legislative attention

necessary to make fundamental changes to the death penalty. A review of the empirical research on racial discrimination in the capital punishment process, as well as an overview of the qualitative studies on capital juries, further supports the contention that racial discrimination continues to affect the capital punishment process in the current era despite efforts to ensure racial equality.

An Overview of the Empirical Research on Racial Discrimination in the Capital Punishment Process

Historically, Black defendants have been disproportionately executed in the United States (Wolfgang & Riedel, 1975). Of the 3,859 executions that took place during the pre-*Furman* years (1930-1967) (most for murder and most in the southern states), approximately 55% have been Black with approximately 90% of those executed for rape (455 executions) involving Black offenders (Baldus & Woodworth, 1998; Bradmiller & Walters, 1985; Paternoster, 1991; Vandiver et al., 2003; Wolfgang & Riedel, 1975). This trend has not significantly changed since the *Furman* decision, as 40% of all those executed since 1977 have been Black, with 80% of homicides involving White victims (Paternoster, 1991; Poveda, 2006). However, racial disparities in the imposition of the death penalty alone may not signify the presence of racial discrimination (Bohm, 1991; Wolfgang & Riedel, 1973). Studies examining racial discrimination in capital sentencing during the pre-*Furman* era were inconclusive as they did not control for racially neutral or legally relevant factors (e.g., criminal records; the brutality of the crime, multiple victimizations; additional felonies committed during the rape offense) (Paternoster, 1991).

Since the *Furman* era, numerous methodologically rigorous studies have attempted to reveal “strong statistically significant differences in the proportions of Blacks sentenced to death, compared to Whites” while considering a wide-range of racially neutral variables, in an effort to

demonstrate that disparities in sentencing are a result of racial discrimination (Paternoster, 1991; Wolfgang & Riedel, 1973, p. 119). In 1990, the General Accounting Office (GAO) published the results of a comprehensive review of 28 empirical studies conducted by a variety of researchers during the 1970's and 1980's in an effort to assess the degree in which the existing death penalty literature supported claims of race-of-victim and race-of-offender discrimination (Baldus & Woodworth, 1998). The results of the review indicated that regardless of the sample used, methodology employed, or analyses implemented (as well as the overall quality of the study), 82% of the studies found a race-of-victim effect at all stages of the capital punishment process, in which capital murder cases involving White victims were more likely to result in a death sentence than cases involving Black victims (regardless of the race of the defendant) (Baldus & Woodworth, 1998). While these findings were consistent overall, there was some variation at different stages of the capital punishment process (e.g., prosecutorial discretion; plea bargaining) due to differences in sample sizes and analyses employed. The review did not find a clear race-of-offender effect as most of the studies displayed potential interaction effects between the race of the offender and other factors (e.g., geographical area) (Baldus & Woodworth, 1998). In studies that found the racial combination of Black offender and White victim to have the highest likelihood of leading to a death penalty, it was unclear if the finding was influenced by a race-of-victim or a race-of-offender effect (Baldus & Woodworth, 1998). Baldus and Woodworth (2003) found similar results in their review of death penalty empirical studies conducted from 1990 to 2003, with most studies revealing race-of-victim effects but no race-of-offender effects.

Since 2003, research studies utilizing more comprehensive databases and employing different analytical techniques have either revealed a weaker race-of-victim effect than what was

originally found in earlier studies or an interactive effect between the race of the victim and additional factors (e.g., the gender of the victim; regional disparities) (Kavanaugh-Earl et al., 2010). For example, findings from Williams and Holcomb's (2004) study revealed an interactive effect between victim gender and race for death penalty sentencing outcomes in Ohio, suggesting that a race-of-victim effect found in sentencing decisions is likely to be a result of death penalty cases involving White female victims. The next section examines recent empirical research on racial discrimination and the death penalty that utilizes the North Carolina Capital Sentencing Project data set, including a quantitative approach to the study of rape, race, and capital punishment.

Empirical Research on Racial Discrimination and the Death Penalty using the North Carolina Capital Sentencing Project Dataset

The North Carolina Capital Sentencing Project (NCCSP) offers a comprehensive data-set in which multiple analytical approaches may be used to assess the relationships between defendant and victim race combinations and a jury's likelihood of producing a sentence of death (while considering additional factors such as aggravating and mitigating circumstances) across the population of capital murder trials from 1977 (the year that North Carolina capital sentencing statutes went into effect) through 2009 (the most recent year that data is available for the majority of capital murder cases) (Kavanaugh-Earl et. al, 2010). The difficulty in determining the actual number of capital murder trials in North Carolina during the period under investigation is due to the complex nature of the North Carolina capital punishment system and the absence of a "centralized source of information" (Stauffer et al., 2006, p. 103). While the majority of cases can be detected through appeals of death sentences (North Carolina Supreme Court) and appeals of first-degree murder convictions resulting in life sentences (Court of Appeals and the Supreme Court), cases in which defendants do not appeal (e.g., guilty pleas resulting in life sentences;

upheld convictions with vacated death sentences) are difficult to detect (Stauffer et al., 2006). However, the dataset is nearly complete despite a few missing cases and approaches the population of capital jury sentencing decisions in North Carolina during the thirty-three year time period being studied (n=1,356) (Kavanuagh-Earl et al., 2010; Stauffer et al., 2006). The advantages of using a North Carolina data set for a study examining race effects in the capital punishment process is that North Carolina ranked among the top ten states for: number of individuals on death row, number of executions carried out after the *Gregg v. Georgia* (1976) decision, and ratio of homicides to death sentences (Stauffer et al., 2006).

Stauffer et al. (2006) utilized the NCCSP data set in an effort to replicate Williams and Holcomb's (2004) findings but did not find any statistically significant race-of-victim or race-of-offender effects. Interactive effects between victim gender and race were also not statistically significant predictors of death sentencing in the Stauffer et al. (2006) study when including controls for legal and extra-legal factors, as well as specific controls for Black and White female victim cases. The strongest predictor of death sentencing in Stauffer et al.'s (2006) study was the number of aggravating circumstances accepted by the jury. Using the NCCSP dataset, Kremling et al. (2007) compared trials pre- and post-*McKoy v. North Carolina* (1990) (mitigating evidence could be accepted without juror unanimity after the *McKoy* ruling) and found an increase in the effect of aggravators and a decrease in the effect of mitigators in the post-*McKoy* era. Further, findings from the Kremling et al. (2007) study revealed that race-of-victim and race-of-offender effects were not statistically significant predictors of death sentencing when controlling for factors such as aggravators and mitigators.

In an effort to examine the potential impact of the ECL on contemporary jury-sentencing decisions in rape-involved capital murder trials in North Carolina (i.e., Black defendants

convicted of rape-involved capital murder of White females are disproportionately more likely to be sentenced to death), Cochran et al. (2015) used the NCCSP dataset to examine the direct and independent effects of both defendant's and victim's race, as well as offender-victim racial dyads, on contemporary capital sentencing outcomes, while controlling for the influence of a variety of legal and extra-legal case characteristics (e.g., total number of aggravating and mitigating factors accepted; number of accomplices involved in the offense; presence of physical evidence linking the defendant to the offense; victim's age, marital status, and involvement in criminal activity; victim-offender relationship; geographical location of the offense and trial, respectively). Results of the regression analysis revealed considerable support of the ECL of lethal vengeance, demonstrating that Black males convicted of a rape-involved capital murder of a White female victim are substantially more likely to receive a sentence of death, especially when there are additional aggravating circumstances accepted by the jury. However, Cochran and his colleagues (2015) point out that a deeper qualitative analysis of the multiple dimensions of the ECL (i.e., the interconnections of race, gender, and class in the South; the credibility of the White female victim; geographical variations in the application of the death penalty) is still needed to explore their relative influence on sentencing decisions in rape-involved capital murder trials.

An Overview of Qualitative Studies of Capital Juries

While racial discrimination can be present at every stage of the capital punishment process (e.g., prosecutorial discretion; the exclusion of minorities from jury duty), the jury makes the final decision of producing a sentence of life or death for the defendant; this decision may be influenced by individual information processing and the group dynamics of the jury (Baldus & Woodworth, 1998; Bohm, 1991; Costanzo & Costanzo, 1992). Courts and legislatures have

designed a series of rules to guide the jury's death penalty sentencing decision (e.g., accepting and weighing mitigating and aggravating circumstances) so that it may reflect a legal opinion, yet a jury's decision to sentence someone to life or death is ultimately a product of each individual's beliefs, moral values, and emotions (Blume, Eisenberg, & Garvey, 2003; Sundby, 2005). According to a sociological model of law, juries often make their ultimate sentencing decision based on "their personal beliefs and feelings, and only afterward turn to the written law for a justification" (Black, 1989, p. 5). A jury's feelings toward a particular case, victim, or defendant are often influenced by the social characteristics (i.e., the individuals involved) and social structure of the case (i.e., the relative social standings of the individuals involved) (Black, 1989). The claim that "social information is an essential ingredient of discrimination" is evidenced by juries who produce different sentencing outcomes in similar cases (i.e., comparable circumstances and evidence) based on the social information (e.g., race, ethnicity, and economic status of the defendant and victim, respectively) and social structure of the case (e.g., relative distance in social status and respectability between the defendant and victim) (Black, 1989, p. 64; Johnson, 2003).

Over the past 25 years, the Capital Jury Project (CJP) has collected data from extensive interviews with over 100 jurors from every jurisdiction in 14 states, with at least four jurors selected from every trial (Bowers, 1995; Bowers et al., 2004). The CJP has published approximately 50 research studies concerning a variety of factors related to capital juries, such as: the selection process and objectivity (Sandys, 1995; Sandys & McClellan, 2003); comprehension of or misinterpretations of instructions or responsibilities (Barner, 2014; Eisenberg and Wells, 1993; Eisenberg, Garvey, & Wells, 1996; Garvey, Johnson, & Marcus, 2000; Bowers, Fleury-Steiner, & Antonio, 2003; Bowers & Steiner, 1999; Foglia, 2001), and

feelings (e.g., empathy; anger) toward the victim and defendant, respectively, at both the guilt and sentencing stages of the process (Antonio, 2006; Bowers, Sandys, & Steiner, 1998; Sundby, 1998, 2003). The current study adds to the CJP research regarding arbitrary race-based sentencing within capital murder trials (Bowers et al., 2004; Bowers, Steiner, & Sandys, 2001; Bowers & Foglia, 2003; Bowers & Steiner, 1998; Brewer, 2004; Eisenberg, Garvey, & Wells, 2003; Foglia, 2001; Foglia & Schenker, 2001).

Since the CJP research focuses on issues related to jury racial composition, attitudes, and related capital sentencing decisions, it was not included in Baldus & Woodworth's (2003) empirical overview of studies (Kavanaugh-Earl et al., 2010). However, findings of racial influences on juries' death penalty sentencing decisions from the CJP research (1990-2003) are consistent with the general findings from a number of empirical studies with methodologies that utilized hypothesis testing and regression techniques (Baldus and Woodworth, 2003, 2004; Kavanaugh-Earl et al., 2010). Bowers et al. (2001), for example, conducted an extensive study examining the effect of capital jury composition (and related attitudes and decision-making processes) on sentencing decisions for three defendant-victim racial combinations (W_dW_v , B_dB_v , and B_dW_v cases). The main findings indicated that juries consisting predominantly of White males were more likely to generate a sentence of death in B_dW_v murder trials, while juries consisting of Black males decreased the likelihood of a death sentence in these cases (Blume et al., 2003; Bowers et al., 2001; Sundby, 2005). The effect of jury racial composition on death sentencing was only seen in interracial cases, suggesting that juries in B_dW_v murder cases are more likely to possess "cultural baggage" that can influence capital jury decisions on the basis of traditional racial stereotypes (Bowers et al., 2001, p. 180).

Juries are intended to function as “a significant and reliable objective index of contemporary values” (*Gregg v. Georgia*, 1976, p. 181) so that the sentencing decision in a capital trial represents “the evolving standards of decency that mark the progress of a maturing society” (*Witherspoon v. Illinois*, 1968, p. 519, quoting *Trop v. Dulles*, 1958, p. 101) (Costanzo & Costanzo, 1992; Sundby, 2005). The ECL hypothesis suggests that jury decisions in contemporary rape-involved homicide cases still reflect the values of a long-standing southern tradition of race-based lethal violence and vigilantism targeted against Black men who rape and kill White women. The inexperience of jury members in determining the appropriate punishment for defendants in capital trials (e.g., misunderstanding jury instructions) exacerbated by personal biases and pre-conceived notions of who deserves life and who deserves death has “resulted in a pattern of verdicts indicating that extralegal factors such as race influence juries’ decisions” (Blume et al., 2003; Costanzo & Costanzo, 1992, p. 186; Vidmar, 2012).

In summary, the contemporary capital punishment process has evolved over the last few decades as death penalty statutes continued to undergo procedural reforms leading up to and following the *Furman* decision. It has been stated that these efforts were often cosmetic in nature with the hidden purpose of justifying the use of the death penalty and easing concerns of racial discrimination. Further, statistical evidence demonstrating the racial biases inherent in the capital punishment process has been generally insufficient in generating the judicial and legislative attention necessary to make fundamental changes to the death penalty. An overview of the empirical research on racial discrimination in the capital punishment process further supports the contention that despite efforts to ensure racial equality, the contemporary capital punishment process is biased against Black men who commit crimes against White women. In addition, data from the CJP has demonstrated that the strength of racial influences on jury

sentencing decisions in capital trials may vary based on the racial composition of the jury, the comprehension or misunderstanding of jury instructions, and the jury's preconceptions and personal beliefs about the defendant. The role of aggravating factors in the North Carolina capital punishment process is examined in the next section.

Aggravating Factors in the North Carolina Capital Punishment Process

Capital juries in North Carolina only have two options in making a sentencing recommendation: a sentence of life in prison (with no possibility of parole unless executively pardoned) or a death sentence. Before making a recommendation of life or death, the jury must unanimously agree on these four decision points: (a) at least one of the eleven statutory aggravating circumstance exists, is relevant to the case, and has been proven beyond a reasonable doubt (see Appendix A); (b) any aggravating circumstance accepted by the jury must justify a sentence of death; (c) aggravating circumstances must outweigh mitigating circumstances in order to move to the mitigation phase (see Appendix B); and (d) the jury must reach a final sentencing recommendation of life or death (Blume et al., 2003; Stauffer et al., 2006). If the jury is unable to unanimously agree on each of these decision points throughout the proceedings, the defendant is sentenced to life in prison regardless of the circumstances of the case (Stauffer et al., 2006).

While these guidelines carry specific instructions for the jury's consideration of aggravating circumstances, evidence from Luginbuhl and Howe's (1995) study of discretion in capital sentencing instructions indicated that 48 percent of North Carolina jurors thought they were allowed to weigh nonstatutory aggravating factors, 26 percent thought they were allowed to consider aggravating factors that had not been proven beyond a reasonable doubt by the prosecution, and 22 percent assumed they could take into account aggravating factors regardless

of juror unanimity (Blume et al., 2003). These findings are consistent with additional evidence indicating that capital juries have often found jury instruction (with respect to the acceptance and weighing of aggravating and mitigating factors) to be unclear and frustrating (Barner, 2014; Eisenberg and Wells, 1993; Garvey, Johnson, & Marcus, 2000; Bowers & Steiner, 1999). According to a general principle of social psychology, racial biases are more likely to affect contemporary capital sentencing decisions in trials with confusing instructions because jurors are more likely to be influenced by personal racial stereotypes “when they lack enough specific information to make an individualized judgment” (Johnson, 2003, p. 151). In other words, racial influences are the strongest when jurors draw from their own preconceptions in the absence of specific and understandable facts (Johnson, 2003).

Moreover, evidence suggests that the largest racial disparity is seen in death penalty cases involving “mid-level aggravation as determined by measures of culpability” (e.g., number of aggravators accepted by a jury in capital sentencing trials) (Applegate, Wright, Dunaway, Cullen, & Wooldredge, 1993; Baldus et al., 1990; Devine, Buddenbaum, Houpp, Studebaker, & Stolle, 2009; Johnson, 2003; Kalven & Zeisel, 1966; Kavanaugh-Earl et al., 2010, p. 158; Sorenson & Wallace, 1995). Jury discretion in the recommendation of life or death is less flexible at each end of the “culpability spectrum”: cases in which only one or two aggravators are accepted by the jury are much less likely to recommend a sentence of death than cases involving murder at the high end of aggravation (four or more aggravators accepted by the jury) based on the jury’s perception of what constitutes a fair sentence (Kavanaugh-Earl et al., 2010, p. 158). The empirically supported “liberation theory” suggests that cases allowing greater jury discretion in capital sentencing (i.e., there is greater ambiguity in what constitutes a fair sentence based on the facts of the case) invite “extra-legal factors such as race” to enter the decision-making

process (Kavanaugh-Earl et al., 2010, p. 159; Baldus et al., 1990; 1998; 2003; Devine et al., 2009; Johnson, 2003).

Experimental research on the liberation hypothesis has mostly been based on mock jurors and there has been a conspicuous absence of studies in the literature that have directly tested the liberation hypothesis at the jury level utilizing a large and diverse sample of real verdicts (Devine et al., 2009). In studies conducted by Reskin & Visher (1986) and Visher (1987) based on analyses of 38 sexual assault cases (direct courtroom observation; post-trial juror interviews), extralegal factors had the strongest influence on jury sentencing decisions in cases with weak evidence compared to stronger cases. While these studies provided some evidence in support of the liberation hypothesis, they were limited by a small sample size, a focus on pre-deliberation judgments, and the failure to classify cases with evidence of moderate strength levels (Devine et al., 2009; Reskin & Visher, 1986; Visher, 1987). In Devine et al.'s (2009) study of 179 criminal jury trials, extralegal factors (e.g., pretrial publicity; severity of the charge; complexity of the trial) had the strongest influence on jury sentencing when the prosecutor's evidence was moderate in strength; the demographics (e.g., race and gender) of the defendant, however, did not follow this pattern of influencing jury sentencing (Devine et al., 2009). Additional research has suggested that the liberation hypothesis is inapplicable to cases involving Blacks who murder Whites since racial biases are prevalent in these cases regardless of the seriousness of the crime or the prosecutor's strength of evidence (Keil & Vito, 1989). Additional research utilizing a large and diverse sample of jury trials focusing on the relationships between victim/offender demographics and strength of evidence/seriousness of crime would help assess the efficacy of the liberation hypothesis (Devine et al., 2009).

In summary, despite the court's explanation of aggravating factors and how they may be considered in North Carolina capital trials, jurors have continued to express confusion and frustration regarding these instructions and their responsibilities in giving them consideration and weight. This miscomprehension passively encourages jurors to rely on their own preconceptions about the defendant, many of which are based on their own personal racial biases. The strength of these racial influences is compounded in cases where a clear sentencing decision is not readily available to the jury. The next section provides an examination of geographical variations in the use of the death penalty.

Geographical Variations in the use of the Death Penalty

There is an intriguing relationship between the geographical variation in the use of the contemporary death penalty and the geographical variation of slavery and its resultant social relations (Lofquist, 2002). While there is lack of consensus in what constitutes "the South," it may be argued that the institution of slavery and the Civil War shaped the South in a way that it is comprised by every state containing an above average number of slaves at the start of the Civil War (Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, Texas, and Virginia) in addition to Oklahoma due to its geographical location in the South and its history of racial violence (e.g., lynchings) (Lofquist, 2002). Prior to the Civil War, the development of slavery in the South often depended on the geographical conditions of the state (Lofquist, 2002). For example, the harsh conditions of eastern Tennessee, North Carolina, and Kentucky hindered the expansion of slavery and plantation culture in these respective geographic locations (Lofquist, 2002).

Further, lynching was also distributed unevenly across different geographical locations (Messner, 2005; Tolnay & Beck 1995; Tolnay, Deane, & Beck 1996). Lynching was uncommon

Table 4. Levels of Death Penalty Intensity by State.

Death Penalty Intensity	Description	States (Year Abolished)
Abolitionist	The death penalty is not available by statute.	Alaska (1957), Connecticut (2012), Hawaii (1957), Illinois (2011), Iowa (1965), Maine (1887), Maryland (2013), Massachusetts (1984), Michigan (1846), Minnesota (1911), Nebraska (2015), New Jersey (2007), New Mexico (2009), New York (2007), North Dakota (1973), Rhode Island (1984), Vermont (1964), West Virginia (1965), Wisconsin (1853)
Inactive	The death penalty is available, but death sentences are rarely sought and even more rarely moved through the appellate process toward executions.	Colorado, Kansas, Montana, New Hampshire, South Dakota, Wyoming
Active	The death penalty is sought at an average or below-average rate, reversals occur at average rates, and executions are carried out at an average or below-average rate.	Delaware, Idaho, Indiana, Kentucky, Oregon, Utah, Washington
Symbolic	The death penalty is sought at above-average or high rates but rarely results in an execution despite average or below-average reversal rates.	California, Nevada, Ohio, Pennsylvania, Tennessee
Inefficient	The death penalty is sought at a high or very high rate, but reversals are common and executions are performed at a moderate or low rate.	Alabama, Arizona, Arkansas, Florida, Georgia, Mississippi, North Carolina, Oklahoma
Aggressive	The death penalty is sought at a high or very high rate, reversals are limited in number, and executions are carried out at a high rate.	Louisiana, Missouri, South Carolina, Texas, Virginia

Sources: Lofquist (2002); <http://www.deathpenaltyinfo.org/states-and-without-death-penalty> (2015)

in the states bordering the north and much more frequent in the "Black Belt" of the South (e.g., South Carolina; Georgia; Alabama; Mississippi; Louisiana) due to the dominance of slavery in these states (Tolnay et al., 1996, p. 791; Tolnay & Beck 1995). Tolnay and Beck (1995) identified a strong connection between the frequency of lynching and the historic racial violence against Blacks. Lynching was also connected to the size of the Black population yet was

unrelated to formal actions of the criminal justice system (Tolnay & Beck, 1995). Interpretations of these findings suggested that lynching and mob violence served to maintain White dominance in the South at a time when newly freed Blacks threatened the racial hierarchy that had been established through slavery (Messner, 2005; Tolnay & Beck, 1995). Translated to the contemporary application of the death penalty, a legacy of lynching may generate cultural support of lethal violence as a tool used for conflict resolution, specifically the punishment of Blacks who engage in behavior deemed worthy (albeit subjectively) of state-sanctioned death (Messner et al., 2005). Further, the strength of this cultural support is expected to vary in different regions of the South geographically relative to the legacy of lynching in the South (Messner et al., 2005).

Today, the application of the death penalty at the state level also corresponds to the established notion of the death penalty as a “regional phenomenon” and is connected to slavery and other race-based forms of social control (e.g., the Black Codes; Jim Crow Laws; lynching; legal lynchings) (Lofquist, 2002, p. 1512). While the South is notably committed to the institution of the capital punishment, there is considerable variation in the actual application of the death penalty across the southern states (see Table 4) (Lofquist, 2002). For example, while death sentencing rates are among the highest in the South, several southern states are more moderate in their death sentencing rates while high reversal rates are also focused primarily in the South (especially the Southeast) (Lofquist, 2002). Despite comparable “levels of commitment to death sentencing,” aggressive states such as Missouri, Texas, and Virginia have much higher rates of execution than North Carolina and other inefficient states that are geographically close in proximity (e.g., Oklahoma; Arkansas) (Lofquist, 2002, p. 1543). Some explanations for this variation in death penalty intensity are connected to variations in urban

poverty, drug use, size of the Black population, Black marginalization and inequality, welfare support, institutional support, and formal criminal responses to crime across the southern states (Lofquist, 2002). However, evidence suggests that the relationship between the death penalty and a history of slavery, racial oppression, race-based executions, and lethal violence are just as strong as the relationship between the death penalty and contemporary social conditions (Lofquist, 2002, p. 1510).

Although aggressive in seeking the death penalty, North Carolina has a 3.39% death sentencing rate (448 death sentences were carried out for over 13,000 murders), due in large part to court decisions (high removal rates) and steady reversal rates (53% of convictions reversed on appeal) over the last few decades (similar patterns are seen in Alabama, Ohio, and Florida) (Lofquist, 2002). Therefore, North Carolina is part of the “Inefficient” group comprised of states with high rates of seeking the death penalty and high reversal rates thus resulting in low or moderate rates of executions (Lofquist, 2002). When comparing geographical variations in the application of the death penalty in North Carolina and South Carolina, offender and victim race played a greater role in charging decisions made by the prosecution in South Carolina compared to North Carolina (Paternoster, 1991). This variance is particularly noteworthy as the respective death penalty statutes of these neighboring states are considerably similar in how they have been historically structured (Lofquist, 2002; Paternoster, 1991).

The intrastate geographical variations in North Carolina’s death penalty intensity are also consistent with evidence documenting the uneven distribution of death penalty use within states (Lofquist, 2002). Further, this intrastate variation of death penalty application in the South appears to coincide with the southern cultural legacy of slavery and Black oppression (Lofquist, 2002). The ECL is thus not expected to endure in areas of North Carolina that were not heavily

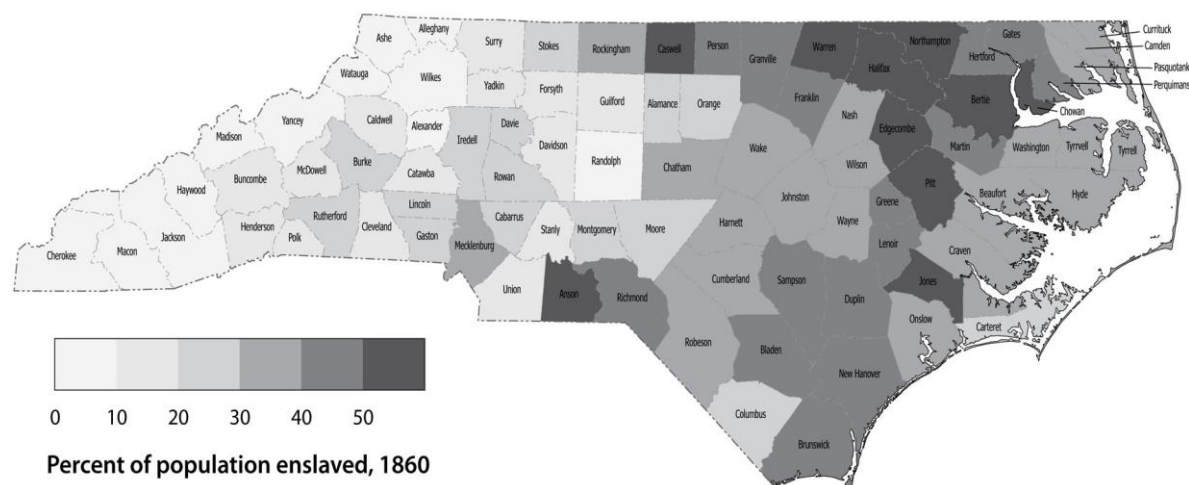


Figure 2. Percent of North Carolina Slavery Population by County, 1860.

Source: <http://www.learnnc.org/>

populated by slaves (e.g., the mountains of Western North Carolina) or regions that have become urbanized (e.g., Central North Carolina) (see Figure 2) (Lofquist, 2002). The ECL is expected to be most prominent in Eastern regions of North Carolina where slavery was most prevalent (Lofquist, 2002). More research is needed to explore how jury decisions are related to intrastate geographical variations in the North Carolina capital punishment process as they relate to the ECL of the South. The next section examines how the ECL that has been explored throughout this chapter exerts its influence on jury sentencing decisions in the contemporary capital punishment process.

An Enduring Cultural Legacy

Despite the passing of constitutional amendments, decisions by the Supreme Court, and the Civil Rights movement that each aimed to ensure racial equality, the current study contends that a legacy from the slave codes, Black codes, and lynchings in the South have facilitated the “emergence of cultural supports for the use of lethal violence” that have persisted to the present

day, especially with regard to capital cases of rape-involved homicides committed by Black men against White women (Messner et al., 2005, p.637). Lofquist's (2002) assertion that "historical practices of executions and race-based lethal violence, and underlying patterns of social relations rooted in slavery, are at least as important as contemporary measures of social conditions in shaping death penalty intensity" (p. 1510) is supported by many scholars who have argued that: 1) the death penalty is utilized today as a partial replacement for past vigilantism in an effort to maintain the racial hierarchy of the antebellum south; and/or 2) the slave and Black codes "solidified attitudes and expectations that have continued in operation long after the laws that supported them had been abolished" (Vandiver et al., 2003, p. 83; see also Bohm, 1991; Bowers et al., 1984; Jacobs et al., 2005; Messner et al., 2005; Paternoster, 1991; Phillips, 1987; Poveda, 2006; Zimring, 2003). Findings from Vandiver et al.'s (2003) analysis of the 1858 Slave Code of Tennessee, for example, demonstrated that racial discrimination was institutionalized in the law and the criminal justice system and that the racial biases inherent in the slave codes have maintained an indirect effect on racial considerations in the capital punishment process to this day. The enduring effects of slavery have permeated the contemporary capital punishment process by perpetuating the belief that Blacks are inferior, do not deserve the full protection of the law, and deserve harsher treatment than Whites convicted of similar crimes (Vandiver et al., 2003).

The conceptual link between the legacy of lynching and the current imposition of the death penalty is also compelling (Zimring, 2003; Jacobs et al., 2005). While lynching exists outside of the formal sanctioning of the law, its goal is similar to the legitimate use of capital punishment in that they both apply "lethal violence for purposes of social control" (Messner et al., 2005, p. 637). These findings suggest that "a tradition of lethal vigilantism" may contribute

to current racial disparities in the capital punishment process as the death penalty may be partly utilized as a legal form of vigilante justice or as a tool for Whites to maintain notions of racial supremacy (Jacobs et al., 2005, p. 672). In this way, a legacy of lynching may generate cultural support of lethal violence as a tool used for conflict resolution, specifically the punishment of Blacks who engage in behavior deemed worthy (albeit subjectively) of state-sanctioned death (Messner et al., 2005). Further, the strength of this cultural support is expected to vary in different regions of the South geographically relative to the legacy of lynching in the South (Messner et al., 2005).

In the colonial and antebellum South, White men strongly believed that slaves and free Blacks were predisposed to rape and that this crime only applied to "respectable" White women (Bardaglio, 1994, p. 772); this "peculiar chivalry" (Marquart et al., 1994, p. 65) expressed itself in southern laws and customs (including the torture, mutilation, lynching, and execution of Black men who were either convicted or accused of raping White women) designed to protect White women and preserve White hegemony in the South (Dorr, 2000; Kay & Cary, 1995; Kennedy, 1997). In post-*Coker* trials, racial discrimination against Blacks manifested itself in many decision-making points of rape-involved capital murder trials (Wolfgang & Riedel, 1973; Paternoster, 1991). Findings of numerous studies suggest that Black offenders and those who victimize Whites are more likely to be indicted for and convicted of a capital crime, and are also more likely to be sentenced to death and to have their sentences carried out compared to White offenders and those who victimized Blacks, especially when rape is involved (Balduis & Woodworth, 1998; Bradmiller & Walters, 1985; Dorr, 2000; Flanigan, 1974; Greenberg & Himmelstein, 1969; Johnson, 1957; Marquart et al., 1994; Paternoster, 1991; Stauffer et al., 2006; Vandiver et al., 2003; Williams & Holdcomb, 2004; Wolfgang & Riedel, 1973, 1975).

This evidence suggests that the “peculiar chivalry” still expresses itself in contemporary capital cases of rape-involved homicides by producing the harshest sentences for Black men who rape and kill White women (Marquart et al., 1994, p. 65).

Lofquist (2002) identified three major predictors of “death penalty intensity” (measured by the death sentencing rate, the reversal rate, and the execution rate for murders and capital convictions, respectively) in the post-*Furman* era until 1998 (the most recent year that data was available for this research): 1) having been a slave jurisdiction; 2) the number of lynchings after emancipation; and 3) the number of state executions from 1930-1967. North Carolina is identified as an “Inefficient” state with high rates of seeking the death penalty and high reversal rates thus resulting in low or moderate rates of executions (Lofquist, 2002). The strong relationship between traditions of slavery, institutionalized racism, and lynching, and contemporary levels of death penalty intensity (especially across regions with historically intense application of these practices) in North Carolina provides support for the ECL hypothesis (Lofquist, 2002).

In summary, evidence suggests that an ECL stemming from historical traditions of slavery, lynching, a desire of White men to protect White women from slaves and Blacks (especially with regard to rape), and racial oppression against Blacks in general has been institutionalized in the criminal justice system. The use of law as social control, acts of lethal vengeance, and a peculiar chivalry have each contributed to an ECL that affects jury sentencing decisions in the capital punishment process today. The goal of the current study was to explore the impact of the ECL on jury sentencing decisions in contemporary rape-involved capital murder trials in North Carolina, as represented by the following research question:

- (R₁) Are juries in rape-involved capital murder trials in North Carolina more likely to recommend a sentence of death when the defendant is a Black male and the victim is a White female compared to White male defendants and White female victims?

Using a North Carolina data set containing information pertaining to the demographic characteristics of offenders and victims and data on the death penalty case itself (e.g., aggravating and mitigating circumstances), the current study employed a qualitative approach to capital sentencing decisions in North Carolina for rape-involved first-degree murder cases from 1977-2009. The combination of a tradition of slavery and historically systemic racism (that has been especially prominent in North Carolina, a former Confederate state), and a tradition of chivalry that has historically exacerbated sentences carried out for offenses committed against White women are likely to express themselves with a greater likelihood of a capital sentence for rape-involved homicides committed by Black defendants against White victims (Stauffer et al, 2006). The sample of cases for the qualitative analysis was all rape involved capital homicide trials in North Carolina from 1977-2009 that involve Black or White male defendants and White female victims at least 16 years old (n=58). These trials were drawn from a larger North Carolina data set of 1356 death sentencing trials that contain information pertaining to the demographic characteristics of offenders and victims and data on the trial itself (e.g., aggravating and mitigating circumstances). Newspaper articles served as additional qualitative data points for the triangulation of data to make the findings more credible.

Based on the review of the literature, the current study offered the following hypothesis regarding the effect of the ECL on jury sentencing decisions for contemporary rape-involved capital murder trials in North Carolina:

- (H₁) Juries in rape-involved capital murder trials in North Carolina are more likely to recommend a sentence of death when the defendant is a Black male and the victim is a White female compared to White male defendants and White female victims (while accounting for other trial circumstances);

The utilization of qualitative hypothesis testing within an analytic induction framework is discussed in the next chapter. This study's value to social science is that if findings are consistent with the ECL hypothesis, then it may be argued that despite positive steps toward the suppression of racial discrimination in the capital punishment process in the United States, the enduring effects of a cultural legacy of Black oppression and historic and systemic racial discrimination in the criminal justice system still express themselves in jury sentencing decisions of contemporary rape-involved capital homicide trials.

Chapter Three

Methods

In the current study, I employed a qualitative approach to test the hypothesis that an enduring cultural legacy (ECL) continues into the current era in which juries in rape-involved capital murder trials in North Carolina are more likely to recommend a sentence of death when the defendant is a Black male and the victim is a White female compared to White male defendants and White female victims. The employment of qualitative hypothesis testing within an analytic inductive framework offered an innovative approach to the data that elucidated the legal (e.g., circumstances of the case; aggravating and mitigating factors) and extra-legal (e.g., race of the defendant and victim, respectively) factors that influence death sentence recommendations in North Carolina. Within the qualitative analysis, I considered how salient factors of the trial (e.g., the perceived brutality of the crime) and multiple dimensions of the ECL (e.g., the impact of the liberation hypothesis; the credibility of the White female victim; geographical variations in the use of the death penalty) might have affected North Carolina jury sentencing decisions in rape-involved capital murder trials. An introduction to qualitative hypothesis testing within an analytic framework is presented below.

Analytic Induction

Analytic induction is a process in which the researcher systematically analyzes data in an effort to develop theoretical conclusions that “cover the entire range of the available data” (Bloor & Wood, 2006, p. 13). The researcher begins the analytic induction process by forming an initial hypothesis and then actively seeking out disconfirming cases throughout the analysis to develop

a more comprehensive theory (Bloor & Wood, 2006; Ratcliff, 1994). Qualitative hypothesis testing within the analytic induction process involves the comprehensive review and documentation of each unit of analysis to determine if the case supports, does not support, or rejects the initial hypothesis. Qualitative hypothesis testing and analytic induction rely on the identification of observations in the data that represent the phenomenon in the context of the hypothesis; the documentation and analysis of these observations facilitates the process of revisiting and modifying the original hypothesis with the objective of representing the phenomenon in the most accurate manner possible (Bloor & Wood, 2006; Ratcliff, 1994). In other words, the researcher continuously considers evidence that contradicts the hypothesis when modifying the developing theory (Bloor & Wood, 2006).

While the process of analytic induction may lead to a comprehensive understanding of the phenomenon under investigation, any general statements that are made are subject to modification based on the discovery of exceptions (Ratcliff, 1994). The analysis is thus tentative and provisional throughout the study and only becomes comprehensive once the data is completely collected (Ratcliff, 1994). The six steps of the analytic induction process as utilized within the current study [1) defining a phenomenon in a tentative manner; 2) developing a hypothesis about it; 3) considering a single instance to determine if the hypothesis is confirmed; 4) redefining or revising the hypothesis if it is not confirmed; 5) examining additional cases to gain confidence in the hypothesis if it is repeatedly confirmed; 6) reformulating the hypothesis for each negative case until there are no exceptions] is presented in further detail later in the chapter. With respect to step 6 of the analytic induction process, I actively sought out and reviewed disconfirming cases to explore why certain trial outcomes did not support the hypothesis. However, I anticipated through my employment of qualitative hypothesis testing

that I would discover trials that completely rejected the hypothesis and thus I would not be able to reformulate the hypothesis to represent all trials in the data set (Berg, 1989; Ratcliffe, 1994; Robinson, 1951). Therefore, I approached the utilization of analytic induction as a methodological framework for the analysis and used the reclassification of hypothesis-supporting, hypothesis-rejecting, and hypothesis-non-supporting trials across the B_dW_v and W_dW_v trials in the data set to determine the overall level of support for the ECL hypothesis with the understanding that not all trials could be represented by a single hypothesis (this is examined further throughout the remaining chapters).

Sample

The universe of cases for the qualitative analysis is all rape involved capital homicide trials in North Carolina from 1977-2009 that involve Black or White male defendants and White female victims. These cases are drawn from a larger North Carolina data set of 1356 death sentencing trials that contain information (collected by Smith, Bjerregard, and Fogel) pertaining to the demographic characteristics of offenders and victims and data on the case itself (e.g., aggravating and mitigating circumstances) for capital murder trials from 1977 (the year that North Carolina capital sentencing statutes went into effect) through 2009 (the most recent year that data is available for the majority of capital murder cases). The reviews of these capital murder trials in North Carolina were gathered from LexisNexis searches of North Carolina Supreme Court and Court of Appeals cases. A case is defined as “capital” if:

- (a) first-degree murder conviction was secured, (b) the state sought the death penalty, and (c) the trial advanced to a sentencing phase whereby the jury recommended either a life sentence or the death penalty for the defendant. (Stauffer et al., 2006, p. 101)

Additional data was gathered from public record materials (e.g., defendant and state briefs, a jury form: Issues and Recommendation as to Punishment) that include information on the details of the crime (e.g., aggravating and mitigating factors; the jury's sentencing recommendation).

Demographic information of the defendants (e.g., age, race, sex) was collected from the North Carolina Department of Corrections Web site (<http://www.doc.state.nc.us/offenders>) while the demographic information of the victims is collected from two sources: the North Carolina Vital Records: Deaths 1968-1996 CD-ROM and the North Carolina Medical Examiner's Office (1997-2010).

Boundary Conditions for Case Requirements

A "rape-involved" variable was created to include all cases containing a "yes" response to at least one of the following variables: "sexual assault mentioned to the jury" or "rape accepted as aggravator." This revealed 155 death penalty trials that make up the total population of rape-involved capital homicide trials in North Carolina from 1977-2009. Trials that resulted from the post-conviction appeals process (e.g., full retrials, resentencing hearings of death sentences) were included in the data and analyzed as separate cases due to the fact that sentence recommendations were made by different juries and thus may have reflected different decision making processes (n=11). All trials involving a rape or sexual offense (including attempted rape) were included in the data set. According to North Carolina General Statutes, Chapter 14, Article 7A, first degree rape takes place when:

a person forces the victim to have non-consensual sex, and either possesses a deadly weapon, inflicts serious injury upon the victim, or is aided by one or more other persons;

second degree rape takes place when:

a person forces a victim to have non-consensual sex, and the victim is incapable of giving consent because of a mental disability or incapacitation, or physical helplessness.

(North Carolina Sexual Assault Laws, 2015)

The only difference between rape laws and sexual assault laws (with respect to crime classifications) in North Carolina is that the definition of rape only applies to vaginal penetration while the definition of sexual offense includes forced anal penetration (North Carolina Sexual Assault Laws, 2015).

In order to clarify any differences in race-of-victim effects the present study restricts cases in the analyses to those that only involve White female victims and Black or White male offenders (n=92) (Black female victims and “other” racial groups such as Asian, Hispanic, American Indian may reflect different sentencing experiences) (Demuth & Steffensmeier, 2004; see also Stauffer et al., 2006). B_dW_v and W_dW_v trials are the purest types of defendant-victim racial combinations to be used for comparative purposes because they hold the white female victimization constant. In addition, trials included in the qualitative analysis were restricted to White female victims who were at least 16 years old (age of consent in North Carolina). Rape-involved homicide trials involving girls under the age of 16 would reflect different influences on jury sentencing decisions beyond the scope of the current study (e.g., pedophilia).

During the research process, 34 trials were excluded from the analysis for two main reasons: 1) they did not involve a male committing a rape or sexual offense (or attempted sexual offense) against a female (while she was still alive) (n=17) or; 2) the victim was under the age of 16 (n=13) (see Table 5). Two additional trials that were excluded involved White female victims who were raped but not murdered, while two other trials were excluded because the cases were

Table 5. Trials Excluded from the Analysis.

	Life (n=17)	Death Penalty (n=17)
B _d W _v	<p>Liberated¹ (n=2)</p> <ul style="list-style-type: none"> • <i>Forney</i> (1984) – all convictions reversed (lack of evidence) • <i>Hunt</i> (1989) – retried non-capitally <p>Non-liberated² (n=1)</p> <ul style="list-style-type: none"> • <i>Yelverton</i> (1993) – woman survived murder attempt 	<p>Liberated (n=7)</p> <ul style="list-style-type: none"> • <i>Brown</i> (1982) – no rape • <i>Chapman</i> (1995) – no rape (consensual sex) • <i>Monroe</i> (1992) – no rape aggravator, no witnesses, no DNA testing, verdict and sentence overturned, lack of information regarding rape and case circumstances • <i>Roseboro</i> (1996) - reasonable doubt that the sexual assault occurred before the victim was deceased • <i>Roseboro</i> (1999) - reasonable doubt that the sexual assault occurred before the victim was deceased • <i>Thomas</i> (1996) – sexual assault after death • <i>Thomas</i> (1991) – sexual assault after death <p>Non-liberated (n=2)</p> <ul style="list-style-type: none"> • <i>Lemons</i> (1998)- no sexual assault • <i>Smith</i> (1998) – no rape/male victim
W _d W _v	<p>Liberated (n=14)</p> <ul style="list-style-type: none"> • <i>Franklin</i> (1983) – 15 year old girl • <i>Morris</i> (1992) – 2 year old; no aggravators found • <i>Joyner</i> (1991) – male murder victim/no rape • <i>Sumpter</i> (1986) – indecent liberties with a 13 year old girl • <i>Murdock</i> (1989) – post-death sexual assault to cover up murder • <i>Fisher</i> (2002) – no rape/male murder victim • <i>Harris Jr.</i> (1996) – no rape involved • <i>Prevette</i> (1986) - charge of first degree sexual offense voluntarily dismissed prior to trial • <i>Hartley</i> (2011) – 14 year old girl • <i>Lee</i> (1998) – 2 year old boy • <i>Bowman Jr.</i> (2002) – 13 year old girl • <i>Johnson</i> (1980) - 10 year old boy • <i>Ridgeway</i> (2007) – 14 year old girl • <i>Silhan</i>, (1981) – two rape victims were 14 and 17; only 14 year old was murdered. 	<p>Liberated (n=8)</p> <ul style="list-style-type: none"> • <i>Johnson</i> (1978) – 10 year old boy • <i>Chandler</i> (1996) – no sexual assault/rape • <i>Silhan</i> (1981) - two rape victims were 14 and 17; only 14 year old was murdered. • <i>Kandies</i> (1996) – 4 year old girl • <i>Steen</i> (2000) - no evidence of sexual offense • <i>Roper</i> (1991) – woman raped, man murdered • <i>Billings</i> (1998) – 12 year old girl • <i>Wilkinson</i> (1996) – sexual assaults after death

¹ Prior to the hypothesis reclassification process, “liberated” represented trials in which juries accepted 1-3 aggravating factors and thus had greater use of discretion in sentence recommendations.

² Prior to the hypothesis reclassification process, “non-liberated” represented trials in which juries accepted 4 or more aggravating factors and thus had limited used of discretion in sentence recommendations.

retried capitally and had all convictions reversed, respectively. Thus, the final sample of cases is comprised of 58 rape-involve homicide trials involving White or Black male defendants who raped (or sexually assaulted) and murdered White female victims who were at least 16 years old. In determining the boundary conditions for case requirements, I had multiple conversations with a death penalty expert to discuss how these decisions would impact the qualitative analysis (e.g., rules for reclassification) and the interpretation of the findings (i.e., coming to an agreement regarding the reclassification of hypothesis supporting, hypothesis-rejecting, hypothesis-non-supporting trials).

The unit of analysis for the qualitative analysis is the LexisNexis case narrative that provides detailed descriptions of the trial (e.g., specific circumstances, aggravating and mitigating factors). Each case narrative is available online and may be found through the LexisNexis Academic search engine by looking up a legal case, restricting the search to North Carolina, and entering search terms relevant to the case (e.g., defendant name; county). These case narratives are found in the “opinion” section of a larger document that includes information on: the defendant’s prior history; the court’s disposition; an overview and outcome of the case; a case summary and headnotes; and a proportionality review conducted by the court. Conducting the type of qualitative analysis employed in the current study requires the use of a detailed and factual record of the specific circumstances of the crime; the case narratives available in the case documents satisfy this requirement (Bienen, 1996). Descriptive summaries of the case narratives included in the qualitative analysis are presented in Appendix C.

Hard copies of the LexisNexis documents including the case narrative, some of which include highlights and handwritten notes by the coder of the file, are also available in file folders. The file folders are arranged alphabetically by county (where the sentencing took place) and

stored in file cabinets; the files are arranged in the file folders alphabetically by the defendant's last name. Each of the files include the NCCSP coding sheet (used to build the quantitative data set of 1356 cases), while some files also include: a brief handwritten summary of the case recorded by the coder of the file (different than the LexisNexis case narrative) and newspaper articles (cut out from a newspaper or printed from an online source), references to news sources, or notes about the lack of news coverage.

In addition to collecting information from newspaper articles found within the files themselves, I collected additional trial information from newspaper articles located through LexisNexis Academic, Access World News, and Google searches using the names of the defendant and the victim, the county in which the trial took place, and search terms such as "North Carolina," "death," and "murder." The search procedures involved reading all available news articles (e.g., electronic copies of actual newspapers; electronic newspapers) and identifying whether they contained information relevant to the trial. When multiple sources (e.g., online local newspapers) published identical news stories (e.g., Associated Press articles), I documented and analyzed one article and used quotes from the same article. Information collected from the newspaper articles were utilized for the purposes of triangulation in the current study (i.e., multiple sources of data containing a variety of qualitative data points are used to corroborate the findings by offering multiple ways to view and test a phenomenon) (Paternoster & Kazyaka, 1989, 1990; Denzin & Lincoln, 1994; Golafshani, 2003). The richness of data varies from case to case based on the amount and quality of materials available in each folder and found through subsequent online searches for supplementary information.

The rich, descriptive case narratives and supplementary materials related to North Carolina rape-involved capital homicide trials that are available for qualitative analysis provide

an important reminder that “statistics can inform human judgment, not substitute for it” (Latzer, 2001, p. 1234). Therefore, while the results of the regression analysis performed by Cochran et al. (2015) revealed considerable support of the ECL of lethal vengeance (i.e., Black males convicted of a rape-involved capital murder of a White female victim are substantially more likely to receive a sentence of death, especially when there are additional aggravating circumstances accepted by the jury), a qualitative analysis of the multiple dimensions of the ECL (e.g., the impact of the liberation hypothesis; the credibility of the White female victim; geographical variations in the application of the death penalty) is still needed to explore their relative influence on sentencing decisions in rape-involved capital murder trials. In the next section, I discuss my coding strategy and the impact of the ECL dimensions on the analysis.

Coding and Impact of the ECL Dimensions

As part of the reading and documentation strategy, I created a list of defined emic (i.e., derived from the data) and etic (i.e., derived from theory) codes, in which code words served as references to important observations found in the data (Seidel, 1998). Building a codebook containing detailed descriptions and examples of each emic and etic code helped organize the data in order to facilitate the reclassification process (Seidel, 1998). Coding in this sense is thus a representation of observations discovered in the data and does not guarantee that all codes will represent the same exact observation nor does it relieve the researcher of the responsibility to continuously develop the coding process (Seidel, 1998). In an effort to ensure data saturation, I continued the reading, coding, and documentation process until no new relevant information could be derived from the data that would contribute to the developing theory (Bloor & Wood, 2006; Tracy, 2013).

In developing the coding process, I did not wish to simply reproduce the codebook used for the quantitative analysis of the data set already built and utilized in Cochran et al.'s (2015) study. I constantly reminded myself that the goal of the reading and documentation process within the qualitative analysis was to use the data gathered from the case narratives and newspaper articles to provide a “comprehensive portrait of each homicide” included in the universe of cases to facilitate the hypothesis-testing and reclassification process (Paternoster & Kazyaka, 1990, p. 487). As mentioned earlier, the rich, descriptive case narratives and supplementary materials related to North Carolina rape-involved capital homicide trials that are available for an in depth qualitative analysis of the data were utilized to explore the salient circumstances of the trial that may not have been captured in the quantitative analysis (e.g., the perceived brutality of the crimes) and the relative influence of multiple ECL dimensions on sentencing decisions in rape-involved capital murder trials.

In addition, I focused on utilizing thick description within the structured reading and documentation strategy to identify and represent thematic observations in the data. Thick description, the process by which human behavior is described in context so that it becomes meaningful to an outside audience, was utilized in the current study through the documentation and presentation of verbatim transcriptions of text to give context to the thematic observations used to facilitate the reclassification process (Geertz, 1973; Strauss & Corbin, 1994). In other words, I presented meaningful descriptive data to the reader to help them understand the qualitative findings and develop their own interpretations (Patton, 1990). When different articles used the same passage of text, I used a single source to document the quote. This descriptive data is included in each of the results tables presented in the next chapter.

The emic coding process involved open coding the data set in which I created general categories of codes for specific passages of text to represent observations found in the data that I believed influenced jury sentencing decisions (e.g., evidence) (Seidel, 1998). Next, I carefully scrutinized the text passages to identify specific sub-codes that more accurately represented the specific observation (e.g., strength of evidence, physical, sperm/DNA, witnesses) (Seidel, 1998). Coding relevant trial information (e.g., prosecutorial misconduct; court error) that led to retrials or resentencing hearings also facilitated the examination of variation in different juries' consideration of similar trial circumstances (e.g., acceptance of different aggravating factors; recommendations of different sentences). Since some case circumstances recorded for an initial trial carried through to penalty phase retrials and resentencing hearings, passages of text and their respective codes were sometimes used for more than one trial (e.g., in cases where the case description remained the same). A list of emic category and subcategory codes, including definitions and examples, is presented in Table 6a.

The creation of etic codes was influenced by the multiple dimensions of the ECL as described in the review of the literature: 1) consideration of the liberation hypothesis (i.e., trials where there is greater ambiguity in what constitutes a fair sentence based on the facts of the case); and 2) the credibility of the White female victim (e.g., drug use, engaging in risky behavior). These dimensions were carefully considered in the comprehensive reading and analysis of each of the rape-involved capital homicide case narratives and newspaper articles in the data set to aid in the interpretation of the findings and subsequent re-sorting (i.e., reclassifying) of the hypothesis-supporting, hypothesis-non-supporting, and hypothesis-rejecting cases. A list of etic category and subcategory codes, including definitions and examples, is

Table 6a. Emic Category Codes, Emic Subcategory Codes, Definitions, and Examples.

Emic Category Codes	Emic Subcategory Codes	Definitions	Examples
Defendant Background	Childhood	The defendant had an abusive/traumatic childhood.	“They moved to North Carolina and defendant's parents divorced. Defendant's father later shot his mother, for which defendant blamed himself. Defendant once took an overdose of pills and once cut his wrists.” (LNA, 1994, p. 11)
	Instability	The defendant had an unstable lifestyle (e.g. family, employment, relationships).	“Defendant dropped out of school and took a job washing dishes...Defendant got a job and a place to live, but he often lost his wallet and keys. Defendant's friends were younger and used drugs and alcohol.” (LNA, 1994, p. 11)
	Alcohol/Drugs	The defendant used, abused, and/or was dependent on drugs and/or alcohol.	“Defendant has a history of substance abuse, especially crack cocaine and alcohol.” (LNA, 1994, p. 5)
	Personality Disorders	The defendant had a personality disorder(s).	“Dr. James Hilkey, an expert forensic psychologist, testified that defendant has a cognitive disorder and personality disorder with features of a schizotypal personality disorder and a dependent personality disorder.” (LNA, 2010, p. 9)
	Mental disorders	The defendant had a mental disorder(s).	“Dr. Bob Rollins, a forensic psychiatrist, testified that defendant suffered from mental disorders and that he was under the influence of these disorders at the time of the crime. The disorders impaired his ability to understand and conform to appropriate standards of behavior.” (LNA, 1995, p. 10)
Evidence	Strength of Evidence	Was the evidence overwhelming against the defendant or circumstantial/conflicting?	“This is so because evidence of this defendant's guilt was overwhelming. A ring identified as one previously worn by defendant was found in the body of Ms. Chalflinch...” (LNA, 1982, p. 11)
	Physical	Was there physical evidence linking the defendant to the crime?	“A bloody palm print lifted from the bedroom wall of the apartment was unquestionably identified as being that of the defendant.” (LNA, 1982, p. 11)
	Sperm/DNA	Was the defendant's sperm/DNA found in/on the victim or at the scene?	“A DNA analysis of semen and spermatozoa samples taken from the victim's body matched the DNA profile for defendant.” (LNA, 1998, p. 10)
	Witnesses	Were there witnesses to the crime who positively identified the defendant?	“Thereafter, several eyewitnesses saw defendant beating the victim and then saw the victim get into defendant's car. The eyewitnesses reported the incident along with the car's license plate number to police.” (LNA, 1981, p. 1)

Table 6a (Continued). Emic Category Codes, Emic Subcategory Codes, Definitions, and Examples.

Emic Category Codes	Emic Subcategory Codes	Definitions	Examples
Mitigation	Number	How many mitigators were submitted/accepted by the jury?	“We note that the jury found circumstances (4), (8), (11), (13) and (17) to exist and to have mitigating value.” (LNA, 25, 2000)
	Type	What type of mitigators were submitted/accepted by the jury? (see Appendix C)	“The jury found two mitigating circumstances: (1) defendant had no significant history of prior criminal activity and (2) another unnamed circumstance which the jury deemed to have mitigating value. The jury did not find defendant's age at the time of the commission of the crimes to be a mitigating circumstance.” (LNA, 1981, p. 14)
	Saliency	The coder’s subjective interpretation of how each mitigator might weigh on the jury’s decision.	“This analysis demonstrates that juries in North Carolina almost never recommend the death penalty after they determine that at the time of the crime the defendant was either under the influence of mental or emotional disturbance or that his capacity to appreciate the criminality of his conduct and to conform his conduct to law was impaired.” (LNA, 1981, p. 26)
Trial information	Retrial/ Resentencing hearing	The original trial resulted in a conviction being overturned or a death sentence being vacated.	“In the present case, within an hour after the jury returned its guilty verdict, the trial court determined that it must remove juror eleven; and the basis was clearly juror misconduct during deliberations.” (LNA, 2001, p. 4)
	Court error	The trial court committed error (e.g., jury instructions, unrecorded bench conferences)	“The potential prejudice from improper instructions on this mitigating factor is considerable because the factor is statutory and, therefore, deemed to have mitigating value.” (LNA, 1991, p. 18)
	Others involved	Other men were involved in the rape/and or murder.	“As defendant held the victim down, Sanderlin began pricking the victim in the side with a pocket knife, asking her, "Are you going to give me what I want?" and "If you don't give me what I want, I will kill you." Sanderlin then began to rape the victim from behind.” (LNA, 2010, p. 8)
	Transactionally joined offenses	Multiple crimes were joined into one trial.	“The state, therefore, produced sufficient evidence that the elements of violence and taking were part of "one continuing transaction with the elements of violence and of taking so joined in time and circumstances with the taking as to be inseparable." (LNA, 1986, p. 7)
	Prosecutorial/ officer misconduct	The prosecutors of officers involved engaged in misconduct leading up to or during the trial.	“I don't think it gets much worse than perjury by an officer of the law,” Goldsmith said.” (NewsObserver.com, 2008)
	Pre-trial publicity	The trial garnered a great deal of pre-trial publicity due to the nature of the crime and/or the individuals involved.	“The case attracted widespread attention because of the crime’s brutality and because Lee was white and Sanders is black.” (Associated Press, 1999)
	Vacated/ Commuted/ Exonerated	The defendant’s sentence was vacated, commuted, or led to an exoneration after evidence proved his innocence.	“For the reasons stated herein, we affirm the order of the superior court vacating defendant's death sentence and ordering a new capital sentencing hearing.” (LNA, 2005, p. 7)

presented in Table 6b. A more detailed explanation of the ECL dimensions and how they impacted qualitative analysis is presented below.

With respect to the first ECL dimension, evidence suggests that the largest racial disparity is seen in death penalty cases involving “mid-level aggravation as determined by measures of culpability” (e.g., number of aggravators accepted by a jury in capital sentencing trials) (Applegate et al., 1993; Baldus et al., 1990; Devine et al., 2009; Johnson, 2003; Kalven & Zeisel, 1966; Kavanaugh-Earl et al., 2010, p. 158; Sorenson & Wallace, 1995). Jury discretion in the recommendation of life or death is less flexible at each end of the “culpability spectrum”: cases in which only one aggravator is accepted by the jury are much less likely to recommend a sentence of death than cases involving murder at the high end of aggravation (four or more aggravators accepted by the jury) based on the jury’s perception of what constitutes a fair sentence (Kavanaugh-Earl et al., 2010, p. 158). The empirically supported “liberation theory” suggests that cases allowing greater jury discretion in capital sentencing (i.e., there is greater ambiguity in what constitutes a fair sentence based on the facts of the case) invite “extra-legal factors such as race” to enter the decision-making process (Kavanaugh-Earl et al., 2010, p. 159; Baldus et al., 1990; 1998; 2003; Devine et al., 2009; Johnson, 2003).

As seen in Table 7, juries in liberated (i.e., greater use of discretion in sentence recommendations) W_dW_v rape-involved capital homicide trials involving one, two, or three accepted aggravators (n=29) recommended a death sentence 65% of the time, while liberated juries in B_dW_v rape-involved capital homicide trials involving one, two, or three accepted aggravators (n=15) result in a death sentence 67% of the time. Further, juries in non-liberated (i.e., limited use of discretion in sentence recommendations) W_dW_v rape-involved capital homicide trials involving four or more accepted aggravators (n=6) recommended a death

Table 6b. Etic Category Codes, Etic Subcategory Codes, Definitions, and Examples.

Etic Category Codes	Etic Subcategory Codes	Definitions	Examples
Heinous, Atrocious, or Cruel	Brutal	The coder's subjective interpretation as to whether the rape and/or murder was particularly horrendous.	"Pieces of flesh were scattered throughout the living area...Ms. Chaffinch's body had been mutilated beyond recognition, and several feet of her intestines protruded from a large wound to her abdomen." (LNA, 1982, p. 2)
	Physical torture	The defendant inflicted severe pain upon the victim for an extended period of time and/or for one's own pleasure.	"...defendant tore out the wall between the victim's vaginal and anal openings and proceeded to tear out part of the victim's colon and right kidney; when the victim attempted to crawl from the truck and fell to the ground, defendant dragged her into the woods some 120 feet on her back and left her helpless and bleeding to death." (LNA, 1992, p. 4)
	Psychological torture	The defendant caused the victim to experience extreme fear leading up to and during the rape and/or murder.	"Suzi Holliman was scratching on the closed trunk lid while her shallow grave was being dug, just before she was raped and strangled." (Herald Journal, 1998)
	Multiple rape victims	The crime involved multiple rape victims.	"Two women giving their bodies, raped, and raped. And then ...murdered in a most vile way..." (LNA, 1995, p. 35)
	Multiple murder victims	The crime involved multiple murder victims.	"All three Eastburns' throats had been slit." (The New Yorker, 2011)
	Injuries	The number and extent (e.g., severity) of the injuries sustained by the victim.	"...bruising over her head, neck, left arm, shoulder, chest and buttocks; and a broken tooth...areas of hemorrhage around the brain, swelling and bruising of the brain, sixteen separate fractures to ten different ribs, and small tears in the inner lining of the chest." (LNA, 2000, p. 11)
	Photographs	Use of photographs to graphically display the circumstances of the crime.	"Several jurors averted their eyes for brief moments as the graphically detailed photos plainly showed the elderly woman, fully conscious and looking at the camera with a gaping, bloody wound in her neck." (The Daily Herald, 2000)
	Begged for life	The victim begged the defendant to spare her life.	"Amelia called out numerous times to defendant, "please don't kill me, I will do anything if you don't kill me." (LNA, 1994, p. 21)
	Teenage victim	The victim was between the ages of 16 (age of consent in North Carolina) and 19.	"Finally, the sexual assault of the sixteen-year-old victim as well as the mutilation of her body render this murder particularly dehumanizing." (LNA, 1997, p. 17)
	Elderly victim	The victim was at least 65 years old (age in a senior citizen in North Carolina).	"The murders of Bennett and Strickland – both 86 years old, widows and grandmothers – shook the community..." (News & Record, 1991)
Calculated planning	The defendant carefully planned the rape and/or murder.	"Likewise, the defendant's crime was one of cold calculation wherein he repeatedly sought to abduct, sexually assault, and then murder female Appalachian State University students." (LNA, 1994, p. 31)	
Body found nude	The victim's body was found nude.	"...her body was found nude from the waist down and taped to a tree." (LNA, 1998, p. 2)	

Table 6b (Continued). Etic Category Codes, Etic Subcategory Codes, Definitions, and Examples.

Etic Category Codes	Etic Subcategory Codes	Definitions	Examples
Cause of death	Strangulation Shot Stabbed Bludgeoned Murder weapon	The victim was strangled to death. The victim was shot to death. The victim was stabbed to death. The victim was bludgeoned to death. What was the murder weapon? (e.g., axe, knife, handgun, shotgun, rock, brick, bare hands)	"...there were signs of both manual and ligature strangulation which was determined to be the cause of death." (LNA, 1996, p. 5) "He stated that the victim had four gunshot wounds to the head and scratches consistent with drag marks on the back of her body." (LNA, 1997, p. 5) "She was standing up when I first stabbed her and I stabbed her some more after she fell – I stabbed her until she quit moving." (LNA, 1983, p. 1) "...Mrs. Baldwin died of blunt-force trauma to the head." (LNA, 1996, p. 5) "...screaming in the ditch after being strangled and then blown away in the chest with a shotgun." (LNA, 1995, p. 35)
Rape	Multiple rapes Attempted rape Use of foreign objects	The victim was raped multiple times. The defendant attempted to rape the victim but did not complete the rape. The defendant sexually assaulted the victim with foreign objects.	"Bobbie Jean Hartwig, raped and raped, strangled, thrown in a ditch..." (LNA, 1995, p. 35) "...beating Coltrane and cutting her throat with a serrated ham knife during an attempted rape." (News & Record, 2002) "...while the one hundred year old victim was lying helpless on the floor, he forced a mop handle into her vagina." (LNA, 1983, p. 13)
Additional Charges	Type of additional charge	Leading up to, during, or after the rape-involved murder, the defendant was also engaged in a: <ul style="list-style-type: none"> a) Robbery b) Burglary c) Kidnapping d) Arson e) Larceny 	"There was no merit to defendant's contention that the State produced insufficient evidence to support his conviction for robbery with a dangerous weapon where there was direct evidence that a .410 shotgun and other property was taken from the victim's residence and that the .410 shotgun was used to kill the victim." (LNA, 1986, p. 3) "the court directed that with respect to one of the first-degree burglary counts, it would instead proceed on a charge of second-degree burglary based upon the evidence that at the time defendant entered the Hudsons' apartment, all victims were deceased." (LNA, 1996, p. 8) "...defendant kidnapped the victim from a parking lot, forced her to drive to a secluded location, brutally raped her, and stabbed her several times, killing her." (LNA, 1996, p. 7) "Dr. Butts noted that there was a considerable degree of burning on her body." (LNA, 1997, p. 5) "...this case involved a triple murder, multiple convictions of serious sexual offenses, and multiple convictions of burglary and larceny." (LNA, 1996, p. 24)

Table 6b (Continued). Etic Category Codes, Etic Subcategory Codes, Definitions, and Examples.

Etic Category Codes	Etic Subcategory Codes	Definitions	Examples
Aggravators	Number	How many aggravators were submitted/accepted by the jury?	“The jury found three aggravating circumstances in the present case. The record fully supports these findings.” (LNA, 1998, p. 13)
	Type	What type of aggravators were submitted/accepted by the jury? (see Appendix B)	“...the jury found as aggravating circumstances that the murder was committed while defendant was engaged in committing the felony of rape, that the murder was especially heinous, atrocious, or cruel, and that the murder was part of a course of conduct which included the commission by defendant of other crimes of violence against another person.” (LNA, 1998, p. 6)
	Salience	The coder’s subjective interpretation of how each aggravator might weigh on the jury’s decision.	“...references to the pitiless and dehumanizing manner of the murder. The acts depicted highlight the excessive brutality and cruelty of the killing.” (LNA, 1995, p. 19)
Victim Credibility	Nontraditional victim	The victim engaged in disreputable acts or was not considered a “chaste” white female.	“He and other supporters maintain her death was one of a number of homicides of gays and lesbians during the 1980s in Southeastern North Carolina, targeted for their sexuality.” (Star News, 2008)
	Drug use	The victim had bought and/or used drugs.	“Ramseur and Walker knew defendant, and the three formerly smoked crack together.” (LNA, 1995, p. 5)
	Well-liked/respected	The victim had established a positive presence in the community.	“Karen had a ‘powerful symbolic presence’ in her community.” (Mountain Xpress, 2000)
	Community outrage	The crime outraged the community in which it took place.	“The murders of Bennett and Strickland – both 86 years old, widows and grandmothers – shook the community, especially at First Baptist Church, where the women were longtime members and volunteers.” (News & Record, 1991)
Racial Issues	Claims of racial bias	The defendant claimed that the events leading up to and/or during the trial were tainted with racial bias.	“A juror in the case failed to disclose his own mother had been murdered and sexually assaulted. They say the same juror used a racial epithet to describe Rouse and expressed racist attitudes.” (Associated Press, 2004)
	Peremptory strikes against jurors	The defendant claimed the prosecution unfairly used peremptory strikes against black jurors.	“...he was convicted by an all-white jury after the prosecutor removed five blacks from the jury pool by using peremptory strikes, that is, the right to exclude individuals deemed unsuitable without giving a reason.” (Amnesty International, 2000)
	Jury composition	An all-white or nearly all-white jury.	“In his petition, Mr. Rouse highlighted that he is black, his victim white and he was convicted by an all-white jury.” (Wall Street Journal, 2010)

Table 7. Death Sentence Recommendations across B_dW_v and W_dW_v trials by Total Number of Aggravators Accepted (n=58).

Total Number of Aggravators Accepted	B _d W _v Death Sentence	W _d W _v Death Sentence
1-3 (Liberated)	10 (n=15) [67%]	19 (n=29) [65%]
4-9 (Non-liberated)	6 (n=8) [75%]	6 (n=6) [100%]

sentence 100% of the time, while non-liberated B_dW_v rape-involved capital homicide trials involving four or more accepted aggravators (n=8) recommended a death sentence 75% of the time. However, the employment of the qualitative analysis emphasizes the importance of investigating the salient circumstances of these trials (e.g., the perceived brutality of the crimes) in determining the level of jury discretion (i.e., liberation) in sentencing recommendations beyond just the consideration of how many aggravating factors were accepted. This is examined in further detail below and throughout the chapter.

A death penalty expert quoted in a *Charlotte Observer* (2009) article related to one of the trials included in the analysis (*Sherrill, 2009*) stated that "To get a death sentence, it's got to be one of the worst murders and one of the worst defendants." Since the death penalty is supposed to be reserved for the worst offenders (e.g., exceedingly culpable in their commission of the most serious and heinous crimes) (*Roper v. Simmons, 2005*), I focused much of my analysis on the salient circumstances of the trial that reflected the perceived brutality of the rape, murder, and trial circumstances. An in depth review of the "liberated" trials provided insight into the relative weight the jury placed on different aggravators (e.g., the submission and/or acceptance of the 'especially heinous, atrocious, or cruel' aggravator [HAC]), the type of rape and/or sexual

offense committed (e.g., attempted rape, anal rape, multiple rapes), and/or the overall heinousness of the offense (e.g., physical and/or psychological torture) in their sentencing decisions across B_dW_v and W_dW_v trials. For example, a liberated B_dW_v trial (one, two, or three aggravating factors) that produced a death sentence was originally considered a *hypothesis-supporting* case. However, if this trial involved an especially brutal rape and/or murder that, for example, included the torture of a White female victim, it would have likely influenced the jury to recommend a sentence of death regardless of the race of the defendant. Such cases were reclassified as “hypothesis-non-supporting,” as they neither supported nor rejected the hypothesis.

Cases in which the jury accepted four or more aggravating factors were originally classified as *hypothesis-non-supporting* since the jury was not liberated in their sentencing decision. However, in reviewing these trials I determined that the number of aggravating factors accepted was not always as impactful on jury sentencing decisions as the salience of the aggravating factors accepted. The perceived brutality of the crimes often weighed more heavily on the jurors’ minds than the submission and/or acceptance of multiple aggravators. For example, trials initially classified as *hypothesis-non-supporting* based on the liberation hypothesis (four or more aggravating factors) could have been reclassified as *hypothesis-supporting* in B_dW_v trials that did not involve especially brutal case circumstances but still produced a death sentence. These findings, presented in detail in the next chapter, are especially interesting in trials that produced retrials and resentencing hearings (e.g., juries choosing not to accept the HAC aggravator in retrials or resentencing hearings when different juries accepted the HAC aggravator in the original trial involving the same circumstances).

The second ECL dimension is related to the credibility of the White female victim. In the antebellum South, several factors could be considered in rape cases that made female victims feel as if they were the ones on trial (Giacopassi & Wilkinson, 1985; Bardaglio, 1994; Dorr, 2000). For example, courts often considered the victim's character determined by her sexual history (unchaste women were likely to consent to sexual intercourse on subsequent occasions and lie about such behavior), her respectability in the community (often tied to her class), or delays in the report of the rape (Giacopassi & Wilkinson, 1985; Bardaglio, 1994; Dorr, 2000). Rape law in the antebellum South reflected the mistrust White men had in a woman's chastity and had a direct bearing on court decisions involving questions of consent, even in cases involving Black men charged with raping White women (Bardaglio, 1994; Giacopassi & Wilkinson, 1985). Placing the burden of proof on the rape victim (e.g., victims had to demonstrate resistance to the rape by showing defensive injuries) and calling the victim's credibility into question are courtroom practices that have continued throughout the 20th century (Bardaglio, 1994; Dorr, 2000; Giacopassi & Wilkinson, 1985). The belief of White males in the antebellum South that White females could only maintain their "status as innocent victim... as long as they followed the dictates of middle-class morality" (Dorr, 2000, p. 724) is reflected by contemporary juries who assume that "nice girls don't get raped and bad girls shouldn't complain" (Giacopassi & Wilkinson, 1985, p. 370).

Throughout the reclassification process, I also considered the credibility of the White female victims in the rape-involved homicide trials. In addition to reviewing the demographic information available in the NCCSP data set (e.g., "the victim was involved in some type of illegal activity that somehow contributed to the incident in which they were murdered"; "the victim was a voluntary participant in events leading to the murder or consented to the offense"), I

also sought out information in the case narratives and newspaper articles that referenced the victim's illicit behavior (e.g., sexual relationships with the defendant; drug use). Trials involving a disreputable White female victim were automatically reclassified as *hypothesis-non-supporting* since they did not represent the traditional White female victim (e.g., chaste). In other words, these trials did not directly support or reject the hypothesis (n=6).

Analytic Plan

Since qualitative hypothesis testing is rarely employed in the social sciences, I utilized an analytic induction approach (Ratcliffe, 1994; Robinson, 1951; Znaniecki, 1934) to provide a framework for the reclassification of *hypothesis-supporting*, *hypothesis-rejecting*, and *hypothesis-non-supporting* trials. The process of analytic induction utilized in the current study can be summarized in six steps:

Step 1: A phenomenon is defined in a tentative manner - the enduring effects of a cultural legacy of Black oppression (e.g., slavery; segregation; lynching) and historic and systemic racial discrimination in the criminal justice system have persisted to the present day, especially with regard to capital trials of rape-involved homicides committed by Black men against White women.

Step 2: A hypothesis is developed about it - juries in rape-involved capital murder trials in North Carolina are more likely to recommend a sentence of death when the defendant is a Black male and the victim is a White female compared to White male defendants and White female victims (while accounting for other trial circumstances).

Step 3: A single instance is considered to determine if the hypothesis is confirmed – I began my analysis with B_dW_v trials with liberated juries that produced death sentences to see if there was initial support for the hypothesis. The first case included in the analysis was

STATE OF NORTH CAROLINA v. MARTIN RICHARDSON (1996). This case showed support for the hypothesis: Martin, a Black male convicted of raping and murdering a White female, was sentenced to death by an all-White jury despite the presence of numerous mitigating circumstances and trial circumstances that may have not been so brutal as to justify a sentence of death.

Step 4: If the hypothesis fails to be confirmed either the phenomenon is redefined or the hypothesis is revised so as to include the instance examined - prior to my review of STATE OF NORTH CAROLINA v. MARTIN RICHARDSON (1996), the first three trials I reviewed were excluded from the analysis (there was no rape involved in the first two trials; the third trial was excluded because there was no rape aggravator, no witnesses, no DNA testing, an overturned verdict and sentence, and a general lack of information related to the rape and trial circumstances). Reviewing these trials that were eventually excluded from the analysis helped facilitate the boundary conditions for case requirements.

Step 5: Additional cases are examined and, if the new hypothesis is repeatedly confirmed, some degree of certainty about the hypothesis results - I continued my analysis with B_dW_v trials with liberated juries that produced death sentences since I would likely find support for the hypothesis in these trials and could build a degree of certainty about the hypothesis results. I found support for the hypothesis in 7 out of 10 of these B_dW_v trials included in the analysis. Further, I found support for the hypothesis in 6 out of 10 W_dW_v trials with liberated juries that produced life sentences. These trials were also expected to support the hypothesis.

Step 6: Each negative case requires that the hypothesis be reformulated until there are no exceptions - Analytic induction emphasizes the importance of identifying cases that do not support the original hypothesis so one may develop and revise the hypothesis until it best represents the reality of the phenomenon under investigation (Robinson, 1951). In the current study, I actively sought out and reviewed disconfirming cases to explore why certain trial outcomes did not support the hypothesis. However, I anticipated through my employment of qualitative hypothesis testing that I would discover trials that completely rejected the hypothesis and thus I would not be able to reformulate the hypothesis to represent all trials in the data set (Berg, 1989; Ratcliffe, 1994; Robinson, 1951). Therefore, I approached the utilization of analytic induction as a methodological framework for the analysis and used the reclassification of *hypothesis-supporting*, *hypothesis-rejecting*, and *hypothesis-non-supporting trials* across the B_dW_v and W_dW_v trials in the data set to determine the overall level of support for the ECL hypothesis with the understanding that not all trials could be represented by a single hypothesis (this is examined in further detail in the next chapter).

In summary, the current study employed a qualitative approach to test the hypothesis that an ECL continues into the current era in which juries in rape-involved capital murder trials in North Carolina are more likely to recommend a sentence of death when the defendant is a Black male and the victim is a White female compared to White male defendants and White female victims. Within an analytic induction framework, the current study utilized qualitative hypothesis testing to critically test each of the rape-involved homicide cases in an effort to elucidate the legal (e.g., circumstances of the case) and extra-legal (e.g., race of the defendant and victim, respectively; multiple dimensions of the ECL) factors that influence death sentence

recommendations in North Carolina during this time period. The qualitative analysis involved the comprehensive reading and documentation of case narratives and newspaper articles in which I re-sorted (i.e., reclassified) the hypothesis-supporting, hypothesis-non-supporting, and hypothesis-rejecting cases while considering the influence of salient trial circumstances (e.g., the perceived brutality of the crimes) and multiple dimensions of the ECL (e.g., the liberation hypothesis, credibility of the White female victim). The following chapter focuses on steps 5 and 6 of the analytic induction process and presents the results of the qualitative analysis.

Chapter Four

Results

The original hypothesis classification for each trial in the data set was based on the recommended sentence, the number of aggravators accepted (based on the liberation hypothesis, juries that accepted one, two, or three aggravators were considered liberated, while juries that accepted four or more aggravators were considered non-liberated), and the race of the defendant and victim, respectively (see Table 8). The original hypothesis classifications were determined as follows:

Hypothesis-supporting: Trials involving a Black defendant, a White female victim, a liberated jury, and a death sentence.

Hypothesis-supporting: Trials involving a White defendant, a White female victim, a liberated jury, and a life sentence.

Hypothesis-rejecting: Trials involving a Black defendant, a White female victim, a liberated or non-liberated jury, and a life sentence.

Hypothesis-rejecting: Trials involving a White defendant, a White female victim, a liberated jury, and a death sentence.

Hypothesis-non-supporting: Trials involving a Black defendant, a White female victim, a non-liberated jury, and a death sentence.

Hypothesis-non-supporting: Trials involving a White defendant, a White female victim, a non-liberated jury, and a death sentence.

The findings in Table 8 do not show initial support for the enduring cultural legacy (ECL) hypothesis. Out of the 58 rape-involved capital murder trials involving White female victims and Black or White male defendants, 20 (34.5%) show support for the hypothesis, while 26 (44.8%) reject the hypothesis, and 12 (20.7%) do not support the hypothesis. As mentioned

Table 8. Initial Hypothesis Classifications (n=58).

	Hypothesis-Supporting n=20 (34.5%)	Hypothesis-Rejecting n=26 (44.8%)	Hypothesis-Non-Supporting n=12 (20.7%)
B_dW_v	n=10 (17.2%) (Death)	n=7 (12.1%) (Life)	n=6 (10.3%) (Non-Liberated Death)
W_dW_v	n=10 (17.2%) (Life)	n=19 (32.8%) (Death)	n=6 (10.3%) (Non-Liberated Death)

earlier, these findings that only rely on the number of the aggravating factors accepted and the race of the defendant and victim, respectively, do not fully represent the explanatory power of the ECL hypothesis. In turn, the qualitative analysis involved the comprehensive reading and documentation of case narratives and newspaper articles in which I re-sorted (i.e., reclassified) the hypothesis-supporting, hypothesis-non-supporting, and hypothesis-rejecting cases to reflect the salient circumstances of the trial (e.g., the perceived brutality of the crimes committed) while also considering the influence of multiple dimensions of the ECL (e.g., the liberation hypothesis; credibility of the White female victim). I had multiple conversations with a death penalty expert to discuss the qualitative analysis (e.g., rules for reclassification) and the interpretation of the findings (i.e., coming to an agreement regarding the reclassification of hypothesis supporting, hypothesis-rejecting, hypothesis-non-supporting trials) so I was able to consider issues of subjectivity and context (i.e., ensuring my interpretations of the data were not arbitrary) and increase confidence in the findings. The hypothesis reclassifications are summarized in Table 9 and are broken down further across each potential case outcome (remains *hypothesis-supporting*, reclassified *hypothesis-supporting*, remains *hypothesis-rejecting*, reclassified *hypothesis-rejecting*, remains *hypothesis-non-supporting*, reclassified *hypothesis-non-supporting*).

Table 9. Hypothesis Reclassifications (n=58).

	Hypothesis-Supporting n=14 (24.1%)	Hypothesis-Rejecting n=11 (19%)	Hypothesis-Non-Supporting n=33 (57%)
B_dW_v	n=8 (13.8%) (Death) Remains HS (n=7) Reclassified HS(n=1)	n=4 (6.9%) (Life) Remains HR (n=4) Reclassified HR (n=0)	n=11 (19%) Remains HNS (n=5) Reclassified HNS (n=6)
W_dW_v	n=6 (10.3%) (Life) Remains HS(n=6) Reclassified HS(n=0)	n=7 (12.1%) (Death) Remains HR (n=6) Reclassified HR (n=1)	n=22 (38%) Remains HNS (n=5) Reclassified HNS (n=17)

The findings in Table 9 demonstrate that support for the ECL hypothesis remained weak after the final sample of trials had been reclassified (n=58). Out of the 58 rape-involved capital murder trials involving White female victims and Black or White male defendants, 14 (24.1%) show support for the hypothesis, while 11 (19%) reject the hypothesis, and 33 (57%) do not support the hypothesis. The reason that the number of hypothesis-non-supporting trials increased is mostly due to my discovery of especially brutal trial circumstances during the qualitative analysis that led me to conclude that most juries would recommend sentences of death in these trials regardless of the race of the defendant. Therefore, these trials neither supported nor rejected the hypothesis and again illustrate the importance of considering the salience of the trial circumstances (e.g., perceived brutality) compared to the number of accepted aggravating circumstances alone. Further, several trials (n=6) involved non-traditional female victims (e.g., engaged in drug use) who would not be protected by the ECL and thus were hypothesis-non-supportive.

Table 10. Acceptance of the HAC Aggravator across Hypothesis Reclassifications (n=58).

	HAC Aggravator accepted in Hypothesis- Supporting Trials n=10 (71%)	HAC Aggravator accepted in Hypothesis- Rejecting Trials n=5 (45%)	HAC Aggravator accepted in Hypothesis- Non-Supporting Trials n=25 (76%)
B_dW_v	n=6 (75%) Remains HS: n=6 Reclassified HS: n=0	n=3 (75%) Remains HR: n=3	n=8 (73%) Remains HNS: n=5 Reclassified HNS: n=3
W_dW_v	n=4 (67%) Remains HS: n=4	n=2 (29%) Remains HR: n=2 Reclassified HR: n=0	n=17 (77%) Remains HNS: n=4 Reclassified HNS: n=13

The findings in Table 10 demonstrate that the HAC aggravator was accepted in 71% of the trials that supported the hypothesis. In other words, 6 out of the 7 (86%) liberated juries in B_dW_v trials that recommended death sentences when the circumstances of the crimes committed were not perceived to be so brutal as to justify the imposition of the death penalty also accepted the HAC aggravator. In addition, 4 out of the 6 (67%) liberated juries in W_dW_v trials that recommended life sentences when the circumstances of the crimes committed were perceived to be brutal enough to justify the imposition of the death penalty also accepted the HAC aggravator. Further, 3 out of the 4 (75%) liberated juries in B_dW_v trials that recommended life sentences when the circumstances of the crimes committed were perceived to be brutal enough to justify the imposition of the death penalty also accepted the HAC aggravator, while only 2 out of the 6 (29%) liberated juries in W_dW_v trials that recommended death sentences when the circumstances of the crimes committed were not perceived to be so brutal as to justify the imposition of the death penalty accepted the HAC aggravator. These findings suggest two main points: 1) capital juries in North Carolina may be more likely to accept the HAC aggravator in B_dW_v rape-

involved homicide trials (compared to W_dW_v rape-involved homicide trials) when the circumstances of the trial are not perceived to be especially brutal; and 2) North Carolina capital juries that accept the HAC aggravator may not be influenced by the race of the defendant when recommending a sentence of life in rape-involved homicide trials involving especially brutal circumstances. In addition, the HAC aggravator was accepted in 25 out of the 33 (76%) trials involving non-liberated juries, suggesting that the majority of North Carolina juries in rape-involved capital homicide trials will accept the HAC aggravator in trials perceived to involve especially brutal circumstances.

Within the analytic induction process, I started at the core of the data set with trials most likely to support the hypothesis (e.g., B_dW_v trials with liberated juries that recommended death sentences, W_dW_v trials with liberated juries that recommended life sentences) before moving on to trials most likely to reject the hypothesis (e.g., B_dW_v trials with liberated or non-liberated juries that recommended life sentences, W_dW_v trials with liberated juries that recommended death sentences) or fail to support the hypothesis (e.g., B_dW_v or W_dW_v trials with non-liberated juries that recommended death sentences). I proceeded with the analytic induction process in this manner so I could build an initial degree of certainty about the hypothesis results (Stage 5) and then systematically and sensibly develop a constantly evolving hypothesis that considered all exceptions to the original hypothesis and best represented the entire data set when the qualitative analysis was completed. The original hypothesis in the current study was that juries in rape-involved capital murder trials in North Carolina are more likely to recommend a sentence of death when the defendant is a Black male and the victim is a White female compared to White male defendants and White female victims. Within each summary and related interpretations of individual table findings presented below (Table 11a – 11g), I explain how the hypothesis

evolved throughout the analytic induction process. The order of the trials presented within each table is the order in which I originally reviewed them and is based on the number of aggravating factors accepted by each respective jury within each table.

For all B_dW_v trials with liberated juries that recommended a death sentence (n=17), 7 supported the hypothesis, 0 rejected the hypothesis, 3 failed to support the hypothesis, and 7 were excluded (see Table 11a). Analysis of these trials offered some degree of certainty that the data supported the hypothesis. Observed themes within these trials that offer support for the hypothesis are related to: the racial composition of the jury (e.g., all-White or nearly all-White); the acceptance of the HAC aggravator in trials that did not appear to be especially heinous, atrocious or cruel; mitigating circumstances (e.g., the defendant's mental and/or emotional problems, the defendant's traumatic childhood or dysfunctional family background) which often appeared to outweigh the accepted aggravating factors; and concerns about the fairness of the trial due to prosecutorial misconduct, conflicting testimony, and circumstantial evidence. Only three trials failed to support the hypothesis due to the fact that the perceived brutality of the crime (e.g., injuries sustained by the victim during the rape and/or murder) would likely influence a jury to recommend a sentence of death regardless of the race of the defendant. Thus the original hypothesis was modified to consider this evidence (Step 6 of the analytic induction process): juries in rape-involved capital murder trials in North Carolina are more likely to recommend a sentence of death when the defendant is a Black male and the victim is a White female compared to White male defendants and White female victims *only when the circumstances of the trial are not perceived to be especially brutal*.

For all W_dW_v trials with liberated juries that recommended a life sentence (n=24), 6 supported the hypothesis, 0 rejected the hypothesis, 4 failed to support the hypothesis, and 14

Table 11a. Results of Qualitative Analysis: B_dW_v, Death Penalty, Liberated Jury (n=17).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Brown, David (Black)	Chalfinch, Christina (White) Chalfinch, Shelly (White)	Death (Death sentence recommended for each of the two murder convictions)	Union (Piedmont Region) [Moved from Moore County due to pretrial publicity.]	2 aggravators accepted: #9: Heinous, atrocious, or cruel #11: Course of conduct (other crimes of violence against another person or persons) “...the bodies of Ms. Chalfinch and her daughter were found in a mutilated condition in the Chalfinch apartment. Police officers who entered the apartment saw blood on the floors and walls of the apartment. Pieces of flesh were scattered throughout the living area of the apartment. Small pieces of furniture had been overturned and several chairs were broken. It was hot in the apartment and the bodies had already begun to decompose. Ms. Chalfinch's body had been mutilated beyond recognition, and several feet of her intestines protruded from a large wound to her abdomen. Christina's body also bore multiple stab wounds and a brown electrical cord had been wrapped around her neck.” (LNA, 1982, p. 2) “An autopsy performed on the body of Ms. Chalfinch revealed approximately 100 stab and cut wounds all over her body. At least 20 of these wounds were to the facial area, 12 were in the neck area, and 16 stab wounds on the right arm appeared to be defensive in nature. In addition to the numerous wounds to the chest and shoulder area, a large gaping cut extended down the left leg from buttock to ankle and a V-shaped penetrating stab wound in the vaginal and rectal area created a virtual hole in the body.” (LNA, 1982, p. 2)	<i>Hypothesis-supporting</i> B _d W _v , liberated jury (Death) <i>Hypothesis-supporting</i> All white jury; prosecutorial misconduct. <i>Hypothesis-non-supporting</i> 2 victims (mother and 9 year old daughter); mutilation; overwhelming evidence against defendant. “The record before us reveals two of the most bloodthirsty and brutal crimes which have ever been reviewed by this Court.” (LNA, 1982, p. 20). The extreme brutality exhibited in this case would likely lead the jury to recommend a death sentence regardless of the race of the defendant. Excluded from analysis There was no rape involved in the murders.	LexisNexis Academic: 306 N.C. 151; 293 S.E.2d 569 1982 N.C. Lexis 1447

Table 11a (Continued). Results of Qualitative Analysis: B_dW_v, Death Penalty, Liberated Jury (n=17).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Chapman, Glenn (Black)	Ramseur, Betty (White) Conley, Tenene (Black)	Death	Catawba (Western Region)	<p>2 aggravators accepted: #3: Previous violent felony #11: Course of conduct (other crimes of violence against another person or persons)</p> <p>“Ramseur’s badly decomposed, naked body was found under the house” (LNA, 1995, p. 5)</p> <p>“told her he had just killed Chris Walker’s girlfriend by cracking her in the head with a brick” (LNA, 1995, p. 5)</p> <p>“set the house on fire to hide the evidence” (Death Watch, 2007)</p> <p>“...defendant knew both and had smoked crack with each” (LNA, 1995, p. 4)</p> <p>“...the victims here were vulnerable in that they were women who engaged in the high-risk lifestyle of regular drug use” (LNA, 1995, p. 4)</p> <p>“Conley was a young black female who used crack cocaine daily and paid for her habit through prostitution.” (LNA, 1995, p. 4)</p> <p>“Ramseur and Walker knew defendant, and the three formerly smoked crack together. Ramseur was on probation...” (LNA, 1995, p. 5)</p>	<p><i>Hypothesis-supporting</i> B_dW_v, liberated jury (Death)</p> <p><i>Hypothesis-supporting</i> Weak evidence; joinder of two murder charges; officer misconduct; lawyer incompetence</p> <p><i>Hypothesis-non-supporting</i> Victims discredited (smoked crack with defendant, prostitution)</p> <p>Excluded from analysis The victim had consensual sex with the defendant. There was no rape involved in the murders.</p>	<p>LexisNexis Academic: 342 N.C. 330; 464 S.E.2d 661; 1995 N.C. LEXIS 691</p> <p>Death Watch North Carolina (2007) https://deathwatch.wordpress.com/2007/11/08/new-trial-for-glen-chapman/</p> <p>The News & Observer (2008) http://truthinjustice.org/glen-chapman.htm</p> <p>NC Coalition for Alternatives to the Death Penalty (2015) http://nccadp.org/stories/ed-chapman/</p>

Table 11a (Continued). Results of Qualitative Analysis: B_dW_v, Death Penalty, Liberated Jury (n=17).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Monroe, Casey (Black)	Monroe, Karen (White)	Death Trial Court had unrecorded conferences with jurors at the bench. Verdict and sentence overturned. New trial ordered. Ultimately pled guilty to 2 nd degree murder.	Scotland (Eastern Region)	2 aggravators accepted: #6: Offense was for pecuniary gain #11: Course of conduct (other crimes of violence against another person or persons)	<i>Hypothesis-supporting</i> B _d W _v , liberated jury (Death) Excluded from analysis No rape aggravator, no witnesses, no DNA testing, verdict and sentence overturned, lack of information regarding rape and case circumstances.	LexisNexis Academic: 330 N.C. 846; 412 S.E.2d 652 1992 N.C. Lexis 68

Table 11a (Continued). Results of Qualitative Analysis: B_dW_v, Death Penalty, Liberated Jury (n=17).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Richardson, Martin (Black)	St. Germain, Sharon (White)	Death	Union (Piedmont Region)	<p>2 aggravators accepted: #5: Engaged in commission of robbery #9: Heinous, atrocious, or cruel</p> <p>“...the prosecutor characterized defendant as an animal...in the context of a discussion of the brutality of the injuries inflicted on the victim.” (LNA, 1996, p. 7)</p> <p>“...defendant kidnapped the victim from a parking lot, forced her to drive to a secluded location, brutally raped her, and stabbed her several times, killing her.” (LNA, 1996, p. 7)</p> <p>“It had nothing to do with race,” said the juror. “We thought it was an extremely brutal and cruel crime. It would have been the same decision if a white man had done this to a black woman.” (Charlotte Observer, 1993)</p> <p>“Race had nothing to do with this case, despite how others may dress it up as such,” said Gwyn [Assistant District Attorney]. “It’s about life and death, about a knife and knife wounds...about a mother and a daughter, parents and a daughter.” (Charlotte Observer, 1993)</p>	<p><i>Hypothesis-supporting</i> B_dW_v, liberated jury (Death)</p> <p>Final Classification: <i>Hypothesis-supporting</i> All white jury. Despite the acceptance of the HAC aggravator and the consent of the victim (which was offered under duress), the defendant: had no significant history of prior criminal activity or physically abusing anyone, was a person of good character and was well-liked in his community prior to his arrest (e.g., aided his elderly neighbors, cared for grandchildren while his parents worked, was a caring and loving brother who has always provided close companionship for his brothers and sisters), was reared by hard-working parents as one of seven children and worked to help out the family while at home, was a well-behaved and well-liked student who had no history of violence or trouble and was well-liked by his teachers in school, confessed to the crimes charged (related to an emotional need to confess involvement) and was cooperative with the police.</p>	<p>LexisNexis Academic: 342 N.C. 772; 467 S.E.2d 685 1996 N.C. Lexis 132</p> <p>Charlotte Observer (1993) http://infoweb.newsbank.com.ezproxy.lib.usf.edu/iw-search/we/InfoWeb?p_product=AWNB&p_theme=aggregated5&p_action=doc&p_docid=0EB6CB93D3E775A7&p_docnum=1&p_queryname=7</p>

Table 11a (Continued). Results of Qualitative Analysis: B_dW_v, Death Penalty, Liberated Jury (n=17).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Roseboro, Christopher (Black) Co-defendant involved in felonious larceny	Edwards, Martha (White)	Death Death sentence vacated based on McKoy error; new sentencing proceeding ordered.	Gaston (Piedmont Region)	2 aggravators accepted: #5: Engaged in commission of rape #5: Engaged in commission of burglary “In the pathologist’s opinion, because of the small amount of blood present in the vagina, the victim died just before she was raped or just after the rape began.” (LNA, 1996, p. 5) “In his closing argument, the prosecutor argued that if the victim was dead before the rape occurred, she had not been dead longer than five minutes.” (LNA, 1996, p. 8)	<i>Hypothesis-supporting</i> B _d W _v , liberated jury (Death) Excluded from analysis There is reasonable doubt that the sexual assault occurred before the victim was deceased.	LexisNexis Academic: 344 N.C. 364; 474 S.E.2d 314 1996 N.C. Lexis 484
Roseboro, Christopher (Black) Co-defendant involved in felonious larceny	Edwards, Martha (White)	Death Co-defendant sentenced to life in prison.	Gaston (Piedmont Region)	2 aggravators accepted: #5: Engaged in commission of burglary #5: Engaged in commission of rape (multiple submission of #5 aggravator with overlapping evidence) “Defendant maintained that at the time he raped the victim, she was already dead.” (LNA, 1999, p. 5) “Further, based on the small amount of blood around the vaginal area, the victim was either dying or dead at the time she was raped.” (LNA, 1999, p. 5) “Moreover, defendant sexually assaulted an elderly woman while she was dead or in her “last breath of life” in her home in her own bed.” (LNA, 1999, p. 14)	<i>Hypothesis-supporting</i> B _d W _v , liberated jury (Death) Excluded from analysis There is reasonable doubt that the sexual assault occurred before the victim was deceased.	LexisNexis Academic: 351 N.C. 536; 528 S.E.2d 1 1999 N.C. Lexis 352 The Associated Press State & Local Wire (2002) http://www.lexisnexis.com.ezproxy.lib.usf.edu/hottopics/Inacademic/

Table 11a (Continued). Results of Qualitative Analysis: B_dW_v, Death Penalty, Liberated Jury (n=17).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Rouse, Kenneth (Black)	Broadway, Hazel (White)	Death	Randolph (Piedmont Region)	<p>2 aggravators accepted: #5: Attempted rape #9: Heinous, atrocious, or cruel</p> <p>“The defendant stabbed Hazel Broadway at least seventeen times. After the final stab the butcher knife remained in Broadway’s neck up to the handle. She had numerous bruises and several veins and arteries were severed. She suffered for fifteen minutes in this condition. Hazel Broadway was found lying in a pool of her blood. She lost one-half of her blood before dying.” (LNA, 1994, p. 18)</p> <p>“In his petition, Mr. Rouse highlighted that he is black, his victim white and he was convicted by an all-white jury.” (Wall Street Journal, 2010)</p> <p>“A juror in the case failed to disclose that his own mother had been murdered and sexually assaulted. They say the same juror used a racial epithet to describe Rouse and expressed racist attitudes. Rouse is black and his victim was white, as was the juror.” (Associated Press, 2004)</p> <p>“Baynard [juror] said he believed that ‘blacks do not care about living as much as whites do’ and that ‘black men rape white women so they can brag about it to their friends.’ He also referred to African-Americans as ‘niggers.’ He told the defense investigator that one purpose of the death penalty is to rid the world of defective human beings and said Rouse was ‘one step above a moron.’ (NC Coalition, 2015)</p>	<p><i>Hypothesis-supporting</i> B_dW_v, liberated jury (Death)</p> <p>Final Classification: <i>Hypothesis-supporting</i> An all White jury recommended a sentence of death. One of the jurors later admitted his mother had been raped and murdered by a Black man and spoke of Blacks in a highly derogatory manner.</p>	<p>LexisNexis Academic: 339 N.C. 59; 451 S.E.2d 543 1994 N.C. Lexis 719</p> <p>The Associated Press State & Local Wire (2004) http://www.lexisnexis.com.ezproxy.lib.usf.edu/hottopics/lnacademic/</p> <p>The Wall Street Journal (2010) http://www.wsj.com/articles/SB10001424052748704362404575479793817782142</p> <p>NC Coalition for Alternatives to the Death Penalty (2015) http://nccadp.org/stories/kenneth-rouse/</p>

Table 11a (Continued). Results of Qualitative Analysis: B_dW_v, Death Penalty, Liberated Jury (n=17).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Sanders, Stanley (Black)	Lee, Jacqueline (White)	Death First trial. Convictions and sentences vacated based on inaccurate and inadequate transcription of the trial proceedings; new trial on all charges ordered	Transylvania (Western Region)	2 aggravators accepted: #4: Engaged in flight after committing rape #9: Heinous, atrocious, or cruel See retrial below for full details.	<i>Hypothesis-supporting</i> B _d W _v , liberated jury (Death) Final Classification: <i>Hypothesis-supporting</i> All White jury; two aggravators accepted. Despite the lack of rich information for this particular trial due to the vacated convictions and sentences, the full details gathered from the retrial suggest that the HAC aggravator was not enough to justify a reclassification to hypothesis-non-supporting.	LexisNexis Academic: 312 N.C. 318; 321 S.E.2d 836 1984 N.C. Lexis 1802 See retrial below for full details.

Table 11a (Continued). Results of Qualitative Analysis: B_dW_v, Death Penalty, Liberated Jury (n=17).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Sanders, Stanley (Black)	Lee, Jacqueline (White)	Death Second trial. New sentencing proceeding for first degree murder ordered based on <i>McKoy</i> error. A 3 rd trial, moved to McDowell county, ended in a mistrial.	Transylvania (Western Region)	2 aggravators accepted: #5: Engaged in flight after committing rape #9: Heinous, atrocious, or cruel “...the victim had been strangled, shot, and had her head bashed.” (LNA, 1990, p. 5) “...an all-white jury convicted Sanders, a black Brevard man, and sentenced him to death for the slaying of Jackie Lee.” (Associated Press, 1999) “The case attracted widespread attention because of the crime's brutality and because Lee was white and Sanders is black. Sanders' supporters say he may have been railroaded because of his race.” (Associated Press, 1999) “He appealed his initial conviction and won a new trial, but a second all-white jury put him back on death row.” (Associated Press, 1999) “I know my child, and I know she at one point must have begged for her life – and she wasn't given that chance.” (The Times News, 1990) “...the rape and murder of Jackie Lee, a popular white teenage girl who investigators concluded was choked, bludgeoned and shot...” (The Wall Street Journal, 1998) “...a local black man [said] that race relations in Brevard were ‘worse today than they were in the days following the civil rights movement.’” (The Wall Street Journal, 1998)	<i>Hypothesis-supporting</i> B _d W _v , liberated jury (Death) <i>Hypothesis-non-supporting</i> The 17-year-old girl was abducted, raped and beaten to death with a fence post. The nature of the murder (three possible causes of death: strangulation; blunt force trauma; gunshot) may have convinced the jury that the brutality of the crime was enough to justify the use of the death penalty. Final Classification: <i>Hypothesis-supporting</i> All white jury; the state's reliance on evidence obtained from a civilian; a flawed search warrant and invalid search; false and misleading testimony from a deputy; the defendant's psychiatric problems.	LexisNexis Academic: 327 N.C. 319; 395 S.E.2d 412 1990 N.C. Lexis 714 The Times News (1990) http://news.google.com/newspapers?mid=1665&date=19900901&id=i8aAAAIBAJ&sjid=zyQEAAAIBAJ&pg=6780,22262 The Wall Street Journal (1998) http://www.wsj.com/articles/SB89620358098452000 The Associated Press State & Local Wire (1999) http://www.lexisnexis.com.ezproxy.lib.usf.edu/hotspots/inacademic/

Table 11a (Continued). Results of Qualitative Analysis: B_dW_v, Death Penalty, Liberated Jury (n=17).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Thomas, James (Black)	West, Teresa (White)	Death	Wake (Piedmont Region)	<p>2 aggravators accepted: #3: Previous violent felony #5: Sex offense</p> <p>“The victim was found dead in her home, with bite marks on her breasts, her inner thighs bruised, her head covered by a pillow, and a telephone inserted inside her vagina; there were signs of both manual and ligature strangulation which was determined to be the cause of death.” (LNA, 1996, p. 5)</p> <p>“The evidence supporting defendant's conviction is summarized in this Court's prior opinion, <i>State v. Thomas</i>, 329 N.C. 423, 407 S.E.2d 141, in which we vacated defendant's death sentence for <i>McKoy</i> error and remanded the murder case for a new capital sentencing proceeding. That evidence will not be repeated here, except where necessary to discuss the issues before us.” (LNA, 1996, p. 5)</p> <p>“According to the State's evidence, the victim was alive when her breasts were bitten but probably was dead when the telephone was inserted in her vagina. Dr. Page Hudson, who examined the victim's body in his role as Chief Medical Examiner for North Carolina, testified that in his opinion, "it was somewhat more probable that she was dead than alive" when the telephone was inserted in her vagina.” (LNA, 1991, p. 8)</p>	<p><i>Hypothesis-supporting</i> B_dW_v, liberated jury (Death)</p> <p><i>Hypothesis-supporting</i> The jury accepted 24 of the 26 mitigating circumstances (including: defendant was mentally or emotionally disturbed; defendant had diminished capacity to appreciate the criminality of his conduct or conform his conduct to the law). Emotional family testimony referencing the hellish childhood of the defendant (vicious beatings by stepfathers; sexually assaulted by at least 3 family members from the time he was 5) and psychiatric problems were not enough to outweigh the perceived brutality of the crime against the victim.</p> <p>Excluded from analysis Sexual assault likely occurred after the victim was deceased.</p>	<p>LexisNexis Academic: 344 N.C. 639; 477 S.E.2d 450 1996 N.C. Lexis 516</p> <p>News & Observer (2007) http://www.lexisnexis.com.ezproxy.lib.usf.edu/hot topics/lnacademic/</p> <p>WRAL.com (2007) http://www.wral.com/news/local/story/1182895/</p>

Table 11a (Continued). Results of Qualitative Analysis: B_dW_v, Death Penalty, Liberated Jury (n=17).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Best, Norfolk (Black)	Baldwin, Gertrude (White) Baldwin, Leslie (White Male)	Death (Death sentence recommended for each of the two murder convictions)	Bladen (Eastern Region) [Trial was moved to Bladen County due to word of mouth publicity and numerous newspaper articles and editorials referencing previous charges and convictions.] [2 nd change of venue motion denied]	3 aggravators accepted: #3: Previous violent felony #6: Offense was for pecuniary gain #11: Course of conduct (other crimes of violence against another person or persons) "Mr. Baldwin died as a result of the cutting of his carotid artery, and Mrs. Baldwin died of blunt-force trauma to the head. (LNA, 1996, p. 5) "Blood spatters on the wall, bookcases, and the door to Mrs. Baldwin's bedroom supported the inference that Mr. Baldwin received his lethal wound in that location. It could be concluded from the evidence that Mr. Baldwin had the ability to comprehend during the struggle and while he was wounded that his wife might be raped." (LNA, 1996, p. 9) "The couple were well-known in the community and had operated a photography studio for many years before they retired." (Morning Star, 1997) "The people of Whiteville were shocked by the murder of the popular couple, who were frail and in failing health." (News & Observer, 2014) "Best has always professed his innocence, during police interrogation, on the witness stand, and during his 21 years on death row. 'I knew I was railroaded.'" (News & Observer, 2014) "Best came from a very different part of Whiteville. The oldest of eight children, he was raised by a single mother in a clapboard shack with an outhouse in the back yard. Best was a slow learner and didn't finish high school. As an adult, he drove long-distance truck routes and worked as a mechanic at auto shops in Whiteville." (News & Observer, 2014) "Whiteville police and the State Bureau of Investigation "targeted" Best early after learning he had done yard work for the Baldwins." (FayObserver.com, 2014)	<i>Hypothesis-supporting</i> B _d W _v , liberated jury (Death) <i>Hypothesis-non-supporting</i> Two victims, married, aged 82 and 79, murdered in a brutal manner to facilitate a robbery. The husband may have been conscious after receiving the fatal stab wound to comprehend that his wife was being raped. Final Classification: <i>Hypothesis-supporting</i> Prosecutorial misconduct; missing evidence and alibi potentially clearing defendant; two other viable suspects who may have confessed to the murders; weakness of DNA match; differences in statuses between victims and defendant within community.	LexisNexis Academic: 342 N.C. 502; 467 S.E.2d 45 1996 N.C. Lexis 7 Morning Star (1997) http://www.lexisnexis.com.ezproxy.lib.usf.edu/hottopics/lnacademic/ News & Observer (2014) http://www.newsobserver.com/2014/09/13/4144911_in-columbus-county-another-death.html?rh=1 FayObserver.com (2014) http://www.fayobserver.com/news/crime_courts/inmate-on-death-row-trying-to-get-new-trial-in/article_be94776c-6f9a-5ffa-b4b4-cc98b69fed42.html

Table 11a (Continued). Results of Qualitative Analysis: B_dW_v, Death Penalty, Liberated Jury (n=17).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Carter, Jr., Marcus (Black)	Lewis, Amelia (White)	<p>Death</p> <p>First trial (1991) declared mistrial (hung jury).</p> <p>Defendant represented himself in second trial.</p> <p>Death sentence commuted by Governor hours before scheduled execution (New York Times, 2000).</p>	Wayne (Eastern Region)	<p>3 aggravators accepted:</p> <p>#5: Engaged in commission of attempted rape</p> <p>#11: Course of conduct (other crimes of violence against another person or persons)</p> <p>#9: Heinous, atrocious, or cruel</p> <p>“Amelia Lewis was twenty years old, stood five feet tall and weighed ninety pounds.” (LNA, 1994, p. 9)</p> <p>“...defendant ripped off Amelia Lewis's pants on a cold night in December in a back alley and covered her body with abrasions and lacerations as she struggled against him. Amelia called out numerous times to defendant, “please don't kill me, I will do anything if you don't kill me.” Defendant silenced her by squeezing his hands around her neck. Amelia fought for some time, desperately trying to remove his hands, digging her nails into her own skin, to no avail. Amelia struggled for at least two minutes, with defendant's hands pressed firmly around her neck, before losing consciousness...Defendant was not satisfied with the expedience of her death, so he pounded her in the head several times with a brick. (LNA, 1994, p. 21)</p> <p>“There had been serious concerns about the fairness of Carter’s trial, both because Carter received inadequate legal representation, and because he was convicted by an all-white jury after the prosecutor removed five blacks from the jury pool by using peremptory strikes, that is, the right to exclude individuals deemed unsuitable without giving a reason.” (Amnesty International, 2000)</p>	<p><i>Hypothesis-supporting</i> B_dW_v, liberated jury (Death)</p> <p><i>Hypothesis-non-supporting</i> Frailty of victim; the defendant raped a different woman later in the same evening.</p> <p>Final Classification: <i>Hypothesis-supporting</i> All-white jury (peremptory strikes against black jurors); attempted rape of victim; issues with strength of evidence; concerns about fairness of trial; defendant’s mental issues, drug habit, and unstable family life.</p>	<p>LexisNexis Academic: 338 N.C. 569; 451 S.E.2d 157 1994 N.C. Lexis 715</p> <p>New York Times (2000) http://www.lexisnexis.com.ezproxy.lib.usf.edu/hottopics/lnacademic/</p> <p>Amnesty International (2000) http://www.amnesty.de/umleitung/2000/amr51/180</p> <p>IndyWeek.com (2000) http://www.indyweek.com/indyweek/death-watch/Content?oid=1182537</p>

Table 11a (Continued). Results of Qualitative Analysis: B_dW_v, Death Penalty, Liberated Jury (n=17).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Sexton, Michael (Black)	Crews, Kimberly (White)	Death	Wake (Piedmont Region)	<p>3 aggravators accepted: #4: Murder was committed for purposes of avoiding or preventing lawful arrest #5: Engaged in commission of robbery/rape/kidnapping #9: Heinous, atrocious, or cruel</p> <p>“A jury could reasonably infer that as the breath of life was choked out of the victim, she experienced extreme anguish and psychological terror.” (LNA, 1994, p. 31)</p> <p>“Salient characteristics of the instant case include (i) an attack on a random victim; (ii) a brutal strangulation, found by the jury to be especially heinous, atrocious, or cruel, in the course of kidnapping, rape, and sexual offense; (iii) defendant's insistence, even in the face of clear evidence to the contrary, that the victim consented to the sexual acts; (iv) defendant's insistence, notwithstanding clear evidence to the contrary, that he left the victim alive; and (iv) defendant's theft of the dead victim's personal effects and subsequent theft from her bank account.” (LNA, 1994, p. 32)</p> <p>“... testimony about the victim's general good moral character, devotion to family, and reputation for marital fidelity.” (LNA, 1994, p. 25).</p> <p>“Less than a decade later, Sexton was convicted of the August 1990 rape and murder of Kimberly Crews, a white social worker who worked at Wake Medical Center, where Sexton also worked. He was subsequently sentenced to death by a jury composed of 11 whites and one African American.” (Indyweek, 2000)</p>	<p><i>Hypothesis-supporting</i> B_dW_v, liberated jury (Death)</p> <p><i>Hypothesis-non-supporting</i> Victim was child sexual abuse counselor.</p> <p>Final Classification: <i>Hypothesis-supporting</i> Nearly all White jury (the State removed four out of the five blacks called for jury service); defendant cooperation; injuries/cause of death do not seem as brutal as other trials despite acceptance of HAC aggravator; evidence does not seem as overwhelming as other trials; defendant's unstable/chaotic family background and intellectual/ behavioral functioning issues.</p>	<p>LexisNexis Academic: 336 N.C. 321; 444 S.E.2d 879 1994 N.C. Lexis 302</p> <p>ABC News (2000) http://abcnews.go.com/US/story?id=95052</p> <p>Indyweek.com (2000) http://www.indyweek.com/indyweek/death-watch/Content?oid=1182494</p>

Table 11a (Continued). Results of Qualitative Analysis: B_dW_v, Death Penalty, Liberated Jury (n=17).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Sherrill, Michael (Black)	Dotson, Cynthia (White)	Death Awaiting a Supreme Court decision.	Mecklenburg (Piedmont Region)	3 aggravators accepted. Missing Data "Firefighters found Wilson on her bed, stabbed in the chest 13 times, the foam rubber mattress in flames around her. Police believed the killers set the fire to cover up the stabbing." (Charlotte Observer, 2005). "Her killer also raped her and set her trailer on fire." (Charlotte Observer, 2009). "Sherrill's DNA was found under Dotson's fingernails." (Charlotte Observer, 2009).	<i>Hypothesis-supporting</i> B _d W _v , liberated jury (Death) Final Classification: <i>Hypothesis-non-supporting</i> After raping and murdering the victim, the defendant set her trailer on fire. The jury also heard evidence in which the defendant was accused of a triple homicide that took place that year. The three victims (a man, his fiancé, and his 14 year old daughter) were beaten to death and set on fire.	LexisNexis Academic: No. 246A09 678 S.E.2d 230 2009 N.C. Lexis 505 Charlotte Observer (2005) Charlotte Observer (2009)
Thomas, James (Black)	West, Teresa (White)	Death Death sentence vacated based on improper instructions regarding mitigating circumstance; new sentencing proceeding ordered.	Wake (Piedmont Region)	3 aggravators accepted: #3: Previous violent felony #5: Engaged in commission of sex offense #7: Committed to disrupt or hinder the enforcement of laws "She let him in her apartment and said she had obtained heroin for him...West gave defendant a syringe filled with heroin and he injected it into his arm." (LNA, 1991, p. 5) "According to the State's evidence, the victim was alive when her breasts were bitten but probably was dead when the telephone was inserted in her vagina. Dr. Page Hudson, who examined the victim's body in his role as Chief Medical Examiner for North Carolina, testified that in his opinion, "it was somewhat more probable that she was dead than alive" when the telephone was inserted in her vagina." (LNA, 1991, p. 8)	<i>Hypothesis-supporting</i> B _d W _v , liberated jury (Death) <i>Hypothesis-non-supporting</i> Victim discredited (gave the defendant heroin to inject in his arm before the murder) Excluded from analysis Sexual assault likely occurred after the victim was deceased.	LexisNexis Academic: 329 N.C. 423; 407 S.E.2d 141 1991 N.C. Lexis 530 News & Observer (2007) http://www.lexisnexis.com.ezproxy.lib.usf.edu/hotopics/Inacademic/ WRAL.com (2007) http://www.wral.com/news/local/story/1182895/

Table 11a (Continued). Results of Qualitative Analysis: B_dW_v, Death Penalty, Liberated Jury (n=17).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Vereen, James (Black)	Abbott, Geraldine (White)	Death	Vance (Piedmont Region)	<p>3 aggravators accepted: #3: Previous violent felony #5: Engaged in commission of robbery/rape #11: Course of conduct (other crimes of violence against another person or persons)</p> <p>“In addition to two stab wounds, one of which was the fatal wound which penetrated the right and left ventricles of the heart, Dr. Tate noted ten other wounds, six incisional wounds to other parts of the body and four wounds to the index and middle fingers of the victim and to her wrist and left hand which he characterized as "defensive" wounds. Severe bruising to the muscles of the victim's throat and a fracture of the hyoid bone indicated that the victim had been strangled. Dr. Tate also found numerous rib fractures and bruising on the lower left wall and a tear in the rear of the vagina. Of the close to 100 autopsies he had performed, Dr. Tate testified that he had never before seen this constellation of injuries to one person.” (LNA, 1985, p. 5)</p> <p>“As her mother was saying her prayers, a black man entered the bedroom, grabbed her mother around the neck, and carried her to Susie's bedroom. He stabbed her mother with a knife and said "You must die." The man then held Susie's head back and cut her throat. He also cut her genital area. He put her on the bed, forced her to disrobe, and, with his clothes off, attempted to have intercourse with her. He then proceeded to cut her about her hips.” (LNA, 1985, p. 5)</p>	<p><i>Hypothesis-supporting</i> B_dW_v, liberated jury (Death)</p> <p>Final Classification: <i>Hypothesis-non-supporting</i> Brutality of injuries; age of victim (72); defendant's vicious attack against victim's 30 year old mentally retarded daughter.</p>	<p>LexisNexis Academic: 312 N.C. 499; 324 S.E.2d 250 1985 N.C. Lexis 1491</p>

Table 11a (Continued). Results of Qualitative Analysis: B_dW_v, Death Penalty, Liberated Jury (n=17).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Waring, Byron (Black)	Redman, Lauren (White)	Death [The other Black man involved in this murder was sentenced to life in prison after a plea agreement was accepted based on the finding that he was mentally retarded and therefore ineligible for the death penalty]	Wake (Piedmont Region)	<p>3 aggravators accepted: #5: Engaged in commission of rape #6: Offense was for pecuniary gain #9: Heinous, atrocious, or cruel</p> <p>“Pipkin's hand was on the victim's stomach, attempting to hold in her intestines.” (LNA, 2010, p. 7)</p> <p>“Grouping those injuries, the examiner found five stab wounds, abrasions, and contusions to the victim's head and neck; hemorrhages in the whites of her eyes associated with lack of oxygen that could have resulted from her mouth and nose having been covered; twenty-three stab wounds to her torso, including seventeen superficial wounds or “flecks” that were consistent with having been pricked by the tip of a knife; hemorrhaging in her abdominal cavity; contusions and incised wounds on her upper extremities; contusions of the torso; abrasions of her knees; and an abrasion of the wall of her vagina.” (LNA, 2010, p. 32)</p> <p>“...the victim did not die “a quick and painless death,” but continued to suffer, and that her last moments awaiting death would have, for her, seemed “an eternity.” (LNA, 2010, p. 35)</p> <p>“The jury had to sit through the accounts of the absolute violence and maliciousness” (LSURveille.com, 2007)</p> <p>“She was a model student, did all the right things,” said East Wake High School's athletic director, Charles Corbett. “(She was) always where she was supposed to be when she was supposed to be there.” (Forgotten Victims)</p>	<p><i>Hypothesis-supporting</i> B_dW_v, liberated jury (Death)</p> <p><i>Hypothesis-supporting</i> Defendant acted under duress; acted under the domination of another person; had impaired capacity to appreciate criminality or conform conduct to the law; aided in the apprehension of another capital felon. Defendant did not commit the rape (held down victim while another raped her), had a troubling childhood, and had several mental disorders that impaired cognitive functioning.</p> <p><i>Hypothesis-non-supporting</i> Defendant aided in murder of a young “blameless victim” in her own home at night; held victim’s face down to floor while another man raped her; the victim was taped and “tortured physically, tortured psychologically;” over 20 stab wounds (two knives used), ten of which could have been life-threatening; defendant stomped victim’s face after she had been raped; victim was robbed; victim experienced “prolonged conscious suffering” (LNA, 2010, p. 35).</p> <p>Final Classification: <i>Hypothesis-non-supporting</i> Despite the defendant’s secondary role in the murder relative to the other capital felon (in addition to the fact that the defendant did not actually rape the victim), the overwhelming evidence and extreme brutality of the rape and murder would likely influence a jury to produce a sentence of death regardless of the race of the defendant.</p>	<p>LexisNexis Academic: 364 N.C. 443; 701 S.E.2d 615 2010 N.C. Lexis 915</p> <p>Forgotten Victims http://www.forgottenvictims.com/Lauren%20Redman.htm</p> <p>WRAL.com (2008) http://www.wral.com/news/local/story/3489179/</p> <p>LSURveille.com (2007) http://www.lsureveille.com/waring-receives-death-penalty/article_3cbfd720-749b-52ea-b536-ccd08a07ede.html</p>

were excluded (see Table 11b). Analysis of these trials offered some additional evidence that the data supported the hypothesis. The Supreme Court of North Carolina stated in *Gregory* (1995) that “the fact that defendant is a multiple-murderer stands as a "heavy" factor against defendant when determining the proportionality of a death sentence” (p. 39). Two W_dW_v trials involving multiple murder victims that resulted in a life sentence represent one theme that shows support for the hypothesis. Additional observed themes within these trials that offer support for the hypothesis are related to recommendations of life sentences in trials in which: the rape and/or murder were especially brutal; the defendant was convicted of previous violent crimes; and the victim was well liked and/or respected within the community (e.g., 19 year old home-coming queen; elderly widows and grandmothers who were longtime members and volunteers at the church).

Four of these W_dW_v trials failed to support the hypothesis for several reasons: 1) the mitigating circumstances (e.g., the defendant’s mental and/or emotional problems, the defendant’s traumatic childhood or dysfunctional family background) appeared to outweigh the accepted aggravating factors; and 2) the circumstances of the crime did not appear to be especially brutal. Juries considering these factors would likely recommend a sentence of life regardless of the race of the defendant. Additionally, consideration of the first ECL dimension related to the White female victim’s credibility affected the reclassification of two trials. Two of the W_dW_v trials analyzed here involved non-traditional White female victims for which the ECL would not apply (one was discredited due to her underage drinking and intoxication at the time of her murder and the other involved an “out” lesbian). These trials were automatically reclassified as *hypothesis-non-supporting* since they neither supported nor rejected the

Table 11b. Results of Qualitative Analysis: W_dW_v, Life, Liberated Jury (n=24).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Franklin, Joseph (White)	Moody, Michelle (White)	Life	Caldwell (Western Region)	<p>#4: Engaged in flight after committing felony</p> <p>“...the body of Michelle Moody, a fifteen year old girl, was discovered in a small clearing in a wooded area behind the Lenoir Shopping Mall...She had been stabbed twenty-three times.” (LNA, 1983, p. 1)</p> <p>“She was standing up when I first stabbed her and I stabbed her some more after she fell -- I stabbed her until she quit moving.” (LNA, 1983, p. 1)</p> <p>“I ask her if she wanted to smoke a joint. She said yes -- we walked down into some nearby woods -- when we got down to the woods we smoked a joint. “ (LNA, 1983, p. 1)</p>	<p><i>Hypothesis-supporting</i> W_dW_v liberated jury (Life)</p> <p><i>Hypothesis-supporting</i> 23 stab wounds</p> <p><i>Hypothesis-non-supporting</i> Victim discredited (smoked pot with defendant)</p> <p>Excluded from analysis Victim was 15 years old.</p>	LexisNexis Academic: 308 N.C. 682; 304 S.E.2d 579; 1983 N.C. LEXIS 1292
Morris, Charles (White)	Tommasone, Alicia (White)	Life Reversal of first-degree murder, sexual abuse, and misdemeanor child abuse convictions. New trial awarded based on prejudicial error in admitting defendant's pretrial confession.	Carteret (Eastern Region)	No Aggravators accepted.	<p><i>Hypothesis-supporting</i> W_dW_v liberated jury (Life)</p> <p>Excluded from analysis This trial is inappropriate for analysis given the context of rape in the current study. The sexual assault on the two year old may have been the product of the insertion of an adult finger; there is no direct evidence that the defendant was responsible, while there is also evidence that the mother was responsible for all charges. The jury found no aggravating circumstances and the defendant was later charged with involuntary manslaughter.</p>	LexisNexis Academic: 332 N.C. 600; 422 S.E.2d 578; 1992 N.C. LEXIS 591

Table 11b (Continued). Results of Qualitative Analysis: W_dW_v, Life, Liberated Jury (n=24).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Joyner, Richard (White)	Skinner, Harvey (White)	Life New sentencing ordered based on improper instructions regarding consideration of mitigating circumstances.	Nash (Eastern Region)	1 aggravator accepted: #5: Engaged in commission of another robbery	<i>Hypothesis-supporting</i> W _d W _v , liberated jury (Life) Excluded from analysis Male murder victim. There was no rape involved in the murder.	LexisNexis Academic: 329 N.C. 211; 404 S.E.2d 653; 1991 N.C. LEXIS 418
Farmer, Daron (White)	Robinson, Margaret (White)	Life	Guilford (Piedmont Region)	1 aggravator accepted: #5: Engaged in commission of rape/burglary “A 65-year-old woman who worshiped G-d and lived by the law was attacked in her own home, pummeled, raped and left to wander through her house in agony before she died.” (News & Record, 1990) “...the jury did not find Robinson's death ``especially heinous, atrocious and cruel.” (News & Record, 1990)	<i>Hypothesis-supporting</i> W _d W _v , liberated jury (Life) <i>Hypothesis-supporting</i> Defendant had intent to rape elderly woman; carefully planned. Final Classification: <i>Hypothesis-non-supporting</i> The defendant was 21 and mildly mentally retarded. The jury found 13 mitigating factors, some of which attested to the defendant's broken home life and psychological unraveling. The murder was not especially brutal.	LexisNexis Academic: 333 N.C. 172; 424 S.E.2d 120; 1993 N.C. LEXIS 12 News & Record (1990) http://www.news-record.com/jury-spares-man-s-life/article_276f700e-b44c-5732-a44c-ef8db99d73f8.html
Sumpter, Charles (White)	Hawkins, Elizabeth (White)	Life New sentencing ordered based on the finding that the trial court improperly aggravated the sentence given on the conviction of indecent liberties with a minor.	Catawba (Western Region)	1 aggravator accepted: #5: Engaged in commission of another robbery	<i>Hypothesis-supporting</i> W _d W _v , liberated jury (Life) Excluded from analysis There was no rape involved in the murder. Defendant took “indecent liberties” with a 13 year old girl (touched her with his hand on the front of her body close to where “she went to the bathroom”) (LNA, 1986, p. 4); this incident was part of a continual transaction that ended with the murder of the 65 year old victim who lived in another house and was not related to the girl.	LexisNexis Academic: 318 N.C. 102; 347 S.E.2d 396; 1986 N.C. LEXIS 2573

Table 11b (Continued). Results of Qualitative Analysis: W_dW_v, Life, Liberated Jury (n=24).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Johnson Jr. Bobby (White)	Phillips, Donna (White)	Life Retrial/new sentencing hearing. No appeal.	Guilford (Piedmont Region)	<p>1 aggravator accepted: #9: Heinous, atrocious, or cruel</p> <p>“He discovered approximately fifty-five separate stab wounds on the torso, right arm, thigh, and back, with thirty-eight of these being in the chest area, passing from the left of the left breast to below the right breast. ..One stab wound which passed completely through the right hand was, in his opinion, a defensive wound. He also found, among other injuries, a recent bruise on the right eye, scratches, and human bite marks on both the left thigh and the left breast.” (LNA, 1985, p. 7)</p> <p>“...sought Donna Phillips out and returned to pick her up for the express purpose of raping her. Once Ms. Phillips realized their intentions, her protestations were met with hostility and physical violence... Bruised and bleeding, she was dragged from the car, her clothing was ripped from her body, and she was stabbed in the arm. She was then thrown to the ground and sexually assaulted by defendant as Williams held her down. Defendant savagely bit her on the left breast, leaving a clear wound. All the while, Ms. Phillips was conscious, certainly in pain and aware that she was engaged in a life-and-death struggle, as she heard Williams urge defendant to “[g]o ahead and kill her.” Defensive wounds on her hand indicated that she had attempted to fend off the knife attack. Defendant ultimately inflicted fifty-five stab wounds upon his victim, with perhaps fifteen to twenty minutes elapsing between the time Ms. Phillips was first stabbed in the car and the time she finally died. (LNA, 1985, p. 27)</p>	<p><i>Hypothesis-supporting</i> W_dW_v, liberated jury (Life)</p> <p><i>Hypothesis-non-supporting</i> Victim had a blood alcohol content of .15 and left a bar with the defendant the night she died.</p> <p>Final Classification: <i>Hypothesis-supporting</i> The victim was held down by a man while sexually assaulted by the defendant and stabbed 55 times before dying approximately twenty minutes later.</p>	LexisNexis Academic: No appeal.

Table 11b (Continued). Results of Qualitative Analysis: W_dW_v, Life, Liberated Jury (n=24).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Murdock, John (White)	Murdock, Leathe (White)	Life	Rowan (Piedmont Region)	1 aggravator accepted: #9: Heinous, atrocious, or cruel	<i>Hypothesis-supporting</i> W _d W _v , liberated jury (Life) Excluded from analysis The jury found the defendant not guilty of rape. The defendant used a blunt object to sexually assault his grandmother after he killed her with the sole purpose of covering up the fact that he murdered her.	LexisNexis Academic: 325 N.C. 522; 385 S.E.2d 325; 1989 N.C. LEXIS 543
Temple, Mark (White)	Jones, Annette (White)	Life	Pasquotank (Eastern Region)	1 aggravator accepted: #9: Heinous, atrocious, or cruel Victim had gaping wound in head, bite marks, was penetrated with objects, body found nude. “This was a very gruesome murder, for which the State established no motive.” (LNA, 1981, p. 9) Victim engaged in underage drinking and was mildly intoxicated at time of death.	<i>Hypothesis-supporting</i> W _d W _v , liberated jury (Life) <i>Hypothesis-supporting</i> HAC aggravator accepted; 16 year old victim; bite marks on body; head crushed with a brick. Final Classification: <i>Hypothesis-non-supporting</i> Victim discredited (underage drinking – was mildly intoxicated at time of death).	LexisNexis Academic: 302 N.C. 1; 273 S.E.2d 273; 1981 N.C. LEXIS 1017

Table 11b (Continued). Results of Qualitative Analysis: W_dW_v, Life, Liberated Jury (n=24).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Berry, Thomas (White)	Siclari, Janet (White)	Life	Dare (Eastern Region)	<p>2 aggravators accepted: #5: Engaged in commission of another rape #11: Course of conduct (other crimes of violence against another person or persons)</p> <p>“Janet died from a loss of blood due to the two-and-one-half inch cut across her neck, severing her jugular vein. Janet also showed signs of hand wounds around her throat and a severed larynx.” (LNA, 2001, p. 5)</p> <p>“Janet weighed 92 pounds and was less than five feet tall. His autopsy examination revealed that Janet had a series of small, superficial stab wounds on her throat. Dr. Hudson stated that these wounds were consistent with “compliance or intimidation wounds.”” (LNA, 2001, p. 5)</p> <p>“...the testimony regarding the prior assaults was properly admitted for a purpose other than to show that the defendant has the propensity to commit sexual assault and murder.” (LNA, 2001, p. 9)</p>	<p><i>Hypothesis-supporting</i> W_dW_v, liberated jury (Life)</p> <p>Final Classification: <i>Hypothesis-supporting</i> Defendant had previously raped two female victims, one of whom was 12 years old. The victim was an ultra sound nurse, small in stature, and was raped and killed while on vacation with her husband. She suffered several compliance or intimidation wounds. Her body was found on the beach with her throat slit.</p>	<p>LexisNexis Academic: 143 N.C. App. 187; 546 S.E.2d 145; 2001 N.C. App. LEXIS 269</p> <p>Associated Press State & Local Wire (2001) http://www.lexisnexis.com ezproxy.lib.usf.edu/ototopics/inacademic/</p> <p>PilotOnline.com (2007) http://hamptonroads.com/node/291851</p>
Fisher, Dewey (White)	Brannon, Hollis (White)	Life	Halifax (Eastern Region)	<p>2 aggravators accepted: #5: Engaged in commission of robbery #5: Engaged in commission of kidnapping</p>	<p><i>Hypothesis-supporting</i> W_dW_v, liberated jury (Life)</p> <p>Excluded from analysis Male murder victim. There was no rape involved in the murder.</p>	<p>LexisNexis Academic: No. COA01-607 Court of Appeals North Carolina 2002 N.C. App. LEXIS 1957</p>
Harris, Jr., Carlton (White)	Sahnow, Marybeth (White)	Life	Halifax (Eastern Region)	<p>2 aggravators accepted: #5: Engaged in commission of robbery #11: Course of conduct (other crimes of violence against another person or persons)</p>	<p><i>Hypothesis-supporting</i> W_dW_v, liberated jury (Life)</p> <p>Excluded from analysis There was no rape involved in the murder.</p>	<p>LexisNexis Academic: No number.</p>

Table 11b (Continued). Results of Qualitative Analysis: W_dW_v, Life, Liberated Jury (n=24).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Prevette, Garfield (White)	Jones, Goldie (White)	Life	Wayne (Eastern Region)	<p>2 aggravators accepted: #5: Engaged in commission of another kidnapping #11: Course of conduct (other crimes of violence against another person or persons)</p> <p>“...victim was most likely alive when she defecated and was probably having thrashing agonal movements.” (LNA, 1986, p. 2)</p> <p>“...the apron gag was quite wet and damp in the area adjacent to Ms. Jones' mouth by a mixture of blood, saliva and vomitus.” (LNA, 1986, p. 2)</p> <p>“[Dr. Anthony] described the physical, and surely psychological, torture that the victim would endure as she died of suffocation.” (LNA, 1986, p. 8)</p> <p>“It had been proven that he had beaten, bound, sexually mutilated and killed 61-year-old Jones in her Goldsboro home.” (The Goldsboro News –Argus, 2005)</p> <p>“...the victim had been sexually mutilated with scissors.” (The Goldsboro News –Argus, 2005)</p> <p>“Ms. Jones had met defendant while he was in prison through the Yoke Fellows, a religious organization which conducted Bible study and held devotionals with the inmates at the prison.” (LNA, 1986, p. 2)</p> <p>“Goldie Jones ministered to her killer. The Goldsboro woman met him while volunteering with a prison ministry.” (The Goldsboro News –Argus, 2014)</p> <p>“He tortured the woman who volunteered her time to pray for his soul. Then he killed her.” (The Goldsboro News –Argus, 2014)</p>	<p><i>Hypothesis-supporting</i> W_dW_v, liberated jury (Life)</p> <p><i>Hypothesis-supporting</i> 61 year old victim who previously knew defendant through inmate-involved religious organization. Defendant was bound, gagged, and suffered physical and psychological torture prior to suffocation and death.</p> <p>Excluded from analysis Charge of first degree sexual offense was voluntarily dismissed prior to trial. There were small superficial cuts to victim’s vaginal area that could have resulted from a from penis or blade.</p>	<p>LexisNexis Academic: 317 N.C. 148; 345 S.E.2d 159; 1986 N.C. LEXIS 2784</p> <p>The Goldsboro News-Argus (2005) http://www.newsargus.com/editorials/archives/2005/02/09/parole_dont_free_this_murderer_ever/</p> <p>The Goldsboro News-Argus (2014) http://www.newsargus.com/news/archives/2014/08/26/killer_up_for_parole_again/</p>

Table 11b (Continued). Results of Qualitative Analysis: W_dW_v, Life, Liberated Jury (n=24).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Clark, Roger (White)	Phoebe, Barbee (White)	Life	Cabarrus (Piedmont Region)	<p>2 aggravators accepted: #5: Engaged in commission of another felony #9: Heinous, atrocious, or cruel</p> <p>“Clark kidnapped, raped and barbarically murdered Phoebe Barbee, who was 19 years young. On separate occasions earlier the same day, he tried to randomly kidnap two other women.” (Independent Tribune, 2012)</p> <p>“Speak from your heart. Express your emotions. How do you feel about the barbaric act of rape and of taking another person’s life? How a violent and tragic death of a totally innocent person like Phoebe continues to stress your life! Expand upon your outrage why he should NEVER be released!...If released, his next victim could easily be your daughter, sister, wife, cousin, niece or just a very special friend.” (Independent Tribune, 2012)</p> <p>“Quite frankly, it wouldn’t have bothered me if he had gotten the death sentence because he killed her. He took her away from our family.” [Phoebe’s mother] (Salisbury Post, 2012)</p> <p>“An autopsy report later revealed severe head injuries including disruption of the brain and multiple skull fractures. Defensive wounds were also found on Barbee’s forearms and hands. Evidence also indicated Barbee was raped and sodomized.” (Salisbury Post, 2012)</p>	<p><i>Hypothesis-supporting</i> W_dW_v, liberated jury (Life)</p> <p>Final Classification: <i>Hypothesis-supporting</i> Victim was 19 year old homecoming queen and high school graduate. Defendant had kidnapped and sexually assaulted two other women prior to sodomizing and brutally murdering the victim.</p>	<p>LexisNexis Academic: 301 N.C. 176; 270 S.E.2d 425; 1980 N.C. LEXIS 27841157</p> <p>IndependentTribune.com (2012) http://www.independenttribune.com/opinion/writer-asks-help-in-opposing-parole-of-phoebe-barbees/article_ce612f71-af18-57e8-9f86-8a9c31dbecf0.html</p> <p>WSTP 1490 Radio (2012) http://1490wstp.com/news/family-fights-to-keep-killer-in-prison/</p> <p>Salisbury Post (2012) http://pyramidoid2.rssing.com/channel-1642744/all_p52.html</p>

Table 11b (Continued). Results of Qualitative Analysis: W_dW_v, Life, Liberated Jury (n=24).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Hair, Leonard (White)	Baxley, Elizabeth (White) Braswell, Samuel (White)	Life	Robeson (Eastern Region)	<p>2 aggravators accepted: #9: Heinous, atrocious, or cruel #11: Course of conduct (other crimes of violence against another person or persons)</p> <p>“The partially charred bodies of Mr. Braswell and Ms. Baxley lay, bound and gagged, on the floor in the den. Ms. Baxley was unclothed from the waist down.” (LNA, 2003, p. 2)</p> <p>“Defendant testified that Harden introduced him to Mr. Braswell when defendant was a teenager, and that defendant thereafter went to Mr. Braswell’s house “lots of times . . . to let [Mr. Braswell] perform oral sex on [defendant] for money.” Defendant testified he met Ms. Baxley in 1996, and that Mr. Braswell paid him to have sex with her “four or five times,” including on 3 June 1997...Defendant testified that he was referring to sexual contact which had occurred in Mr. Braswell’s home between Mr. Braswell and young men and boys in the neighborhood.” (LNA, 2003, p. 3)</p>	<p><i>Hypothesis-supporting</i> W_dW_v, liberated jury (Life)</p> <p><i>Hypothesis-non-supporting</i> Male victim discredited. Defendant claims male murder victim paid him to have consensual sex with female victim (Mr. Braswell’s housekeeper) on several prior occasions. Defendant also claims male victim engaged in homosexual activities with young men and boys in the neighborhood. Mr. Braswell was under indictment for child molestation.</p> <p>Final Classification: <i>Hypothesis-supporting</i> Two murder victims (aged 57 and 78), bound and gagged, blunt force trauma to the head by a hammer resulting in skull fractures, rape of female victim, bodies set on fire.</p>	<p>LexisNexis Academic: NO.COA02-1403 Court of Appeals North Carolina 2003 N.C. App. LEXIS 2290</p> <p>Fayetteville Observer North Carolina (1997) <i>Body Identified as Teacher</i></p> <p>Fayetteville Observer North Carolina (1997) <i>Man Proves Undeserving of Trust</i></p>
Hartley, Kenneth (White)	Bush, Tristan (White) Bush, Teresa (White) Bush, Robert (White)	Life	Sampson (Eastern Region)	<p>2 aggravators accepted: #9: Heinous, atrocious, or cruel #11: Course of conduct (other crimes of violence against another person or persons)</p> <p>2 additional aggravators for Tristan Bush: #5: Engaged in commission of rape #5: Engaged in commission of rape</p>	<p><i>Hypothesis-supporting</i> W_dW_v, liberated jury (Life)</p> <p>Excluded from analysis Defendant attempted to rape 14 year old victim. Defendant did not commit any sexual offenses against the other two murder victims.</p>	<p>LexisNexis Academic: 04CRS52914 04CRS52915 04CRS52916</p>

Table 11b (Continued). Results of Qualitative Analysis: W_dW_v, Life, Liberated Jury (n=24).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Johnson, Norman (White)	Mabel, Sherrill (White)	Life Second trial after original death sentence; no appeal. Defendant was also convicted of murder in another county.	Cleveland (Western Region)	<p>2 aggravators accepted: #5: Engaged in commission of rape #9: Heinous, atrocious, or cruel</p> <p>“Then he raped her. He stated that he did not get an erection, but he did manage to penetrate slightly. He also stated that he did not have an orgasm” Realizing that she was not dead and being afraid that she would scream, he stabbed her in the heart with the knife.” (LNA, 1979, p. 7)</p> <p>“He was, according to investigators, “fully cooperative” with them...Defendant had been active at Grace Baptist Church and, after the murder, expressed “sorrow, remorse and grief” to the pastor of that church. Defendant had a reputation for good character in his community. He was a dependable employee, thought of by his employer as honest, punctual, and hard working. ..He was considered by a number of witnesses to be “an easy going, friendly normal individual.” His jailer testified that, as a prisoner, he was “quiet . . . and never caused any trouble” and that he “was a model prisoner.”” (LNA, 1979, p. 7)</p> <p>“... he suffered from schizophrenia... Defendant's childhood showed a history of suicide attempts at ages 12, 14 “and again in the 11th Grade”... defendant was in the throes of a “mental or emotional disturbance at the time of the murder of Mabel Bowman Sherrill” and “the capacity of [defendant] to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was impaired at the time he killed Mabel Bowman Sherrill.” (LNA, 1979, p. 8)</p>	<p><i>Hypothesis-supporting</i> W_dW_v, liberated jury (Life)</p> <p>Final Classification: <i>Hypothesis-non-supporting</i> Mitigating factors appear to outweigh the aggravating factors; rape and murder are not especially brutal.</p>	<p>LexisNexis Academic: No appeal.</p> <p>Star News (1977) https://news.google.com/newspapers?nid=1454&dat=19771102&id=NLksAAAAIBAJ&sjid=HhMEAAAAIBAJ&pg=6553,375840&hl=en</p>
Lee, Johnny (White)	Kreeger, Talana (White)	Life	Catawba (Western Region)	<p>2 aggravators accepted: #3: Previous violent felony #9: Heinous, atrocious, or cruel</p>	<p><i>Hypothesis-supporting</i> W_dW_v, liberated jury (Life)</p> <p>Excluded from analysis The defendant sexually assaulted and murdered a two year old boy.</p>	<p>LexisNexis Academic: 348 N.C. 474; 501 S.E.2d 334; 1998 N.C. LEXIS 336</p>

Table 11b (Continued). Results of Qualitative Analysis: W_dW_v, Life, Liberated Jury (n=24).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Thomas, Ronald (White)	Kreeger, Talana (White)	Life	New Hanover (Eastern Region)	<p>2 aggravators accepted: #5: Engaged in commission of another rape/sexual offense #9: Heinous, atrocious, or cruel</p> <p>“...defendant bit the victim's breasts until they were bleeding and then inserted his fingers into her vagina; the entire time the assault was occurring, the victim was fighting, kicking, and screaming; defendant...penetrated the victim with his entire hand to a point past his wrist at least twice; defendant tore out the wall between the victim's vaginal and anal openings and proceeded to tear out part of the victim's colon and right kidney; when the victim attempted to crawl from the truck and fell to the ground, defendant dragged her into the woods some 120 feet on her back and left her helpless and bleeding to death; defendant made no attempt to obtain assistance for the victim; the victim was conscious for some amount of time after being left to die; and defendant thereafter cleaned up his truck, resumed his delivery route, and slept before his next delivery.” (LNA, 1992, p. 4)</p> <p>“An autopsy of the victim's body revealed multiple bruises and lacerations to the victim's jaw, eyes, right cheek, lip, right hand, left upper arm, and breasts...Approximately twenty inches of the victim's small intestine was hanging from between the victim's legs.” (LNA, 1992, p. 7)</p> <p>“Ballis, a licensed clinical social worker in Wilmington, argued that Kreeger's killing was a hate crime, motivated in part because Kreeger was a lesbian. He and other supporters maintain her death was one of a number of homicides of gays and lesbians during the 1980s in Southeastern North Carolina, targeted for their sexuality.” (Star News, 2008)</p> <p>“Friends had trouble finding a local church for her funeral because she was "out" as a lesbian.” (Star News, 2008)</p>	<p><i>Hypothesis-supporting</i> W_dW_v, liberated jury (Life)</p> <p><i>Hypothesis-supporting</i> The extreme brutality of this sexual assault and murder should have influenced the jury to produce a sentence of death.</p> <p>Final Classification: <i>Hypothesis-non-supporting</i> This trial involves a non-traditional victim (“out’ as a lesbian”) for which the ECL would not apply.</p>	<p>LexisNexis Academic: 332 N.C. 544; 423 S.E.2d 75; 1992 N.C. LEXIS 588</p> <p>Star News (2008) http://www.lexisnexis.com.ezproxy.lib.usf.edu/hottopics/lnacademic/</p> <p>Q-Notes (2007) http://goqnotes.com/top2008/top03_030808.html</p>

Table 11b (Continued). Results of Qualitative Analysis: W_dW_v, Life, Liberated Jury (n=24).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Beach, Horace (White)	Bennett, Cara (White) Strickland, Mary (White)	Life Hung jury.	Guilford (Piedmont Region)	<p>3 aggravators accepted: #3: Previous violent felony #5: Engaged in commission of another rape/first degree sexual offense #11: Course of conduct (other crimes of violence against another person or persons)</p> <p>Nipple cut off, stabbed in vagina.</p> <p>“The murders of Bennett and Strickland – both 86 years old, widows and grandmothers – shook the community, especially at First Baptist Church, where the women were longtime members and volunteers.” (News & Record, 1991)</p> <p>“Her arms were tied to her legs... A piece of cable was wrapped around her neck and a knife was lodged in her side.” (LNA, 1993, p. 3)</p> <p>“under this evidence, [***20] he's guilty of two counts of first degree murder; he's guilty of kidnaping [sic]; he's guilty of rape; he's guilty of sexual offense; he's guilty of larceny. He's guilty of each and every one of these crimes under the evidence as we've put on. (LNA, 1993, p. 7)</p>	<p><i>Hypothesis-supporting</i> W_dW_v, liberated jury (Life)</p> <p><i>Hypothesis-non-supporting</i> The jury was first hung 11-1 on insanity charges due to extensive evidence of defendant's mental problems and a horrid childhood before eventually submitting a unanimous guilty verdict.</p> <p>Final Classification: <i>Hypothesis-supporting</i> Murder of two elderly widows and grandmothers who were longtime members and volunteers at the church; overwhelming evidence of multiple felonies.</p>	<p>LexisNexis Academic: 333 N.C. 733; 430 S.E.2d 248; 1993 N.C. LEXIS 235</p> <p>News & Record (1990) http://www.news-record.com/man-charged-in-deaths-of-elderly-greensboro-women/article_f6077735-a0e4-59c7-9e13-9f343cccc250.html</p> <p>News & Record (1991) http://www.news-record.com/boss-beach-pondered-insane-plea/article_c75cf29a-94af-5c19-bb6e-53c6ee256c25.html</p> <p>News & Record (1991) http://www.news-record.com/notes-to-judge-indicate-deadlock-jury-on-insanity/article_5e7a564b-8010-5bf6-8360-ea85c4c68b50.html</p>

Table 11b (Continued). Results of Qualitative Analysis: W_dW_v, Life, Liberated Jury (n=24).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Bowman Jr. Larry (White)	Freeman, Tiffany (White)	Life	McDowell (Western Region)	3 aggravators accepted: #3: Previous violent felony #5: Engaged in commission of another rape #9: Heinous, atrocious, or cruel	<i>Hypothesis-supporting</i> W _d W _v , liberated jury (Life) Excluded from analysis Victim was a thirteen year old girl.	LexisNexis Academic: COA05-1262

Table 11b (Continued). Results of Qualitative Analysis: W_dW_v, Life, Liberated Jury (n=24).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Davis, Terry (White)	Walton, Ada (White)	Life	Columbus (Eastern Region)	<p>3 aggravators accepted: #5: Engaged in commission of another felony #6: Offense was for pecuniary gain #9: Heinous, atrocious, or cruel</p> <p>“Ada Walton, 71, was stabbed repeatedly and sexually mutilated...” (Star News, 1996)</p> <p>“Next, defendant cut Walton’s clothes off with an electric sawblade knife while Walton continued to plead for help from Derrera and to bed defendant not to kill her.” (COA98-156, p. 1)</p> <p>“Defendant attempted to rape Walton, but he could not get an erection. Defendant became angry and began repeatedly stabbing Walton with a knife.” (COA98-156, p. 1)</p> <p>“...after the two men moved Walton’s body, defendant repeatedly kicked Walton in the vagina and then used a knife to saw off her right nipple.” (COA98-156, p. 2)</p> <p>“...signs of blunt force injuries to her head, bruises on her forehead and cheek region, and a large bruise in the right temple region. Walton also had a large number of stab or cutting injuries inflicted by a sharp object such as a knife, including approximately seven injuries to her left chest region, a stab wound on her right breast, and one wound on the right midline of her chest. There were also stab wounds in Walton’s right buttocks, one in her right thigh, and one in her abdomen. Further, Walton had two shallow cut injuries in her neck and a long cut injury on the left side of her neck.” (COA98-156, p. 2)</p> <p>“But Mr. Davis intermittently cried and bragged about the killing, he said, once telling his companions that “it was the biggest high he ever had.” (Star News, 1996).</p>	<p><i>Hypothesis-supporting</i> W_dW_v liberated jury (Life)</p> <p><i>Hypothesis-non-supporting</i> Issues with reports on presence of sperm (one report said sperm was present, one did not). Defendant blames accomplice.</p> <p>Final Classification: <i>Hypothesis-supporting</i> The sexual assault and murder were premeditated, involving multiple conspirators, and was especially heinous, atrocious, and cruel.</p>	<p>LexisNexis Academic: COA98-156</p> <p>FayObserver.com (1995) http://www.fayobservers.com/news/local/tabor-city-woman-slain-are-charged/article_3c00a0b7-40b6-5242-88d3-40bb9c54a6dd.html</p> <p>Star News (1996) https://news.google.com/newspapers?nid=1454&dat=19961123&id=DmhSAAAAIBAJ&sjid=ihUEAAAAIBAJ&pg=6438,3600541&hl=en</p> <p>Star News (1996) https://news.google.com/newspapers?nid=1454&dat=19961217&id=ErVOAAAAIBAJ&sjid=SBUEAAAAIBAJ&pg=4643,337109&hl=en</p>

Table 11b (Continued). Results of Qualitative Analysis: W_dW_v, Life, Liberated Jury (n=24).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Johnson, Norman (White)	Bartlette III, Robert (White)	Life	Davie (Piedmont Region)	3 aggravators accepted: Missing data – the Issues & Recommendation sheet was missing from the county file.	<i>Hypothesis-supporting</i> W _d W _v liberated jury (Life) Excluded from analysis The victim was a ten year old boy.	LexisNexis Academic: This case was retried in Davie County in 1980. The offense description is the same as for the Alexander County Case.
Ridgeway, Randy (White)	Klase, Danielle (White)	Life First degree rape and first degree sex offense convictions vacated and remanded due to clerical error.	Davie (Piedmont Region)	3 aggravators accepted: #5: Engaged in commission of forcible sex offense #5: Engaged in commission of rape #9: Heinous, atrocious, or cruel	<i>Hypothesis-rejecting</i> W _d W _v liberated jury (Death) Excluded from analysis Victim was 14 years old.	LexisNexis Academic: COA06-1162

Table 11b (Continued). Results of Qualitative Analysis: W_dW_v, Life, Liberated Jury (n=24).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Silhan, Stephen (White)	Coates, Maryjo (White)	Life Second trial.	Columbus (Eastern Region) Multiple changes of venues due to jurors' knowledge of case.	3 aggravators accepted: Missing data – Issues and Recommendation Sheet was in file but left blank. Confirmed by county that no other documents were in retrial file. “After raping and knifing Miss Coates, Silhan paralyzed Miss Davenport by pounding on her back and sawed halfway through her neck with the knife, she said. Then he stabbed her twice in the back.” (Star News, 1981) “He had gagged her...I could hear her screaming while he was raping her.” (FayObserver.com, 2010) “One of the back wounds severed her artery to her heart.” (FayObserver.com, 2010) “He slit her throat, again and then again. She felt the blade penetrate.” (FayObserver.com, 2010)	<i>Hypothesis-supporting</i> W _d W _v liberated jury (Life) <i>Hypothesis-supporting</i> Two rape victims, ages 14 and 17; 14 year old was murdered. Extremely brutal sexual assaults and murder. Excluded from analysis Two rape victims were 14 and 17; only 14 year old was murdered.	LexisNexis Academic: No Appeal Star News (1981) https://news.google.com/newspapers?nid=1454&dat=19810801&id=n8UsAAAAIAJ&sjid=UBMEAAAAIAJ&pg=6819.44729&hl=en Star News (1981) https://news.google.com/newspapers?nid=1454&dat=19810728&id=asQsAAAAIAJ&sjid=WxMEAAAAIAJ&pg=2543.6513309&hl=en WRAL.com (2000) http://www.wral.com/news/local/story/141222/ FayObserver.com (2010) http://www.fayobserver.com/woman-fears-attacker-will-get-parole/article_6d90a478-1add-55cd-9a2c-713c7e1d6cfa.html

hypothesis. The revised hypothesis was further modified to consider the evidence discovered in the analysis of these W_dW_v trials: juries in rape-involved capital murder trials in North Carolina are more likely to recommend a sentence of death when the defendant is a Black male and the victim is a *chaste* (i.e., *perceived to be traditionally morally pure*) White female compared to White male defendants and *chaste* White female victims *only when the circumstances of the trial are not perceived to be especially brutal*. There were no trials in the sample involving White male defendants, White female victims, and a non-liberated jury that recommended a life sentence.

For all B_dW_v trials with liberated juries that recommended a life sentence ($n=7$), 0 supported the hypothesis, 3 rejected the hypothesis, 2 failed to support the hypothesis, and 2 were excluded (see Table 11c). Observed themes within these trials that failed to support the hypothesis are related to: the perceived fairness of the trial proceedings (e.g., circumstantial evidence, improperly submitted evidence) and trial circumstances not perceived to be especially brutal. Juries considering these factors would likely recommend a sentence of life regardless of the race of the defendant. The main theme associated with the two trials that rejected the hypothesis is related to the especially brutal nature of the crimes committed by the defendant (e.g., the perceived brutality of the rape/and or murder, involvement of multiple offenders, multiple rapes, and/or multiple victims). These trials that involved brutal circumstances that could have influenced different juries to recommend sentences of death for the Black defendants resulted in life sentences and thus reject the hypothesis. One of the trials rejecting the hypothesis was a resentencing hearing in which three of the five aggravating factors accepted in the original trial were not accepted in the new hearing. However, the HAC aggravator was still accepted and evidence was still presented that demonstrated the extreme brutality of the sexual assault and

Table 11c. Results of Qualitative Analysis: B_dW_v, Life, Liberated Jury (n=7).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Flack, Lester (Black) Flack, Richard (Black)	Newsome, Nannie (White)	Life New trial due to trial court erroneously allowing hypnotically induced testimony.	Rutherford (Western Region)	<p>1 aggravator accepted: #9: Heinous, atrocious, or cruel</p> <p>“Miss Nannie Newsome was eighty-eight years old, a retired school teacher, and a respected member of the community of Union Mills, located in rural Rutherford County.” (LNA, 1984, p. 2)</p> <p>“Miss Newsome’s death caused a wave of anger and revulsion within the Union Mills Community.” (LNA, 1984, p. 2)</p> <p>“...failed to show any connection of the items with Lester or Richard Flack. In fact, both parties concede that no physical evidence whatsoever placed either of the defendants at the crime scene.” (LNA, 1984, p. 3)</p> <p>“There was no person who was least deserving of the treatment she received on the night that she died than Nannie Newsome,” Leonard said, characterizing her as a “near saint who spent her life working for the Almighty and her fellow man.” (Herald-Journal, 1983)</p> <p>“The state’s only real evidence is the testimony of Maurice Forney, a confused man.” (Herald-Journal, 1983)</p>	<p><i>Hypothesis-rejecting</i> B_dW, liberated jury (Life)</p> <p>Final Classification: <i>Hypothesis-non-supporting</i> Two defendants who may not have even been guilty, one aggravator accepted, new trial ordered because conviction was based on improper use of hypnotically induced testimony.</p>	<p>LexisNexis Academic: 312 N.C. 448; 322 S.E.2d 758; 1984 N.C. LEXIS 1817</p> <p>Herald-Journal (1983) https://news.google.com/newspapers?nid=1876&dat=19830308&id=mkYsAAAAIBAJ&sjid=3s4EAAAAIBAJ&pg=3241,1825598&hl=en</p> <p>Herald-Journal (1983) https://news.google.com/newspapers?nid=1876&dat=19830315&id=jEYsAAAAIBAJ&sjid=3s4EAAAAIBAJ&pg=6356,3649890&hl=en</p>

Table 11c (Continued). Results of Qualitative Analysis: B_dW_v, Life, Liberated Jury (n=7).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Forney, Roderick (Black)	Newsome, Nannie (White)	Life Burglary, rape, and murder convictions reversed based on lack of evidence.	Rutherford (Western Region)	1 aggravator accepted: #9: Heinous, atrocious, or cruel	<i>Hypothesis-rejecting</i> B _d W _v , liberated jury (Life) Excluded from analysis Burglary, rape, and murder convictions reversed based on lack of evidence.	LexisNexis Academic: 310 N.C. 126; 310 S.E.2d 20; 1984 N.C. LEXIS 1554 Herald-Journal (1983) https://news.google.com/newspapers?nid=1876&dat=19830308&id=mkYsAAAAIBAJ&sjid=3s4EAAAAIBAJ&pg=3241,1825598&hl=en Herald-Journal (1983) https://news.google.com/newspapers?nid=1876&dat=19830315&id=jEYsAAAAIBAJ&sjid=3s4EAAAAIBAJ&pg=6356,3649890&hl=en

Table 11c (Continued). Results of Qualitative Analysis: B_dW_v, Life, Liberated Jury (n=7).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Hunt, Darryl (Black)	Sykes, Deborah (White)	Life Retried non-capitally in Catawba. Found guilty of first degree murder and received life. Exonerated by DNA evidence after spending 18 years in prison and pardoned by governor.	Forsyth (Western Region)	1 aggravator accepted: #9: Heinous, atrocious, or cruel Victim was accosted, beaten, raped, and stabbed multiple times.	<i>Hypothesis-rejecting</i> B _d W _v liberated jury (Life) Excluded from analysis Never tried for this case. Was retried non-capitally.	LexisNexis Academic: 324 N.C. 343; 378 S.E.2d 754; 1989 N.C. LEXIS 252 The Herald Sun (2004) http://www.lexisnexis.com.ezproxy.lib.usf.edu/hottopics/lnacademic/ Innocence Project http://www.innocenceproject.org/cases-false-imprisonment/darryl-hunt

Table 11c (Continued). Results of Qualitative Analysis: B_dW_v, Life, Liberated Jury (n=7).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Rogers, Lionel (Black)	Sechler, Hazel (White)	Life Resentencing hearing: original sentence of death vacated due to prosecutor's improper cross-examination of defendant's expert and closing argument	Forsyth (Piedmont Region)	<p>2 aggravator accepted: #3: Previous violent felony #9: Heinous, atrocious, or cruel</p> <p>"Lieutenant Harris found the victim lying on her bed, bleeding from injuries to her throat and hands. Her neck had been sliced so deeply that she was breathing through the wound in her trachea." (LNA, 2002, p. 9)</p> <p>"You tell us through your verdicts, ladies and gentlemen, you tell us that we can have folks roaming our streets who cut and hack and slash and murder and abuse and sexually assault eighty-eight year old citizens of this county." (LNA, 2002, p. 23)</p> <p>"When I saw her on the (hospital) bed, she appeared to be half-decapitated, and I immediately walked out." (The Daily Herald, 2000)</p> <p>"Several jurors averted their eyes for brief moments as the graphically detailed photos plainly showed the elderly woman, fully conscious and looking at the camera with a gaping, bloody wound in her neck." (The Daily Herald, 2000)</p> <p>"We could not give her any medication to make sure she was not in pain, because we had no time." (The Daily Herald, 2000).</p> <p>"...intent to sexually assault Sechler by slashing her throat from ear-to ear and she sustained defensive wounds on both her hands and that the murder was especially heinous, atrocious or cruel." (The Daily Herald, 2004)</p>	<p><i>Hypothesis-rejecting</i> B_dW_v, liberated jury (Life)</p> <p>Final Classification: <i>Hypothesis-Rejecting</i> While 3 of the 5 aggravators accepted in the first trial were dropped to 2 aggravators accepted in the resentencing hearing, the jury's verdict of life for this black male who brutally murdered an 88 year old white female victim rejects the hypothesis.</p>	<p>LexisNexis Academic: No Appeal/Penalty Phase Retrial</p> <p>The Daily Herald (2000) http://www.rrdailyherald.com/mistrial-nearly-declared-on-second-day-of-rogers-murder-trial/article_f3fb4a6d-2935-5b7b-a6f8-8753dcca14b5.html</p> <p>The Daily Herald (2003) http://www.rrdailyherald.com/rogers-found-guilty-of-murder-and-rape-of-sechler/article_81cb02d-639b-570d-a4b5-17bc6735d34f.html</p> <p>The Daily Herald (2004) http://www.rrdailyherald.com/news/rogers-gets-life-in-resentencing-hearing/article_efb43a5f-1dce-5063-8a3e-0b199d957496.html</p>

Table 11c (Continued). Results of Qualitative Analysis: B_dW_v, Life, Liberated Jury (n=7).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Bradford, Kendrick (Black)	Hartwig, Bobbie (White) Parrish, Bernadine (White)	Life	Halifax (Eastern Region)	<p>2 aggravators accepted: #5: Engaged in commission of kidnapping #11: Course of conduct (other crimes of violence against another person or persons)</p> <p>“Three people walking on the highway, one shot down like a dog in the ditch, the other two ladies forced in the car, driven a distance, the car running in a ditch, ladies forced to try to help move the car. Those aldiies as you heard evidence about crying, hysterical, worried about one of them’s (sic) mother and what effect shooting or potential shooting of the brother would have on her mother because of her mother’s heart condition. Two women giving their bodies, raped, and raped. And then ...murdered in a most vile way...Bernadine Parrish, strangled in the fashion that you heard. Ah, after being raped, she passed out, becomes conscious again, sits up, strangled again to the point that...she looses (sic) control of her bodily functions and [is] thrown in a ditch. Bobbie Jean Hartwig, raped and raped, strangled, thrown in a ditch, regains consciousness, screaming in the ditch after being strangled and then blown away in the chest with a shotgun...I don’t believe any of us are capable of imagining the pure horror that was going on.” (LNA, 1995, p. 35)</p>	<p><i>Hypothesis-rejecting</i> B_dW_v liberated jury (Life)</p> <p>Final Classification: <i>Hypothesis-rejecting</i> Multiple men repeatedly raped two female victims before murdering them in a horrific manner; attempted murder of third male victim.</p>	LexisNexis Academic: No Appeal

Table 11c (Continued). Results of Qualitative Analysis: B_dW_v, Life, Liberated Jury (n=7).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Montgomery, Rodney (Black)	Piccolo, Kimberly (White)	Life Second trial	Pitt (Eastern Region)	2 aggravators accepted: #5: Engaged in commission of felony #6: Offense was for pecuniary gain "Piccolo had received nine stab wounds that were clustered in her chest, arm, back, and abdomen and several defensive wounds on her hands. One stab wound went completely through her right hand. The cause of death was loss of blood." (LNA, 1992, p. 4)	<i>Hypothesis-rejecting</i> B _d W _v liberated jury (Life) Final Classification: <i>Hypothesis-non-supporting</i> Strong but circumstantial evidence; defendant had an alibi; no witnesses; attempted rape. HAC aggravator not accepted as it was in the first trial; the murder does not seem as brutal as many of the other trials reviewed.	LexisNexis Academic: 341 N.C. 553; 461 S.E.2d 732; 1995 N.C. LEXIS 408 The Times-News (1993) https://news.google.com/newspapers?nid=1665&dat=19931211&id=w-siAAAAIBAJ&sjid=PCUEAAAAIBAJ&pg=5654,3127298&hl=en
Richardson, Danny (Black)	Byrum, Gladys (White)	Life	Mecklenburg (Piedmont Region)	2 aggravators accepted: #5: Engaged in commission of rape/robbery/burglary #6: Offense was for pecuniary gain "But manual strangulation takes an effort, takes a deliberate act, takes a premeditated act. It takes an act of thinking it out and doing it." (LNA, 1991, p. 6) "Gladys Mae Byrum, 59, died early Sunday after being on life-support systems for 11 days." (Charlotte Observer, 1989) "She worked hard all her life. She took good care of us kids and always protected us." (Charlotte Observer, 1989)	<i>Hypothesis-rejecting</i> B _d W _v liberated jury (Life) Final Classification: <i>Hypothesis-non-supporting</i> Inconclusive DNA tests; not especially brutal.	LexisNexis Academic: 328 N.C. 505; 402 S.E.2d 401; 1991 N.C. LEXIS 261 Charlotte Observer (1989)

murder. As stated earlier, I anticipated through my employment of qualitative hypothesis testing that I would discover trials that completely rejected the hypothesis and thus I would not be able to reformulate the hypothesis to represent all trials in the data set but instead identify overall levels of support for the hypothesis (Berg, 1989; Ratcliffe, 1994; Robinson, 1951). Therefore, the revised hypothesis did not undergo any further modifications at this point in the analysis.

For all W_dW_v trials with liberated juries that recommended a death sentence ($n=26$), 0 supported the hypothesis, 6 rejected the hypothesis, 13 failed to support the hypothesis, and 7 were excluded (see Table 11d). Observed themes within these trials that failed to support the hypothesis are related to: trial circumstances perceived to be especially brutal (e.g., torture, severe injuries); previous violent crimes committed by the defendant, multiple victims; a particularly brutal sexual assault (e.g., sodomizing the victim, using foreign objects to sexually assault the victim). Juries considering these factors would likely recommend a sentence of death regardless of the race of the defendant. Further, three trials were automatically reclassified as *hypothesis-non-supporting* because they involved non-traditional White female victims (e.g., discredited for drug use/involvement). Observed themes associated with the trials that rejected the hypothesis are related to: the presence of mitigating factors (e.g., the defendants mental problems and/or traumatic childhood) that may have outweighed the accepted aggravating factors; trial circumstances that may not have been perceived as especially brutal. These trials that could have influenced different juries to recommend sentences of life for the White defendants resulted in death sentences and thus reject the hypothesis. Potential explanations for several of these trial outcomes may be related to the absence of mitigating factors, prior rape convictions, and the psychological torture of the victim. However, the overall themes of most of these trials were that the mitigating factors outweighed the aggravating factors and/or that the

Table 11d. Results of Qualitative Analysis: $W_d W_v$, Death Penalty, Liberated Jury (n=26).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Johnson, Norman (White)	Bartlette III, Robert (White)	Death	Alexander (Western Region)	1 aggravators accepted: #9: Heinous, atrocious, or cruel	<i>Hypothesis-rejecting</i> $W_d W_v$ liberated jury (Death) Excluded from analysis The victim was a ten year old boy.	LexisNexis Academic: 298 N.C. 355; 259 S.E.2d 752; 1978 N.C. LEXIS 1387

Table 11d (Continued). Results of Qualitative Analysis: W_dW_v , Death Penalty, Liberated Jury (n=26).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Poindexter, Ronald (White)	Coltrane, Wanda (White)	Death Retrial. Court vacated defendant's death sentence and ordered a new capital sentencing hearing due to ineffective assistance of defendant's trial counsel during sentencing proceeding of second trial. Question of mental retardation will be addressed at resentencing hearing.	Randolph (Piedmont Region)	1 aggravator accepted: #5: Engaged in commission of rape "An autopsy revealed that Coltrane died as a result of numerous cutting injuries with a deep cut across her throat." (Courier Tribune, 2015) "...beating Coltrane and cutting her throat with a serrated ham knife during an attempted rape." (News & Record, 2002) "Investigators found her bra in the bedroom of a house where she had gone to meet Pugh, allegedly to buy cocaine." (Courier Tribune, 2015) Cocaine found in victim's blood stream.	<i>Hypothesis-rejecting</i> W_dW_v liberated jury (Death) Final Classification: <i>Hypothesis-non-supporting</i> The victim, a long time neighbor of the defendant, used cocaine she bought from the defendant.	LexisNexis Academic: 359 N.C. 287; 608 S.E.2d 761; 2005 N.C. LEXIS 204 News & Record (2002) http://www.news-record.com/pugh-sentenced-to-death-again-a-jury-sends-ronald-pugh/article_5b123435-3ee8-594d-85b4-06d1152a80bc.html Associated Press & State Local Wire (2005) http://www.lexisnexis.com.ezproxy.lib.usf.edu/hottopics/inacademic/ Courier Tribune (2015) http://courier-tribune.com/news/local/pugh-appeal-denied-court-appeals-death-wanda-coltrane

Table 11d (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Liberated Jury (n=26).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Chandler, Frank (White)	Poore, Doris (White)	Death	Surry (Piedmont Region)	1 aggravator accepted: #6: Offense was for pecuniary gain	<i>Hypothesis-rejecting</i> W _d W _v , liberated jury (Death) Excluded from analysis While the victim's body was found partially clothed, there was no evidence of rape of sexual assault. The defendant was found not guilty of attempted rape/sexual assault.	LexisNexis Academic: 342 N.C. 742; 467 S.E.2d 636; 1996 N.C. LEXIS 148
Payne, Randy (White)	Weaver, Kathleen (White)	Death Second trial. Death sentence vacated based on improper instructions regarding mitigating circumstance; new sentencing proceeding ordered.	Davidson (Piedmont Region) New venue due to pretrial publicity.	1 aggravator accepted: #5: Engaged in commission of rape "Her legs were spread apart, and the pajamas she was wearing were split open at the crotch. The bed linens were disarranged and heavily stained with blood." (LNA, 1991, p. 7) "Weaver, a widow and grandmother of four, was raped and bludgeoned to death with an ax at her home." (The Dispatch, 1995)	<i>Hypothesis-rejecting</i> W _d W _v , liberated jury (Death) <i>Hypothesis-rejecting</i> Defendant sniffed gasoline habitually since he was seven or eight years old and had borderline mental retardation and cognitive problems. Only one aggravator accepted (commission of rape). The HAC aggravator was not submitted in the second or third trials. Final Classification: <i>Hypothesis-non-supporting</i> No mitigating factors found, 16 hatchet wounds, malice, premeditation and deliberation, and felony murder.	LexisNexis Academic: 328 N.C. 377; 402 S.E.2d 582; 1991 N.C. LEXIS 263 The Dispatch (1995) https://news.google.com/newspapers?nid=1734&dat=19950328&id=v8EdAAAAIAAJ&sjid=AIMEAAAAIAAJ&pg=2813,2376212&hl=en

Table 11d (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Liberated Jury (n=26).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Payne, Randy (White)	Weaver, Kathleen (White)	Death Third trial.	Davidson (Piedmont Region)	<p>1 aggravator accepted: #5: Engaged in commission of rape</p> <p>“Weaver, a widow and grandmother of four, was raped and bludgeoned to death with an ax at her home.” (The Dispatch, 1995)</p> <p>“Here, though the circumstance was not submitted, the evidence tended to show that this murder was quite brutal, involving sixteen hatchet wounds to the head, neck, back, arms, and hands.” (LNA 1994, p. 19)</p> <p>“...the victim was five feet, one inch tall and weighed one hundred thirty-one pounds. He found sixteen cut injuries on her head, neck, back, arms, and hands. Several of the wounds were over three-inches long. Two deep cuts went through the skull; the brain and bone in the head were exposed through these cuts. The victim's skull was fractured, which caused fragments of bone to be driven into the brain's surface. A three-inch cut on the left arm opened the elbow joint and entered the bones of the forearm. The cuts were caused by a large, heavy, sharp object, such as a cleaver, ax, or machete. The victim also suffered a blow of some magnitude to the liver.” (LNA, 1994, p. 7)</p>	<p><i>Hypothesis-rejecting</i> W_dW_v, liberated jury (Death)</p> <p><i>Hypothesis-rejecting</i> Defendant sniffed gasoline habitually since he was seven or eight years old and had borderline mental retardation and cognitive problems. Only one aggravator accepted (commission of rape). The HAC aggravator was not submitted in the second or third trials.</p> <p>Final Classification: <i>Hypothesis-non-supporting</i> No mitigating factors found, 16 hatchet wounds, malice, premeditation and deliberation, and felony murder.</p>	<p>LexisNexis Academic: 337 N.C. 505; 448 S.E.2d 93; 1994 N.C. LEXIS 499</p> <p>The Dispatch (1995) https://news.google.com/newspapers?nid=1734&dat=19950328&id=v8EdAAAAIAIB&sjid=A1MEAAAAIAIB&pg=2813,2376212&hl=en</p>

Table 11d (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Liberated Jury (n=26).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Reeves, Michael (White)	Toler, Susan (White)	Death	Carteret (Eastern Region)	<p>1 aggravator accepted: #3: Previous violent felony</p> <p>The defendant then forced Mrs. Toler to undress and sexually assaulted her. The defendant used at least two sharp tools to assault Mrs. Toler and she suffered five wounds in her vaginal area. The defendant then forced her to lie on the floor at which time he put a pillow over her head and shot her to death." (LNA, 1994, p. 10)</p> <p>"...the victim "was a very good person. She always went to church. She loved her children. She was a good wife and mother. And she was just a very good person, would do anything for anybody, and she died not knowing what happened to her two-and-a-half-year-old child." (LNA, 1994, p. 15)</p>	<p><i>Hypothesis-rejecting</i> W_dW_v, liberated jury (Death)</p> <p><i>Hypothesis-rejecting</i> Kidnapped, raped, and cut another woman on a separate occasion; sexually assaulted victim with a screwdriver after the rape.</p> <p>Final Classification: <i>Hypothesis-rejecting</i> The defendant sent the victim's daughter to another room (unharmd) prior to the sexual assault; the victim died from one gunshot wound to the head.</p>	<p>LexisNexis Academic: 337 N.C. 700; 448 S.E.2d 802; 1994 N.C. LEXIS 578</p> <p>Charlotte Observer (2005) http://lists.washlaw.edu/pipermail/deatpenalty/2005-July/002963.html</p>

Table 11d (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Liberated Jury (n=26).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Silhan, Stephen (White)	Coates, Maryjo (White)	Death 1 st trial. Judgment arrested for first degree rape and new sentencing hearing ordered for first degree murder.	Columbus (Eastern Region)	<p>1 aggravator accepted: #5: Engaged in commission of rape</p> <p>“After raping and knifing Miss Coates, Silhan paralyzed Miss Davenport by pounding on her back and sawed halfway through her neck with the knife, she said. Then he stabbed her twice in the back.” (Star News, 1981)</p> <p>“He had gagged her...I could hear her screaming while he was raping her.” (FayObserver.com, 2010)</p> <p>“One of the back wounds severed her artery to her heart.” (FayObserver.com, 2010)</p> <p>“He slit her throat, again and then again. She felt the blade penetrate.” (FayObserver.com, 2010)</p>	<p><i>Hypothesis-rejecting</i> W_dW_v, liberated jury (Death)</p> <p><i>Hypothesis-non-supporting</i> Two rape victims, ages 14 and 17; 14 year old was murdered. Extremely brutal sexual assaults and murder.</p> <p>Excluded from analysis Two rape victims were 14 and 17; only 14 year old was murdered.</p>	<p>LexisNexis Academic: 302 N.C. 223; 275 S.E.2d 450; 1981 N.C. LEXIS 1057</p> <p>Star News (1981) https://news.google.com/newspapers?nid=1454&dat=19810801&id=n8UsAAAAIBAJ&sjid=UBMEAAAIBAJ&pg=6819,44729&hl=en</p> <p>Star News (1981) https://news.google.com/newspapers?nid=1454&dat=19810728&id=asQsAAAAIBAJ&sjid=WxMEAAAIBAJ&pg=2543,6513309&hl=en</p> <p>WRAL.com (2000) http://www.wral.com/news/local/story/141222/</p> <p>FayObserver.com (2010) http://www.fayobserver.com/woman-fears-attacker-will-get-parole/article_6d90a478-1add-55cd-9a2c-713c7e1d6cfa.html</p>

Table 11d (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Liberated Jury (n=26).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Daughtry, Johnny (White)	Narron, Jennifer (White)	Death	Johnston (Eastern Region)	<p>2 aggravators accepted: #5: Engaged in commission of sexual offense #9: Heinous, atrocious, or cruel</p> <p>“They found the victim's naked body face down next to the apartment steps. Her head lay in a pool of blood, and a stick protruded from her rectum. Her left arm extended along the left side of her body, palm up; her right index finger was in her mouth.” (LNA, 1995, p. 11)</p> <p>“...found multiple bruises and abrasions on the victim's head, face, and neck. The lower jawbone was fractured in two places, and the back of the scalp had four separate lacerations, each exposing bone. She also found multiple skull fractures, hemorrhaging around the brain and brain stem, and bruises of the brain tissue... both internal and external lacerations existed in and around the vagina and rectum. Further, the injuries around the rectal area were consistent with an object being rotated in the rectum.” (LNA, 1995, p. 11)</p> <p>“(1) the victim was alive as defendant bludgeoned her, (2) the victim was alive when defendant inserted the tree limb into her rectum, and (3) defendant twisted the stick in the rectum as he inserted it” (LNA, 1995, p. 19)</p> <p>“The acts depicted highlight the excessive brutality and cruelty of the killing.” (LNA, 1995, p. 19)</p>	<p><i>Hypothesis-rejecting</i> W_dW_v liberated jury (Death)</p> <p>Final Classification: <i>Hypothesis-non-supporting</i> The defendant had a history of violence against the victim. The “pitiless and dehumanizing manner of the murder” likely weighed heavily on the jury’s sentencing decision (LNA, 1995, p. 19).</p>	<p>LexisNexis Academic: 340 N.C. 488; 459 S.E.2d 747; 1995 N.C. LEXIS 377</p> <p>The Smithfield Herald (2010) http://www.lexisnexis.com.ezproxy.lib.usf.edu/hototpics/lnacademic/</p>

Table 11d (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Liberated Jury (n=26).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Hennis, Timothy (White)	Eastborn, Kathryn (White)	Death New trial ordered based on prejudicial use of photographs by the state in conjunction with a lack of overwhelming evidence against defendant.	Cumberland (Eastern Region)	<p>2 aggravators accepted: #9: Heinous, atrocious, or cruel #11: Course of conduct (other crimes of violence against another person or persons)</p> <p>“...where he discovered the body of three-year-old Erin Eastburn and the naked body of her mother on the floor... numerous knife wounds to the chests of both victims and that part of the child's face and chest and Mrs. Eastburn's face were covered with pillows. On the bed in a second bedroom the officer found the body of five-year-old Kara Eastburn, also with numerous knife wounds to her chest and side and a pillow or blanket over her head.” (LNA, 1988, p. 4)</p> <p>“What happened in that house was udder madness. It's one of the most tragic things that has ever happened in this country.” (The New Yorker, 2011)</p> <p>“Additionally, each victim's throat had been cut in a manner commonly described as "from ear to ear" and, in at least one instance, almost decapitating the body.” (LNA, 1988, p. 8)</p> <p>“She had been stabbed fifteen times and had apparently been raped; semen was found inside her body. All three Eastburns' throats had been slit.” (The New Yorker, 2011)</p> <p>“Time was a gentle giant. I would trust the guy with my family.” (The New Yorker, 2011)</p>	<p><i>Hypothesis-rejecting</i> W_dW_v, liberated jury (Death)</p> <p>Final Classification: <i>Hypothesis-non-supporting</i> Three murder victims including two young girls. The circumstances surrounding the rape and murders were especially heinous, atrocious, and cruel.</p>	<p>LexisNexis Academic: 323 N.C. 279; 372 S.E.2d 523; 1988 N.C. LEXIS 607</p> <p>ABC News (2010) http://abcnews.go.com/2020/timothy-hennis-guilty-1985-triple-murder-trial/story?id=11652956</p> <p>The New Yorker (2011) https://www.google.com/?gws_rd=ssl#q=hennis+eastborn+murder</p> <p>CNN (2014) http://www.cnn.com/2014/07/18/us/death-row-stories-hennis/</p> <p>FayObserver.com (2014) http://www.fayobserver.com/news/crime_courts/timothy-hennis-appeals-murder-convictions-former-fort-bragg-soldier-argues/article_bce7bf5b-6e21-5d00-9795-8687734dc3d5.html</p>

Table 11d (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Liberated Jury (n=26).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Johnson, Norman (White)	Sherrill, Mabel (White)	Death Remanded for new sentencing based on prejudicially insufficient instructions regarding mitigating circumstance.	Cleveland (Western Region) (Change of venue from Caldwell)	2 aggravators accepted: #5: Engaged in commission of rape #9: Heinous, atrocious, or cruel "Then he raped her. He stated that he did not get an erection, but he did manage to penetrate slightly. He also stated that he did not have an orgasm" Realizing that she was not dead and being afraid that she would scream, he stabbed her in the heart with the knife." (LNA, 1979, p. 7) "He was, according to investigators, "fully cooperative" with them...Defendant had been active at Grace Baptist Church and, after the murder, expressed "sorrow, remorse and grief" to the pastor of that church. Defendant had a reputation for good character in his community. He was a dependable employee, thought of by his employer as honest, punctual, and hard working. ..He was considered by a number of witnesses to be "an easy going, friendly normal individual." His jailer testified that, as a prisoner, he was "quiet . . . and never caused any trouble" and that he "was a model prisoner." (LNA, 1979, p. 7) "... he suffered from schizophrenia... Defendant's childhood showed a history of suicide attempts at ages 12, 14 "and again in the 11th Grade"... defendant was in the throes of a "mental or emotional disturbance at the time of the murder of Mabel Bowman Sherrill" and "the capacity of [defendant] to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was impaired at the time he killed Mabel Bowman Sherrill." (LNA, 1979, p. 8)	<i>Hypothesis-rejecting</i> W _d W _v , liberated jury (Death) Final Classification: <i>Hypothesis-rejecting</i> Mitigating factors appear to outweigh the aggravating factors; rape and murder are not especially brutal.	LexisNexis Academic: 298 N.C. 47; 257 S.E.2d 597; 1979 N.C. LEXIS 1369 Star News (1977) https://news.google.com/newspapers?nid=1454&date=19771102&id=NLksAAAIBAJ&sjid=HhMEA AAAIBAJ&pg=6553,375840&hl=en

Table 11d (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Liberated Jury (n=26).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Johnson, Jr., Bobby (White)	Phillips, Donna (White)	Death First trial. Judgment on rape charge and new sentencing hearing ordered on first degree murder conviction based on improper submission of aggravating circumstance.	Guilford (Piedmont Region)	2 aggravators accepted: #5: Engaged in commission of rape #9: Heinous, atrocious, or cruel "He discovered approximately fifty-five separate stab wounds on the torso, right arm, thigh, and back, with thirty-eight of these being in the chest area, passing from the left of the left breast to below the right breast...One stab wound which passed completely through the right hand was, in his opinion, a defensive wound. He also found, among other injuries, a recent bruise on the right eye, scratches, and human bite marks on both the left thigh and the left breast." (LNA, 1985, p. 7) "...sought Donna Phillips out and returned to pick her up for the express purpose of raping her. Once Ms. Phillips realized their intentions, her protestations were met with hostility and physical violence... Bruised and bleeding, she was dragged from the car, her clothing was ripped from her body, and she was stabbed in the arm. She was then thrown to the ground and sexually assaulted by defendant as Williams held her down. Defendant savagely bit her on the left breast, leaving a clear wound. All the while, Ms. Phillips was conscious, certainly in pain and aware that she was engaged in a life-and-death struggle, as she heard Williams urge defendant to "[g]o ahead and kill her." Defensive wounds on her hand indicated that she had attempted to fend off the knife attack. Defendant ultimately inflicted fifty-five stab wounds upon his victim, with perhaps fifteen to twenty minutes elapsing between the time Ms. Phillips was first stabbed in the car and the time she finally died. (LNA, 1985, p. 27)	<i>Hypothesis-rejecting</i> W _d W _v , liberated jury (Death) <i>Hypothesis-non-supporting</i> Victim had a blood alcohol content of .15 and left a bar with the defendant the night she died. Final Classification: <i>Hypothesis-non-supporting</i> The victim was held down by a man while sexually assaulted by the defendant and stabbed 55 times before dying approximately twenty minutes later.	LexisNexis Academic: 317 N.C. 343; 346 S.E.2d 596; 1986 N.C. LEXIS 2426

Table 11d (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Liberated Jury (n=26).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Kandies, Jeffery (White)	Osborne, Natalie (White)	Death	Randolph (Piedmont Region)	2 aggravators accepted: #5: Engaged in commission of rape #9: Heinous, atrocious, or cruel	<i>Hypothesis-rejecting</i> W _a W _v , liberated jury (Death) Excluded from analysis Victim was a 4 year old girl.	LexisNexis Academic: 342 N.C. 419; 467 S.E.2d 67; 1996 N.C. LEXIS 16
Payne, Randy (White)	Weaver, Kathleen (White)	Death First trial. New trial ordered because the trial court communicated with the jurors out of open court and in the absence of the defendant, counsel, or a court reporter.	Davidson (Piedmont Region)	2 aggravators accepted: #5: Engaged in commission of rape #9: Heinous, atrocious, or cruel “...the victim was killed with a hatchet and had been penetrated vaginally shortly before death.” (LNA, 1987, p. 2) “Weaver, a widow and grandmother of four, was raped and bludgeoned to death with an ax at her home.” (The Dispatch, 1995)	<i>Hypothesis-rejecting</i> W _a W _v , liberated jury (Death) <i>Hypothesis-rejecting</i> Defendant sniffed gasoline habitually since he was seven or eight years old and had borderline mental retardation and cognitive problems. Only one aggravator accepted (commission of rape). The HAC aggravator was not submitted in the second or third trials. Final Classification: <i>Hypothesis-non-supporting</i> No mitigating factors found, 16 hatchet wounds, malice, premeditation and deliberation, and felony murder.	LexisNexis Academic: 320 N.C. 138; 357 S.E.2d 612; 1987 N.C. LEXIS 2174 The Dispatch (1995) https://news.google.com/newspapers?nid=1734&date=19950328&id=v8EdAAAIBAJ&sjid=A1MEA AAAIBAJ&pg=2813.2376212&hl=en

Table 11d (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Liberated Jury (n=26).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Poindexter, Ronald (White)	Coltrane, Wanda (White)	Death First trial. Court ordered that defendant receive a new trial due to juror misconduct during the guilt-innocence phase (first trial)	Randolph (Piedmont Region)	2 aggravators accepted: #5: Engaged in commission of rape #9: Heinous, atrocious, or cruel	<i>Hypothesis-rejecting</i> W _d W _v , liberated jury (Death) Final Classification: <i>Hypothesis-non-supporting</i> The victim, a long time neighbor of the defendant, used cocaine she bought from the defendant.	LexisNexis Academic: 353 N.C. 440; 545 S.E.2d 414; 2001 N.C. LEXIS 428
Steen, Patrick (White)	Frost, Virginia (White)	Death	Mecklenburg (Piedmont Region)	2 aggravators accepted: #6: Offense was for pecuniary gain #9: Heinous, atrocious, or cruel “An autopsy performed on 1 March 1996 revealed contusions over the bridge of the victim's nose, around her left eye and over the left side of her cheek; a laceration on the right side of her scalp; bruising over her head, neck, left arm, shoulder, chest and buttocks; and a broken tooth...areas of hemorrhage around the brain, swelling and bruising of the brain, sixteen separate fractures to ten different ribs, and small tears in the inner lining of the chest...none of the blows would have been immediately fatal, and that Mrs. Frost would have survived for three to four hours.” (LNA, 2000, p. 11)	<i>Hypothesis-rejecting</i> W _d W _v , liberated jury (Death) Excluded from analysis Rape charge was reduced to attempted rape; jury found defendant not guilty of attempted rape. No evidence of sexual offense.	LexisNexis Academic: 352 N.C. 227; 536 S.E.2d 1; 2000 N.C. LEXIS 530 Associated Press & State Local Wire (2001) http://www.lexisnexis.com.ezproxy.lib.usf.edu/hottopics/lnacademic/

Table 11d (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Liberated Jury (n=26).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Moss, Bobby (White)	Sanderson, Pauline (White)	Death New trial ordered on all charges because trial court erred in conducting private, unrecorded bench conferences with prospective jurors.	Duplin (Eastern Region)	2 aggravators accepted: #3: Previous violent felony #5: Engaged in commission of robbery “The victim suffered a laceration near her left eye that exposed a portion of her skull...a hairline fracture of the victim's skull that was probably caused by a blunt force injury...the victim was strangled to death. The victim's thyroid cartilage or voice box was fractured, which resulted in a large amount of internal bleeding.” (LNA, 1992, p. 5) No specific mention of rape but sperm was found in the victim's vagina and pubic hair found on the scene.	<i>Hypothesis-rejecting</i> W _a W _v , liberated jury (Death) Final Classification: <i>Hypothesis-rejecting</i> A white male defendant murdered a white female victim in a manner not especially brutal.	LexisNexis Academic: 332 N.C. 65; 418 S.E.2d 213; 1992 N.C. LEXIS 369 Star News (1990) https://news.google.com/newspapers?nid=1454&date=19900126&id=yUJOAAAIBAJ&sjid=AhQEA AAAIBAJ&pg=6637.8753659&hl=en
Roper, James (White)	Rader, Ned (White)	Death	Burke (Western Region)	2 aggravators accepted: #3: Previous violent felony #11: Course of conduct (other crimes of violence against another person or persons)	<i>Hypothesis-rejecting</i> W _a W _v , liberated jury (Death) Excluded from analysis The defendant murdered a male in order to rape a female. The female rape victim was not murdered.	LexisNexis Academic: 328 N.C. 337; 402 S.E.2d 600; 1991 N.C. LEXIS 251

Table 11d (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Liberated Jury (n=26).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Billings, Archie (White)	Jackson, Amy (White)	Death	Caswell (Piedmont Region)	3 aggravators accepted: #5: Engaged in commission of robbery #9: Heinous, atrocious, or cruel #11: Course of conduct (other crimes of violence against another person or persons)	<i>Hypothesis-rejecting</i> W _d W _v , liberated jury (Death) Excluded from analysis Victim was a twelve year old girl.	LexisNexis Academic: 348 N.C. 169; 500 S.E.2d 423; 1998 N.C. LEXIS 224
Haselden, Jim (White)	Sisk, Kim (White)	Death	Stokes (Piedmont Region)	3 aggravators accepted: #3: Previous violent felony #5: Engaged in commission of robbery #9: Heinous, atrocious, or cruel "Law enforcement officers responding to the scene observed the body lying on its back. The body had massive trauma to the left side of the face. The left eye was dislodged. There were wounds to the right cheek... Tooth or bone fragments were located just beyond the body on the left side. Semen and sperm were found in Kim's panties. The DNA profile subsequently obtained from this evidence matched defendant's DNA profile." (LNA, 2003, p. 7) "Defendant told Harper that he had made Kim get on her knees. Defendant said that Kim had pleaded, "Jim don't shoot me, Jim don't shoot me," four or five times, and then defendant "blew her whole face off." Defendant said that he went down the street but then returned and shot Kim in the face again. Defendant told Harper that this shot caused Kim's body to jump off the ground." (LNA, 2003, p. 8) "Kim was attempting to overcome a drug addiction, that Kim had recently rededicated her life to the L-rd, and that Kim had reconciled with her husband and renewed her wedding vows." (LNA, 2003, p. 8)	<i>Hypothesis-rejecting</i> W _d W _v , liberated jury (Death) <i>Hypothesis-non-supporting</i> Victim was on her knees pleading for her life when defendant shot her twice in the face with a shotgun (at different time intervals). Final Classification: <i>Hypothesis-non-supporting</i> Non-traditional white female victim: victim was a recovering drug addict.	LexisNexis Academic: 357 N.C. 1; 577 S.E.2d 594; 2003 N.C. LEXIS 318 WFMY News (2003) http://archive.digitriad.com/news/article/11067/0/Supreme-Court-Upholds-Stokes-Death-Sentence

Table 11d (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Liberated Jury (n=26).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Jackson, Richard (White)	Styles, Karen (White)	Death New trial ordered since inculpatory statements made to the detectives should have been excluded because they were made after the defendant invoked his right to counsel.	Buncombe (Western Region)	3 aggravators accepted: #5: Engaged in commission of rape #5: Engaged in commission of kidnapping #9: Heinous, atrocious, or cruel “...her body was found nude from the waist down and taped to a tree.” (LNA, 1998, p. 2) "But I didn't mean to kill nobody. I didn't." He continued crying, "I'm sorry; I didn't mean to kill her." (LNA, 1998, p. 3) Defendant was adopted son of prominent community leader (country commissioner). “Murder stole sense of security from outdoor lovers in one of safest places to live.” (Mountain Xpress, 2000) “Karen had a “powerful symbolic presence” in her community.” (Mountain Xpress, 2000)	<i>Hypothesis-rejecting</i> W _d W _v , liberated jury (Death) Final Classification: <i>Hypothesis-rejecting</i> The cause of death was a gunshot to the victim’s head. The defendant suffered from multiple psychiatric problems (ADD, bipolar disorder, dissociative identify disorder, borderline personality disorder, depression), had nervous breakdown; discharged from the Navy for mental illness; attempted suicides. The circumstances of the crime were not especially brutal.	LexisNexis Academic: 348 N.C. 52; 497 S.E.2d 409; 1998 N.C. LEXIS 152 Mountain Xpress (2000) https://mountainx.com/opinion/0329ready-php/ Freelance Star (2003) https://news.google.com/newspapers?nid=1298&dat=20030320&id=ejEzAAAAIAAJ&sjid=hAgGAAIAAJ&pg=3795,5052590&hl=en Citizen Times (2014) http://www.citizen-times.com/story/news/local/2014/12/23/from-the-archives-retrial-in-karen-styles-killing-ordered/20821597/

Table 11d (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Liberated Jury (n=26).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Lee, David (White)	Gray, Jennifer (White)	Death	Avery (Western Region)	<p>3 aggravators accepted: #5: Engaged in commission of kidnapping #9: Heinous, atrocious, or cruel #11: Course of conduct (other crimes of violence against another person or persons)</p> <p>“The defendant admitted that he kidnapped and killed Ms. Gray...The defendant stated that Ms. Gray had died a slow and painful death. The defendant admitted that he had beaten Ms. Gray with a large stick, kicked her in the throat and then, standing on her back, strangled her with her sweater. The defendant asked Ms. Cooper if she wanted to die a fast or a slow death. The defendant told Ms. Cooper that he would not kill her until he had performed various sexual acts with her or until the following morning. The defendant also made a comparison between his sexual assault against Ms. Gray and his rape of Ms. Cooper.” (LNA, 1994, p. 20)</p> <p>“Evidence that the defendant sodomized the victim prior to killing her has the tendency to show that there existed in this case dehumanizing aspects not normally present in a first degree murder.” (LNA, 1994, p. 21)</p> <p>“The photographs at issue depicted the victim's nude body in an advanced stage of decomposition. The photographs also purported to depict the manner in which the victim was strangled and the injuries to her head.” (LNA, 1994, p. 22)</p> <p>“Likewise, the defendant's crime was one of cold calculation wherein he repeatedly sought to abduct, sexually assault, and then murder female Appalachian State University students.” (LNA, 1994, p. 31)</p>	<p><i>Hypothesis-rejecting</i> W_dW_v, liberated jury (Death)</p> <p><i>Hypothesis-rejecting</i> Defendant's behavior underwent extreme changes following a brain operation. Defendant changed from being a polite, nonviolent, considerate, and clean young man, before the operation, to one who was unclean, lethargic, unreliable, perverse and demanding after the operation.</p> <p>Final Classification: <i>Hypothesis-non-supporting</i> Victim was kidnapped at gun point, stripped naked, driven to another location where she was forced to walk or run to the place where she was beaten on the head, kicked in the throat and strangled by the defendant. The defendant sodomized the victim. The defendant said the victim died a slow and painful death. This behavior of physical and psychological torture was part of a pattern of abducting and sexually assaulting college students.</p>	LexisNexis Academic; 335 N.C. 244; 439 S.E.2d 547; 1994 N.C. LEXIS 18

Table 11d (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Liberated Jury (n=26).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
McDougall, Michael (White)	Parker, Diane (White)	Death	Mecklenburg (Piedmont Region)	<p>3 aggravators accepted: #3: Previous violent felony #9: Heinous, atrocious, or cruel #11: Course of conduct (other crimes of violence against another person or persons)</p> <p>“Diane had been stabbed some twenty-two times. She also had other contusions about her body. Any one of several of the stab wounds could have caused her death. At least two of the stab wounds entered her heart. Most of the wounds had been inflicted while she was in a prone position. She had cuts across the palm of her hand which a doctor who testified characterized as defensive type wounds. She had lost approximately half of the volume of her blood. Several of the wounds were from four to six inches deep.” (LNA, 1983, p. 8)</p> <p>“After voluntarily injecting cocaine, defendant gained entry into the home of Diane Parker and Vicki Dunno by cunning, guile and misrepresentation. Once in their home, he commenced a campaign of terror against the two young women, cutting, stabbing and slashing them with a butcher knife. There is strong evidence that defendant killed Diane Parker while attempting to rape her.” (LNA, 1983, p. 21)</p>	<p><i>Hypothesis-rejecting</i> W_dW_v, liberated jury (Death)</p> <p>Final Classification: <i>Hypothesis-non-supporting</i> Victim was stabbed approximately 22 times; defendant attempted to murder a second victim (stabbed 9 times).</p>	<p>LexisNexis Academic: 308 N.C. 1; 301 S.E.2d 308; 1983 N.C. LEXIS 1131</p> <p>The Times-News (1991) https://news.google.com/newspapers?nid=1665&date=19910805&id=x-0eAAAAIBAJ&sjid=bCQEAAAIBAJ&pg=5156.1045457&hl=en</p> <p>NY Times (1991) http://www.nytimes.com/1991/10/19/us/man-convicted-in-1979-slaying-is-put-to-death-in-north-carolina.html</p>

Table 11d (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Liberated Jury (n=26).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Moseley, Carl (White)	Henley, Deborah (White)	Death	Forsyth (Piedmont Region)	<p>3 aggravators accepted: #3: Previous violent felony #5: Engaged in commission of rape #9: Heinous, atrocious, or cruel</p> <p>“The wounds on Ms. Henley's body revealed that she had been savagely beaten, stabbed, sexually assaulted with a blunt instrument, and manually strangled.” (LNA, 1994, p. 5)</p> <p>“The body of each victim had similar wounds. A foreign object had been forced into the genitalia of each woman.” (LNA, 1994, p. 6)</p> <p>The signature in both the Stokes and Forsyth murders was overkill. The murderer in each case had inflicted far more injuries to the victim than were necessary to cause death.” (LNA, 1994, p. 6)</p> <p>“The evidence in this case showed that Deborah Henley was sexually assaulted with a blunt object, was beaten about the head, face, neck, chest, and abdomen. It showed she was stabbed twelve times and was tortured by means of two long incisions on her chest and two more across her neck. She was manually strangled. This evidence shows the murder in this case was characterized by excessive brutality, physical pain, psychological suffering and dehumanizing aspects not normally found in a first-degree murder case.” (LNA, 1994, p. 8)</p>	<p><i>Hypothesis-rejecting</i> W_dW_v, liberated jury (Death)</p> <p>Final Classification: <i>Hypothesis-non-supporting</i> Two women murdered in a similar manner after being abducted from the same club approximately three months apart. Victim was sexually assaulted with foreign object, tortured, and murdered in an especially brutal manner.</p>	<p>LexisNexis Academic: 336 N.C. 710; 445 S.E.2d 906; 1994 N.C. LEXIS 420</p> <p>Mount Airy News (2010) http://www.lexisnexis.com.ezproxy.lib.usf.edu/hottopics/lacademic/</p> <p>Winston-Salem Journal (2012) http://www.lexisnexis.com.ezproxy.lib.usf.edu/hottopics/lacademic/</p> <p>News & Record (2015) http://www.news-record.com/murder-trial-is-his-second/article_06376db0-519d-5fb0-b985-f7f470479cca.html</p>

Table 11d (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Liberated Jury (n=26).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Rook, John (White)	Roche, Ann (White)	Death	Wake (Piedmont Region)	<p>3 aggravators accepted: #5: Engaged in commission of kidnapping #5: Engaged in commission of rape #9: Heinous, atrocious, or cruel</p> <p>“...his opinion was that she could have remained alive from a period of two hours up to a maximum of twenty-four hours after receiving the injuries observed.” (LNA, 1981, p. 8)</p> <p>“...defendant choked the deceased, pushed her out of the car, and ran over her several times.” (LNA, 1981, p. 18)</p> <p>“Mr. Rook confessed three times to the authorities that he raped, beat and slashed Ann Marie Roche, 25, then ran over her car in May 1980. He left her to bleed to death in a field.” (NY Times, 1986).</p> <p>“The record reveals that this defendant committed the most brutal, vile and vicious crime against Ann Marie Roche. Defendant beat Ms. Roche viciously with a tire tool, repeatedly cut her with a knife, ravaged her body in rape, ran over her battered body with an automobile and left her to bleed to death in a lonely field.” (LNA, 1981, p. 21)</p>	<p><i>Hypothesis-rejecting</i> W_dW_v, liberated jury (Death)</p> <p><i>Hypothesis-rejecting</i> Murder and additional crimes may have been the products of defendant's mental and emotional disturbance and his diminished capacity to appreciate their criminality and to conform his conduct to the requirements of law. “If defendant's evidence is believed the whole awful incident is, really, attributable to the tragic personality defects traceable to a depraved childhood of a young, immature, mental defective spurred on by the influence of alcohol and drugs.” (LNA, 1981, p. 27)</p> <p>Final Classification: <i>Hypothesis-non-supporting</i> Victim was a registered nurse, defendant was a habitual Peeping Tom. Defendant inflicted multiple severe injuries upon victim with great care and effort. Multiple witnesses to assault. The injuries and murder were especially heinous, atrocious, and cruel.</p>	<p>LexisNexis Academic: 304 N.C. 201; 283 S.E.2d 732; 1981 N.C. LEXIS 1340</p> <p>NY Times (1986) http://www.nytimes.com/1986/09/20/us/north-carolina-killer-executed-after-appeal-fails.html</p> <p>United Press International (1986) http://www.lexisnexis.com.ezproxy.lib.usf.edu/hotspots/lnacademic/</p>

Table 11d (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Liberated Jury (n=26).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Wilkinson, Phillip (White)	Hudson, Chrystal (White) Hudson, Judy (White) Hudson, Larry (White)	Death	Cumberland (Eastern Region)	<p>3 aggravators accepted: #5: Engaged in commission of burglary #9: Heinous, atrocious, or cruel #11: Course of conduct (other crimes of violence against another person or persons)</p> <p>“...the evidence failed to show that the victims were alive at the time defendant committed the acts constituting those crimes, where the evidence showed that the sexual acts were committed in conjunction with the murders of the victims as part of a continuous chain of events forming one continuous transaction.” (LNA, 1996, p.5)</p> <p>“After he had killed Ms. Hudson, defendant performed oral sex on her and then took a lightbulb out of a lamp in the bedroom and used it to vaginally penetrate her. Defendant stated that he "just went back and forth between the chicks," engaging in perverted sexual acts.” (LNA, 1996, p. 8)</p> <p>“After defendant killed Chrystal Hudson and realized that she was dead, he began sexually assaulting her.” (LNA, 1996, p. 16)</p>	<p><i>Hypothesis-rejecting</i> W_dW_v, liberated jury (Death)</p> <p><i>Hypothesis-supporting</i> Three victims were beaten to death, including two children. Victims were sexually assaulted with foreign objects in a particularly brutal manner.</p> <p>Excluded from analysis Victims were most likely dead before the sexual assaults occurred.</p>	<p>LexisNexis Academic: 344 N.C. 198; 474 S.E.2d 375; 1996 N.C. LEXIS 490</p> <p>FayObserver.com (1992) http://www.fayobserver.com/news/local/gi-charged-with-murders/article_6f7f480b-fdd3-55ca-b2a1-e5484b4e0407.html</p> <p>AP News Archive (1992) http://www.apnewsarchive.com/1992/Man-Confesses-To-6-Month-Old-Triple-Murder-Police-Say/id-0b355a7a3e4205ca24f9af403085998c</p>

Table 11d (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Liberated Jury (n=26).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Sanderson, Ricky (White)	Holliman, Sue (White)	Death Third trial. First trial resulted in new sentencing order due to McKoy error. Second trial resulted in new trial due to persistent prosecutorial misconduct.	Iredell (Piedmont Region) Change of venue from Davidson.	3 aggravators accepted: #4: Engaged in flight after committing felony #5: Engaged in commission of rape #5: Engaged in commission of kidnapping “Suzi Holliman was scratching on the closed trunk lid while her shallow grave was being dug, just before she was raped and strangled.” (Herald Journal, 1998) “He took her to a farm... where he confessed he raped, strangled and stabbed her. Sanderson then buried her in a shallow grave, and Holliman’s body was not discovered for another month. Sanderson went on to rape two more women, stabbing one of them 82 times.” (The Dispatch, 1998) “The State’s evidence also tended to show that the sixteen-year-old victim was clearly subjected to psychological terror prior to her death. Defendant forcibly took her from her home, drove her around in a car for over two hours, took her to a secluded area, and raped her. He then placed her in the trunk of a car while he dug a shallow grave, before he strangled and stabbed her.” (LNA, 1997, p. 8)	<i>Hypothesis-rejecting</i> W _d W _v , liberated jury (Death) <i>Hypothesis-non-supporting</i> Psychological terror of 16 year old victim, who was locked in a trunk while a shallow grave was being dug. Raped two other women (not directly related to current crime). Final Classification: <i>Hypothesis-rejecting</i> Defendant was on drugs and had years of drug abuse, was abused at home, saw his sister get raped, his brother beaten, had no food or clothing. At defendant’s first capital sentencing proceeding, the trial court excluded portions of defendant’s confession where he confessed to raping the victim. Rape was not submitted for jury consideration as an aggravating circumstance at that capital sentencing proceeding. At defendant’s second capital sentencing proceeding, the prosecutor stated that he had no evidence of rape and would not refer to any alleged rape or seek to use it as an aggravating circumstance. While the defendant inflicted psychological terror upon the victim, the physical act of the murder itself was not especially brutal.	LexisNexis Academic: 346 N.C. 669; 488 S.E.2d 133; 1997 N.C. LEXIS 491 Herald Journal (1998) https://news.google.com/newspapers?nid=1876&date=19980126&id=QSoFAAAIIBAJ&sjid=p88EAAIIBAJ&pg=6903,5781522&hl=en The Dispatch (1998) https://news.google.com/newspapers?nid=1734&date=19980130&id=ThMeAAAIIBAJ&sjid=yIIIAAAIIBAJ&pg=2596,2268076&hl=en WRAL.com (1998) http://www.wral.com/news/local/story/123265/

Table 11d (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Liberated Jury (n=26).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Trull, Gary (White)	Dixon, Vanessa (White)	Death	Randolph (Piedmont Region)	<p>3 aggravators accepted: #3: Previous violent felony #5: Engaged in commission of rape #5: Engaged in commission of kidnapping</p> <p>“An autopsy revealed that the victim's death was the result of three neck wounds which severed the left carotid artery. The wounds were consistent with someone slicing the victim's neck from behind with a knife held in the left hand.” (LNA, 1998, p. 9)</p> <p>“Defendant argues that the photographs are gory and gruesome and show the victim's body in an advanced state of decomposition with maggot infestation.” (LNA, 1998, p. 12)</p> <p>“The church’s prison ministry saw Trull regularly and supported his early release before the Parole Commission.” (News & Record, 1996)</p>	<p><i>Hypothesis-rejecting</i> W_dW_v, liberated jury (Death)</p> <p><i>Hypothesis-non-supporting</i> Defendant took the victim to the woods, tied her to a tree, raped her, stabbed her she was tied to the tree, and later returned to the victim's apartment where he feigned ignorance and attempted to destroy evidence. Prior rape conviction.</p> <p>Final Classification <i>Hypothesis-rejecting</i> The rape and/or murder involved in this case are not especially brutal.</p>	<p>LexisNexis Academic: 349 N.C. 428; 509 S.E.2d 178; 1998 N.C. LEXIS 852</p> <p>News & Record (1996) http://www.news-record.com/paroled-man-found-guilty-of-murder/article_76720529-e185-55a0-aa4f-f0427984ce20.html</p>

criminal circumstances were not especially brutal. The revised hypothesis did not undergo any further modifications resulting from the analysis of these trials.

For all B_dW_v trials with non-liberated juries that recommended a death sentence (n=8), 1 supported the hypothesis, 0 rejected the hypothesis, 5 failed to support the hypothesis, and 2 were excluded (see Table 11e). Observed themes within these trials that failed to support the hypothesis are related to: multiple murders, rapes, felonies, and offenders, respectively; repeated rapes; elderly victims; and trial circumstances perceived to be especially brutal. Juries considering these factors would likely recommend a sentence of death regardless of the race of the defendant. One trial originally classified as *hypothesis-non-supporting* showed support for the hypothesis following the qualitative analysis due to the fact that despite the acceptance of four aggravating factors, including the HAC aggravator, the trial involved weak evidence and the circumstances of the murder in this trial did not seem as brutal as many of the other trials reviewed. The implication of this reclassification is examined in further detail in the next section. The revised hypothesis did not undergo any further modifications resulting from the analysis of these trials.

For all W_dW_v trials with non-liberated juries that recommended a death sentence (n=6), 0 supported the hypothesis, 1 rejected the hypothesis, 5 failed to support the hypothesis, and 0 were excluded (see Table 11f). Observed themes within these trials that failed to support the hypothesis are related to: multiple victims and/or felonies; previous rapes and/or a violent criminal history; and trial circumstances perceived to be especially brutal. Juries considering these factors would likely recommend a sentence of death regardless of the race of the defendant. One trial was automatically reclassified as *hypothesis-non-supporting* because it involved a non-traditional White female victim (e.g., discredited for drug use). In addition, one trial rejected the

Table 11e. Results of Qualitative Analysis: B_dW_v, Death Penalty, Non-Liberated Jury (n=8).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Forte, Linwood (Black)	Bowen, Thelma (White) Bowen, Alvin (White) Bonner, Hattie (Black) Jones, Eliza [sexually assaulted but not murdered]	Death	Wayne (Eastern Region)	<p>4 aggravators accepted: #5: Engaged in commission of burglary #5: Engaged in commission of arson #9: Heinous, atrocious, or cruel #11: Course of conduct (other crimes of violence against another person or persons)</p> <p>“He was struck and struck and struck with that knife in the bed, barely able to get his hands up to defend himself. Where did this blind lady go?...She went after Linwood Forte to try to save her husband, to try to save him from the knife plunging into his body. She was blind, elderly. She's aware of what is going on to her husband...She can hear muffled screams with the pillow put over his face. She knows something horrible is going on. She's fully aware of impending doom that was going to be suffered by her husband and she's got to be aware of what is coming for her.” (LNA, 2006, p. 11)</p> <p>“When I saw family members jumping up, looking gleeful, I couldn't help wondering what kind of values we have. I don't think it's a racial issue. I think it's a question of values.” (The Times-News, 1993)</p>	<p><i>Hypothesis-non-supporting</i> B_dW_v, non-liberated jury (Death)</p> <p>Final Classification: <i>Hypothesis-non-supporting</i> Three counts of first-degree murder, three counts of first-degree rape, three counts of first-degree burglary, attempted first-degree murder, assault with a deadly weapon with intent to kill inflicting serious injury, first-degree arson, and burning of personal property. Four aggravating circumstances accepted. Victims were elderly. Murders were especially brutal.</p>	<p>LexisNexis Academic: 360 N.C. 427; 629 S.E.2d 137; 2006 N.C. LEXIS 45</p> <p>The Associated Press State & Local Wire (2003) http://www.lexisnexis.com.ezproxy.lib.usf.edu/hot topics/lnacademic/</p> <p>WRAL Local News (2003) http://www.wral.com/news/local/story/107074/</p>

Table 11e (Continued). Results of Qualitative Analysis: B_dW_v, Death Penalty, Non-Liberated Jury (n=8).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Montgomery, Rodney (Black)	Piccolo, Kimberly (White)	Death Defendant received a new trial due to the trial court's improper instructions on reasonable doubt.	Mecklenburg (Piedmont Region)	<p>4 aggravators accepted: #2: The defendant had been previously convicted of another capital felony #5: Engaged in commission of another felony #6: Offense was for pecuniary gain #9: Heinous, atrocious, or cruel</p> <p>"Piccolo had received nine stab wounds that were clustered in her chest, arm, back, and abdomen and several defensive wounds on her hands. One stab wound went completely through her right hand. The cause of death was loss of blood." (LNA, 1992, p. 4)</p> <p>"The evidence presented by the State tending to show the defendant's guilt, while strong, was circumstantial. The defendant's evidence tended to show an alibi. There was neither a confession by the defendant nor a witness to the murder. Based on this evidence, we conclude that the State has failed to show that the constitutional error in this case was harmless beyond a reasonable doubt. Therefore, under the binding authority of the <i>Cage</i> decision, this Court is required to hold that the defendant is entitled to a new trial on the charges against him." (LNA, 1992, p. 8)</p>	<p><i>Hypothesis-non-supporting</i> B_dW_v, non-liberated jury (Death)</p> <p>Final Classification: <i>Hypothesis-supporting</i> Strong but circumstantial evidence; defendant had an alibi; no witnesses; attempted rape. Despite the acceptance of 4 aggravators, the murder in this trial does not seem as brutal as many of the other trials reviewed. For example, <i>Johnson Jr.</i> (1986) involved a white defendant who sexually assaulted and stabbed a White female victim 55 times but received a life sentence. Another example involves a trial (<i>Beach</i>, 1993) that involved multiple sexual assaults and murders of White elderly widows in which the jury accepted 3 aggravating factors yet still sentenced the White defendant to life. Further, the jury in Montgomery's second trial did not accept the HAC aggravator and sentenced the defendant to life.</p>	<p>LexisNexis Academic: 331 N.C. 559; 417 S.E.2d 742 1992 N.C. Lexis 412</p> <p>The Times-News (1993) https://news.google.com/newspapers?nid=1665&date=19931211&id=w-siAAAAIBAJ&sjid=PCUEAAAAIBAJ&pg=5654,3127298&hl=en</p>

Table 11e (Continued). Results of Qualitative Analysis: B_dW_v, Death Penalty, Non-Liberated Jury (n=8).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Williams, Douglas (Black)	Dawson, Adah (White)	Death New trial ordered based on <i>McKoy</i> error.	Edgecombe (Eastern Region)	<p>4 aggravators accepted: #5: Engaged in commission of burglary #5: Engaged in commission of rape #6: Offense was for pecuniary gain #9: Heinous, atrocious, or cruel</p> <p>“...he found numerous lacerations to the skin of the neck, face, scalp, ear, arms, vagina and rectum together with fractures of the face, skull, pubic bones and hip bone.” (LNA, 1983, p. 8)</p> <p>“During the defendant's confession, he stated that, while the one hundred year old victim was lying helpless on the floor, he forced a mop handle into her vagina. The forensic pathologist testified that this act was done with such force that the cavity of the vagina was torn with the tear extending through and into the rectum and continuing two and one-half inches into the sacrum bones.” (LNA, 1983, p. 13)</p> <p>“tortured the victim...took her property and left her to die in a pool of her own blood.” (LNA, 1983, p. 20)</p>	<p><i>Hypothesis-non-supporting</i> B_dW_v, non-liberated jury (Death)</p> <p>Final Classification: <i>Hypothesis-non-supporting</i> Victim was approximately 100 years old, was beaten with two heavy metal clock weights and was sexually assaulted with a mop handle. This was a “vicious and prolonged murderous assault resulting in a defenseless victim's death which was so brutal and so utterly senseless.” (LNA, 1983, p. 20)</p>	<p>LexisNexis Academic: 308 N.C. 47; 301 S.E.2d 335; 1983 N.C. LEXIS 1130</p> <p>Washington Associated Press (1992) http://www.apnewsarchive.com/1992/Court-Refuses-To-Reinstate-Death-Sentence-Of-North-Carolina-Man/id-d6ca0bab2ab2cd-b24ffadbdca5cd650</p>

Table 11e (Continued). Results of Qualitative Analysis: B_dW_v, Death Penalty, Non-Liberated Jury (n=8).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Gregory, Warren (Black)	Hartwig, Bobbie (White) Parrish, Bernadine (White)	Death	Pitt (Eastern Region)	<p>5 aggravators accepted: #4: Committed for purpose of avoiding lawful arrest #5: Engaged in commission of rape #5: Engaged in commission of kidnapping #9: Heinous, atrocious, or cruel #11: Course of conduct (other crimes of violence against another person or persons)</p> <p>“Three people walking on the highway, one shot down like a dog in the ditch, the other two ladies forced in the car, driven a distance, the car running in a ditch, ladies forced to try to help move the car. Those aldiies as you heard evidence about crying, hysterical, worried about one of them’s (sic) mother and what effect shooting or potential shooting of the brother would have on her mother because of her mother’s heart condition. Two women giving their bodies, raped, and raped. And then ...murdered in a most vile way...Bernadine Parrish, strangled in the fashion that you heard. Ah, after being raped, she passed out, becomes conscious again, sits up, strangled again to the point that...she looses (sic) control of her bodily functions and [is] thrown in a ditch. Bobbie Jean Hartwig, raped and raped, strangled, thrown in a ditch, regains consciousness, screaming in the ditch after being strangled and then blown away in the chest with a shotgun...I don’t believe any of us are capable of imagining the pure horror that was going on.” (LNA, 1995, p. 35)</p>	<p><i>Hypothesis-non-supporting</i> B_dW_v non-liberated jury (Death)</p> <p>Final Classification: <i>Hypothesis-non-supporting</i> Multiple men repeatedly raped two female victims before murdering them in a horrific manner; attempted murder of third male victim.</p>	<p>LexisNexis Academic: 340 N.C. 365; 459 S.E.2d 638 1995 N.C. Lexis 366</p> <p>News & Record (1991) http://www.news-record.com/marines-charged-in-grifton-killings/article_8fa812dd-f301-58e6-9493-976d305aa183.html</p> <p>Star News Online (2006) http://www.starnwsonline.com/article/20060709/NWS/607090394</p>
Lemons, Edward (Black)	Strickland, Margaret (White) Stroud, Bobby	Death	Wayne (Eastern Region)	<p>5 aggravators accepted: #4: Committed for purpose of avoiding lawful arrest #5: Engaged in commission of kidnapping #5: Engaged in commission of robbery with a firearm #9: Heinous, atrocious, or cruel #11: Course of conduct (other crimes of violence against another person or persons)</p>	<p><i>Hypothesis-non-supporting</i> B_dW_v non-liberated jury (Death)</p> <p>Excluded from analysis: There was no sexual assault involved in the murder for the purposes of the current study. The victim was forced to strip naked and was searched for money and drugs before being shot to death.</p>	<p>LexisNexis Academic: 348 N.C. 335; 501 S.E.2d 309; 1998 N.C. LEXIS 326</p>

Table 11e (Continued). Results of Qualitative Analysis: B_dW_v, Death Penalty, Non-Liberated Jury (n=8).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Rogers, Lionel (Black)	Sechler, Hazel (White)	Death Death sentence vacated and case remanded for new capital sentencing proceeding due to prosecutor's improper cross-examination of defendant's expert and closing argument.	Halifax (Eastern Region)	<p>5 aggravators accepted: #3: Previous violent felony #3: Previous violent felony #5: Engaged in commission of rape #5: Engaged in commission of burglary #9: Heinous, atrocious, or cruel</p> <p>"Lieutenant Harris found the victim lying on her bed, bleeding from injuries to her throat and hands. Her neck had been sliced so deeply that she was breathing through the wound in her trachea." (LNA, 2002, p. 9)</p> <p>"You tell us through your verdicts, ladies and gentlemen, you tell us that we can have folks roaming our streets who cut and hack and slash and murder and abuse and sexually assault eighty-eight year old citizens of this county." (LNA, 2002, p. 23)</p> <p>"When I saw her on the (hospital) bed, she appeared to be half-decapitated, and I immediately walked out." (The Daily Herald, 2000)</p> <p>"Several jurors averted their eyes for brief moments as the graphically detailed photos plainly showed the elderly woman, fully conscious and looking at the camera with a gaping, bloody wound in her neck." (The Daily Herald, 2000)</p> <p>"We could not give her any medication to make sure she was not in pain, because we had no time." (The Daily Herald, 2000).</p> <p>"...intent to sexually assault Sechler by slashing her throat from ear-to ear and she sustained defensive wounds on both her hands and that the murder was especially heinous, atrocious or cruel." (The Daily Herald, 2004)</p>	<p><i>Hypothesis-non-supporting</i> B_dW_v non-liberated jury (Death)</p> <p>Final Classification: <i>Hypothesis-non-supporting</i> The victim was 88 years old and the murder was especially heinous, atrocious, and cruel.</p>	<p>LexisNexis Academic: 355 N.C. 420; 562 S.E.2d 859 2002 N.C. Lexis 429</p> <p>The Daily Herald (2000) http://www.rrdailyherald.com/mistrial-nearly-declared-on-second-day-of-rogers-murder-trial/article_f3fb4a6d-2935-5b7b-a6f8-8753dcda14b5.html</p> <p>The Daily Herald (2003) http://www.rrdailyherald.com/rogers-found-guilty-of-murder-and-rape-of-sechler/article_81ccb02d-639b-570d-a4b5-17bc6735d34f.html</p> <p>The Daily Herald (2004) http://www.rrdailyherald.com/news/rogers-gets-life-in-resentencing-hearing/article_efb43a5f-1dce-5063-8a3e-0b199d957496.html</p>

Table 11e (Continued). Results of Qualitative Analysis: B_dW_v, Death Penalty, Non-Liberated Jury (n=8).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Smith, Jamie (Black)	Cotton, David (White)	Death	Buncombe (Western Region)	5 aggravators accepted: #3: Previous violent felony #4: Committed for purpose of avoiding lawful arrest #5: Engaged in commission of arson #10: Great risk of death to more than one person #11: Course of conduct (other crimes of violence against another person or persons)	<i>Hypothesis-non-supporting</i> B _d W _v , non-liberated jury (Death) Excluded from analysis There was no rape or sexual assault involved in this case. The murder victim was male. The defendant was convicted and sentenced to death in a separate trial involving the rape and murder of a female victim.	LexisNexis Academic: 347 N.C. 453; 496 S.E.2d 357; 1998 N.C. LEXIS 12
Smith, Jamie (Black)	Froemke, Kellie (White)	Death	Buncombe (Western Region)	9 aggravators accepted: #2: The defendant had been previously convicted of another capital felony #3: Previous violent felony (murder) #3: Previous violent felony (murder) #5: Engaged in commission of rape #5: Engaged in commission of burglary #5: Engaged in commission of robbery #5: Engaged in commission of arson #9: Heinous, atrocious, or cruel #11: Course of conduct (other crimes of violence against another person or persons)	<i>Hypothesis-non-supporting</i> B _d W _v , non-liberated jury (Death) Final Classification: <i>Hypothesis-non-supporting</i> 9 aggravators accepted; two murders, a rape, and two arsons; extremely heinous, atrocious, and cruel.	LexisNexis Academic: 352 N.C. 531; 532 S.E.2d 773 2000 N.C. Lexis 617 Mountain Xpress (2000) https://mountainx.com/news/community-0517conklyn-php/

Table 11f. Results of Qualitative Analysis: W_dW_v, Death Penalty, Non-liberated Jury (n=6).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Campbell, James (White)	Price, Katherine (White)	Death	Rowan (Piedmont Region)	<p>4 aggravators accepted: #3: Previous violent felony #4: Murder was committed for purposes of avoiding or preventing lawful arrest #5: Engaged in commission of felony #9: Heinous, atrocious, or cruel</p> <p>“Price had a combination of fifteen stab wounds and seven incised wounds to her neck; each was one-half to one-and-a-half inches deep. In addition, she had two wounds to her face, her left and right carotid arteries were cut, and one arterial stab had penetrated to her spine and caused profuse bleeding.” (LNA, 1995, p. 8)</p> <p>“He took his knife and stabbed her throat. He stated, “I sat and watched the blood come out of her throat and she was still moaning and groaning.” He stabbed her many more times because he wanted her to die, which she did.” (LNA, 1995, p. 9)</p> <p>“The court said Campbell strangled his victim “with such strength that one of his thumbs went numb.”” (Associated Press & State Local Wire, 1996)</p> <p>“Defendant spoke with Thomas about buying a shotgun for protection during a marijuana purchase. Thomas rolled a joint of marijuana, and the group smoked it.” (LNA, 1995, p. 8)</p> <p>“Price told defendant she had a joint for him and asked if he would like to smoke it. They smoked and talked for about thirty minutes. Defendant asked Price if he could kiss her, and she nodded “yes.” They then decided to spend the day together and drove out to the Mill Bridge area. Defendant testified that they had consensual sex there.” (LNA, 1995, p. 10)</p>	<p><i>Hypothesis-non-supporting</i> W_dW_v Non-liberated jury (Death)</p> <p>Final Classification <i>Hypothesis-non-supporting</i> Victim discredited (smoked marijuana with defendant prior to death)</p>	<p>LexisNexis Academic: 340 N.C. 612; 460 S.E.2d 144; 1995 N.C. LEXIS 363</p> <p>Associated Press & State Local Wire (1996) http://www.lexisnexis.com.ezproxy.lib.usf.edu/hotspots/Inacademic/</p>

Table 11f (Continued). Results of Qualitative Analysis: $W_d W_v$, Death Penalty, Non-liberated Jury (n=6).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Hill, Jerry (White)	Godwin, Angie (White)	Death	Harnett (Eastern Region)	<p>4 aggravators accepted: #3: Previous violent felony #4: Engaged in flight after committing rape #5: Engaged in commission of rape/sexual offense/arson #9: Heinous, atrocious, or cruel</p> <p>“...leaves and pine straw had been raked up, piled around her body, and set on fire. The victim was lying on her back, nude, with her panties lying on her chest.” (LNA, 1997, p. 5)</p> <p>“Chief Johnson further stated that ‘it was one of the most horrible things [he] had ever seen.’” (LNA, 1997, p. 5)</p> <p>“Dr. Butts noted that there was a considerable degree of burning on her body. He stated that the victim had four gunshot wounds to the head and scratches consistent with drag marks on the back of her body.” (LNA, 1997, p. 5)</p> <p>“After shooting the victim in the head several times, defendant set the victim's body on fire in an attempt to cover up the crime and insure the victim's death.” (LNA, 1997, p. 17)</p> <p>“Finally, the sexual assault of the sixteen-year-old victim as well as the mutilation of her body render this murder particularly dehumanizing.” (LNA, 1997, p. 17)</p> <p>“‘She was a really friendly girl,’ he said. ‘She got along with everybody.’” (The Dispatch, 1994)</p>	<p><i>Hypothesis-non-supporting</i> $W_d W_v$ Non-liberated jury (Death)</p> <p><i>Hypothesis-rejecting</i> Defendant was 18 and his 16 year old brother was an accessory to the murder.</p> <p>Final Classification: <i>Hypothesis-non-supporting</i> Victim was 16 years old, raped, shot in the head multiple times and point blank range, and her body was set on fire. The sexual assault and murder were particularly heinous, atrocious, and cruel.</p>	<p>LexisNexis Academic: 347 N.C. 275; 493 S.E.2d 264; 1997 N.C. LEXIS 741</p> <p>The Dispatch (1994) https://news.google.com/newspapers?mid=1734&date=19940222&id=PO4bAAAIAAJ&sjid=9VIEAAIAIAAJ&pg=6792.3969050&hl=en</p> <p>Star News (1996) https://news.google.com/newspapers?mid=1454&date=19951102&id=NrxOAAAIAAJ&sjid=fRUEAAIAIAAJ&pg=3773.656114&hl=en</p>

Table 11f (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Non-liberated Jury (n=6).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Hyatt, Terry (White)	McConnell, Betty (White) Simmons, Harriett (White)	Death	Buncombe (Western Region)	<p>4 aggravators accepted: #5: Engaged in commission of kidnapping #5: Engaged in commission of robbery #5: Engaged in commission of rape #11: Course of conduct (other crimes of violence against another person or persons)</p> <p>“When she was discovered by the Helmses, McConnell's body was soaking wet, her chest was covered with blood, her skin was very white, and she was gasping for air.” (LNA, 2002, p. 7)</p> <p>“...both victims were females traveling alone on public roads; both victims were taken to isolated areas of Buncombe County; both were robbed, raped, and killed by stabbing in the left chest area; and both victims were abandoned in isolated areas.” (LNA, 2002, p. 12)</p> <p>“Ms Simmons, 40, had moved to North Carolina from Detroit several years before her death to rear her [7] younger children in what seemed a safer place.” (Star News, 2000)</p> <p>“McConnell was stabbed four times in the chest...and thrown in a river.” (Associated Press State & Local Wire, 2000)</p>	<p><i>Hypothesis-non-supporting</i> W_dW_v, Non-liberated jury (Death)</p> <p>Final Classification <i>Hypothesis-non-supporting</i> Defendant had kidnapped a woman from a rest area twenty years previously, whom he also murdered. Defendant kidnapped, assaulted, and robbed a third victim. Case involved multiple felonies and was committed with premeditation and deliberation.</p>	<p>LexisNexis Academic: 355 N.C. 642; 566 S.E.2d 61; 2002 N.C. LEXIS 676</p> <p>Star News (2000) https://news.google.com/news/papers?nid=1454&dat=20000113&id=3SpPAAAAIBAJ&sjid=B8EAAAAIBAJ&pg=2999.5347397&hl=en</p> <p>Associated Press State & Local Wire (2000) http://www.lexisnexis.com.ezproxy.lib.usf.edu/hotspots/pics/Inacademic/</p> <p>WFMY News (2005) http://archive.digitriad.com/news/article/46345/204/Charlotte-Cold-Case-Squad-Gets-First-Conviction</p>

Table 11f (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Non-liberated Jury (n=6).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Bishop, Steven (White)	Schiffman, Nan (White)	Death	Guilford (Piedmont Region)	<p>4 aggravators accepted: #3: Previous violent felony #4: Engaged in flight after committing rape #5: Engaged in commission of kidnapping #6: Offense was for pecuniary gain</p> <p>“Schiffman was robbed, sexually assaulted, shot and then dumped into a septic tank pit at an abandoned farm...” (Associated Press & State Local Wire, 1998)</p> <p>“...urged the jury to impose the death penalty upon defendant as a result of Schiffman's good qualities by attempting to play upon the jury's sympathy for Schiffman and by referring to what Schiffman could have accomplished had she lived.” (LNA, 1996, p. 21)</p>	<p><i>Hypothesis-non-supporting</i> W_dW_v, Non-liberated jury (Death)</p> <p>Final Classification: <i>Hypothesis-rejecting</i> Second offender involved; victim returned home as it was being burglarized and was subsequently raped and murdered. Cause of death was a gunshot wound. Circumstances of the crime were not especially brutal.</p>	<p>LexisNexis Academic: 343 N.C. 518; 472 S.E.2d 842; 1996 N.C. LEXIS 412</p> <p>Associated State Press & Local Wire (1998) http://www.lexisnexis.com.ezproxy.lib.usf.edu/hottopics/Inacademic/</p> <p>Associated State Press & Local Wire (2000) http://www.lexisnexis.com.ezproxy.lib.usf.edu/hottopics/Inacademic/</p> <p>Herald Journal (1999) https://news.google.com/newspapers?nid=1876&dat=19990610&id=MEIfAAAAIBAJ&sjid=yc8EAAAAIBAJ&pg=4539,3396875&hl=en</p>

Table 11f (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Non-liberated Jury (n=6).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Grooms, Timmy (White)	Godwin, Krista (White)	Death	Scotland (Eastern Region)	<p>5 aggravators accepted: #3: Previous violent felony #5: Engaged in commission of rape #5: Engaged in commission of kidnapping #6: Offense was for pecuniary gain #9: Heinous, atrocious, or cruel</p> <p>“...total of twelve stab wounds on Godwin's body, all of which were inflicted by the same instrument, possibly a pocketknife. One stab wound perforated Godwin's aorta and would have caused Godwin's death within minutes; however, several other wounds that penetrated Godwin's chest cavity were potentially fatal...numerous linear scratches and scrapes on Godwin's backscrapes and extensive bruising around the eyes and nose resulting from blunt-force trauma inflicted while Godwin was still alive. Internal bleeding and hemorrhaging in the tissues of the neck indicated that Godwin had been choked before she was stabbed. Vaginal smears revealed the presence of intact sperm. Godwin's right hand had been sawed off at the forearm; and Godwin's left hand had been partially sawed off, then the bone had been forcibly broken or snapped.” (LNA, 2000, p. 12)</p> <p>“Likewise, the prosecutor's comment that defendant "stalked the innocent, some of them children," was connected to the evidence which showed that defendant had committed acts of sexual violence against three young girls. The State's evidence tended to show that defendant raped Judy Caulder when she was eleven years old, Amber Smith when she was sixteen or seventeen years old, and Elizabeth Johnson when she was twelve or thirteen years old.” (LNA, 2000, p. 23)</p> <p>“She had been stabbed 12 times and both hands had been severed.” (The Laurinburg Exchange, 2011)</p> <p>“He has convictions dating back to 1979, including first-degree rape in 1980.” (Civitas Media, 2014)</p>	<p><i>Hypothesis-non-supporting</i> W_dW_v, Non-liberated jury (Death)</p> <p>Final Classification: <i>Hypothesis-non-supporting</i> The defendant choked, beat, raped, mutilated, and stabbed the victim. The defendant had previously raped three young girls and had an extensive prior criminal history. The defendant sawed off the victim's hands with a hacksaw.</p>	<p>LexisNexis Academic: 353 N.C. 50; 540 S.E.2d 713; 2000 N.C. LEXIS 895</p> <p>The Laurinburg Exchange (2011) http://www.lexisnexis.com.ezproxy.lib.usf.edu/hottopics/Inacademic/</p> <p>Civitas Media (2014) http://luweb.htl.dc.publicus.com/news/news/4512257/Cause-could-affect-Laurel-Hill-womans-killer</p>

Table 11f (Continued). Results of Qualitative Analysis: W_dW_v, Death Penalty, Non-liberated Jury (n=6).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Moseley, Carl (White)	Johnson, Dorothy (White)	Death	Stokes (Piedmont Region)	<p>6 aggravators accepted:</p> <p>#2: The defendant had been previously convicted of another capital felony</p> <p>#3: Previous violent felony</p> <p>#5: Engaged in commission of rape</p> <p>#5: Engaged in commission of sexual assault</p> <p>#9: Heinous, atrocious, or cruel</p> <p>#11: Course of conduct (other crimes of violence against another person or persons)</p> <p>“She had been savagely beaten with a blunt force object, cut with a sharp object, sexually assaulted with a blunt instrument, raped, and manually and ligaturally strangled.” (LNA, 1994, p.9)</p>	<p><i>Hypothesis-non-supporting</i> W_dW_v, Non-liberated jury (Death)</p> <p>Final Classification: <i>Hypothesis-non-supporting</i> Two women murdered in a brutal manner after being abducted from the same club approximately three months apart. The defendant cut, raped, strangled, beat, and sexually assaulted the victim. Murders involved torture and extreme brutality.</p>	LexisNexis Academic: 338 N.C. 1; 449 S.E.2d 412; 1994 N.C. LEXIS 653

hypothesis because the circumstances of the trial were not especially brutal yet still resulted in a death sentence for a White defendant. The revised hypothesis did not undergo any further modifications resulting from the analysis of these trials.

For all B_dW_v trials with non-liberated juries that recommended a life sentence (n=3), 0 supported the hypothesis, 2 rejected the hypothesis, 0 failed to support the hypothesis, and 1 was excluded (see Table 11g). These two trials were particularly interesting because they involved non-liberated juries that still recommended life sentences for Black defendants. Both of the trials involved especially brutal circumstances that should have influenced the jury to recommend death sentences. These trials add to the evidence that the number of aggravators accepted alone does not determine if a jury is liberated to use discretion in their sentencing recommendation. The revised hypothesis did not undergo any further modifications resulting from the analysis of these trials.

This section has presented individual and overall findings from the qualitative analysis in which I employed qualitative hypothesis testing within an analytic induction framework. The reformulated hypothesis I developed that best represented the data (with the understanding that trials rejecting the hypothesis were not represented) was: juries in rape-involved capital murder trials in North Carolina are more likely to recommend a sentence of death when the defendant is a Black male and the victim is a *chaste* (i.e., *perceived to be traditionally morally pure*) White female compared to White male defendants and *chaste* White female victims *only when the circumstances of the trial are not perceived to be especially brutal*.

A table of the final reclassifications across B_dW_v and W_dW_v trials is provided in Appendix C. Since the NCCSP data set includes rape-involved capital murder trials that occurred over the course of three decades, I also reviewed the hypothesis reclassifications to

Table 11g. Results of Qualitative Analysis: B_dW_v, Life, Non-Liberated Jury (n=3).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Edwards, Andre (Black)	Hayes, Ginger (White)	Life	Union (Piedmont Region)	<p>4 aggravators accepted: #5: Engaged in commission of robbery/kidnapping #6: Offense was for pecuniary gain #9: Heinous, atrocious, or cruel #11: Course of conduct (other crimes of violence against another person or persons)</p> <p>“She had been raped and strangled and had suffered a broken neck and a skull fracture as the result of at least four heavy blows to the head. (LNA, 2005, p. 4)</p> <p>“[The] defendant took the 11-month-old, who was too young to walk, with his mother to a deserted area, where defendant beat the mother to death before driving off, leaving the child in a field with weeds and grass a foot high, wearing only a diaper and with most of his body exposed to the hot midsummer sun. (LNA, 2005, p. 6)</p> <p>“Edwards raped and fatally beat the 23-year-old mother with a 30-pound tire rim.” (Daily Press, 2004)</p> <p>“23-year-old wife of Langley Air Force Staff Sgt. Jeremy Hayes and mother of 11-month-old Nicholas Hayes” (Daily Press, 2001)</p> <p>“A company spokesman described her as ‘a great employee, outgoing, friendly and well liked. She was very proud of that baby.’” (Daily Press, 2001).</p>	<p><i>Hypothesis-rejecting</i> B_dW_v, non-liberated jury (Life)</p> <p>Final Classification: <i>Hypothesis-rejecting</i> In addition to the four aggravators accepted by the jury, the circumstances surrounding the murder by the black male defendant against the white female victim were especially brutal, thus rejecting the hypothesis.</p>	<p>LexisNexis Academic: 174 N.C. 490; 621 S.E.2d 333; 2005 N.C. LEXIS 2487</p> <p>Daily Press (2001) http://articles.daily-press.com/2001-07-03/news/0107030014_1_medical-examiner-murder-case-death-penalty</p> <p>Daily Press (2003) http://articles.daily-press.com/2003-02-13/news/0302130198_1_murder-case-entire-case-tire-rim</p> <p>Daily Press (2004) http://articles.daily-press.com/2004-03-27/news/0403270002_1_sentence-defense-attorneys-air-force-staff-sergeant</p> <p>WNCT (2012) http://www.wnct.com/story/21011424/murder-victims-family-talks-nearly-11-years-later</p>

Table 11g (Continued). Results of Qualitative Analysis: B_dW_v, Life, Non-Liberated Jury (n=3).

Defendant Name (Race)	Victim Name (Race)	Sentence	County (Region)	Elements Related to ECL Classification/Reclassification	Process of Hypothesis Reclassification	Sources of Data
Williams, Jr., Douglas (Black)	Dawson, Adah (White)	Life Retrial	Nash (Eastern Region)	<p>4 aggravators accepted: #5: Engaged in commission of burglary #5: Engaged in commission of sexual offense #6: Offense was for pecuniary gain #9: Heinous, atrocious, or cruel</p> <p>“...he found numerous lacerations to the skin of the neck, face, scalp, ear, arms, vagina and rectum together with fractures of the face, skull, pubic bones and hip bone.” (LNA, 1983, p. 8)</p> <p>“During the defendant's confession, he stated that, while the one hundred year old victim was lying helpless on the floor, he forced a mop handle into her vagina. The forensic pathologist testified that this act was done with such force that the cavity of the vagina was torn with the tear extending through and into the rectum and continuing two and one-half inches into the sacrum bones.” (LNA, 1983, p. 13)</p> <p>“tortured the victim...took her property and left her to die in a pool of her own blood.” (LNA, 1983, p. 20)</p>	<p><i>Hypothesis-rejecting</i> B_dW_v, non-liberated jury (Life)</p> <p>Final Classification: <i>Hypothesis-rejecting</i> Victim was approximately 100 years old, was beaten with two heavy metal clock weights and was sexually assaulted with a mop handle. This was a “vicious and prolonged murderous assault resulting in a defenseless victim's death which was so brutal and so utterly senseless.” (LNA, 1983, p. 20)</p>	<p>LexisNexis Academic: No Appeal</p> <p>Washington Associated Press (1992) http://www.apnewsarchive.com/1992/Court-Refuses-To-Reinstate-Death-Sentence-Of-North-Carolina-Man/id-d6ca0bab2ab2cdb24ffadbddca5cd650</p>
Yelverton, Jr., L. (Black)	Sutton, John (White)	Life	Edgecombe (Eastern Region)	<p>Aggravators accepted Missing Data</p>	<p><i>Hypothesis-rejecting</i> B_dW_v, non-liberated jury (Life)</p> <p>Excluded from analysis Felony murder; husband of female rape victim had a heart attack and died during the attack. The defendant attempted to murder the woman but she survived.</p>	<p>LexisNexis Academic: 334 N.C. 532; 434 S.E.2d 183; 1993 N.C. LEXIS 398</p>

assess whether there were any temporal variations across jury sentencing recommendations. More specifically, I reviewed the findings to examine if the ECL's relative impact on jury sentencing decisions: 1) declined over the time period under investigation, possibly as a result of measures taken to ensure racial equality in the criminal justice system (e.g., passing of constitutional amendments; decisions by the Supreme Court; the Civil Rights movement) (Table 12); and/or 2) were impacted by the *McKoy* (1990) ruling (mitigating evidence could be accepted without juror unanimity after the *McKoy* ruling) (Table 13).

Table 12. Temporal Variations in Hypothesis-Reclassifications

	Hypothesis-Supporting	Hypothesis-Rejecting	Hypothesis-Non-Supporting
1970s–1980s (n=15)	n=3 (20%)	n=2 (13%)	n=10 (67%)
1990s (n=29)	n=9 (31%)	n=7 (24%)	n=13 (45%)
2000s (n=14)	n=2 (14%)	n=2 (14%)	n=10 (72%)

Findings from Table 12 reveal similar patterns across the hypothesis-reclassifications. There was an 11% increase in the percentage of *hypothesis-supporting* and *hypothesis-rejecting* cases, respectively, from the 1970s-1980s (there were only 2 trials in the 1970s and were therefore included with the 1980s trials) to the 1990s, with a decrease in the percentage of *hypothesis-non-supporting* cases (22%). In addition, there was a similar decrease in the percentage of *hypothesis-supporting* (17% decrease) and *hypothesis-rejecting* (10% decrease) cases from the 1990s to the 2000s, with an increase in the percentage of *hypothesis-non-supporting* cases (27% increase). The raw data indicates that the total number of *hypothesis-*

supporting, hypothesis-rejecting, and hypothesis-non-supporting cases differs by one case when comparing the 1970s-1980s and 2000s directly (one less *hypothesis-supporting* case in the 2000s). The patterns revealed in these findings suggest that the impact of the ECL on jury sentencing recommendations is not directly affected by the decade in which the trial took place.

Table 13. Hypothesis Reclassifications Pre- and Post- *McKoy* (n=58).

	Hypothesis-Supporting	Hypothesis-Rejecting	Hypothesis-Non-Supporting
Pre- <i>McKoy</i> (n=15)	n=3 (20%)	n=2 (13%)	n=10 (67%)
Post- <i>McKoy</i> (n=33)	n=11 (33%)	n=9 (27%)	n=23 (70%)

Findings from Table 13 also reveal similar patterns across the hypothesis reclassifications. There was a similar increase in the percentage of *hypothesis-supporting* (13% increase) and *hypothesis-rejecting* (14% increase) cases from the Pre-*McKoy* era to the Post-*McKoy* era. The percentage of *hypothesis-non-supporting* cases remained approximately the same pre- and post- *McKoy* (3% increase). These findings suggest that the jury’s consideration of mitigating factors (i.e., acceptance without jury unanimity) did not affect the ECL’s influence on jury sentencing recommendations in North Carolina rape-involved capital homicide trials. The next section provides examples of trials that reflect the reclassification process as employed in the current study.

The Hypothesis Reclassification Process

This section includes six trials that represent how I approached the hypothesis reclassification process for each potential case outcome (remains *hypothesis-supporting*, reclassified *hypothesis-supporting*, remains *hypothesis-rejecting*, reclassified *hypothesis-rejecting*, remains *hypothesis-non-supporting*, reclassified *hypothesis-non-supporting*). I have

provided a synopsis of each trial that summarizes the circumstances of the trial and the races of the individuals involved. I also identify the original hypothesis classification (based on the recommended sentence, the number of aggravators accepted, and the race of the defendant and victim, respectively) and the reclassification based on whether or not the trial showed support for, rejected, or did not support the hypothesis following the qualitative analysis.

Remains Hypothesis-Supporting: Kenneth Rouse (Black) was sentenced to death for the first-degree murder of Hazel Broadway (White) in addition to 40 years imprisonment for armed robbery and 20 years for attempted first-degree rape. The defendant was found at the scene of the crime, where the victim was lying in a pool of blood with a knife stuck in her neck. The victim had sustained multiple knife wounds before suffering the fatal blow and died in front of the police. Conflicting testimony was presented attesting to the diminished mental state of the defendant resulting from his abusive childhood, broken home, dropping out of school, drug use, depression, suicide attempt, and his father shooting his mother. An all-White jury found that the aggravators outweighed the mitigators and justified the use of the death penalty. It was later revealed that one of the jurors in the case failed to disclose that his own mother (White) had been sexually assaulted and murdered by a Black man; this juror used a racial epithet to describe Rouse and expressed racist attitudes. This evidence has never been heard in court due to a minor procedural technicality. This trial was originally classified as *hypothesis-supporting* since it involved a Black defendant, a White female victim, a liberated jury, and a death sentence. After carefully reading and analyzing the case narrative and related newspaper articles, I determined that the trial continued to show support for the hypothesis due to the presence and salience of mitigating factors, the racial composition of the jury (all-White), and

most importantly, the discovery of a juror who hid relevant information about his past and expressed his blatant racist attitudes against the defendant.

Reclassified Hypothesis-Supporting: Rodney Montgomery (Black) was convicted of the first-degree murder of Kimberly Piccolo (White), in addition to robbery with a dangerous weapon, first-degree burglary, and attempted first-degree rape, and sentenced to death. The evidence was strong but circumstantial, the defendant had an alibi, and there were no witnesses. The defendant received a new trial due to the trial court's improper instructions on reasonable doubt. In the new trial, the HAC aggravator was not accepted as it was in the first trial and the defendant received a sentence of life. This trial was originally classified as *hypothesis-non-supporting* since it involved a Black defendant, a White female victim, a non-liberated jury, and a death sentence. During the reclassification process, I found that this trial supports the hypothesis despite the acceptance of four aggravating factors. The circumstances of the murder in this trial do not seem as brutal as many of the other trials reviewed. For example, *Johnson Jr.* (1986) involved a white defendant who sexually assaulted and stabbed a White female victim 55 times but received a life sentence. Another example involves a trial (*Beach*, 1993) that involved multiple sexual assaults and murders of White elderly widows in which the jury accepted 3 aggravating factors yet still sentenced the White defendant to life. To this point, the fact that the jury in the second trial did not accept the HAC aggravator (and sentenced the defendant to life) demonstrates how subjective the sentencing process is for each jury. The subjectivity of the jury sentencing process as reflected in the acceptance of different aggravators and recommendations of different sentences in retrials and resentencing hearings for trials with similar trial circumstances suggests two points: 1) capital juries may be more liberated than originally assumed to exercise discretion in their acceptance of aggravating and mitigating factors, even in

trials originally classified as non-liberated; and; 2) the weight of the aggravating factors (e.g., if the circumstances of the crime are particularly brutal) may have more of an influence on a jury's sentencing decision than the number of aggravating factors submitted and/or accepted alone.

Remains Hypothesis-Rejecting: Richard Jackson (White) was sentenced to death following a jury verdict of guilty for the first-degree murder of Karen Styles (White). The defendant was also convicted of first-degree rape and first-degree kidnapping. The victim's body was found nude from the waist down and taped to a tree. The defendant was the adopted son of prominent community leader (country commissioner). The cause of death was a gunshot to the victim's head. The defendant suffered from multiple psychiatric problems (ADD, bipolar disorder, dissociative identify disorder, borderline personality disorder, depression), had a nervous breakdown, was discharged from the Navy for mental illness, and attempted suicide multiple times. A new trial was ordered since inculpatory statements made to the detectives should have been excluded because they were made after the defendant invoked his right to counsel. This trial was originally classified as *hypothesis-rejecting* since it involved a White defendant, a White female victim, a liberated jury, and a death sentence. The trial remains *hypothesis-rejecting* because the qualitative analysis revealed two main points: 1) the circumstances of the crime were not especially brutal; and 2) a different jury may have placed greater weight on the mitigating factors related to the defendant's severe mental problems. Since this particular jury sentenced a White defendant to death while considering these factors, this trial rejects the original hypothesis.

Reclassified Hypothesis-Rejecting: Steven Bishop (White) was sentenced to death after a jury rendered a verdict that he was guilty of the first degree murder of Nan Schiffman (White). The defendant was also convicted of breaking and entering, robbery with a dangerous weapon,

first-degree kidnapping, financial transaction card fraud, and conspiracy, and was deemed a habitual felon. The victim returned home as it was being burglarized and was subsequently raped and murdered. A second offender was involved and the cause of death was a gunshot wound. This trial was originally classified as *hypothesis-non-supporting* since it involved a White defendant, a White female victim, a non-liberated jury, and a death sentence. Despite the jury's acceptance of four aggravating circumstances (thus an original classification of *hypothesis-non-supporting*), the circumstances of the crime were not especially brutal. This is another trial that illustrates the point that the number of aggravating factors accepted is not always as important as the salience of the trial circumstances. The four aggravating factors accepted in this trial (previous violent felony, engaged in flight after committing a rape, engaged in the commission of kidnapping, committed the offense for pecuniary gain) might not weigh as heavily on the jury's sentencing decision as a trial that only involves one aggravating factor but reflects the brutal circumstances of the crime (e.g., the defendant psychologically and physically tortured the victim for an extended period before brutally raping and murdering her).

Remains Hypothesis-Non-Supporting: Jamie Smith (Black) pled guilty to the first-degree murder of Kelli Froemke (White), a 19 year old college student. He also pled guilty to first-degree burglary, first-degree forcible rape, first-degree arson, and robbery with a dangerous weapon. The defendant demanded money from the victim at knifepoint, then forced her into her bedroom and raped her. He then stabbed her more than sixty times. Before leaving, the defendant set a fire in the bedroom closet to cover up what he had done. The jury accepted 9 aggravating factors and recommended a sentence of death for the murder. The defendant was also convicted and sentenced to death in a separate but related trial involving the death of a male victim. This trial was originally classified as *hypothesis-non-supporting* since it involved a Black defendant, a

White female victim, a non-liberated jury, and a death sentence. This trial remained *hypothesis-non-supporting* because a jury would likely sentence any defendant to death, regardless of race, in a trial involving two murders, a rape, two counts of arson, nine aggravating factors accepted, and especially brutal trial circumstances.

Reclassified Hypothesis-Non-Supporting: Daron Farmer (White) was convicted of the first-degree murder of Margaret Robinson (White), a 65 year old lawful citizen. The victim was attacked in her own home, raped, and beaten to death. The defendant denied his involvement in the murder and claimed his discussions with another man to rape the victim were not serious. The jury returned a verdict expressly finding the defendant guilty of first-degree murder both under the felony murder theory and under the theory that the murder was committed with premeditation and deliberation. The defendant was sentenced to life in prison. This trial was originally classified as *hypothesis-rejecting* since it involved a White defendant, a White female victim, a liberated jury, and a life sentence. The trial was reclassified as *hypothesis-non-supporting* because the qualitative analysis revealed three main points: 1) the defendant was 21 and mildly mentally retarded; 2) the jury accepted only one aggravating factor (engaged in the commission of a rape/burglary) and found 13 mitigating factors, some of which attested to the defendant's broken home life and psychological unraveling; and 3) the murder was not especially brutal. These points suggest that a jury would likely recommend a life sentence in trials containing similar circumstances regardless of the race of the defendant.

This section has provided examples of trials that represent my approach to the hypothesis reclassification process across six potential case outcomes. The next section presents additional findings on a third ECL dimension related to geographical variations in death penalty recommendations.

Geographical Variations in Death Penalty Recommendations

A third ECL dimension addresses the intrastate geographical variations in North Carolina's death penalty intensity that are consistent with evidence documenting the uneven distribution of death penalty use within states (Lofquist, 2002). As discussed in the review of the literature, this intrastate variation of death penalty application in the South appears to coincide with the southern cultural legacy of slavery and Black oppression (Lofquist, 2002). With respect to the third ECL dimension, I conducted a supplementary review of the trial outcomes to determine if there was more support for the ECL hypothesis in Eastern regions of North Carolina where slavery was most prevalent compared to areas of North Carolina that were not heavily populated by slaves (e.g., the mountains of Western North Carolina) or regions that have become urbanized (e.g., Central North Carolina represented by the Piedmont Region).

As presented in Table 14, there are no patterns of intrastate geographical variations in death sentence recommendations in North Carolina. Despite evidence from the review of the literature suggesting there would be more support for the ECL hypothesis in the Eastern Region of North Carolina, the number of hypothesis-supporting, hypothesis-rejecting, and hypothesis-non-supporting trials remained fairly consistent across each of the three regions. These findings, in conjunction with the overall findings discussed in this chapter, suggest that the ECL does not endure in the Eastern regions of North Carolina or in North Carolina in general.

This chapter has presented individual and overall findings from the qualitative analysis in which I employed qualitative hypothesis testing within an analytic induction framework. Findings demonstrated an overall decrease in hypothesis-supporting and hypothesis-rejecting cases and an increase in hypothesis-non-supporting cases due to the fact that the perceived brutality of the crime (e.g., injuries sustained by the victim during the rape and/or murder) would

Table 14. Geographical Variation in Hypothesis Reclassifications (n=58).

Eastern Region (n=20)	Piedmont Region (n=29)	Western Region (n=9)
<p>Hypothesis-Supporting (n=5) [25%]</p> <ul style="list-style-type: none"> ○ Remains HS (n=5) ○ Reclassified HS (n=0) 	<p>Hypothesis-Supporting (n=7) [24%]</p> <ul style="list-style-type: none"> ○ Remains HS (n=6) ○ Reclassified HS (n=1) 	<p>Hypothesis-Supporting (n=2) [22%]</p> <ul style="list-style-type: none"> ○ Remains HS (n=2) ○ Reclassified HS (n=0)
<p>Hypothesis-Rejecting (n=4) [20%]</p> <ul style="list-style-type: none"> ○ Remains HR (n=4) ○ Reclassified HR (n=0) 	<p>Hypothesis-Rejecting (n=5) [17%]</p> <ul style="list-style-type: none"> ○ Remains HR (n=4) ○ Reclassified HR (n=1) 	<p>Hypothesis-Rejecting (n=2) [22%]</p> <ul style="list-style-type: none"> ○ Remains HR (n=2) ○ Reclassified HR (n=0)
<p>Hypothesis-Non-Supporting (n=11) [55%]</p> <ul style="list-style-type: none"> ○ Remains HNS (n=6) ○ Reclassified HNS (n=5) 	<p>Hypothesis-Non-Supporting (n=17) [59%]</p> <ul style="list-style-type: none"> ○ Remains HNS (n=2) ○ Reclassified HNS (n=15) 	<p>Hypothesis-Non-Supporting (n=5) [56%]</p> <ul style="list-style-type: none"> ○ Remains HNS (n=2) ○ Reclassified HNS (n=3)

likely influence a jury to recommend a sentence of death regardless of the race of the defendant in these trials. This chapter has demonstrated the relative influence of the salient circumstances of the trial (e.g., the perceived brutality of the crimes committed, aggravating and mitigating circumstances), in addition to the impact of racial dynamics (e.g., racial composition of the jury, race of the victim and the defendant, respectively) on jury sentencing decisions in capital rape-involved homicide trials in North Carolina. This chapter has also presented examples of the reclassification hypothesis process and findings related to geographical variations in death sentence recommendations. The next chapter presents a discussion of the main findings and concluding remarks of the study. The purpose of the study is revisited, with an examination of how these objectives were approached in the research process, followed by reflections on the main findings. The next chapter also presents a discussion of reliability and validity issues, limitations of the study, implications for future research employing qualitative approaches to racial discrimination in the capital punishment process, and concluding remarks.

Chapter Five

Discussion & Conclusion

While the socio-legal forms of racism and Black oppression were originally blatant (e.g., slavery; segregation; lynching), numerous empirical studies have demonstrated that they evolved into more subtle practices that still exist in the contemporary capital punishment process (e.g., prosecutorial discretion; the exclusion of minorities from jury duty; jury members who often make decisions based on racial stereotypes) (Baldus & Woodworth, 1998). The current study employed qualitative hypothesis testing within an analytic induction framework to explore the impact of the ECL on jury sentencing decisions in contemporary rape-involved capital murder trials. Findings from the qualitative analysis did not show overall support for the ECL, nor did they show support for the ECL in a geographical context. Findings from the current study demonstrated that juries in rape-involved capital murder trials were not more likely to recommend a sentence of death when the defendant was a Black male and the victim was a White female (compared to White male victims and White female victims) while controlling for relevant factors and modifying the hypothesis to reflect multiple ECL dimensions. These findings suggest that the ECL may not endure in the North Carolina capital punishment process today.

There are several possibilities as to why the ECL did not appear to endure in the trials included in this study. First, it is possible that the measures taken to ensure racial equality in the criminal justice system (e.g., passing of constitutional amendments; decisions by the Supreme Court; the Civil Rights movement) have effectively removed racial discrimination from the

North Carolina capital punishment process. It is also possible that the ECL endures in North Carolina capital homicide trials that do not involve rape (this is addressed further later in the discussion). Further, it is possible that the effects of the ECL do not influence sentence recommendations of capital juries in North Carolina but may influence the decisions of capital juries in other Southern states. In order to assess whether this cultural legacy still endures, future studies should broaden the exploration of the ECL in North Carolina by including non-rape-involved capital homicide trials in the analyses, as well as expanding this study to other Southern states.

Since the NCCSP data set includes rape-involved capital homicide trials that occurred over the course of three decades, I also reviewed the hypothesis reclassifications to assess whether there were any temporal variations across jury sentencing recommendations as a result of: 1) the measures taken to ensure racial equality in the criminal justice system; or 2) the impact of the *McKoy* (1990) ruling (mitigating evidence could be accepted without juror unanimity after the *McKoy* ruling). The patterns revealed in these findings suggested that the impact of the ECL on jury sentence recommendations was not directly affected by the decade in which the trial took place. It is possible that the measures taken to ensure racial equality in the criminal justice system had already taken effect in North Carolina rape-involved homicide trials beginning in the late 1970s and continued through the 2000s. It is also possible that these measures had no effect on jury sentencing recommendations at any point in time which would also explain why there was no change in the ECL's influence over thirty years. In addition, any potential effects the *McKoy* (1990) ruling (i.e., acceptance without jury unanimity) may have on the consideration of mitigating factors in capital homicide trials (e.g., the increase in mitigating factors submitted and accepted by juries may attenuate their relative influence on jury decision making processes) did

not impact the ECL's influence on jury sentence recommendations in the current study (Kremling et al., 2007).

Qualitative researchers rarely conduct studies to test hypotheses because, unlike quantitative analysis, one cannot establish strict a priori rules or produce findings with meaningful significance levels. Therefore, qualitative researchers who test hypotheses can only offer qualified support for the hypothesis while grappling with findings that fail to support or reject the hypothesis. However, the employment of qualitative hypothesis testing that relies on the simultaneous and iterative process of data collection and analysis may provide a more parsimonious approach to the data than the employment of quantitative analysis that may rely on complex statistical modeling techniques. Further, utilizing qualitative hypothesis testing to study a rare event (e.g., rape-involved capital homicide trials in North Carolina) provides a depth of insight into the phenomenon that cannot be captured by the quantitative analysis of the data. For example, as I scrutinized the data in one particular trial I discovered that the code "bloody" in the quantitative codebook ("the coder's subjective interpretation as to whether the crime or resulting crime scene was particularly horrendous") may have been referring to: "pieces of flesh [that] were scattered throughout the living area...[her] body had been mutilated beyond recognition, and several feet of her intestines protruded from a large wound to her abdomen" (LNA, 1982, p. 2). This amount of detail provided in each of the case narratives and newspaper articles included in the qualitative analysis offers a much clearer picture of how the salient circumstances of the trial (e.g., the perceived brutality of the criminal offenses) may have influenced jury sentencing decisions.

Despite the methodological advantages of employing qualitative analysis in the current study, I was often troubled by the sensitive materials I spent months carefully scrutinizing. The

heinous nature of the trial circumstances had a profound effect on me. While I tried to be as objective as possible when reading the case narratives and newspaper articles in an effort to minimize bias in the interpretations of the findings, it was difficult to remain emotionally distant from the material. I never lost sight of the fact that the victims in these trials were more than qualitative data points; these were real women who were raped and murdered and the circumstances of these crimes were often extremely brutal. While I have always been drawn to qualitative research for the depth of information and insight that could be gained, I may not have been prepared on an emotional level to read about a large number of women who were psychologically or physically tortured leading up to their death.

It is also important to consider how the jury was emotionally affected by the heinous nature of the crimes presented to them at trial. After applying the boundary conditions for case requirements and restricting the final sample to 58 rape-involved homicide trials in North Carolina, only 17 of the trials involved juries that recommended life sentences. Therefore, juries in 41 out of the 58 trials included in the final sample recommended a sentence of death. While each trial involved an aggravating factor or combination of aggravating factors that may have been perceived to be especially heinous, it is possible that the involvement of the rape or sexual assault itself was the most influential factor on sentence recommendations for capital juries in North Carolina. Future studies should examine non-rape-involved capital homicide trials in North Carolina to explore how the ECL may or may not impact capital jury sentencing decisions that do not involve rape or sexual assault. While rape was an integral component of the ECL hypothesis due to its roots in the Southern peculiar chivalry, it is possible that the presence of rape or sexual assault (especially when combined with additional aggravating factors) in a capital

homicide trial may influence the jury to recommend a sentence of death regardless of the race of the defendant and/or victim, respectively.

In the current study, 40 out of the 58 juries accepted the HAC aggravator which may also be related to the jury's perception of the heinous, atrocious, or cruel nature of crimes that involve the rape of White women. Future studies that include non-rape-involved capital homicide trials in the qualitative analysis should also include male victims in the sample to explore whether the acceptance of the HAC aggravator is more prevalent in trials involving White female victims, possibly due to White males' desire to protect them. Further, while the current study addressed the chastity of the White female victim, future qualitative studies that explore the nuanced connection between race and gender by including both male and female victims in the analysis may be able to explore the impact of the White female victim effect while controlling for other relevant factors. This may provide a more in depth examination of gender within the context of the ECL and allow the researcher to explore the idea that White men have a desire to protect White women. In addition, while I identified trials involving all-White or nearly all-White juries, studies examining the connection between race and gender in capital homicide trials should engage in a deeper exploration of how sentence recommendations are affected by the racial and gender composition of the jury.

With respect to the credibility of the White female victim, all 6 of the trials reclassified as *hypothesis-non-supporting* due to the White female victim's (lack of) credibility involved White male defendants. Further, only one of these trials would have been reclassified as *hypothesis-supporting* while the other 5 would still have been reclassified as *hypothesis-non-supporting* (based on the perceived brutality of the crimes) even if the victim was not discredited. Future studies that broaden the study of the ECL within the context of non-rape-involved capital murder

trials should examine the impact of the White female victim's credibility on jury sentencing recommendations in capital trials involving Black and White male defendants. In other words, qualitative researchers should explore the relative impact of this ECL dimension (i.e., the perceived credibility of the White female victim) on jury sentencing recommendations in contemporary capital murder trials in North Carolina, and further, if the strength of this influence varies across B_dW_v and W_dW_v trials.

With respect to the juror who expressed racist attitudes against Black men (Rouse, 1994), it is unclear whether or not he expressed his opinions in the jury room. In other words, I do not know whether or not he convinced any of the other 11 jurors to recommend a sentence of death or if he kept his opinions to himself. It is possible that this juror, who should not have been included on the jury in the first place, sat quietly throughout the deliberation process and was simply able to consent to a decision that was already unanimous. The employment of different methodological approaches to the data (e.g., extensive interviews with jurors) might be able to provide deeper insight into the decision-making processes of jurors (e.g., the factors of the trials that have the greatest influence on the sentencing recommendations).

In addition, while I focused much of the qualitative analysis on the salient circumstances of the trial that I perceived to be most influential on sentence recommendations (e.g., the perceived brutality of the criminal circumstances), I could have placed more weight on additional factors that may have impacted the jury's decision making process (e.g., the victim/offender relationship; if the defendant kidnapped the victim). If evidence presented at the trial demonstrated that the victim was abducted by a stranger and taken to a different location before being raped and killed, the jury may have been considerably affected on an emotional level based on their perception of the victim's terror before her death. When considered in the context of

other potentially brutal criminal circumstances, this type of evidence may have had a substantial impact on jury sentence recommendations.

Another issue to consider is the racial and gender composition of the individuals who collected, reviewed, and analyzed the data. The three individuals who collected the original data that comprises the NCCSP data set were all White (two females, one male), while the two individuals who discussed the methodological and analytic approaches to the data (and resultant findings) in the current study were both White males. It is possible that the racial and gender composition of the individuals involved in the collection and analysis of the data had an effect on the interpretations of the findings due to personal experiences that may greatly differ from the personal experiences of Black men and women. The next section identifies reliability and validity considerations within the current study.

Reliability and Validity

While some qualitative researchers contend that the terms reliability and validity are not appropriate for qualitative research, they also understand that measures must be taken to establish confidence in qualitative findings (Denzin & Lincoln, 1994; Golafshani, 2003; Lincoln & Guba, 1985; Padgett, 1998; Seale, 1999; Stenbacka, 2001). The *credibility* of qualitative research (i.e., internal validity) represents the confidence one can have in the integrity of the findings and reflects the effort and ability of the researcher (Denzin & Lincoln, 1994; Golafshani, 2003; Lincoln & Guba, 1985). While this measure of validity is not always explicitly stated in a qualitative research study, a clearly described and sound research design helps identify the study's potential to produce credible findings (Belgrave, Zablotsky, & Guadagno, 2002). In addition to the thorough documentation of the study's research methods and design, I also employed triangulation as an additional measure of credibility. Triangulation adds to the

confidence of the research findings and conclusions by offering multiple ways to view and test a phenomenon (Denzin & Lincoln, 1994; Golafshani, 2003). Triangulation was achieved in the current study through the use of multiple data sources (e.g., LexisNexis case narratives; hard copy files containing handwritten notes and supplementary materials; newspaper articles).

Confirmability (i.e., objectivity) refers to the internal consistency of the findings and interpretations, respectively, and the potential for corroboration by other researchers (Denzin & Lincoln, 1994). In addition to documenting the strategies for the data collection and analytic procedures to make sure they were transparent, I also utilized three different measures of confirmability: 1) the use of thick description; 2) the employment of negative case testing; and 3) discussing the analytic process and findings with a death penalty expert. First, thick description was utilized in the current study through the documentation and presentation of verbatim transcriptions of text that were used to give context to thematic observations (Strauss & Corbin, 1994). This type of documentation also encouraged an overall consistency in the data collection process. Second, I actively sought out and reviewed disconfirming cases to explore why certain trial outcomes did not support the hypothesis (Berg, 1989). This process helped me identify cases that did not support the original hypothesis so I could develop and revise the hypothesis until it best represented the reality of the phenomenon under investigation (Robinson, 1951). Third, I had multiple conversations with a death penalty expert to discuss the qualitative analysis (e.g., boundary conditions for case requirements; rules for reclassification) and the interpretation of the findings (i.e., coming to an agreement regarding the reclassification of hypothesis supporting, hypothesis-rejecting, hypothesis-non-supporting trials). Through the measures described above, I was able to consider issues of subjectivity and context (i.e., ensuring my interpretations of the data were not arbitrary) and increase confidence in the findings.

Limitations

Qualitative hypothesis testing is rarely employed in the social sciences due to the “strong influence that qualitative researchers can have on a study’s results” (DeRosia & Christenson, 2009, p. 21). The qualitative researcher continually immerses oneself in the data during all stages of the research process (e.g., data collection, analysis) in an effort to gain deeper insight into a phenomenon and thus may influence the interpretations of the findings with one’s own “expectations, biases, and prejudices” (DeRosia & Christenson, 2009, p. 22). Therefore, the analyst must clearly acknowledge and document one’s own theoretical assumptions prior to the analysis and use peer auditors to assess the influence of the analysts’ subjectivity in the interpretation of the findings (DeRosia & Christenson, 2009). These established qualitative techniques allow the readers to determine “the extent to which the researcher’s assumptions influenced the observations” and thus influenced the interpretation of the findings (DeRosia & Christenson, 2009, p. 22). Similarly, reliability concerns may arise due to the use of an individual coder and related questions regarding the consideration of negative examples and how to modify the developing hypothesis (Ratcliff, 1994). I addressed these issues in the current study by carefully documenting each of my methodological and analytical decisions and discussing the analytic process and findings with a death penalty expert as described in the previous section.

While I took multiple measures to mitigate the risk of utilizing analytic induction within the current study (as identified above), I could have limited potential error further by randomly selecting trials for the hypothesis reclassification process (Berg, 1989). Instead, I started at the core of the data set with trials most likely to support the hypothesis (e.g., B_dW_v trials with liberated juries that recommended death sentences, W_dW_v trials with liberated juries that

recommended life sentences) before moving on to trials most likely to reject the hypothesis (e.g., B_dW_v trials with liberated or non-liberated juries that recommended life sentences, W_dW_v trials with liberated juries that recommended death sentences) or fail to support the hypothesis (e.g., B_dW_v or W_dW_v trials with non-liberated juries that recommended death sentences). I proceeded with the analytic induction process in this manner so I could build an initial degree of certainty about the hypothesis results (Stage 5) and then systematically and sensibly develop a constantly evolving hypothesis that considered all exceptions to the original hypothesis and best represented the entire data set when the qualitative analysis was completed.

An additional limitation of the current study relates to the generalizability of the findings. While the findings of the current study may not be generalizable beyond North Carolina, utilizing the total population of North Carolina rape-involved capital homicide trials for the purposes of qualitative hypothesis testing provided the opportunity to explore intrastate geographical variations in jury sentencing decisions. Further, the value of using the analytic induction approach is that the findings are more generalizable “since numerous examples must be explained through successively qualified versions” of the hypothesis (Ratcliff, 1994, p. 4).

Future Research

This study has focused on jury sentencing decisions in rape-involve capital homicide trials in North Carolina. As stated in the review of the literature, racial discrimination can be present at every stage of the capital punishment process. Future studies employing analytic induction and qualitative hypothesis testing should consider racial influences related to prosecutorial discretion, such as the decision to seek the death penalty, the submission of aggravating factors, and the exclusion of minorities from jury duty. In addition, different methodological approaches to the study of capital murder trials such as extensive interviews of

all those involved in the capital punishment process (e.g., jurors, prosecutors, defense attorneys, officers, judges) would add to the empirical research regarding arbitrary race-based capital sentencing.

While considering multiple dimensions of the ECL (e.g., the impact of liberation hypothesis; the credibility of the White female victim; geographical variations in the use of the death penalty) within an analytic induction framework has provided an innovative approach to the exploration of racial discrimination in capital jury sentencing decisions, limitations in the data have prevented a more nuanced examination of the interconnections between race, class, and gender. The widely held belief that rape brought shame and dishonor to a woman's household inexorably tied the race, class, and reputation of the White female victim together in cases involving rape or sexual assault, regardless of the defendant's race (Bardaglio, 1994). With respect to interracial rape trials in the antebellum South, accusations about the White female victim's character were much more frequent in cases involving poor victims or those were not considered respectable) by the community (e.g., lack of social position; behavior did not adhere to traditional societal expectations) (Dorr, 2000). In turn, poor women were perceived to lack respect and value in the eyes of the community and this diminished the perceived likelihood that a rape had taken place in the eyes of judges and juries (Bardaglio, 1994). Regardless of defendant race, judges were convinced that women who came from poor families were more likely to engage in illicit sexual behavior and thus did not deserve the full protection of the law under the existing rape statutes (Bardaglio, 1994). Convictions were reversed or death sentences commuted in some cases involving Black male defendants and poor White female victims who did not maintain social standing in the community (Bardaglio, 1994). Future studies that can take advantage of data that references the victim's perceived status from a

socioeconomic perspective (e.g., member of an affluent or poor family; level of financial support) may be able to offer more explanatory power within the ECL hypothesis by exploring some of the more nuanced connections between race, class, and gender.

Conclusion

The goal of the current study was to explore the impact of the enduring cultural legacy on jury sentencing decisions in contemporary rape-involved capital murder trials in North Carolina. Through the utilization of qualitative hypothesis testing within an analytic induction framework, this study has critically tested (n=58) rape-involved homicide trials in North Carolina from 1977-2009 that fit the boundary conditions for inclusions within the current study. The employment of qualitative hypothesis testing within an analytic inductive framework offered an innovative approach to the data that elucidated the legal (e.g., circumstances of the case; aggravating and mitigating factors) and extra-legal (e.g., race of the defendant and victim, respectively) factors that influence death sentence recommendations in North Carolina. Within the qualitative analysis, I considered how salient factors of the trial (e.g., the perceived brutality of the crime) and multiple dimensions of the ECL (e.g., the impact of the liberation hypothesis; the credibility of the White female victim; geographical variations in the use of the death penalty) might have affected North Carolina jury sentencing decisions in rape-involved capital murder trials.

While the findings did not show support for the ECL hypothesis, the rich information discovered in the extensive review of LexisNexis case narratives and newspaper articles that had a direct bearing on the qualitative findings and interpretations that could not be identified in a quantitative approach to the data (e.g., a juror's expression of racial attitudes that was the single greatest piece of evidence showing support for the ECL (Rouse, 1994); detailed descriptions of especially brutal trial circumstances that may have had a great influence on jury sentencing

decisions; the perceived credibility or chastity of the victim; the inclusion of relevant trials and exclusion of trials not appropriate for analysis) demonstrates the value of a qualitative approach to the study of racial discrimination in jury sentencing decisions. Future studies employing analytic induction and qualitative hypothesis testing should consider racial influences related to prosecutorial discretion (e.g., the decision to seek the death penalty, the submission of aggravating factors, the exclusion of minorities from jury duty) while also exploring some of the more nuanced connections between race, class, and gender. Future studies should also consider employing different methodological approaches to the study of capital murder trials such as extensive interviews of all those involved in the capital punishment process (e.g., jurors, prosecutors, defense attorneys, officers, judges) to add to the empirical research regarding arbitrary race-based capital sentencing.

References

- Antonio, M. (2006). "I didn't know it'd be so hard": Juror's emotional reactions to serving on a capital trial. *Judicature*, 89, 282-288.
- Applegate, B., Wright, J., Dunaway, R., Cullen, F., & Wooldredge, J. (1993). Victim-offender race and support for capital punishment: A factorial design approach. *American Journal of Criminal Justice*, 18, 95-115.
- Baker, B. (1997). North Carolina lynching ballads. In W. Brundage (Ed.), *Under sentence of death: Lynching in the South* (pp. 219-246). Chapel Hill, NC: University of North Carolina Press.
- Baldus, D., & Woodworth, G. (1998). Race discrimination and the death penalty: An empirical and legal overview. In J. Acker, R. Bohm, & C. Lanier (Eds.), *America's experiment with capital punishment: Reflections on the past, present, and future of the ultimate penal sanction* (pp. 385-416). Durham, NC: Carolina Academic Press.
- Baldus, D., & Woodworth, G. (2003). Race discrimination and the death penalty: An empirical and legal overview. In J. Acker, R. Bohm, & C. Lanier (Eds.), *America's experiment with capital punishment: Reflections on the past, present, and future of the ultimate penal sanction* (2nd Edition, pp. 501-552). Durham, NC: Carolina Academic Press.
- Baldus, D., & Woodworth, G. (2004). Race discrimination and the legitimacy of capital punishment: Reflections on the interaction of fact and perception. *DePaul Law Review*, 53, 1411-1487.
- Baldus, D., Pulaski, C., Woodworth, G., & Kyle, F. (1980). Identifying comparatively excessive sentences of death: A quantitative approach. *Stanford Law Review*, 33, 1-74
- Baldus, D., Woodworth, G., & Pulaski, C. (1990). *Equal justice and the death penalty: A Legal and Empirical Analysis*. Boston: Northeastern University Press.
- Bardaglio, P. (1994). Rape and the law in the Old South: "Calculated to excite indignation in every heart". *Journal of Southern History*, 60, 749-772.
- Barner, J. (2014). Life or death decision making: Qualitative analysis of death penalty jurors. *Qualitative Social Work*, 13, 842-848.
- Bassett, J. (1899). *Slavery in the state of North Carolina*. Baltimore, MD: Johns Hopkins Press.

- Beck, E., Massey, J., & Tolnay, S. (1992). The gallows, the mob, and the vote: Lethal sanctioning of Blacks in North Carolina and Georgia, 1881 to 1930. *Law & Society Review, 23*, 317-331.
- Belgrave, L., Zablotzky, D., & Guadagno, M. (2002). How do we talk to each other? Writing Qualitative Research for Quantitative Readers. *Qualitative Health Research, 12*, 1427-1439.
- Berg, B. (1989). *Qualitative research methods for the social sciences*. Boston: Allyn and Bacon.
- Bienen, L. (1996). The proportionality review of capital cases by state high courts after *Gregg*: Only “the appearance of justice”? *The Journal of Criminal Law & Criminology, 87*, 130-314.
- Birks, M., Chapman, Y., & Francis, K. (2008). Memoing in qualitative research: Probing data and processes. *Journal of Research in Nursing, 13*, 68-75.
- Black, D. (1976). *The behavior of law*. New York: Academic Press.
- Black, D. (1989). *Sociological justice*. New York: Oxford University Press.
- Bloor, M., & Wood, F. (2006). *Keywords in qualitative methods: a vocabulary of research concepts*. London, England: Sage Research Methods.
- Blume, J., Eisenberg, T., & Garvey, S. (2003). Lessons from the Capital Jury Project. In S. Garvey (Ed.), *Beyond repair? America's death penalty* (pp. 144-177). Durham, NC: Duke University Press.
- Bohm, R. (1991). Race and the death penalty in the United States. In M. Lynch & E. Patterson (Eds.), *Race and Criminal Justice* (pp. 71-85). Albany, NY: Harrow and Heston.
- Bowers, W. (1995). The Capital Jury Project: Rational, design, and preview of early findings. *Indiana Law Journal, 70*, 1043-1102.
- Bowers, W., & Foglia, W. (2003). Still singularly agonizing: Law's failure to purge arbitrariness from capital sentencing. *Criminal Law Bulletin, 39*, 51-86.
- Bowers, W., Pierce, G., & McDevitt, J. (1984). *Legal homicide: death as punishment in America, 1864-1982*. Boston: Northeastern University Press.
- Bowers, W., Sandys, M., & Brewer, T. (2004). Crossing racial boundaries: A closer look at the roots of racial bias in capital sentencing when the defendant is Black and the victim is White. *DePaul Law Review, 53*, 1497-1538.

- Bowers, W., Sandys, M., & Steiner, B. (1998). Foreclosed impartiality in capital sentencing: Jurors' predispositions, guilt trial experience, and premature decision making. *Cornell Law Review*, 83, 1474-1557.
- Bowers, W., & Steiner, B. (1998). Choosing life or death: Sentencing dynamics in capital cases. In J. Acker, R. Bohm, & C. Lanier (Eds.), *America's experiment with capital punishment: Reflections on the past, present, and future of the ultimate penal sanction*, (2nd Ed., pp. 413-467). Durham, NC: Carolina Academic Press.
- Bowers, W., & Steiner, B. (1999). Death by default: An empirical demonstration of false and forced choices in capital sentencing. *Texas Law Review*, 77, 608-1717.
- Bowers, W., Steiner, B., & Antonio, M. (2001). The capital sentencing decision: guided discretion, reasoned moral judgment, or legal fiction. In J. Acker, R. Bohm, & C. Lanier (Eds.), *America's experiment with capital punishment: Reflections on the past, present, and future of the ultimate penal sanction*, (2nd Ed., pp. 413-467). Durham, NC: Carolina Academic Press.
- Bowers, W., Steiner, B., & Sandys, M. (2001). Death sentencing in Black and White: An empirical analysis of the role of jurors' race and jury racial composition. *University of Pennsylvania Journal of Constitutional Law*, 3, 171-274.
- Bradmillar, L., & Walters, W. (1985). Seriousness of sexual assault charges: influencing factors. *Criminal Justice and Behavior*, 12, 463-484.
- Brewer, T. (2004). Race and jurors' receptivity to mitigation in capital cases: The effect of jurors', defendants', and victims' race in combination. *Law and Human Behavior*, 28, 529-545.
- Cash, W. (1941). *The mind of the South*. New York: Vintage Books.
- Cochran, J., Jennings, W., Wholl, D., Smith, M., Bjerregaard, B., & Fogel, S. (2015). Rape, race, and capital punishment: An enduring cultural legacy of lethal vengeance? Unpublished manuscript.
- Costanzo, M., & Costanzo, S. (1992). Jury decision making in the capital penalty phase: Legal assumptions, empirical findings, and a research agenda. *Law and Human Behavior*, 16(2), 185-201.
- Demuth, S., & Steffensmeier, D. (2004). Ethnicity effects on sentencing outcomes in large urban courts: comparisons among White, Black, and Hispanic defendants. *Social Science Quarterly*, 85, 995-1011.
- Denzin, N., & Lincoln, Y. (Eds.) (1994). *Handbook of qualitative research*. Thousand Oaks, CA: Sage.

- DeRosia, G., & Christensen, G. (2009). Blind insights: a new technique for testing a priori hypotheses with qualitative methods. *Qualitative Market Research: An International Journal*, 12(1), 15-35.
- Devine, D., Buddenbaum, J., Houp, S., Studebaker, N., & Stolle, D. (2009). Strength of evidence, extraevidentiary influence, and the liberation hypothesis: Data from the field. *Law and Human Behavior*, 33, 136-148.
- Dorr, L. (2000). Black-on-White rape and retribution in twentieth-century Virginia: "Men, even negroes, must have some protection." *Journal of Southern History*, 66, 711-748.
- Durham, P. (2004). Review in name alone: The rise and fall of comparative proportionality review of capital sentences by the Supreme Court of Florida. *St. Thomas Law Review*, 17, 299-370.
- Eisenberg, T., & Wells, M. (1993). Deadly confusion: Juror instructions in capital cases. *Cornell Law Review*, 79, 1-17.
- Eisenberg, T., Garvey, S., & Wells, M. (1996). Jury responsibility in capital sentencing: An empirical study. *Buffalo Law Review*, 44, 339-380.
- Eisenberg, T., Garvey, S., & Wells, M. (2003). Victim characteristics and victim impact evidence in South Carolina capital cases. *Cornell Law Review*, 88, 306-342.
- Flanigan, D. (1974). Criminal procedure in slave trials in the antebellum South. *Journal of Southern History*, 40, 537-564.
- Shofner, J. (1977). Custom, law, and history: The enduring influence of Florida's "Black Code." *Florida Historical Quarterly*, 55, 277-298.
- Foglia, W. (2001). *Report on bias in capital juror decision-making in Pennsylvania*. Submitted in response to request by the Supreme Court of Pennsylvania's Committee on Racial and Gender Bias in the Justice System.
- Foglia, W., & Schenker, M., (2001). Arbitrary and capricious after all these years: Constitutional problems with capital jurors' decision making. *The Champion*, 25(6), 26-31.
- Garvey, S., Johnson, S., & Marcus, P. (2000). Correcting deadly confusion: Responding to jury inquiries in capital cases. *Cornell Law Review*, 85, 327-655.
- Giacopassi, D., & Wilkinson, K. (1985). Rape and the devalued victim. *Law and Human Behavior*, 9, 367-383.
- Golafshani, N. (2003). Understanding reliability and validity in qualitative research. *Qualitative Report*, 8, 597-607.

- Greenberg, J., & Himmelstein, J. (1969). Varieties of attack on the death penalty. *Crime & Delinquency*, 15(1), 112-120.
- Gregg v. Georgia, 428 U.S. 153 (1976).
- Grosso, C., & O'Brien, B. (2012). A stubborn legacy: the overwhelming importance of race in jury selection in 173 post-Batson North Carolina capital trials. *Iowa Law Review*, 97, 1531-1559.
- Imes, W. (1919). The legal status of free negroes and slaves in Tennessee. *Journal of Negro History*, 4, 254-72.
- Jacobs, D., Carmichael, J., & Kent, S. (2005). Vigilantism, current racial threat, and death sentences. *American Sociological Review*, 70, 656-677.
- Johnson, E. (1957). Selective factors in capital punishment. *Social Forces*, 36, 165-169.
- Johnson, G. (1941). The negro and crime. *Annals of the American Academy of Political and Social Science*, 217, 93-104.
- Johnson, S. (2003). Race and capital punishment. In S. Garvey (Ed.), *Beyond repair? America's death penalty* (pp. 121-143). Durham, NC: Duke University Press.
- Kalven, H., & Zeisel, H. (1966). Trial complexity: A field investigation of its meaning and its effect. *Law and Human Behavior*, 18, 29-52.
- Kavanaugh-Earl, J., Cochran, J., Smith, M., Fogel, S., & Bjerregaard, B. (2010). Racial bias and the death penalty. In M. Lynch, E. Patterson, & K. Childs (Eds.), *Racial divide: Racial and ethnic bias in the criminal justice system* (pp. 147-196). Boulder, CO: Lynne Rienner Publishers, Inc.
- Kay, M., & Cary, L. (1995). *Slavery in North Carolina, 1748-1775*. Chapel Hill, NC: University of North Carolina Press.
- Keil, T., & Vito, G. (1989). Race, homicide severity, and application of the death penalty: A consideration of the Barnett Scale. *Criminology*, 27, 511-535.
- Kennedy, R. (1997). *Race, crime, and the law*. New York: Pantheon Books.
- Kremling, J., Smith, M., Cochran, J., Bjerregaard, B., & Fogel, S. (2007). The role of mitigating factors in capital sentencing before and after *McKoy v. North Carolina*. *Justice Quarterly*, 24, 357-381.
- Latzer, B. (2001). The failure of comparative proportionality review of capital cases (with lessons from New Jersey). *Albany Law Review*, 64, 1161-1244.

- Lofquist, W. (2002). Putting them there, keeping them there, and killing them: An analysis of state-level variations in death penalty intensity. *Iowa Law Review*, 87, 1505-1557.
- Luginbuhl, J., & Howe, J. (1995). Discretion in capital sentencing instructions: Guided or misguided? *Indiana Law Journal*, 70, 1161-1181.
- Lustberg, L. & Lapidus, L. (1996). The importance of saving the universe: Keeping proportionality review meaningful. *Seton Hall Law Review*, 26, 1423-1468.
- Lynch, M., & Haney, C. (2000). Discrimination and instructional comprehension: Guided discretion, racial bias, and the death penalty. *Law and Human Behavior*, 24, 337-358.
- Marquart, J., Eklund-Olson, S., & Sorensen, J. (1994). *The Rope, the chair, and the needle: Capital punishment in Texas, 1923-1990*. Austin, TX: University of Texas Press.
- Messner, S. Baller, R., & Zevenbergen, M. (2005). The legacy of lynching and Southern homicide. *American Sociological Review*, 70, 633-655.
- Newkirk, V. (2009). *Lynching in North Carolina: A history, 1865-1941*. Jefferson, NC: McFarland & Company.
- North Carolina General Statutes, Chapter 14, Article 7A. Rape and other sex offenses. Retrieved from: http://www.ncleg.net/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_14/Article_7A.pdf
- North Carolina Sexual Assault Laws (2015). Retrieved from: <http://statelaws.findlaw.com/north-carolina-law/north-carolina-sexual-assault-laws.html>
- Partington, V. (1965). The incidence of the death penalty of rape in Virginia. *Washington and Lee Law Review*, 22, 43-75.
- Paternoster, R. (1983). Race-of-victim and location of crime: The decision to seek the death penalty in South Carolina. *Journal of Criminal Law and Criminology*, 74, 754-785.
- Paternoster, R. (1991). *Capital punishment in America*. New York: Lexington Books.
- Paternoster, R. (1991). Prosecutorial discretion and capital sentencing in North and South Carolina. In R. Bohm (Ed.), *The death penalty in America: Current research* (pp. 39-52). Cincinnati, OH: Anderson Publishing.
- Paternoster, R., & Kazyaka, A. (1988). The administration of the death penalty in South Carolina: Experiences over the first few years. *South Carolina Law Review*, 39, 245-414.
- Paternoster, R., & Kazyaka, A. (1989-1990). An examination of comparatively excessive death sentences in South Carolina 1979-1987. *Review of Law & Social Change*, 17, 475-533.

- Phillips, C. (1987). Exploring relations among forms of social control: The lynching and execution of Blacks in North Carolina, 1889-1918. *Law & Society Review*, 21, 361-374.
- Poveda, T. (2006). Geographic location, death sentences and executions in post-*Furman* Virginia. *Punishment & Society*, 8, 423-442.
- Radelet, M., & Pierce, G. (1985). Race and prosecutorial discretion in homicide cases. *Law and Society Review*, 19, 587-621.
- Ratcliff, D. E. (1994). Analytic induction as a qualitative research method of analysis. *University of Georgia*. Retrieved on March, 1, 2010.
- Reskin, B., & Visher, C. (1986). The impacts of evidence and extralegal factors in juror's decisions. *Law & Society Review*, 20, 423-438.
- Rise, E. (1992). Race, rape, and radicalism: The case of the Martinsville Seven, 1949-1951. *Journal of Southern History*, 58, 461-490.
- Ritter, J. (2004). Your lips are moving...but the words aren't clear: Dissecting the presumption that jurors understand instructions. *Missouri Law Review*, 69, 1-52.
- Robinson, W. (1951). The logical structure of analytic induction. *American Sociological Review*, 16, 812-818.
- Roper v. Simmons. 543 U.S. 551 (2005).
- Sandys, M. (1995). Cross-overs – Jurors who change their minds about the punishment: A litmus test for sentencing guidelines. *Indiana Law Journal*, 53, 475-527.
- Sandys, M., & McClelland, S. (2003). Stacking the deck for guilt and death: The failure of death qualification to ensure impartiality. In J. Acker, R. Bohm, & C. Lanier (Eds.), *America's experiment with capital punishment: Reflections on the past, present, and future of the ultimate penal sanction*, (2nd Edition, pp.285-308). Durham, NC: Carolina Academic Press.
- Seidel, John V., (1998). *Qualitative Data Analysis*. www.qualisresearch.com (originally published as Qualitative Data Analysis, in The Ethnograph v5.0: A Users Guide, Appendix E, 1998, Colorado Springs, Colorado: Qualis Research).
- Selected North Carolina Death Penalty Statutes. (2005). *Chapter 15a. Criminal procedure act subchapter XV. Capital punishment*.
- Sorenson, J., & Wallace, D. (1995). Capital punishment in Missouri: Examining the issue of racial disparity. *Behavioral Sciences and the Law*, 13, 61–80.

- States with and without the Death Penalty (2015). *Death Penalty Information Center*. Retrieved from: <http://www.deathpenaltyinfo.org/states-and-without-death-penalty>
- Stauffer, A., Smith, M.D., Cochran, J., Fogel, S., & Bjerregard, B. (2006). The interaction between victim race and gender on death sentencing outcomes: A further explanation. *Homicide Studies, 10*, 98-117.
- Sundby, S. (1998). The capital jury and absolution: The intersection of trial strategy, remorse, and the death penalty. *Cornell Law Review, 83*, 1557-1598.
- Sundby, S. (2003). The capital jury and empathy: The problem of worthy and unworthy victims. *Cornell Law Review, 88*, 343-381.
- Sundby, S. (2005). *A life and death decision: A jury weighs the death penalty*. New York: Palgrave Macmillan.
- Supreme Court of the United States Syllabus. (October Term, 2007). *Kennedy v. Louisiana*.
- Tolnay, S., & Beck, E. (1995). *A festival of violence: An analysis of southern lynchings, 1882–1930*. Urbana, IL: University of Illinois Press.
- Tolnay, S., Beck, E., & Massey, J. (1989). Black lynchings: The power threat hypothesis revisited. *Social Forces, 67*, 605-623.
- Tolnay, S., Beck, E., & Massey, J. (1992). Black competition and White vengeance: Legal execution of Blacks as social control in the cotton South, 1890 to 1929. *Social Science Quarterly, 73*, 627-644.
- Tolnay, S., Deane, G., & Beck, E. (1992). Vicarious violence: Spatial effects on Southern lynchings, 1890-1919. *American Journal of Sociology, 102*, 788-815.
- Tracy, S. J. (2013). *Qualitative research methods: Collecting evidence, crafting analysis, and communicating impact*. United Kingdom: Wiley-Blackwell.
- Trop v. Dulles, 356 U.S. 85 (1958).
- Vandiver, M., Giacomassi, D., & Curley, M. (2003). The Tennessee Slave Code: A legal antecedent to inequities in modern capital cases. *Journal of Ethnicity in Criminal Justice, 1* (3/4), 67-89.
- Vidmar, Neil. (2012). The North Carolina Racial Justice Act: An essay on substantive and procedural fairness in death penalty litigation. *Iowa Law Review, 97*, 1969-1983.
- Visher, C. (1987). Juror decision making. *Law and Human Behavior, 11*, 1-17.

- Ware, L. (2007). A comparative analysis of unconscious and institutional discrimination in the United States and Britain. *Georgia Journal of International and Comparative Law*, 36, 89-158.
- Williams, M., & Holcomb, J. (2004). The interactive effects of victim race and gender on death sentence disparity findings. *Homicide Studies*, 8, 350-376.
- Witherspoon v. Illinois, 391 U.S. 510 (1968).
- Wolfgang, M., & Riedel, M. (1975). Rape, race, and the death penalty in Georgia. *American Journal of Orthopsychiatry*, 45, 658-667.
- Wolfgang, M., & Riedel, M. (1973). Race, judicial discretion, and the death penalty. *The ANNALS of the American Academy of Political and Social Science*, 407, 119-133.
- Wood, A. (2009). *Lynching and spectacle: Witnessing racial violence in America, 1890-1940*. Chapel Hill, NC: University of North Carolina Press.
- Znaniecki, F. (1934). *The method of sociology*. New York: Farrar & Rinehart.
- Zimring, F.E. (2003). *The contradictions of American capital punishment*. New York: Oxford University Press.

Appendices

Appendix A: North Carolina Capital Punishment Statistics (G.S. 15A-2000); Aggravating Circumstances

1. The capital felony was committed by a person lawfully incarcerated.
2. The defendant had been previously convicted of another capital felony or had been previously adjudicated delinquent in a juvenile proceeding for committing an offense that would be a capital felony if committed by an adult.
3. The defendant had been previously convicted of a felony involving the use or threat of violence to the person or had been previously adjudicated delinquent in a juvenile proceeding for committing an offense that would be a Class A, B1, B2, C, D, or E felony involving the use or threat of violence to the person if the offense had been committed by an adult.
4. The capital felony was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.
5. The capital felony was committed while the defendant was engaged or was an aider or abettor in the commission of, or an attempt to commit, or flight after committing or attempting to commit, any homicide, robbery, rape or other sex offense, arson, burglary, kidnapping, or aircraft piracy or the unlawful throwing, placing, or discharging of a destructive device or bomb.
6. The capital felony was committed for pecuniary gain.
7. The capital felony was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.
8. The capital felony was committed against a law enforcement officer, employee of the Department of Correction, jailer, fireman, judge or justice, former judge or justice, prosecutor or former prosecutor, juror or former juror, or witness or former witness against the defendant, while engaged in the performance of his official duties or because of the exercise of his official duty.
9. The capital felony was especially heinous, atrocious, or cruel.
10. The defendant knowingly created a great risk of death to more than one person by means of a weapon or device that would normally be hazardous to the lives of more than one person.
11. The murder for which the defendant stands convicted was part of a course of conduct in which the defendant engaged and which included the commission by the defendant of other crimes of violence against another person or persons.

Source: Selected North Carolina Death Penalty Statutes, 2005.

Appendix B: North Carolina Capital Punishment Statistics (G.S. 15A-2000); Mitigating Circumstances

1. That the Defendant Had No Significant History of Prior Criminal Activity.
2. That the Homicide Was Committed While the Defendant Was Under the Influence of Mental or Emotional Disturbance.
3. That the Victim Voluntarily Participated in the Defendant's Homicide.
4. That the Defendant Was Only An Accomplice And His Participation Was Relatively Minor.
5. That the Defendant Acted Under Duress or the Domination of another Person.
6. That the Defendant's Capacity to Appreciate That His Conduct Was Criminal, or to Conform His Conduct to the Law, Was Impaired.
7. The Age of the Defendant.
8. That the Defendant Aided the Prosecution in Apprehending another Capital Felon, or Testified Truthfully to Assist the Prosecution at Trial.
9. That the Defendant Shows Any Other Circumstances That the Jury deems to be of Mitigating Value.

Source: Selected North Carolina Death Penalty Statutes, 2005.

Appendix C: Hypothesis Reclassifications by Trial and Year (n=58)

	Hypothesis-Supporting	Hypothesis-Rejecting	Hypothesis-Non-Supporting
B _d W _v	<p>Remains HS (n=7):</p> <ul style="list-style-type: none"> • <i>Sanders</i> (1984)* • <i>Sanders</i> (1990) • <i>Carter Jr.</i> (1994) • <i>Rouse</i> (1994) • <i>Sexton</i> (1994) • <i>Best</i> (1996) • <i>Richardson</i> (1996) <p>Reclassified HS (n=1):</p> <ul style="list-style-type: none"> • <i>Montgomery</i> (1992) 	<p>Remains HR (n=4):</p> <ul style="list-style-type: none"> • <i>Williams Jr.</i> (1983)* • <i>Bradford</i> (1995) • <i>Rogers</i> (2002) • <i>Edwards</i> (2005) 	<p>Remains NHS (n=5):</p> <ul style="list-style-type: none"> • <i>Williams Jr.</i> (1983)* • <i>Gregory</i> (1995) • <i>Smith</i> (2000) • <i>Rogers</i> (2002) • <i>Forte</i> (2006) <p>Reclassified HNS (n=6):</p> <ul style="list-style-type: none"> • <i>Flacks</i> (1984)* • <i>Vereen</i> (1985)* • <i>Richardson</i> (1991) • <i>Montgomery</i> (1995) • <i>Sherrill</i> (2009) • <i>Waring</i> (2010)
W _d W _v	<p>Remains HS (n=6):</p> <ul style="list-style-type: none"> • <i>Clark</i> (1980)* • <i>Johnson Jr.</i> (1985)* • <i>Beach</i> (1993) • <i>Davis</i> (1996) • <i>Berry</i> (2001) • <i>Hair</i> (2003) 	<p>Remains HR (n=6)</p> <ul style="list-style-type: none"> • <i>Johnson</i> (1979)* • <i>Moss</i> (1992) • <i>Reeves</i> (1994) • <i>Sanderson</i> (1997) • <i>Jackson</i> (1998) • <i>Trull</i> (1998) <p>Reclassified HR (n=1):</p> <ul style="list-style-type: none"> • <i>Bishop</i> (1996) 	<p>Remains HNS (n=5):</p> <ul style="list-style-type: none"> • <i>Moseley</i> (1994) • <i>Campbell</i> (1995) • <i>Hill</i> (1997) • <i>Grooms</i> (2000) • <i>Hyatt</i> (2002) <p>Reclassified HNS (n=17):</p> <ul style="list-style-type: none"> • <i>Johnson</i> (1979)* • <i>Rook</i> (1981)* • <i>Temple</i> (1981)* • <i>McDougall</i> (1983)* • <i>Johnson Jr.</i> (1986)* • <i>Payne</i> (1987)* • <i>Hennis</i> (1988)* • <i>Payne</i> (1991) • <i>Thomas</i> (1992) • <i>Farmer</i> (1993) • <i>Lee</i> (1994) • <i>Moseley</i> (1994) • <i>Payne</i> (1994) • <i>Daughtry</i> (1995) • <i>Poindexter</i> (2001) • <i>Haselden</i> (2003) • <i>Poindexter</i> (2005)

*Pre-McKoy (1990) (n=15)

Appendix D: Trial Synopses

B_dW_v, Death Penalty, Liberated Jury

STATE OF NORTH CAROLINA v. MARTIN RICHARDSON. 1996. Richardson was found guilty of first-degree kidnapping, robbery with a dangerous weapon, and first-degree murder on the theory of felony murder with the predicate felony being first-degree rape. The defendant kidnapped the victim, Sharon St. Germain, from a parking lot, forced her to drive to a secluded location, brutally raped her, and stabbed her several times, killing her. While the jury accepted the HAC aggravator, they also accepted several mitigators identifying that the defendant: had no significant history of prior criminal activity or physically abusing anyone, was a person of good character and was well-liked in his community prior to his arrest (e.g., aided his elderly neighbors, cared for grandchildren while his parents worked, was a caring and loving brother who has always provided close companionship for his brothers and sisters), was reared by hard-working parents as one of seven children and worked to help out the family while at home, was a well-behaved and well-liked student who had no history of violence or trouble and was well-liked by his teachers in school, confessed to the crimes charged (related to an emotional need to confess involvement) and was cooperative with the police. However, an all-white jury recommended the death penalty for the murder.

STATE OF NORTH CAROLINA v. KENNETH BERNARD ROUSE. 1994. Rouse was sentenced to death for the first-degree murder of Hazel Broadway in addition to 40 years imprisonment for armed robbery and 20 years for attempted first-degree rape. The defendant was found at the scene of the crime, where the victim was lying in a pool of blood with a knife stuck in her neck. The victim had sustained multiple knife wounds before suffering the fatal blow and died in front of the police. Conflicting testimony was presented attesting to the diminished mental state of the defendant resulting from his abusive childhood, broken home, dropping out of school, drug use, depression, suicide attempt, and his father shooting his mother. An all-white jury found that the aggravators outweighed the mitigators and justified the use of the death penalty. It was later revealed that one of the jurors in the case failed to disclose that his own mother (White) had been sexually assaulted and murdered by a black man; this juror used a racial epithet to describe Rouse and expressed racist attitudes. This evidence has never been heard in court due to a minor procedural technicality.

STATE OF NORTH CAROLINA v. STANLEY SANDERS. 1984. Sanders was convicted of the first-degree murder and first-degree rape of Jacqueline Lee, as well as felonious breaking or entering and felonious larceny. He was sentenced to death for the first-degree murder, life imprisonment for the first-degree rape, and 10 years imprisonment for the felonious breaking or entering and the larceny. As a result of his appeal, all of the defendant's convictions and sentences were vacated based on inaccurate and inadequate transcription of the trial proceedings; a new trial on all charges was ordered.

STATE OF NORTH CAROLINA v. STANLEY SANDERS. 1990. While the appeal of his initial conviction won him a new trial, a second all-White jury once again sentenced Sanders to death for the murder of Jacqueline Lee. The 17 year old victim was abducted, raped, strangled, shot, and beaten to death with a fence post. The case attracted widespread attention

due to the crime's brutality and the races of the defendant and victim, respectively. Despite overwhelming admissible evidence of the defendant's guilt, the state's case also relied on evidence obtained from a civilian, a flawed search warrant and invalid search, and false and misleading testimony from a deputy. Despite these issues and the defendant's claim of consensual intercourse, accidental death, and history of psychiatric problems (e.g., paranoid schizophrenia; identity disorders; antisocial traits), the jury sent Sanders back to death row. However, a new sentencing proceeding for first degree murder was ordered based on the *McKoy* error (unanimity instructions regarding the consideration of mitigating circumstances). A third trial, moved to McDowell county, ended in a mistrial.

STATE OF NORTH CAROLINA v. NORFOLK BEST. 1996. The defendant was tried on two charges of first-degree murder and one charge each of first-degree burglary, robbery with a dangerous weapon, and first-degree rape. The State's evidence showed that Best killed Leslie Baldwin (82 years old) and his wife, Gertrude Baldwin (79 years old) in their home. Mr. Baldwin died as a result of the cutting of his carotid artery, and Mrs. Baldwin died of blunt-force trauma to the head. The trial was plagued with prosecutorial misconduct, including missing evidence and an alibi potentially clearing the defendant, two other viable suspects who may have confessed to the murders, and weakness of the DNA match. However, the differences in statuses between victims and defendant within community (i.e., the old and frail victims were popular in the community while the defendant was a slow learner who came from a different part of town) led some to claim that the defendant was railroaded once it was discovered he had previously done yard work for the victims.

STATE OF NORTH CAROLINA v. MARCUS CARTER JR. 1994. At the conclusion of the original trial (1991), the jury was unable to reach a verdict and a mistrial was declared as to the first-degree murder and attempted second-degree rape charges. At the second trial (1994), the defendant was found guilty of the first-degree murder and attempted second-degree rape of Amelia Lewis; an all-white jury recommended that defendant be sentenced to death upon his conviction of first-degree murder. The defendant represented himself in the second trial. Evidence showed multiple injuries to the victim and suggested that her death was caused by strangulation and blunt force trauma to the head. While evidence suggested an attempted rape on the victim, the defendant raped a different woman later in the same evening. Evidence also suggested that the defendant had several mental issues, a drug habit, and an unstable family life. Due to issues with the strength of evidence and concerns about fairness of trial, the Governor commuted the death sentence hours before the scheduled execution.

STATE OF NORTH CAROLINA v. MICHAEL SEXTON. 1994. The defendant was found guilty of the first-degree murder of Kimberly Crews. The jury also found defendant guilty of first-degree kidnapping, first-degree rape, first-degree sexual offense, and common-law robbery. The victim, a child sexual abuse counselor, was married with a daughter. The defendant claimed the victim consented to the sex and that he didn't realize he had killed her. However, there was no evidence to suggest that the victim, identified as having good moral character, was ever unfaithful to her husband. The victim had a tragic family background and experienced trouble in prison. After the State removed four out of the five blacks called for jury service, a nearly all White jury recommended a sentence of death.

STATE OF NORTH CAROLINA v. MICHAEL SHERRILL. 2009. After raping and murdering Cynthia Dotson, the defendant set her trailer on fire. The defendant's DNA was found under the victim's fingernails. The jury also heard evidence in which the defendant was accused of a triple homicide that took place that year. The three victims (a man, his fiancé, and his 14 year old daughter) were beaten to death and set on fire. This trial is currently awaiting a Supreme Court decision.

STATE OF NORTH CAROLINA v. JAMES VEREEN. 1985. The defendant was convicted of the first-degree murder of seventy-two year old Geraldine Abbott; the injuries inflicted upon the victim were particularly brutal, including multiple stab wounds, fractures, and bruising. The defendant also viciously attacked the victim's 30 year old mentally retarded daughter by cutting her throat and stabbing her genital area. The daughter lived through the attack and described the assailant; police noticed clothing matching that description hanging on the clothesline of a porch on defendant's home. Even though the judge erred in submitting two aggravating factors based on the same evidence, the error did not prejudice defendant.

STATE OF NORTH CAROLINA v. BYRON WARING. 2010. Lauren Redman, the twenty-three-year-old white female victim, was found covered in blood with her intestines falling out of her stomach. The defendant, who had a troubling childhood and several mental disorders, claimed he acted under duress. Further, the defendant did not actually commit the rape but held the victim's face down to the floor while another man raped her in her own home. The victim was taped and tortured physically and psychologically, suffering over 20 stab wounds (two knives used), ten of which could have been life-threatening. The defendant stomped the victim's face after she had been raped. The overwhelming evidence and extreme brutality of the rape and murder were likely strong considerations in the jury's decision to recommend a sentence of death.

W_dW_v, Life, Liberated Jury

STATE OF NORTH CAROLINA v. DARON FARMER. 1993. The jury found the defendant guilty of the first-degree murder of Margaret Robinson, a 65 year old lawful citizen. The victim was attacked in her own home, pummeled, raped, and left to wonder through her house in agony before she died. The defendant denied his involvement in the murder and claimed his discussions with another man to rape the victim were not serious. The jury returned a verdict expressly finding the defendant guilty of first-degree murder both under the felony murder theory and under the theory that the murder was committed with premeditation and deliberation. The defendant was sentenced to life in prison.

STATE OF NORTH CAROLINA v. BOBBY JOHNSON JR. No Appeal. This was a retrial/new sentencing hearing. Judgment on the rape charge and a new sentencing hearing was ordered on the first degree murder conviction from the first trial based on improper submission of aggravating circumstance. The defendant confessed to the killing, rape, and kidnapping of Donna Phillips. The victim suffered approximately fifty-five separate stab wounds on the torso, right arm, thigh, and back, with thirty-eight of these being in the chest area. The defendant claimed that a fight he had with his girlfriend, the fact that he came from a broken home and had

a background of abuse and neglect, the influence of alcohol, and the provocation by the victim all combined to influence the defendant's actions.

STATE OF NORTH CAROLINA v. MARK TEMPLE. 1981. The jury found the defendant guilty of the first degree murder of Annette Jones and recommended that a sentence of life imprisonment be imposed. The victim was 16 years old and was mildly intoxicated at the time of death. The victim was found with a gaping wound in her head, small lacerations and bite marks on her body, and her head crushed with a brick. The victim's body was found nude; her body had been penetrated with foreign objects. The defendant confessed to murdering the victim.

STATE OF NORTH CAROLINA v. THOMAS BERRY. 2001. The victim, Janet Siclari, was an ultra sound nurse, small in stature (92 pounds and less than five feet tall), and was raped and killed while on vacation with her husband. She suffered several compliance or intimidation wounds. Her body was found on the beach with her throat slit. The defendant had previously raped two female victims, one of whom was 12 years old.

STATE OF NORTH CAROLINA v. ROGER CLARK. 1980. The defendant was charged in separate bills of indictment with the kidnapping of Gay Porter and the kidnapping and murder of Phoebe Barbee. The female murder victim was a 19 year old homecoming queen and high school graduate. The defendant had kidnapped and sexually assaulted two other women prior to sodomizing and brutally murdering the victim. The victim's death was caused by one of multiple blows from a blunt object which caused a fracture to the skull and injury to the brain.

STATE OF NORTH CAROLINA v. LEONARD HAIR. 2003. The two murder victims (aged 57 and 78), were bound and gagged, and suffered blunt force trauma to the head by a hammer resulting in skull fractures. The female victim, Elizabeth Baxley, was raped. The victim's bodies were set on fire. The defendant claimed the male murder victim, Mr. Braswell, paid him to have consensual sex with the female victim (Mr. Braswell's housekeeper) on several prior occasions. The defendant also claimed that Mr. Braswell engaged in homosexual activities with young men and boys in the neighborhood; Mr. Braswell was under indictment for child molestation.

STATE OF NORTH CAROLINA v. NORMAN JOHNSON. No Appeal. This was a second trial after the first trial produced a death sentence; the defendant did not appeal. The defendant was also convicted of murder in another county. The defendant raped and murdered Sherrill Mabel. He stated that he did not get an erection, but he did manage to penetrate slightly. He also stated that he did not have an orgasm. Realizing that she was not dead and being afraid that she would scream, he stabbed her in the heart with the knife. The defendant suffered from schizophrenia and the defense argued he was experiencing an emotional or mental disturbance during the commission of the crimes.

STATE OF NORTH CAROLINA v. RONALD THOMAS. 1992. The defendant was convicted of the first degree sexual assault and first degree murder of Talana Kreeger on the theories of premeditated and deliberated murder and felony murder. The court determined that the evidence clearly showed a savage beating and that such evidence was substantial evidence of

a serious injury. The defendant bit the victim's breasts until they were bleeding and penetrated the victim with his entire hand to a point past his wrist at least twice; the defendant tore out the wall between the victim's vaginal and anal openings and proceeded to tear out part of the victim's colon and right kidney; when the victim attempted to crawl from the truck and fell to the ground, the defendant dragged her into the woods some 120 feet on her back and left her helpless and bleeding to death. Several individuals in the community claimed her death was one of a number of homicides of gays and lesbians during the 1980s in Southeastern North Carolina, targeted for their sexuality.

STATE OF NORTH CAROLINA v. HORACE BEACH. 1993. The defendant murdered two elderly widows and grandmothers who were longtime members and volunteers at the church. There was overwhelming evidence of multiple felonies related to the murders. One of the victims had her nipple cut off and was stabbed in the vagina. There was extensive evidence of the defendant's long standing mental problems and horrid childhood. The jury was initially 11-1 on an insanity plea, then returned a unanimous verdict of guilty, but was hung on the sentencing decision leading to an automatic life sentence.

STATE OF NORTH CAROLINA v. TERRY DAVIS. (1995). The defendant, who blamed an accomplice, sexually mutilated and repeatedly stabbed the victim, Ada Walton (71 years old). The victim begged the defendant to kill her. The defendant attempted to rape Walton, but he could not get an erection. The defendant became angry and began repeatedly stabbing Walton with a knife. The victim also suffered through multiple blunt force injuries. The sexual assault and murder were premeditated and involved multiple conspirators.

STATE OF NORTH CAROLINA v. STEPHEN SILHAN. (1981). This was a retrial/resentencing hearing as judgment was arrested for first degree rape and a new sentencing hearing ordered for first degree murder in the first trial. The defendant attacked two teenage girls (14 and 17 years old), forced them into the woods, sexually assaulted them, and stabbed them. Ms. Davenport (rape victim) had her throat cut severely and was also stabbed in the back. Her hands were tied behind her with a shoestring, and her brassiere had been tied around her mouth and throat. Ms. Coates (rape and murder victim) was found nude from the waist down; her hands were tied behind her back with a black bootlace; and her brassiere had been tied around her neck. Ms. Coates had received two knife wounds: one to the back and one to the chest. In the resentencing hearing, the defendant was sentenced to life in prison.

B_aW_v, Life, Liberated Jury

STATE OF NORTH CAROLINA v. LESTER FLACK and RICHARD FLACK. 1984. The defendants were convicted of first degree rape, first degree murder, and first degree burglary, and sentenced to consecutive life terms in prison for each of the crimes committed against Nannie Newsome, an eighty-eight year old, retired school teacher and respected member of the community. The victim was found near her home clad in bloody pajamas, face down, and on top of a rake. An autopsy revealed that the victim had bruises over her body, that she had been strangled, beaten, and sexually assaulted. Physical evidence did not place either of defendants at the scene of the crime. The police concentrated their investigation on two brothers who lived near the victim and questioned one of them. Four days after these two men were

charged, the police had a psychologist hypnotize the victim's neighbor. During this hypnotic state, the neighbor implicated both defendants, himself, and another man. A new trial was ordered due to the trial court erroneously allowing hypnotically induced testimony.

STATE OF NORTH CAROLINA v. LIONEL ROGERS. This was a resentencing hearing as the original sentence of death was vacated due to the prosecutor's improper cross-examination of defendant's expert and closing argument. The defendant brutally murdered Hazel Sechler, an 88 year old white female victim. The victim was found lying on her bed, bleeding from injuries to her throat and hands. Her neck had been sliced so deeply that she was breathing through the wound in her trachea. The victim also sustained defensive wounds on both her hands. Three of the five aggravators accepted in the first trial were dropped to two aggravators accepted in the resentencing hearing.

STATE OF NORTH CAROLINA v. KENDRICK BRADFORD. 1995. The murders at issue in this case are marked by brutality and callousness. The evidence indicates that defendant, along with two of his friends, forced the victims to endure the trauma of being kidnapped at gunpoint and repeatedly raped before being killed. When defendant decided to kill the victims, he began by attempting to strangle Bernadine Parrish. Parrish at some point became unconscious. However, Parrish later regained consciousness; so defendant strangled her again. The second time he was successful in killing her. Defendant had also attempted to strangle Bobbie Jean Hartwig. However, she also regained consciousness; so defendant told Bradford to "take care of business." Bradford then took a shotgun and shot Bobbie Jean Hartwig in the chest. The victims were killed so that defendant "would never have to go to prison." They attempted to murder a third male victim. The defendant was tried separately from Warren Gregory. The jury accepted 2 aggravators and sentenced the defendant to life. The defendant did not appeal.

STATE OF NORTH CAROLINA v. RODNEY MONTGOMERY. 1995. This was a retrial of the defendant who was convicted of first-degree murder, robbery with a dangerous weapon, first-degree burglary, and attempted first-degree rape of Kimberly Piccolo. There was strong but circumstantial evidence, the defendant had an alibi, and there were no witnesses. The HAC aggravator was not accepted as it was in the first trial. The victim had received nine stab wounds that were clustered in her chest, arm, back, and abdomen and several defensive wounds on her hands. One stab wound went completely through her right hand. The cause of death was loss of blood.

STATE OF NORTH CAROLINA v. DANNY RICHARDSON. 1991. The defendant was indicted for the common law robbery, rape, and murder of Gladys Byrum. The victim's body was found in the sewing room in the hospital basement where she worked. The victim, 59, was manually strangled, and was in a coma and on life support for 11 days before dying. While there were multiple witnesses involved, DNA tests were inconclusive.

W_dW_v, Death, Liberated Jury

STATE OF NORTH CAROLINA v. RONALD POINDEXTER. 2005. The defendant, who had served honorably in the U.S. Army, was found guilty of the first-degree murder of Wanda Coltrane based on malice, premeditation and deliberation and under the felony murder

rule, with the underlying felony being attempted rape. The victim died from multiple knife wounds to the neck inflicted by a serrated blade. The victim, a long time neighbor of the defendant, bought cocaine from the defendant. The court ordered that the defendant receive a new trial due to juror misconduct during the guilt-innocence phase.

STATE OF NORTH CAROLINA v. RANDY PAYNE. 1991. Second of three trials. The defendant entered the home of an elderly woman, raped her, and killed her. There was evidence at trial that defendant's mental faculties might have been damaged by his sniffing gasoline, and that he was intoxicated at the time of the offense. Defendant claimed that his conviction should be reversed because the circumstantial evidence against him did not compel the conclusion that he was guilty. He also claimed that his death sentence should be vacated because of an improper jury instruction. The court upheld defendant's convictions, but held that he was entitled to a new sentencing proceeding on the first degree murder conviction. In so holding, the court ruled that (1) the circumstantial evidence complained of was relevant and admissible, and the weight to be given it was for the jury to decide; and (2) the trial judge erred in instructing the jury to find unanimously each mitigating circumstance before considering that circumstance in the ultimate sentencing decision.

STATE OF NORTH CAROLINA v. RANDY PAYNE. 1994. Third of three trials. The defendant was convicted of the first-degree rape and first-degree murder of a 69 year old widow. The murder involved sixteen hatchet wounds to the head, neck, back, arms, and hands. An appellate court ordered a resentencing in view of a United States Supreme Court decision. At the resentencing, the jury found as an aggravating circumstance that the murder was committed while defendant was engaged in the commission of a rape. No mitigating circumstances were found by the jury, and the jury recommended a death sentence. The death sentence was affirmed.

STATE OF NORTH CAROLINA v. MICHAEL REEVES. 1994. A jury sentenced the defendant to death after he pled guilty to the first degree murder of Susan Toler. Mrs. Toler was at home with her two-and-a-half-year-old daughter at that time. The defendant forced his way into the home and ordered Mrs. Toler to send her child to another room, which she did. The defendant then forced Mrs. Toler to undress and sexually assaulted her. The defendant used at least two sharp tools to assault Mrs. Toler and she suffered five wounds in her vaginal area. The defendant then forced her to lie on the floor at which time he put a pillow over her head and shot her to death. Testimony was offered for the defendant that he suffered from organic brain syndrome and sexual paraphilia, which was manifested by a long history of sexual difficulty, conflicts, problems and behavior. Approximately eight months after the defendant had murdered Susan Toler, he kidnapped, raped and cut a woman in Virginia for which he was given two life sentences plus 110 years in prison.

STATE OF NORTH CAROLINA v. STEPHEN SILHAN. 1981. The defendant attacked two teenage girls (14 and 17 years old), forced them into the woods, sexually assaulted them, and stabbed them. Ms. Davenport (rape victim) had her throat cut severely and was also stabbed in the back. Her hands were tied behind her with a shoestring, and her brassiere had been tied around her mouth and throat. Ms. Coates (rape and murder victim) was nude from the waist down; her hands were tied behind her back with a black bootlace; and her brassiere had been tied around her neck. Ms. Coates had received two knife wounds: one to the back and one to the

chest. The defendant was sentenced to death in the murder case, to life imprisonment in the rape case, and to a consecutive term of 20 years imprisonment in the assault case. Judgment was arrested for first degree rape and a new sentencing hearing ordered for first degree murder in the first trial due to improper sentencing.

STATE OF NORTH CAROLINA v. JOHNNY DAUGHTRY. 1995. A jury convicted the defendant of the first degree murder and first-degree sexual offense of Jennifer Narron and sentenced him to death. The defendant and victim had lived together for about three and one-half years. The victim had numerous injuries to her head, face, neck, chest, back, hands, and arms, as well as her rectum and vagina. A stick had been embedded about six and one-half inches into the rectum and inserted at such an angle that it could have penetrated some other part of the body, such as the vaginal area. Defendant's prior criminal history included his numerous beatings of the victim, an incident in which he shot a man, and a conviction for assault. The defendant claims he did not intend to kill the victim and had suffered from alcohol abuse and dependence and personality disorders.

STATE OF NORTH CAROLINA v. TIMOTHY HENNIS. 1988. An officer discovered the body of three-year-old Erin Eastburn and the naked body of her mother on the floor. The officer noted that there were numerous knife wounds to the chests of both victims and that part of the child's face and chest and Mrs. Eastburn's face were covered with pillows. On the bed in a second bedroom the officer found the body of five-year-old Kara Eastburn, also with numerous knife wounds to her chest and side and a pillow or blanket over her head. Autopsies of the three victims revealed that the cause of death of all three had been stab wounds and a large cut in the neck of each. The autopsies also revealed bruising and abrasions and "defensive type" wounds to the hands and forearms of one or more of the victims. In addition, Mrs. Eastburn's wrists showed marks consistent with their having been tied, and vaginal swabs revealed the presence of sperm deposited within hours of her death. A new trial ordered based on the prejudicial use of photographs by the state in conjunction with a lack of overwhelming evidence against defendant.

STATE OF NORTH CAROLINA v. NORMAN JOHNSON. 1979. The defendant pleaded guilty to the first degree murder of Mabel Sherrill and was sentenced to death. The defendant strangled the victim until she was unconscious and attempted to rape her (a futile effort because he could not get an erection). He then stabbed the victim twice in the heart. The victim was found with cuts to her genital area. The trial was remanded for new sentencing based on prejudicially insufficient instructions regarding mitigating circumstance.

STATE OF NORTH CAROLINA v. BOBBY JOHNSON, JR. 1986. The defendant confessed to the killing, rape, and kidnapping of Donna Phillips. The victim suffered approximately fifty-five separate stab wounds on the torso, right arm, thigh, and back, with thirty-eight of these being in the chest area. The defendant claimed that a fight he had with his girlfriend, the fact that he came from a broken home and had a background of abuse and neglect, the influence of alcohol, and the provocation by the victim all combined to influence the defendant's actions. Judgment on the rape charge and a new sentencing hearing was ordered on the first degree murder conviction from the first trial based on improper submission of aggravating circumstance.

STATE OF NORTH CAROLINA v. RANDY PAYNE. 1987. First of three trials. Defendant was tried for the first degree murder and first degree rape of Kathleen Weaver. The defendant had raped the victim and assaulted her with a hatchet. After the jury was selected, the trial court indicated an intention to the court reporter that he would admonish the jury in the jury room. Ultimately, the jury returned a verdict of guilty on both charges and defendant appealed. The court determined that the statement made by the trial court to the court reporter was evidence that the trial court did admonish the jury in the jury room and in so doing the trial court committed reversible error by communicating with the jurors out of open court and in the absence of defendant, counsel or a court reporter. Defendant's conviction was reversed and a new trial ordered.

STATE OF NORTH CAROLINA v. RONALD POINDEXTER. 2001. This was a retrial as the court ordered the defendant receive a new trial due to juror misconduct during the guilt-innocence phase of the first trial. The defendant, who had served honorably in the U.S. Army, was found guilty of the first-degree murder of Wanda Coltrane based on malice, premeditation and deliberation and under the felony murder rule, with the underlying felony being attempted rape. The victim died from multiple knife wounds to the neck inflicted by a serrated blade. The victim, a long time neighbor of the defendant, bought cocaine from the defendant. The court vacated the defendant's death sentence and ordered a new capital sentencing hearing due to ineffective assistance of defendant's trial counsel during the sentencing proceeding of the second trial. The question of mental retardation will be addressed at the resentencing hearing.

STATE OF NORTH CAROLINA v. BOBBY MOSS. 1992. The victim, Pauline Sanderson, suffered a laceration near her left eye that exposed a portion of her skull. The medical examiner discovered a hairline fracture of the victim's skull that was probably caused by a blunt force injury. In addition, the medical examiner determined that the victim was strangled to death. The victim's thyroid cartilage or voice box was fractured, which resulted in a large amount of internal bleeding. The defendant challenged his convictions and consequent death sentence entered in the Superior Court of Duplin County (North Carolina) for first-degree murder and for common law robbery on the grounds that the evidence was insufficient to support the convictions and that the trial court erred in conducting unrecorded private bench discussions with prospective jurors during jury selection. A new trial was ordered on all charges because the trial court erred in conducting private, unrecorded bench conferences with prospective jurors.

STATE OF NORTH CAROLINA v. JIM HASELDEN. 2003. The jury convicted the defendant of the first-degree murder of Kim Sisk and robbery with a firearm. The jury recommended that defendant be sentenced to death for murder. The victim was on her knees pleading for her life when defendant shot her twice in the face with a shotgun (at different time intervals). The DNA profile obtained from evidence matched the defendant's DNA profile. The victim was a recovering drug addict.

STATE OF NORTH CAROLINA v. RICHARD JACKSON. 1998. The defendant was sentenced to death following a jury verdict of guilty for the first-degree murder of Karen Styles. The defendant was also convicted of first-degree rape and first-degree kidnapping. The victim's body was found nude from the waist down and taped to a tree. The victim had a powerful symbolic presence in her community and other community members stated that her murder stole

a sense of security from outdoor lovers in one of safest places to live. The defendant was the adopted son of prominent community leader (country commissioner). A new trial was ordered since inculpatory statements made to the detectives should have been excluded because they were made after the defendant invoked his right to counsel.

STATE OF NORTH CAROLINA v. DAVID LEE. 1994. The defendant pled guilty to first degree murder of Jennifer Gray. The defendant kidnapped, sexually assaulted, and murdered the victim. The defendant also kidnapped, raped, sodomized and robbed a second victim who managed to escape and to supply law enforcement authorities with the information which led to the defendant's arrest. The jury found aggravating circumstances in that defendant's crime was heinous, atrocious, or cruel where the victim died a slow and painful death, was kidnapped, beaten and sexually assaulted by defendant, and the murder was part of a course of conduct in which defendant engaged and included similar crimes of violence against women. The jury did find mitigating circumstances in defendant's law abiding history and medical testimony regarding defendant's brain damage from an aneurysm and subsequent surgery.

STATE OF NORTH CAROLINA v. MICHAEL MCDUGALL. 1983. The defendant was convicted by a jury of assault with a deadly weapon with intent to kill inflicting serious injury, kidnapping, and murder in the first degree. The defendant was sentenced to death for the murder of Diana Parker. The victim had been stabbed approximately twenty-two times, with at least two of the stab wounds entering her heart. She had lost approximately half of the volume of her blood. A second victim required surgery and was left with permanent scarring as a result of being stabbed approximately nine times. The defendant claimed he was suffering from a cocaine induced psychosis, as well as underlying depression and organic brain damage, and further thought that he was fighting and stabbing his mother who was beating him with an automobile antenna.

STATE OF NORTH CAROLINA v. CARL MOSELEY. 1994. A jury convicted the defendant and sentenced him to death for the first-degree murder of Deborah Henley. After leaving a club together, Ms. Henley's nude body was later found partially concealed in a field approximately five miles from the club. The wounds on Ms. Henley's body revealed that she had been savagely beaten, stabbed, sexually assaulted with a blunt instrument, and manually strangled. The defendant had also brutally murdered another woman from the same club at an earlier time. The body of each victim had similar wounds. A foreign object had been forced into the genitalia of each woman. The defendant had also been convicted of assault with a deadly weapon inflicting serious injury and attempted second-degree rape of a third female victim.

STATE OF NORTH CAROLINA v. JOHN ROOK. 1981. A jury found the defendant guilty of first degree murder, first degree rape, and kidnapping of Ann Roche and sentenced him to death. Several eyewitnesses saw the defendant beating the victim and then saw the victim get into defendant's car. The defendant got a tire tool out of the trunk of the car, and Ms. Roche removed her pants. As she did so, he struck her on the side of the head and she fell to the ground. He then had forcible sexual intercourse with her. She tried to pull his hair, and he began to hit her some four or five times on the head and got blood on his face, shoulder, wrist and pants. According to defendant, he swung his knife at her and cut her on the face and neck, but he didn't mean to cut her. He then attempted anal intercourse, and when she resisted, he hit her

again, and, instead of fighting, she just laid there bleeding. Defendant then got into his car and drove down to turn around. He could barely see over the steering wheel, but knew he had run over her with the car because he heard a thump and the car got stuck. The defendant confessed to the murder. The defendant came from a violent family background spent much of his early teenage years in juvenile detention facilities, but his problems stemmed from his addiction to alcohol and drugs.

STATE OF NORTH CAROLINA v. RICKY SANDERSON. 1997. The defendant abducted sixteen-year-old Sue Ellen Holliman from her home and drove her to a secluded area. There he raped, strangled, and stabbed her and then buried her body in a shallow grave. The venue for sentencing was changed to Iredell County and the jury recommended the death sentence. The trial court sentenced defendant to death and to a term of forty years' imprisonment for the kidnapping. On appeal, this Court found *McKoy* error in the capital sentencing proceeding and sent the case back for resentencing. The jury again recommended death, and the trial court sentenced defendant accordingly. On a second appeal to this Court, they concluded the trial was tainted by the prosecutor's "persistent misconduct" and remanded for another capital sentencing proceeding. The jury recommended a sentence of death at the defendant's third capital sentencing proceeding, and the trial court sentenced defendant accordingly.

STATE OF NORTH CAROLINA v. GARY TRULL. 1998. The defendant was found guilty of first-degree murder, first-degree kidnapping, and first-degree rape of Vanessa Dixon. An autopsy revealed that the victim's death was the result of three neck wounds which severed the left carotid artery. The wounds were consistent with someone slicing the victim's neck from behind with a knife held in the left hand (the defendant was left-handed). The victim's body was found in the woods. Her body was clothed in a shirt and pants but no undergarments, which was uncharacteristic of the victim. Her body was lying at the base of a tree, and a piece of a blue nylon strap lay partially under her left shoulder. This strap matched a blue nylon tie-down strap taken from defendant's truck.

B_dW_v, Death, Non-Liberated Jury

STATE OF NORTH CAROLINA v. LINWOOD FORTE. 2006. A jury convicted the defendant of first degree rape and first degree murder, in addition to other crimes, finding that he raped and killed three elderly women and killed the husband of one of them; that woman was blind. The jury recommended a sentence of death for each murder conviction. The jury also found defendant guilty of three counts of first-degree burglary. The court arrested judgment on two of the first-degree burglary counts and sentenced defendant to four consecutive life sentences for the remaining burglary and rape convictions. Finally, the jury found defendant guilty of assault with a deadly weapon with intent to kill inflicting serious injury, for which he received a twenty-year consecutive sentence, and first-degree arson, on which the court arrested judgment. The rapes and murders were especially heinous, atrocious, and cruel.

STATE OF NORTH CAROLINA v. RODNEY MONTGOMERY. 1992. The defendant was convicted of the first-degree murder of Kimberly Piccolo, in addition to robbery with a dangerous weapon, first-degree burglary, and attempted first-degree rape. The evidence was strong but circumstantial, the defendant had an alibi, and there were no witnesses. The defendant

received a new trial due to the trial court's improper instructions on reasonable doubt; the defendant received a sentence of life in the new trial.

STATE OF NORTH CAROLINA v. DOUGLAS WILLIAMS JR. 1983. The defendant was convicted of the first degree murder of Adah Dawson and sentenced to death. The victim was approximately 100 years old, was beaten with two heavy metal clock weights and was sexually assaulted with a mop handle. The vicious and prolonged murderous assault was especially brutal. A new trial was ordered based on the *McKoy* error.

STATE OF NORTH CAROLINA v. WARREN GREGORY. 1991. The murders at issue in this case are marked by brutality and callousness. The evidence indicates that defendant, along with two of his friends, forced the victims to endure the trauma of being kidnapped at gunpoint and repeatedly raped before being killed. When defendant decided to kill the victims, he began by attempting to strangle Bernadine Parrish. Parrish at some point became unconscious. However, Parrish later regained consciousness; so defendant strangled her again. The second time he was successful in killing her. Defendant had also attempted to strangle Bobbie Jean Hartwig. However, she also regained consciousness; so defendant told Bradford to "take care of business." Bradford then took a shotgun and shot Bobbie Jean Hartwig in the chest. The victims were killed so that defendant "would never have to go to prison." They attempted to murder a third male victim. The jury accepted 5 aggravators and sentenced the defendant to death.

STATE OF NORTH CAROLINA v. LIONEL ROGERS. 2002. The defendant brutally murdered Hazel Sechler, an 88 year old white female victim. The victim was found lying on her bed, bleeding from injuries to her throat and hands. Her neck had been sliced so deeply that she was breathing through the wound in her trachea. The victim also sustained defensive wounds on both her hands. Three of the five aggravators accepted in the first trial were dropped to two aggravators accepted in the resentencing hearing. Death sentence vacated and case remanded for new capital sentencing proceeding due to prosecutor's improper cross-examination of defendant's expert and closing argument.

STATE OF NORTH CAROLINA v. JAMIE SMITH. 2000. The defendant pled guilty to the first-degree murder of Kelli Froemke, a 19 year old college student. He also pled guilty to first-degree burglary, first-degree forcible rape, first-degree arson, and robbery with a dangerous weapon. The defendant demanded money from the victim at knifepoint, then forced her into her bedroom and raped her. He then stabbed her more than sixty times. Before leaving, the defendant set a fire in the bedroom closet to cover up what he had done. The jury accepted 9 aggravating factors and recommended a sentence of death for the murder.

W_dW_v, Death, Non-Liberated Jury

STATE OF NORTH CAROLINA v. JAMES CAMPBELL. 1995. The defendant was convicted of first-degree murder of Katherine Price, robbery with a dangerous weapon, two counts of first-degree rape on a female victim, burning of personal property, and first-degree kidnapping. The victim had a combination of fifteen stab wounds and seven incised wounds to her neck; each was one-half to one-and-a-half inches deep. In addition, she had two wounds to her face, her left and right carotid arteries were cut, and one arterial stab had penetrated to her

spine and caused profuse bleeding. The defendant and victim had smoke marijuana together in a group prior to the rape and murder.

STATE OF NORTH CAROLINA v. JERRY HILL. 1997. A jury convicted the defendant of the first-degree murder of Angie Godwin, first-degree rape, second-degree arson, felonious breaking and entering, and imposed a sentence of death among others. The victim had four gunshot wounds to the head and scratches consistent with drag marks on the back of her body. There was presence of sperm in both the vaginal and rectal specimens. After shooting the victim in the head several times, the defendant set the victim's body on fire in an attempt to cover up the crime and insure the victim's death.

STATE OF NORTH CAROLINA v. TERRY HYATT. 2002. The defendant was convicted of two counts each of first-degree kidnapping, robbery with a dangerous weapon, first-degree rape, and first-degree murder. The defendant had kidnapped a woman from a rest area twenty years previously, whom he also murdered. Defendant kidnapped, assaulted, and robbed a third victim. The trial involved multiple felonies and was committed with premeditation and deliberation. Both female murder victims were females traveling alone on public roads who were taken to isolated areas of Buncombe County, robbed, raped, and killed by stabbing in the left chest area, and abandoned in isolated areas.

STATE OF NORTH CAROLINA v. STEVEN BISHOP. 1996. The defendant was sentenced to death after a jury rendered a verdict that he was guilty of the first degree murder of Nan Schiffman. The defendant was also convicted of breaking and entering, robbery with a dangerous weapon, first-degree kidnapping, financial transaction card fraud, and conspiracy, and was deemed a habitual felon. The victim returned home as it was being burglarized and was subsequently raped and murdered. A second offender was involved and the cause of death was a gunshot wound. After being robbed, sexually assaulted, and shot, the victim was dumped into a septic tank pit at an abandoned farm.

STATE OF NORTH CAROLINA v. TIMMY GROOMS. 2000. The defendant was indicted for robbery with a dangerous weapon, first-degree kidnapping, and first-degree murder in the kidnapping and killing of Krista Godwin. The defendant choked, beat, raped, mutilated, and stabbed the victim. The defendant had previously raped three young girls and had an extensive prior criminal history. The defendant sawed off the victim's hands with a hacksaw.

STATE OF NORTH CAROLINA v. CARL MOSELEY. 1994. A jury convicted the defendant and sentenced him to death for the first-degree murder of Dorothy Johnson. The defendant had also brutally murdered another woman from the same club at another time; he was tried, convicted, and sentenced to death in separate trial proceedings. The body of each victim had similar wounds. A foreign object had been forced into the genitalia of each woman. The defendant had also been convicted of assault with a deadly weapon inflicting serious injury and attempted second-degree rape of a third female victim. The jury accepted six aggravating factors.

STATE OF NORTH CAROLINA v. ANDRE EDWARDS. 2005. A jury convicted the defendant of first degree murder, attempted first degree murder, armed robbery, common law robbery, first degree kidnapping, first degree rape, possession of cocaine, and unauthorized use of a motor vehicle. The victim, Ginger Hayes, had been raped and strangled and had suffered a broken neck and a skull fracture as the result of at least four heavy blows to the head. The defendant raped and fatally beat the 23-year-old mother with a 30-pound tire rim. The defendant took the 11-month-old, who was too young to walk, with his mother to a deserted area, where defendant beat the mother to death before driving off, leaving the child in a field with weeds and grass a foot high, wearing only a diaper and with most of his body exposed to the hot midsummer sun.

STATE OF NORTH CAROLINA v. DOUGLAS WILLIAMS JR. 2005. This was a retrial due to the *McKoy* error in the first trial. The defendant was convicted of the first degree murder of Adah Dawson and sentenced to death. The victim was approximately 100 years old, was beaten with two heavy metal clock weights and was sexually assaulted with a mop handle. The vicious and prolonged murderous assault was especially brutal.