

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Honorable G. Thomas Cooper, Jr., Circuit Court Judge

Appellate Case No. 2018-001499

WILLIAM O. DICKERSON PETITIONER,

v.

STATE OF SOUTH CAROLINA.....RESPONDENT.

APPENDIX
VOLUME 2 OF 22

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INDEX

CHARLESTON COUNTY RECORD ON APPEAL.....	1
PRETRIAL HEARING, APRIL 3, 2009.....	31
TRIAL TRANSCRIPT DATED APRIL 17- MAY 7, 2009	
JURY QUALIFICATION.....	254
VOIR DIRE	
JUROR #383	
Examination by the Court.....	486
Examination by Ms. Wilson.....	491
Examination by Mr. Bloom.....	496
JUROR #370	
Examination by the Court.....	504
Examination by Mr. Bloom.....	515
Examination by Ms. Wilson.....	524
Examination by Mr. Bloom.....	530
JUROR #377	
Examination by the Court.....	567
Examination by Ms. Wilson.....	569
Examination by Mr. Bloom.....	570
JUROR #278	
Examination by the Court.....	574
Examination by Mr. Bloom.....	576
JUROR #386	
Examination by the Court.....	582
Examination by Ms. Wilson.....	591
Examination by Mr. Bloom.....	594
JUROR #228	
Examination by the Court.....	611
Examination by Mr. Bloom.....	622
Examination by Ms. Wilson.....	634

JUROR #133	
Examination by the Court.	642
Examination by Ms. Wilson.	652
Examination by Mr. Bloom.	657
JUROR #227	
Examination by the Court.	679
Examination by Mr. Bloom.	687
Examination by Ms. Wilson.	706
JUROR #372	
Examination by the Court.	712
Examination by Ms. Wilson.	722
Examination by Mr. Bloom.	727
Examination by Ms. Wilson.	734
Examination by Mr. Bloom.	740
JUROR #134	
Examination by the Court.	748
Examination by Mr. Bloom.	757
Examination by Ms. Wilson.	766
JUROR #19	
Examination by the Court.	772
Examination by Ms. Wilson.	781
JUROR #280	
Examination by the Court.	792
Examination by Mr. Bloom.	792
JUROR #232	
Examination by the Court.	800
Examination by Ms. Wilson.	814
Examination by Mr. Bloom.	820
JUROR #37	
Examination by the Court.	831
Examination by Mr. Bloom.	843
JUROR #65	
Examination by the Court.	854
Examination by Ms. Wilson.	856
Examination by Mr. Bloom.	857

JUROR #389	
Examination by the Court.	861
Examination by Mr. Bloom.	864
JUROR #197	
Examination by the Court.	870
Examination by Ms. Wilson.	871
Examination by Mr. Bloom.	874
JUROR #66	
Examination by the Court.	877
Examination by Mr. Bloom.	879
JUROR #101	
Examination by the Court.	884
Examination by Ms. Wilson.	896
JUROR #160	
Examination by the Court.	912
Examination by Mr. Bloom.	924
Examination by Ms. Wilson.	930
Examination by Mr. Bloom.	933
JUROR #207	
Examination by the Court.	941
Examination by Mr. Durant.	951
Examination by Mr. Bloom.	956
JUROR #92	
Examination by the Court.	960
Examination by Mr. Bloom.	973
Examination by Ms. Wilson.	980
JUROR #256	
Examination by the Court.	987
Examination by Ms. Wilson.	998
Examination by Mr. Bloom.	1001
Examination by Ms. Wilson.	1007
JUROR #402	
Examination by the Court.	1010
Examination by Mr. Bloom.	1022

JUROR #385	
Examination by the Court.	1040
Examination by Ms. Wilson.	1043
JUROR #363	
Examination by the Court.	1048
Examination by Mr. Bloom.	1092
Examination by Ms. Wilson.	1101
JUROR #378	
Examination by the Court.	1106
Examination by Ms. Wilson.	1119
Examination by Mr. Bloom.	1124
MOTIONS.	1140
JUROR #315	
Examination by the Court.	1146
Examination by Mr. Bloom.	1148
Examination by Ms. Wilson.	1156
Examination by the Court.	1160
Examination by Ms. Wilson.	1166
JUROR #306	
Examination by the Court.	1183
Examination by Mr. Durant.	1196
Examination by Mr. Bloom.	1200
JUROR #398	
Examination by the Court.	1209
Examination by Mr. Bloom.	1213
Examination by Mr. Durant.	1216
JUROR #124	
Examination by the Court.	1226
Examination by Mr. Bloom.	1242
JUROR #330	
Examination by the Court.	1253
Examination by Mr. Bloom.	1268
JUROR #121	
Examination by the Court.	1278

JUROR #209	
Examination by the Court.	1282
Examination by Ms. Wilson.	1295
Examination by Mr. Bloom.	1300
JUROR #54	
Examination by the Court.	1314
Examination by Mr. Bloom.	1316
JUROR #343	
Examination by the Court.	1328
Examination by Ms. Wilson.	1343
Examination by Mr. Bloom.	1346
JUROR #358	
Examination by the Court.	1354
Examination by Ms. Wilson.	1358
JUROR #149	
Examination by the Court.	1362
Examination by Mr. Bloom.	1377
Examination by Ms. Wilson.	1385
JUROR #314	
Examination by the Court.	1389
Examination by Ms. Wilson.	1403
Examination by Mr. Bloom.	1409
JUROR #157	
Examination by the Court.	1420
Examination by Mr. Bloom.	1437
JUROR #392	
Examination by the Court.	1449
Examination by Ms. Wilson.	1452
JUROR #381	
Examination by the Court.	1461
Examination by Ms. Wilson.	1477
Examination by Mr. Bloom.	1485

JUROR # 247	
Examination by the Court.	1491
Examination by Mr. Bloom.	1506
Examination by Ms. Wilson.	1510
JUROR #177	
Examination by the Court.	1513
Examination by Ms. Wilson.	1517
JUROR #221	
Examination by the Court.	1524
Examination by Mr. Bloom.	1539
Examination by Ms. Wilson.	1544
JUROR #289	
Examination by the Court.	1552
Examination by Ms. Wilson.	1561
JUROR #364	
Examination by the Court.	1570
Examination by Mr. Bloom.	1584
Examination by Ms. Wilson.	1588
Examination by the Court.	1626
Examination by Ms. Wilson.	1626
JUROR #234	
Examination by the Court.	1643
Examination by Ms. Wilson.	1665
Examination by Mr. Bloom.	1669
JUROR #8	
Examination by the Court	1667
Examination by Mr. Bloom.	1692
Examination by Mr. Durant.	1698
JUROR #50	
Examination by the Court	1703
Examination by Mr. Durant.	1709
Examination by Mr. Bloom.	1711
JUROR #262	
Examination by the Court	1715

JUROR #4	
Examination by the Court	1719
Examination by Mr. Bloom.	1735
Examination by Mr. Durant.	1741
JUROR #72	
Examination by the Court	1746
Examination by Mr. Durant.	1765
Examination by Mr. Bloom.	1768
JUROR #246	
Examination by the Court	1787
Examination by Mr. Durant.	1804
Examination by Mr. Bloom.	1806
JUROR #331	
Examination by the Court	1815
Examination by Mr. Bloom.	1829
Examination by Mr. Durant.	1834
JUROR #264	
Examination by the Court	1840
Examination by Mr. Durant.	1851
JUROR #272	
Examination by the Court	1859
Examination by Mr. Bloom.	1861
JUROR #148	
Examination by the Court	1868
Examination by Mr. Durant.	1886
Examination by Mr. Bloom.	1888
JUROR #357	
Examination by the Court	1895
Examination by Mr. Bloom.	1898
JUROR #11	
Examination by the Court	1905
Examination by Mr. Durant.	1924
Examination by Mr. Bloom.	1927

JUROR #104	
Examination by the Court	1935
Examination by Mr. Bloom.	1953
Examination by Mr. Durant.	1958
JUROR #69	
Examination by the Court	1962
Examination by Mr. Durant.	1981
Examination by Mr. Bloom.	1985
JUROR #22	
Examination by the Court	1992
Examination by Mr. Bloom.	1995
JUROR #252	
Examination by the Court	1998
Examination by Mr. Bloom.	2000
JUROR #90	
Examination by the Court	2005
Examination by Mr. Durant.	2023
Examination by Mr. Bloom.	2024
JUROR #287	
Examination by the Court	2029
Examination by Mr. Bloom.	2033
JUROR #317	
Examination by the Court	2036
Examination by Mr. Bloom.	2038
JUROR #63	
Examination by the Court	2040
JUROR #319	
Examination by the Court	2045
Examination by Mr. Durant.	2053
Examination by Mr. Bloom.	2055
JUROR #38	
Examination by the Court	2060
Examination by Mr. Bloom.	2062

JUROR #26	
Examination by the Court	2066
Examination by Mr. Durant.	2079
JUROR #281	
Examination by the Court	2084
Examination by Mr. Bloom.	2094
Examination by Mr. Durant.	2096
JUROR #304	
Examination by the Court	2099
Examination by Mr. Durant.	2107
COLLOQUY.	2112
JUROR #133	
Examination by the Court	2120
JUROR #19	
Examination by the Court	2152
JUROR #247	
Examination by the Court	2157
COLLOQUY.	2158
SELECTION OF JURY.	2166
OPENING REMARKS BY THE COURT.	2183
OPENING STATEMENTS BY MS. WILSON.	2215
OPENING STATEMENTS BY MR. CARROLL.	2230
KANESHIA SINGLETON	
Direct Examination by Ms. Wilson.	2254
Cross Examination by Mr. Bloom.	2266
Redirect Examination by Ms. Wilson.	2266
SHAREEN ROPER	
Direct Examination by Ms. Wilson.	2267

STEVO RIVERS

Direct Examination by Mr. Durant.	2281
Cross Examination by Mr. Carroll.	2299
Redirect Examination by Mr. Durant.	2306
Recross Examination by Mr. Carroll.	2314

BENJAMIN DRAYTON

Direct Examination by Mr. Durant.	2318
Cross Examination by Mr. Carroll.	2328

ANTONIO NELSON

Direct Examination by Ms. Wilson.	2339
Cross Examination by Mr. Carroll.	2392
Redirect Examination by Ms. Wilson.	2412

DEVON KEELING

Direct Examination by Mr. Durant.	2415
Cross Examination by Mr. Carroll.	2431
Redirect Examination by Mr. Durant.	2443

COLLOQUY.	2459

TOMISHA “SHELLEY” NELSON

Direct Examination by Mr. Durant.	2494
Cross Examination by Mr. Bloom.	2535
Redirect Examination by Mr. Durant.	2571
Recross Examination by Mr. Bloom.	2579

DARREN PROIETTI

Direct Examination by Ms. Wilson.	2584
Cross Examination by Mr. Bloom.	2594
Redirect Examination by Ms. Wilson.	2603

KIMBERLY RENEE GREGG

Direct Examination by Ms. Wilson.	2603

STEVEN ARCHIE

Direct Examination by Mr. Durant.	2614
Cross Examination by Mr. Carroll.	2631
Redirect Examination by Mr. Durant.	2641
Recross Examination by Mr. Carroll.	2649

TYRE JOHNSON	
Direct Examination by Ms. Wilson.	2648
OCTAVIO FABISIEWICZ	
Direct Examination by Ms. Wilson.	2685
Cross Examination by Mr. Bloom.	2690
DONTAIRE ANDERSON	
Direct Examination by Mr. Durant.	2701
Cross Examination by Mr. Carroll.	2711
Redirect Examination by Mr. Durant.	2716
MARLINA PINCKNEY	
Direct Examination by Mr. Durant.	2717
Cross Examination by Mr. Carroll.	2726
Redirect Examination by Mr. Durant.	2730
PATRICK PONTERI, SR.	
Direct Examination by Ms. Wilson.	2732
Cross Examination by Mr. Carroll.	2741
STEVEN HOOD	
Direct Examination by Mr. Durant.	2745
Cross Examination by Mr. Bloom.	2843
Redirect Examination by Mr. Durant.	2885
JEFFERY MILLER	
Direct Examination by Mr. Durant.	2892
Cross Examination by Mr. Bloom.	2916
JUDITH GORDON	
Direct Examination by Mr. Durant.	2920
MICHAEL R. SHERMAN	
Direct Examination by Mr. Durant.	2930
Cross Examination by Mr. Hood.	2943
Redirect Examination by Mr. Durant.	2946
COLLOQUY.	2949
JUROR #234	
Examination by the Court.	2950

JENNIFER WOOLEY	
Direct Examination by Mr. Durant.	2956
Cross Examination by Mr. Bloom.	2962
ANITA MAESTAS	
Direct Examination by Mr. Durant.	2965
Cross Examination by Mr. Bloom.	2972
RENEE CHARLES	
Direct Examination by Mr. Durant.	2974
RANDY UNTERBRINK	
Direct Examination by Mr. Durant.	2977
KINNEY KINSEY	
Direct Examination by Mr. Durant.	2979
Cross Examination by Mr. Bloom.	3010
LILLY SMALL GALLMAN	
Direct Examination by Mr. Durant.	3030
Cross Examination by Mr. Bloom.	3068
Redirect Examination by Mr. Durant.	3094
Recross Examination by Mr. Bloom.	3096
CYNTHIA SCHANDL	
Direct Examination by Ms. Wilson.	3098
Cross Examination by Mr. Bloom.	3157
Proffer Examination by Mr. Bloom.	3163
Proffer Cross Examination by Ms. Wilson.	3165
ARMON RASHAD DICKERSON	
Direct Examination by Mr. Durant.	3171
MOTIONS.	3268
ARMON RASHAD DICKERSON	
Direct Examination by Mr. Durant.	3275
Cross Examination by Mr. Carroll.	3288
Redirect Examination by Mr. Durant.	3331
COLLOQUY.	3334

ARMON RASHAD DICKERSON	
Redirect Examination..	3353
Cross Examination by Mr. Carroll..	3354
SELENA KERISE ROUSE	
Direct Examination by Ms. Wilson.	3356
Cross Examination by Mr. Carroll..	3423
Redirect Examination by Ms. Wilson.	3451
Recross Examination by Mr. Carroll..	3455
RASHID ABDUL MALIK	
Direct Examination by Ms. Wilson.	3468
Cross Examination by Mr. Carroll	3513
SANDRA FOKES	
Direct Examination by Ms. Wilson.	3529
Cross Examination by Mr. Bloom.	3536
AVEN ROPER	
Direct Examination by Ms. Wilson.	3543
Cross Examination by Mr. Bloom.	3542
MOTIONS.	3566
EXAMINATION OF DEFENDANT.	3569
COLLOQUY.	3581
CLOSING ARGUMENTS BY MS. WILSON.	3605
STATEMENT BY MR. DICKERSON..	3641
CLOSING ARGUMENT BY MR. CARROLL.	3644
JURY CHARGE.	3682
VERDICT.	3762
MOTIONS.	3770
IN CHAMBERS CONFERENCE..	3786

LEESTER WILLIAMS (<i>IN CAMERA</i>)	
Direct Examination by Mr. Durant.	3791
Cross Examination by Mr. Carroll	3804
MICHAEL HUGGINS (<i>IN CAMERA</i>)	
Direct Examination by Mr. Durant.	3821
Cross Examination by Mr. Carroll	3824
MOTIONS (<i>IN CAMERA</i>).....	3828
SENTENCING PHASE	
OPENING STATEMENT BY MR. DURANT.....	3851
OPENING STATEMENT BY MR. BLOOM.....	3856
EDWARD HASELDEN, JR.	
Direct Examination by Mr. Durant.	3865
Cross Examination by Mr. Carroll.....	3869
IAN F. TRAYNOR	
Direct Examination by Mr. Durant.	3870
Cross Examination by Mr. Carroll	3889
RONALD HULL (<i>IN CAMERA</i>)	
Direct Examination by Mr. Durant.	3887
Cross Examination by Mr. Carroll.....	3889
Redirect Examination by Mr. Durant.....	3891
GEORGE FORDHAM (<i>IN CAMERA</i>)	
Proffer Examination by Mr. Durant.....	3895
Proffer Examination by Mr. Carroll.....	3900
Proffer Redirect Examination By Mr. Durant.	3904
LEON FLUDD	
Direct Examination by Mr. Durant.	3911
Cross Examination by Mr. Carroll.....	3915
ANTONIO NELSON	
Direct Examination by Ms. Wilson.	3918
Cross Examination by Mr. Carroll.....	3928

RASHID MALIK	
Direct Examination by Ms. Wilson.	3930
Cross Examination by Mr. Carroll.	3935
Redirect Examination by Ms. Wilson.	3936
JOHN SCARBOROUGH	
Direct Examination by Mr. Durant.	3937
Cross Examination by Mr. Carroll.	3947
CAROLS CESPEDES	
Direct Examination by Mr. Durant.	3953
Cross Examination by Mr. Carroll.	3963
JEFFERY MILLER	
Direct Examination by Mr. Durant.	3967
MOTIONS.	3972
CEDEDRICK DAVIS (<i>IN CAMERA</i>)	
Proffer Examination by Mr. Durant.	3980
Cross Examination by Mr. Bloom.	3982
Redirect Examination by Mr. Durant.	3985
JUROR #234 (<i>IN CAMERA</i>)	
Examination by the Court.	3992
LAWRENCE GAINES	
Direct Examination by Mr. Durant.	3995
Cross Examination by Mr. Bloom.	4007
CEDERICK DAVIS	
Direct Examination by Mr. Durant.	4008
Cross Examination by Mr. Bloom.	4012
Redirect Examination by Mr. Durant.	4015
Recross Examination by Mr. Bloom.	4015
TOMIESHA NELSON	
Direct Examination by Mr. Durant.	4016
Cross Examination by Mr. Bloom.	4022
LESTER WILLIAMS	
Direct Examination by Mr. Durant.	4026
Cross Examination by Mr. Carroll.	4033

Redirect Examination by Mr. Durant.	4037
Recross Examination by Mr. Carroll.	4038
MICHAEL HUGGINS	
Direct Examination by Mr. Durant.	4039
Cross Examination by Mr. Bloom.	4043
Redirect Examination by Mr. Durant.	4048
MOTIONS (<i>IN CAMERA</i>)	4049
SHAREEN ROPER	
Direct Examination by Ms. Wilson.	4084
CYNTHIA SCHANDL, MD	
Direct Examination by Ms. Wilson.	40110
MOTIONS (IN CAMERA).	4136
WILLIAM DICKERSON (<i>IN CAMERA</i>)	
Examination by the Court.	4140
JOSEPH LADSON	
Direct Examination by Mr. Bloom.	4146
Cross Examination by Mr. Durant.	4149
JOHN HEWITT	
Direct Examination by Mr. Bloom.	4151
Cross Examination by Ms. Wilson.	4153
STACY SIMMONS	
Direct Examination by Mr. Bloom.	4154
Cross Examination by Ms. Wilson.	4155
CURTIS HOOD	
Direct Examination by Mr. Bloom.	4156
Cross Examination by Mr. Durant.	4158
DAVID GADEIC	
Direct Examination by Mr. Bloom.	4159
Cross Examination by Mr. Durant.	4161

JAMES AIKEN

Direct Examination by Mr. Bloom.	4163
Cross Examination by Mr. Durant.	4186
Redirect Examination by Mr. Bloom.	4193
Recross Examination by Mr. Durant.	4196

BARRY BRITT

Direct Examination by Mr. Carroll.	4205
Cross Examination by Mr. Durant.	4210

ALEXANDER MORTON

Direct Examination by Mr. Bloom.	4214
Cross Examination by Mr. Durant.	4283
Redirect Examination by Mr. Bloom.	4293

JOHNETTE R. WATSON

Direct Examination by Mr. Bloom.	4295
Cross Examination by Ms. Wilson.	4303

TIERRA MCINTOSH

Direct Examination by Mr. Bloom.	4304

JOHNNIE K. RIVERS

Direct Examination by Mr. Bloom.	4311
Cross Examination by Mr. Durant.	4328
Redirect Examination by Mr. Bloom.	4339
Recross Examination by Mr. Durant.	4343

MOTIONS.	4346

MARY E. RANKIN

Direct Examination by Mr. Bloom.	4357
Cross Examination by Mr. Durant.	4365
Redirect Examination by Mr. Bloom.	4368

MARJORIE HAMMOCK

Direct Examination by Mr. Bloom.	4369
Cross Examination by Mr. Durant.	4425
Redirect Examination by Mr. Bloom.	4440

DORIS GAMBLE

Direct Examination by Mr. Bloom.	4445
Cross Examination by Ms. Wilson.	4448

Redirect Examination by Mr. Bloom.....	4449
JIMMY MITCHELL	
Direct Examination by Mr. Bloom.	4450
JAMES DUNN	
Direct Examination by Mr. Bloom.	4453
Cross Examination by Ms. Wilson.	4461
Redirect Examination by Mr. Bloom.....	4465
ROBERT PHILLIPS	
Direct Examination by Mr. Bloom.	4472
Cross Examination by Ms. Wilson.	4508
MARK CUMMINGHAM	
Direct Examination by Mr. Bloom.	4530
Cross Examination by Ms. Wilson.	4580
ADELE WATSON	
Direct Examination by Mr. Bloom.	4603
WILLIAM DICKERSON	
Examination by the Court.	4608
MOTIONS.	4615
CLOSING ARGUMENT BY MR. DURANT.	4632
CLOSING ARGUMENT BY MR. BLOOM.....	4646
JURY CHARGE.	4671
VERDICT SENTENCING PHASE.....	4699
MOTION FOR A NEW TRIAL HEARING, JULY 7, 2009.....	4711
INDICTMENTS.....	4722
MOTION FOR A NEW TRIAL.	4728

EXHIBITS

STATE’S EXHIBIT 307, TRANSCRIPT OF PHONE CALL BETWEEN WILLIAM DICKERSON AND TOMISA NELSON.	4731
STATE’S EXHIBIT 319, AUTOPSY DIAGRAM.	4733
STATE’S EXHIBIT 320, AUTOPSY DIAGRAM.	4734
STATE’S EXHIBIT 321, AUTOPSY DIAGRAM.	4735
STATE’S EXHIBIT 322, AUTOPSY DIAGRAM.	4736
JUROR QUESTIONNAIRES.	4737
STATE’S EXHIBITS 141, 153, 160, 162, 166, 171, 172, 173, 177, 178, 181, 184, 335, AND 336 (AUTOPSY PHOTOGRAPHS ADMITTED DURING PENALTY PHASE); AND STATE’S EXHIBIT 78 (PHOTOGRAPH OF VICTIM’S BODY AT DISCOVERY SITE) HAVE BEEN TRANSPORTED TO THE COURT	
<i>STATE V. WILLIAM O. DICKERSON, JR.</i> , 395 S.C. 101, 716 S.E.2d 895 (2011).	5203
THIRD APPLICATION FOR POST-CONVICTION RELIEF.	5212
STATE’S MOTION TO STRIKE AND OR IN THE ALTERNATIVE TO DISMISS CLAIM NOT COGNIZABLE IN POST-CONVICTION RELIEF.	5222
MEMORANDUM IN RESPONSE STATE’S MOTION TO STRIKE AND OR IN THE ALTERNATIVE TO DISMISS CLAIM NOT COGNIZABLE IN POST-CONVICTION RELIEF.	5281
REPLY TO RESPONSE TO MOTION TO STRIKE AND OR IN THE ALTERNATIVE TO DISMISS CLAIM NOT COGNIZABLE IN POST-CONVICTION RELIEF.	5289
JULY 15, 2014 HEARING.	5297
FEBRUARY 2, 2015 HEARING.	5332
MAY 8, 2015 HEARING.	5359
SEPTEMBER 18, 2015 HEARING.	5376
NOVEMBER 20, 2015 HEARING.	5422

DECEMBER 7- 8,2015 HEARING.....	5441
RICHARD R. CANFIELD	
Voir Dire Examination by Mr. Grose.	5448
Direct Examination by Mr. Grose.	5450
Cross Examination by Mr. Zelenka.	5537
Redirect Examination by Mr. Grose.	5572
MARLYNE K. ISRAELIAN	
Voir Dire Examination by Mr. Grose.	5578
Direct Examination by Mr. Grose.	5585
Cross Examination by Mr. Mabry.	5664
Redirect Examination by Mr. Grose.	5725
CALVIN A. CARROLL	
Direct Examination by Ms. Franklin-Best.	5809
Cross Examination by Mr. Mabry.	5820
JEFFERY BLOOM	
Direct Examination by Ms. Franklin-Best.	5827
Cross Examination by Mr. Mabry.	5851
Redirect Examination by Ms. Franklin-Best.	5870
Recross Examination by Mr. Mabry.	5876
ROBERT DUDEK	
Direct Examination by Ms. Franklin-Best.	5878
Cross Examination by Mr. Zelenka.	5885
<u>EXHIBITS</u>	
APPLICANT’S EXHIBIT #1, LEAD TEST.	5908
APPLICANT’S EXHIBIT #2, USING GEOGRAPHIC INFORMATION SYSTEMS TO ASSESS RISK FOR ELEVATED BLOOD LEAD LEVELS IN CHILDREN..	5909
APPLICANT’S EXHIBIT #3, CHILDHOOD LEAD EXPOSURE: CAUSES AND CONSEQUENCES	5918
APPLICANT’S EXHIBIT #4, CV OF DR. MARLYNE ISRAELIAN..	6021
APPLICANT’S EXHIBIT #5, CHARLESTON COUNTY MAP.....	6027
APPLICANT’S EXHIBIT #6, MAP OF 20 ORRS COURT.....	6028

APPLICANT’S EXHIBIT #7, PSYCHIATRIC EXAMINATION OF WILLIAM DICKERSON, DATED 5/12/88.....	6029
APPLICANT’S EXHIBIT #8, SOCIAL HISTORY OF WILLIAM DICKERSON.....	6032
APPLICANT’S EXHIBIT #9, WILLIAM S. HALL PSYCHIATRIC INSTITUTE DOCUMENTS.....	6035
APPLICANT’S EXHIBIT 10, MEDICAL RECORD.....	6038
APPLICANT’S EXHIBIT #11, PSYCHOLOGICAL EVALUATION.....	6040
APPLICANT’S EXHIBIT #12, WECHSLER INTELLIGENCE TESTING.	6046
APPLICANT’S EXHIBIT #13, SOCIAL WORK REPORT.	6054
APPLICANT’S EXHIBIT #14, PSYCHOLOGICAL EVALUATION MARCH 31,2016 HEARING.	6057
APPLICANT’S EXHIBIT #15, LETTER TO OFFICE OF APPELLATE DEFENSE FROM DEFENSE COUNSEL, BLOOM.	6060
APPLICANT’S EXHIBIT #16, <i>WHEN LIGHTNING STRIKES BACK: SOUTH CAROLINA’S RETURN TO THE UNCONSTITUTIONAL STANDARDLESS CAPITAL SENTENCING REGIME OF THE PRE-FURMAN ERA</i> , 4 CHARLESTON L.REV. 479 (2010).	6064
RESPONDENT’S EXHIBIT #1, HOSPITAL DISCHARGE SUMMARY.....	6123
RESPONDENT’S EXHIBIT #2, ADMISSION TO ADDICTION TREATMENT UNIT....	6186
RESPONDENT’S EXHIBIT #3, <i>JONES V. GDCP WARDEN</i> , 753 F. 3D 1171 (11 TH CIR. 2014).	6191
RESPONDENT’S EXHIBIT #4, <i>K.C. V. FULTON COUNTY SCHOOL DIST.</i> , NOT REPORTED IN F.SUPP.2D (2006).	6209
RESPONDENT’S EXHIBIT #5, PSYCHIATRIC EVALUATION, 5/12/88.....	6222
RESPONDENT’S EXHIBIT #6, APPLICATION FOR EMERGENCY ADMISSION.....	6225
RESPONDENT’S EXHIBIT #7, MOTION TO BAR THE DEATH PENALTY BASED UPON RACE.....	6237

RESPONDENT’S EXHIBIT #8, ROBERT DUDEK NOTES.....	6246
MARCH 31, 2016 HEARING.....	6268
BARBARA O’BRIEN	
Direct Examination by Ms. Franklin-Best.....	6299
Voir Dire by Ms. Brown.	6308
Direct Continued by Ms. Franklin-Best.....	6312
Cross Examination by Ms. Brown.....	6347
Redirect Examination by Ms. Franklin-Best.	6388
Recross Examination by Ms. Brown.	6396

EXHIBITS

APPLICANT’S EXHIBIT #1, CV FOR BARBARA O’BRIEN.....	6432
APPLICANT’S EXHIBIT #2, MARCH 8, 2016 REPORT ON JURY SELECTION STUDY.	6438
APPLICANT’S EXHIBIT #3, JUROR SELECTION MATERIAL (ON FILE AT THE CHARLESTON COUNTY COURTHOUSE)	
APPLICANT’S EXHIBIT #4, ADDITIONAL JUROR SELECTION MATERIAL (ON FILE AT THE CHARLESTON COUNTY COURTHOUSE)	
APPLICANT’S EXHIBIT #6, EDDIE HASELDEN AFFIDAVIT.....	6465
APPLICANT’S EXHIBITS #7-#11 SEALED AND FILED WITH THE CHARLESTON COUNTY CLERK OF COURT’S OFFICE	
APPLICANT’S EXHIBIT #12, RONALD COULTER JURY SELECTION.....	6466
APPLICANT’S EXHIBIT #13, JEMOL BROWN JURY SELECTION.	6647
APPLICANT’S EXHIBIT #14, ETHAN MACK JURY SELECTION.	6686
APPLICANT’S EXHIBIT #15, MICHAEL JETER JURY SELECTION.	9569
APPLICANT’S EXHIBIT #16—FLASH DRIVE, IN THE POSSESSION OF THE CHARLESTON COUNTY CLERK OF COURT’S OFFICE	
APPLICANT’S EXHIBIT #17—SOUTH CAROLINA COMMISSION ON PROSECUTION COORDINATION SUBPOENA PRIVILEGE LOG	6755

MAY 12-13, 2016 HEARING.....	6760
BARBARA O'BRIEN (VIA SKYPE)	
Direct Examination by Ms. Franklin-Best.....	6772
Cross Examination by Ms. Brown.....	6775
Redirect Examination by Ms. Franklin-Best.....	6806
Recross Examination by Ms. Brown.....	6808
SCARLETT WILSON	
Direct Examination by Mr. Grose.....	6809
Cross Examination by Ms. Brown.....	6860
Redirect Examination by Mr. Grose.....	6872
Recross Examination by Ms. Brown.....	6882
JEFFERY BLOOM	
Direct Examination by Ms. Brown.....	6909
Cross Examination by Mr. Grose.....	6970
Redirect Examination by Ms. Brown.....	7003

EXHIBITS

APPLICANT'S EXHIBIT #1, AMENDED REPORT ON JURY SELECTION STUDY, DATED MAY 5, 2016.....	7011
APPLICANT'S EXHIBIT #2, APPLICANT'S STANDARD INTERROGATORIES.	7035
APPLICANT'S EXHIBIT #3, APPLICANT'S REQUEST TO PRODUCE.	7038
APPLICANT'S EXHIBIT #4, SUBPOENA.....	7041
APPLICANT'S EXHIBIT #5, INCIDENT REPORT.....	7046
APPLICANT'S EXHIBIT #6, INCIDENT REPORT.....	7049
APPLICANT'S EXHIBIT #7, INCIDENT REPORT.....	7052
APPLICANT'S EXHIBIT #8, INCIDENT REPORT.....	7054
APPLICANT'S EXHIBIT #9, INCIDENT REPORT.....	7058
APPLICANT'S EXHIBIT #10, INCIDENT REPORT.....	7061
APPLICANT'S EXHIBIT #11, INCIDENT REPORT.....	7063

APPLICANT’S EXHIBIT #12, INCIDENT REPORT	7071
APPLICANT’S EXHIBIT #13, INCIDENT REPORT	7073
APPLICANT’S EXHIBIT #14, INCIDENT REPORT.	7078
APPLICANT’S EXHIBIT #15, INCIDENT REPORT.	7091
APPLICANT’S EXHIBIT #16, INCIDENT REPORT	7094
APPLICANT’S EXHIBIT #17, PROSECUTOR’S DESKBOOK, 2010 EDITION.	7095
APPLICANT’S EXHIBIT #18, MOTION TO DISMISS THE DEATH PENALTY DUE TO UNCONSTITUTIONALITY OF STATE PROPORTIONALITY REVIEW.	7119
APPLICANT’S EXHIBIT #19, MOTION TO BAR THE DEATH PENALTY BASED UPON RACE.	7131
RESPONDENT’S EXHIBIT #1, DOCUMENTS.	7145
RESPONDENT’S EXHIBIT #2, CJIS SECURITY POLICY.	7165
RESPONDENT’S EXHIBIT #3, EMAIL CHAIN.	7165
RESPONDENT’S EXHIBIT #4, BOOKING REPORT.	7187
COURT’S EXHIBIT #1, TABLE, MSU REPORT.	7190
MAY 27,2016 HEARING.	7194
DR. WILLIAM NORTON	
Direct Examination by Ms. Scrantom.	7204
Cross Examination by Mr. Grose.	7225
Redirect Examination by Ms. Scrantom.	7248
Examination by the Court.	7255
MOTIONS.	7260
<u>EXHIBITS</u>	
STATE’S #1, CV OF DR. NORTON.	7280
STATE’S #2, EMAILED OPINION.	7287

STATE’S #3, FORMAL REPORT.	7285
MARCH 16, 2017 HEARING.....	7288
OCTOBER 23,2017 HEARING.	7315
BARBARA O’BRIEN	
Direct Examination by Ms. Franklin-Best.....	7323
Cross Examination by Ms. Scrantom.....	7338

EXHIBITS

APPLICANT’S EXHIBIT #1 DR. O’BRIEN’S REPORT.	7362
APPLICANT’S EXHIBIT #2 FLASH-DRIVE LOCATED AT CHARLESTON COUNTY COURTHOUSE	
<i>STATE V. COLIN BROUGHTON</i> JURY SELECTION, 06-GS-08, 2164 B.....	7386
POST-TRIAL BRIEFING ON BEHALF OF PETITIONER.	9237
POST-TRIAL BRIEFING ON BEHALF OF RESPONDENT (SEALED).	
ORDER OF DISMISSAL.	9314
59(E) MOTION.....	9394
ORDER DENYING 59(E) MOTION.	9488
<i>STATE V. JALAL BEYAH</i> , 2001-GS-10-1736.....	9605

1 the improper bolstering is. Your Honor, the
2 murder occurred over March the 7th and 8th, the
3 body was recovered on the 9th, the Defendant
4 was apprehended on the 11th and that was the
5 day that this took place.

6 Without evidence of the grand larceny
7 of a motor vehicle, it is our position that is
8 part of the *res gesti*, especially as of when
9 Mr. Malik, Popcorn, is considered -- because
10 what he will testify to is that he left the
11 scene of the murder, was supposed to return
12 but wanted no more to do with what was going
13 on in that apartment. When he left, he went
14 back to North Charleston but then continued to
15 get calls from the Defendant. After that, he
16 began to worry about his safety, takes his
17 family and goes to a motel because he doesn't
18 want the Defendant to come there. At some
19 point they go, on the 11th to get some more
20 clothes and things and as they arrive the
21 Defendant pops up and takes the car from him
22 and his girlfriend and then leaves the area.
23 He calls the police, he lets them know who it
24 is, he lets them know that he is wanted for
25 murder.

1 Then the police who began looking for
2 the car coincidentally -- well, not
3 coincidentally but he wrecks the car shortly
4 after he takes it. North Charleston Police
5 respond to that and is told by a neighbor who
6 saw the guy who'd wrecked the car, 'He went
7 that way.'

8 He then starts flight. He sees the
9 police in the area, both on foot and on
10 patrol. He runs. It was a short chase,
11 probably thirty minutes or so that they are
12 looking for him in that area when he is
13 apprehended.

14 The clothing that he has on is
15 important to our case. In addition, he had an
16 injury that is important to our case.

17 All of these things we would be
18 offering, whether or not the grand larceny of
19 a motor vehicle charge would we go forward on
20 but it completes the whole end of the crime as
21 far as we're concerned. I don't believe that
22 they've made out any prejudice. All of the
23 witnesses that we would call to introduce
24 that, we would be calling anything, whether or
25 not we go forward with that charge, and I

1 think that also is ---

2 THE COURT: Well, my question, I
3 guess, is -- and you've answered it really.
4 Everything concerning this alleged crime,
5 there's going to be testimony in the trial of
6 the murder, kidnaping. It's all relevant and
7 germane to being presented for those charges.

8 SOLICITOR WILSON: Yes, sir.

9 THE COURT: So the State has -- the
10 State is not restricted in any way by simply
11 severing this. I understand that it is a
12 crime but it is a crime that arises -- as I
13 just understood what you just said, at that
14 point in time, not after he steals the car but
15 even before he steals the car, he's a suspect
16 in a murder. So he is already ---

17 SOLICITOR WILSON: --- wanted;
18 (affirmative nod).

19 THE COURT: So therefore there's
20 reason to flee, there is reason to do all
21 these things. Whether he has committed a
22 crime or not, there may be -- but I think the
23 safest thing to do is just to sever it. I
24 don't see how it could -- I don't see how
25 there is any prejudice to the State because it

1 doesn't restrict your testimony at all.

2 SOLICITOR WILSON: No, sir, that's
3 not our concern. I am concerned about the
4 indictment.

5 THE COURT: I do see a potential
6 prejudice to the defendant. I think it's very
7 remote but because he's making the Motion, I
8 think the safest thing to do is to sever that.
9 Whether the State goes forward, that's up to
10 you'all because you've got your crime and
11 you've got all the -- the good thing about it
12 is that you're going to have people under oath
13 that can help you if you have to try the case
14 at another time.

15 I see no way that testimony doesn't -
16 - now, let me add something because you can't
17 have your cake and eat it too. You can't sit
18 there and say, 'Well, we want it severed and
19 now we want to exclude testimony' which --
20 where you're going to argue that testimony is
21 not relevant?

22 MR. BLOOM: I acknowledge that the
23 testimony is relevant.

24 THE COURT: I mean, I just can't
25 see any way that it doesn't come in.

1 MR. BLOOM: Yes, sir. I fully
2 acknowledge that.

3 THE COURT: All right. Solicitor,
4 having said that, that is sort of an indirect
5 Motion *in limine*, that absolutely I would
6 agree. If they want to object, they can but
7 there's no question that all these things --
8 even without, as I think you just said, this
9 is *res gesti*. He's so anxious -- and Mr.
10 Dickerson, this is one side. I'm not assuming
11 anything to be true, just for the sake of
12 discussion. But it indicates that he is so
13 anxious that he is stealing a friend's car and
14 getting-outta-Dodge. I mean, that's basically
15 what it says to me. That's one inference. So
16 I think it's part of the overall picture of
17 everything that is happening. Your Motion is
18 granted.

19 MR. BLOOM: Thank you, Your Honor.

20 THE COURT: All right. Now, we
21 have supplemented the disqualified ones -- why
22 don't we do this, just out of an abundance of
23 caution? The blue folder, those are the
24 disqualified ones?

25 CLERK: Yes, they are.

State of South Carolina v. William O. Dickerson
Case No. 06-CS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
... Before The Honorable R. Markley Dennis, Jr.

1 THE COURT: Make a packet and we'll
2 make this Court's Exhibit 3-A, jurors that
3 were excused after our last hearing. Put
4 those in a separate folder and put them in a
5 blue folder. Okay?

6 CLERK: Okay.

7 THE COURT: You have copies of
8 those for everybody?

9 CLERK: I do. They should have
10 received those this morning. They were in the
11 ---

12 BRUCE DURANT: We have them.

13 THE COURT: Now, do we have
14 questionnaires from the ones that were there,
15 that stuck around?

16 CLERK: Yes.

17 THE COURT: We do?

18 CLERK: Yes, sir.

19 THE COURT: So you have those for
20 us?

21 CLERK: Yes, sir.

22 THE COURT: I am going to tell you
23 in her (Jessica) presence that this young lady
24 has done a tremendous job. She's just been
25 incredible and wonderfully organized. I tell

1 her, because I do talk behind her back, that
2 no -- not only when you ask her a question,
3 she doesn't have to look at the form. She can
4 tell you what is in each one. She knows them.
5 I appreciate that, I think she's done a
6 marvelous job. Thank you.

7 CLERK: I also have to supplement
8 the exhibit, Morris Surveying, which I
9 received this morning.

10 THE COURT: That is the one --
11 they're numbered sequentially and there will
12 be forms -- any objection to simply now
13 putting in the exhibit with the notebooks that
14 has the numbers those supplements such as
15 people that have been added to, their files?
16 You have copies of that and the questionnaire,
17 as well, which will be part of that exhibit.
18 Any problem with that? I don't see any reason
19 to keep that separate. Those are just all the
20 jurors that we have.

21 BRUCE DURANT: No, sir.

22 THE COURT: Any objection to that?

23 MR. BLOOM: No, sir.

24 THE COURT: So we will just put
25 those in the notebook then. Okay. Anything

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 else from the Clerk's standpoint.

2 DON MICHELE, ASSISTANT CLERK: We
3 have the strike sheets.

4 THE COURT: If you will pass those
5 out that would be helpful to us. What is
6 everybody doing this weekend? Do you want us
7 all to get together and ---

8 BRUCE DURANT: I'll pass,
9 Your Honor. I think we've had enough quality
10 time.

11 THE COURT: I understand. Mr.
12 Dickerson, that's again -- it's a joke at your
13 expense and I apologize to you, again. I'm
14 not making light of this situation. I know
15 what your lawyers are going to be doing and I
16 know what the State's lawyers are -- because I
17 know what I am going to be doing all weekend,
18 too. It's a very serious matter. Thank you,
19 sir. Thank you for patience today, as well,
20 sir.

21 Anything else, folks?

22 MR. BLOOM: Judge, if I could --
23 and I don't know if we need to do this on the
24 record but can we get a phone number, a cell
25 phone or something, of someone in the clerk's

1 office in case as we are going through this
2 tonight and we find a missing questionnaire,
3 we can at least alert them to it Monday
4 morning in case the person is in the first
5 panel. I'm trying to go through and see which
6 ones that we are missing.

7 THE COURT: If you will do me this
8 favor -- I think what we will do, rather than
9 put these people on work is we'll make sure
10 that you have it and if we need to give you
11 time to go over it, we'll do that. I'll
12 accommodate me. If you would just e-mail me
13 and copy everybody, then we will have it, we
14 will have a record of it and we'll get it done
15 that way. I'll try to be here earlier so that
16 if there is a problem -- what time do you'all
17 normally come to work?

18 CLERK: Someone is usually here by
19 8:00 o'clock.

20 THE COURT: If there is something,
21 I'll try to get that addressed so that you'll
22 have it by 9:00. Then if you need some
23 additional time, Jeff, I'll be delighted for
24 you to have that.

25 MR. BLOOM: Thank you, sir.

1 THE COURT: Okay. Anything else?

2 (No response). Have a good weekend.

3 MR. CARROLL: Thank you.

4 THE COURT: All of my security
5 people, thank you guys. I'm sorry to have
6 made you go through your lunch hours.
7 Appreciate you being here. See you Monday.

8 (COURT IN RECESS)

9 (TRANSCRIPT CONTINUED NEXT PAGE)

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State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

264

1 (JUROR NUMBER 388 ENTERS COURTROOM)

2 THE COURT: Good morning, Ms.

3 Morton. How are you?

4 JUROR NUMBER 383: I'm fine. You,
5 sir?

6 THE COURT: I'm fine. Thank you,
7 ma'am. For the record, would you please state
8 your full name?

9 JUROR NUMBER 383: Marlene Aletha
10 Morton.

11 THE COURT: Okay. Ms. Morton, when
12 we last were together on Friday, you remember
13 that I placed you under oath, as I did all the
14 jurors. I would remind you that you are still
15 under oath in this matter. Okay?

16 JUROR NUMBER 383: Yes, sir.

17 THE COURT: Have you had a good
18 weekend?

19 JUROR NUMBER 383: It was all right.

20 MARLENE MORTON, being duly sworn to
21 tell the truth, the whole truth and nothing
22 but the truth, testified, as follows:

23 VOIR DIRE EXAMINATION

24 THE COURT:

25 Q. Have you talked with anyone or read

1 anything about any -- anything about this
2 trial since we were last together?

3 A. No.

4 Q. You've followed the court's instructions
5 in every respect then; is that correct?

6 A. Yes.

7 Q. We are going to be asking you some
8 questions this morning. First I will ask you
9 some questions and then the attorneys may ask
10 you some questions. Please, if you don't
11 understand the question just ask us to repeat
12 it.

13 A. Okay.

14 Q. If you answer it, we're going to assume
15 that you fully understood the question and
16 that you've given a truthful and correct
17 response; is that fair?

18 A. Yes.

19 Q. Okay. Before I ask you some questions, I
20 need to ask you -- there are two people that --
21 -- do you know -- by chance do you know or have
22 any dealings with Jeff Osborne or Matt Casey?

23 A. No, sir.

24 Q. Okay. In preparing , you were given a
25 sheet of paper. Have you had a chance to read

1 that sheet of paper describing the three types
2 of jurors?

3 A. Uh -- (pause)

4 Q. Have you had a chance to read it?

5 A. No.

6 Q. You haven't read it yet?

7 A. No. Oh, are you talking about list?

8 Q. Yes.

9 A. Oh, yeah.

10 Q. You read that?

11 A. (Affirmative nod).

12 Q. And on that sheet there are three types of
13 jurors designated. Which one do you think
14 most accurately describes you?

15 A. I read it but I don't know that I
16 understand it, (reviewing). I'll say number
17 two.

18 Q. Number two?

19 A. (Affirmative nod).

20 Q. Number two is basically that person that
21 believes although a person is guilty -- and
22 please understand when we're talking about
23 whether a person is guilty or not, we're
24 assuming certain things. That of course does
25 not apply to Mr. Dickerson specifically,

1 because as I indicated on Friday he's innocent
2 of these charges. He's only been accused of
3 these charges ---

4 A. Right.

5 Q. --- until and unless the State proves him
6 guilty.

7 A. Right.

8 Q. That's the way that a juror has to
9 presume, you understand, presume that he is.
10 Do you do that? Can you do that, as well?

11 A. (Affirmative nod).

12 Q. Do you do that today?

13 A. (No verbal response).

14 Q. You presume that he is innocent?

15 A. Well, I really don't know -- he is
16 innocent but, then, you know.

17 Q. Well, the law says that he is.

18 A. Um-humm.

19 Q. Can you follow that law?

20 A. Yes.

21 Q. I'm going to ask you some questions.
22 Basically a type two juror is that once a case
23 has been heard and the jury has concluded that
24 the State had proven a case of murder, then
25 went into the second phase and in the second

1 phase there would be two possible punishments
2 -- one would be life imprisonment without the
3 possibility of parole and the other would be a
4 death sentence or the death penalty. Type two
5 is the type of juror that under no
6 circumstances, no matter what the case was, no
7 matter how severe or how harsh it was, there's
8 no way that that juror could ever impose a
9 death sentence. That's what you're saying
10 that you are?

11 A. (Pause) -- well, when it comes to life
12 imprisonment I wouldn't mind, you know, going
13 with that; but the death penalty, (negative
14 gesture), I don't want to be a part of that.

15 Q. Well, my question is -- I understand
16 that's what you prefer not ---

17 A. Um-humm.

18 Q. --- but if you were on the jury, the
19 question is whether or not you as a member of
20 the panel could consider and follow the
21 instruction of the court, which would be that
22 you may consider certain circumstances are
23 present, and we'll talk those in just a
24 moment, they are called aggravating
25 circumstances, because the law says that there

1 have to be certain aggravating circumstances
2 that exist. I would set those forth for you
3 and define those for you. The jury would be
4 instructed that they would have to find those
5 from the evidence beyond a reasonable doubt.
6 But assuming for the purposes of discussion
7 that the jury had found aggravating
8 circumstances beyond a reasonable doubt then
9 the jury, and only then, could the jury
10 consider the death penalty. That would be a
11 potential sentence that could be considered,
12 in addition to life imprisonment without the
13 possibility of parole. Am I understanding
14 that you could not consider it and would not -
15 - could not under any circumstances vote or
16 impose a death sentence?

17 A. (Affirmative nod), I don't think so. No.

18 Q. Okay.

19 A. For conscience sake, no. I don't think I
20 would want to be part of a death sentence.

21 THE COURT: Solicitor, we will
22 start with you. Good morning.

23 VOIR DIRE EXAMINATION

24 BY SOLICITOR WILSON:

25 Q. Good morning.

1 A. Good morning.

2 Q. I'm Scarlet Wilson. I'm the solicitor

3 here. Do you know what a solicitor does?

4 A. Yes.

5 Q. Like the DA on TV, the district attorney

6 on television?

7 A. (Affirmative nod).

8 Q. I'm the prosecutor in this case. Along

9 with the Mr. Durant -- along with Mr. Bruce

10 Durant and Mr. Rutledge Durant, we're going to

11 be putting forth the evidence in this case.

12 Okay?

13 A. Um-humm.

14 Q. I have just a few more questions to ask

15 you. First of all, I want to tell you that I

16 know it is kind of awkward for you to be

17 sitting back there but there's no right or

18 wrong answers to any of this. Okay?

19 A. Um-humm.

20 Q. You said that for conscience sake it would

21 bother you to be a part of a death penalty; is

22 that right?

23 A. Yes.

24 Q. I noticed when you filled out your

25 questionnaire that you talked about your

1 involvement in the church. It sounds like

2 you're pretty active in your church?

3 A. No, not too active.

4 Q. Not too active?

5 A. No.

6 Q. Okay. Well, is the death penalty

7 something that has been talked about at

8 church, is that one of the reasons that you're

9 against it?

10 A. No.

11 Q. Do you know where it is that you got this

12 view that you have, that you're against it?

13 A. Well, I just -- I just don't believe in

14 the death penalty because I feel like

15 everybody have a time to die, and I wouldn't

16 want to be the one to send someone to their

17 death.

18 Q. Do you understand that if you got put on

19 this jury and if the judge gave you

20 instructions as to the fact that you should

21 consider any aggravating circumstances, that

22 means something that makes the crime very bad,

23 very aggravated, that he would instruct you to

24 consider that and to weigh that in as to

25 whether or not you felt that a person deserved

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 the death penalty, would you be able to do
2 that? Would you be able to consider the bad
3 things about the crime?

4 A. Oh, well, (pause). I guess I'd have to
5 consider it, you know.

6 Q. But when it came down to actually -- if
7 you and the rest of the jury agreed that the
8 death penalty was warranted, you would have to
9 sign your name to that. Would you be able to
10 sign your name giving a person the death
11 penalty?

12 A. I don't believe, (negative gesture).

13 THE COURT: Ma'am.

14 JUROR NUMBER 383: No.

15 THE COURT: You need to speak up a
16 little bit.

17 JUROR NUMBER 383: I really don't
18 think so.

19 EXAMINATION CONTINUED

20 BY SOLICITOR WILSON:

21 Q. Would it violate your conscience to say
22 that ---

23 A. I'd say it would, yes.

24 Q. Would it cause you a personal hardship to
25 have to be involved in that?

1 A. No, I just don't feel like, you know, I am
2 to pass judgment on a person, life or death.
3 You know?

4 Q. So you would not be able to fairly
5 consider that and give that meaningful
6 consideration, the death penalty?

7 A. (Pause) -- I'd have to pray about that.
8 I don't think I could, you know, go with the
9 death penalty.

10 Q. You certainly don't want to be involved in
11 that?

12 A. No.

13 Q. Again, I ask you, it wouldn't be just a
14 matter of voting for the death penalty or
15 voting for life imprisonment. It would
16 involve actually signing your name. Could you
17 do that?

18 A. (No verbal response).

19 Q. Could you sign your name to give someone
20 the death penalty?

21 A. I don't think so, I don't think I want to
22 do that.

23 Q. Thank you.

24 THE COURT: Mr. Bloom?

25 MR. BLOOM: May it please the

1 court?

2 THE COURT: Yes, sir.

3 VOIR DIRE EXAMINATION

4 BY MR. BLOOM:

5 Q. Good morning, Ms. Morton. I'm Jeff Bloom
6 and along with Andrew Carroll we represent
7 William Dickerson. I just have a little bit
8 of followup that I want to ask you. And
9 nobody is here -- just so that you understand,
10 I am not trying to challenge your beliefs.

11 Your beliefs are your own. We just need you
12 to be honest with us. You understand that?

13 A. Um-humm.

14 Q. Let me start by asking you, then, -- you
15 put on your form that you don't like the death
16 penalty, is that right?

17 A. Yes.

18 Q. You told us here today that you don't and
19 you don't want to be a part of it, if I
20 understand you fairly, correctly?

21 A. Yes.

22 Q. Okay. The judge was telling you that the
23 law requires a juror in this kind of case to
24 both be able to consider life without parole -
25 - and you're telling us that you could do

1 that, you could consider if a case got to that
2 point voting for and imposing a life sentence.
3 Is that fair to say?

4 A. Yes.

5 Q. But the law also requires you to be fair
6 to the other side and keep an open mind, and
7 what I want to ask you next is would you be
8 able to consider and be fair to the State, in
9 terms of life or death? Let just start there.

10 A. Repeat that?

11 Q. Sure, and that may be kind of long so let
12 me see if I can shorten it. The law requires
13 you to be fair to both sides, both the defense
14 and the prosecution in this case.

15 A. (Affirmative nod).

16 Q. So to be eligible to be a juror -- and
17 understand that you're not a juror yet in this
18 case, -- you'd have to be willing to consider
19 the evidence that the State puts forth. Could
20 you do that, would you consider and listen to
21 their evidence?

22 A. Yes, I would.

23 Q. Okay. And if it were bad enough in your
24 mind could you also consider a death penalty
25 as well as life without parole? Would you

1 consider that?

2 A. No, I can't tell you honest-to-God that I
3 could do that.

4 Q. That's all we want.

5 A. I don't believe in the death penalty.

6 Q. Right. Let me start there. The law, in
7 fact, says that it is okay to not believe in
8 the death penalty, it's okay to have very
9 strong opinions and be opposed to the death
10 penalty.

11 A. Um-humm.

12 Q. But to be a possible juror in a case you
13 have to at least be able to consider that
14 option. You have to be able to set your
15 personal beliefs aside and consider not only
16 life without parole but also consider the
17 death penalty. Is that something that you
18 would be able to do, to set your personal
19 beliefs aside, look at the evidence and
20 consider the death penalty?

21 A. (Pause) -- I don't -- (pause) -- to tell
22 you the truth, I really don't know how I would
23 feel after I heard the whole case and all. I
24 don't know now.

25 Q. Of course, that's what we're asking

1 because you've not heard the case. We're not
2 trying to get you to tell us how you would
3 vote in this case -- you understand that?

4 A. (Affirmative nod).

5 Q. Okay. We're just trying to find out if in
6 a case you would be able to set those strong
7 opinions aside and listen to all the evidence
8 and consider both sentences. What I heard you
9 just tell me is you don't know, you'd have to
10 hear all the evidence. Is that fair to say?

11 A. I guess if I hear all the evidence, uh,
12 for life without parole that it would be okay
13 for the death penalty but I don't really want
14 any part of it.

15 Q. I know that you don't want any part of
16 that. I guess all I am asking is, are you
17 able to set those strong feelings and at least
18 keep an open mind until you hear the whole
19 case?

20 A. I probably could hear the whole case but I
21 still wouldn't want to be a part of sending
22 someone to the death penalty.

23 Q. Of course most people don't, don't want to
24 be a part of that.

25 A. Um-humm.

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

278

1 Q. We are not asking you for a commitment or
2 a vote now at this point because we know you
3 can't do that.

4 A. Um-humm.

5 Q. I guess we're just trying to find out the
6 honest truth, and I guess it is that you
7 really don't want to be a part of this, that
8 you have strong feelings against the death
9 penalty but could you set those aside and
10 consider all the evidence? That's the first
11 question, I guess.

12 A. (No verbal response).

13 Q. Let me ask it this way, can you imagine a
14 case which was so bad to you that you would
15 say, 'Golly, even though I don't believe in
16 the death penalty that might be a case where a
17 person ought to get it?' Is there a case out
18 there like that in your mind, that you would
19 think that?

20 A. (Negative gesture), huh-uh.

21 Q. There's not?

22 A. (Negative gesture).

23 THE COURT: Was that a "no", ma'am?

24 MR. BLOOM: She said 'no', Your

25 Honor.

1 THE COURT: Okay.

2 MR. BLOOM: I think I only have one
3 more question.

4 EXAMINATION CONTINUED

5 BY MR. BLOOM:

6 Q. For example, after 9/11 when the towers
7 came down -- you remember that?

8 SOLICITOR WILSON: Your Honor, I would
9 object.

10 THE COURT: Sustained. Mr. Bloom,
11 she has answered the question, sir.

12 MR. BLOOM: All right. Ma'am,
13 thank you very much. I have no further
14 questions.

15 THE COURT: Thank you very much,
16 Ms. Morton. I am going to ask that you step
17 outside just for a moment. We need to take a
18 matter up and we will be with you in just a
19 minute.

20 (JUROR 383 EXITS COURTROOM)

21 THE COURT: Don't let her return to
22 the jury room, please. What is the State's
23 position?

24 SOLICITOR WILSON: She is not
25 qualified, Your Honor.

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 THE COURT: Defendant's position.

2 MR. BLOOM: We have no objection,
3 Your Honor.

4 THE COURT: Very well. I find that
5 this lady -- and I want to note, as well, that
6 I appreciate her candor. This is not being
7 critical, it's just I think further supportive
8 of what we've seen. She is a graduate of high
9 school and she has worked hard but this is a
10 technical area and she really and truly
11 demonstrated with her first answer, about
12 whether he was innocent or not, that she has a
13 difficult time processing everything that is
14 taking place. Clearly this lady has a very
15 deep-seated feeling, that is not religious-
16 related but just her deep-seated feelings
17 about putting someone to death. I think it
18 would compromise her basic belief, therefore I
19 think she -- she said that she could consider
20 the evidence but I would agree that she is not
21 qualified. Thank you very much. Bring her
22 in, please.

23 (JUROR 383 ENTERS COURTROOM)

24 THE COURT: Ms. Morton, thank you
25 so much. I appreciate it. You are excused

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

281

1 from further participation in this dispute.

2 We have a jury reporting this afternoon at
3 1:30. You need to report and come back to the
4 jury room where we were Friday, be there at
5 1:30. Have a good day, ma'am.

6 (JUROR NUMBER 383 EXCUSED)

7 THE COURT: Mr. Robinson, if you
8 would also retrieve her sheet from her --
9 thank you.

10 BAILIFF: Yes, sir.

11 THE COURT: Is Mr. Hood here yet,
12 Number 370?

13 (JUROR NUMBER 370 ENTERS COURTROOM)

14 THE COURT: Good morning, Mr. Hood.
15 How are you, sir?

16 JUROR NUMBER 370: Very good.

17 THE COURT: Good. I hope you had a
18 good weekend.

19 JUROR NUMBER 370: I did.

20 THE COURT: I understand that it
21 probably started not in a way that you would
22 normally start but I hope everything went all
23 right for you. We have some questions for you
24 this morning, as I mentioned to you. I am
25 going to be asking you some, the attorneys

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 will probably ask you some questions. We are
2 not here to pry into anything, we're certainly
3 not here to invade your privacy in any way.
4 There are no correct answers to any of these
5 questions. All we ask is that you respond
6 truthfully to them. In that regard, I would
7 remind you, sir, that you are still under oath
8 in this matter. Okay.

9 JUROR NUMBER 383: Okay.

10 NATHAN HOOD, being duly sworn to
11 tell the truth, the whole truth and nothing
12 but the truth, testified, as follows:

13 VOIR DIRE EXAMINATION

14 BY THE COURT:

15 Q. One question that I have, I failed to
16 mention two names when we listed those various
17 names to you, are you related by blood or
18 marriage or have any dealings, business or
19 socially, with do you know or have any
20 dealings with Jeff Osborne or Matt Casey?

21 A. No, sir.

22 Q. You do not know them?

23 A. (Negative gesture).

24 Q. Okay. Have you had a chance to read the
25 sheet that contains the three types of jurors?

1 A. Yes, sir.

2 Q. After considering that, which type do you
3 believe most accurately describes you?

4 A. Type three.

5 Q. Type three?

6 A. (Affirmative nod).

7 Q. And that is a juror that basically, as I
8 understand it, that says 'Well, given certain
9 situations, if established beyond a reasonable
10 doubt there are situations where I could vote
11 to impose the death penalty and there are
12 situations, after considering all the
13 circumstances, that I think would -- beyond a
14 reasonable doubt -- that the most appropriate
15 punishment was life imprisonment without the
16 possibility of parole?

17 A. Yes.

18 Q. And you couldn't make a decision until you
19 heard all the evidence in a case and received
20 the law; is that correct?

21 A. Um-humm, (affirmative nod).

22 Q. That is you?

23 A. (Affirmative nod).

24 Q. Let me ask you a question. On the sheet
25 that you put out, you said that your opinion

1 of the death penalty was "Good." That doesn't
2 -- what does that mean?

3 A. I think that in certain circumstances that
4 it's -- (affirmative nod).

5 Q. That it is appropriate?

6 A. Yes, sir.

7 Q. Okay. Also when you said, "I really don't
8 like police officers."

9 A. I got a ticket on the way here actually,
10 today.

11 Q. You did?

12 A. (Affirmative nod).

13 Q. Did that enhance that feeling?

14 A. (Affirmative nod), a little bit.

15 Q. Would that affect how you viewed the
16 evidence in any way?

17 A. No.

18 Q. You were candid with that, and I
19 appreciate that, but you would -- you could
20 make a commitment to both sides that that
21 would not influence in any way how you viewed
22 the evidence in a case?

23 A. True.

24 Q. Now, you understand that if you were
25 selected that you would promise most sides and

1 the court that you would at the appropriate
2 time evaluate the evidence and decide what you
3 believe to be the truth. Do you feel you
4 could perform that function fairly and
5 impartially?

6 A. Absolutely.

7 Q. Also as a part of your commitment you
8 would agree to take the law as I gave it to
9 you and apply that law fairly and impartially
10 to those facts so that your decision would be
11 fair to both sides and would be consistent
12 with the law, you could do that as well?

13 A. Yes.

14 Q. There may be some principles of law, and I
15 am not suggesting that there are but there may
16 be some principles of law with which you may
17 differ. That requirement, that charge and
18 that commitment requires you to set aside
19 those personal feelings. Would you do that?

20 A. (No verbal response).

21 Q. Would you be able to do that and take the
22 law as I gave it to you notwithstanding your
23 personal feelings?

24 A. Yes, sir.

25 Q. I told you that there are a number of

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

286

- 1 principles of law that apply in this case.
- 2 One we talked about on Thursday -- on Friday,
- 3 and that is that persons who are accused of
- 4 committing criminal offenses in this state and
- 5 in this country are presumed innocent. That
- 6 presumption is an accurate presumption. It
- 7 means that mentally you have to actively
- 8 presume that Mr. Dickerson is innocent. Do
- 9 you have any problem following that principle
- 10 of law?
- 11 A. Not at all.
- 12 Q. Today as he sits here is he innocent these
- 13 charges, as much as anyone in this room -- in
- 14 your mind?
- 15 A. Yeah.
- 16 Q. And you further would agree not to change
- 17 that position until the State presented
- 18 evidence which would convince you beyond a
- 19 reasonable doubt that he committed one or more
- 20 of the offenses with which he stands accused;
- 21 do you understand that?
- 22 A. Yes, sir.
- 23 Q. And you could follow that, as well?
- 24 A. (Affirmative nod).
- 25 Q. I would also instruct you that the only

1 party which has any burden of proof in this
2 proceeding is the State. Mr. Dickerson
3 doesn't have to prove anything, he doesn't
4 have to -- he doesn't have to present any
5 evidence, he has no obligation whatsoever.
6 Would you have any problem following that
7 presumption?

8 A. No, sir.

9 Q. In fact, if you ever looked to him or
10 expected him to do anything such as that, you
11 would have violated your oath and the
12 commitment that you've made; do you understand
13 that?

14 A. Yes, sir.

15 Q. Any problem following that?

16 A. (Negative gesture).

17 Q. As I mentioned to you, there may be two
18 phases in this proceeding. The first part
19 would be where you would hear evidence
20 concerning the charges. You would hear all of
21 that evidence and after hearing the evidence
22 and receiving the law on the various charges
23 the jury would then retire and deliberate and
24 make a decision as to whether or not the State
25 had convinced the jury beyond a reasonable

1 doubt if he was guilty of the crime.

2 Unless the State convinced the jury beyond
3 a reasonable doubt a reasonable doubt of the
4 crime of murder, there would be no second
5 phase. Do you understand that?

6 A. Yes, sir.

7 Q. But if the jury did conclude that the
8 State had convinced that jury beyond a
9 reasonable doubt then we would move into the
10 second phase; do you understand that?

11 A. Yes, sir.

12 Q. Do you understand that by talking about it
13 that I'm not suggesting to you in any way that
14 there will be a second phase? I'm not
15 suggesting anything as to how you should
16 decide that issue if you should be on the
17 jury, do you understand that?

18 A. Yes, sir.

19 Q. In the second phase, if there was a second
20 phase, it is at that time that you would hear
21 additional evidence and it's at that time that
22 the State would present evidence concerning
23 one of the issues that they have to present
24 and the jury has to conclude exists beyond a
25 reasonable doubt; that is, circumstances known

1 as aggravating circumstances. Do you
2 understand that?

3 A. Yes, sir.

4 Q. Under our law every murder does not
5 warrant a death sentence or, necessarily, life
6 imprisonment without the possibility of
7 parole; do you understand that?

8 A. Yes, sir.

9 Q. Only where there has been -- where
10 aggravating circumstances have been
11 established beyond a reasonable doubt may a
12 jury then consider a death sentence, do you
13 understand that?

14 A. Yes, sir.

15 Q. Only then would you be able to consider
16 it. I would tell you that if the jury were to
17 conclude beyond a reasonable doubt that there
18 were aggravating circumstances, that does not
19 mean that that jury has to return a death
20 sentence, only that that is a potential
21 sentence; do you understand that?

22 A. Yes, sir.

23 Q. Because the jury would have the right,
24 notwithstanding the conclusion of aggravating
25 circumstances to find that the appropriate

1 sentence would be life imprisonment without
2 the possibility of parole. I would give you
3 an instruction as to that. You could make
4 that consideration, as well; is that correct??

5 A. Yes, sir.

6 Q. Consistent with your being a type three
7 juror?

8 A. (Affirmative nod).

9 Q. Let me define briefly for you, aggravating
10 circumstances as the name would suggest are
11 declared to be matters that would make worse,
12 that is aggravate, the offense of murder and
13 increases the enormity of the crime and adds
14 to the injury of the crime of murder -- of
15 murder. I would also tell you that in that
16 second phase that there would be an
17 opportunity for the jury to hear mitigating
18 circumstances, which are incidents, details or
19 occurrence which have been declared by statute
20 what reduces the severity of the offense of
21 murder and may be considered as extenuating or
22 as reducing the degree of moral culpability or
23 responsibility.
24 That is a legal phrase, but that's what the
25 jury would be instructed.

1 You would consider also any mitigating
2 circumstances that may be presented in the
3 evidence. Is that correct?

4 A. Yes, sir.

5 Q. You would then have to, after hearing all
6 the evidence, make a determination as to what
7 you believe to be the most appropriate
8 punishment?

9 A. Yes.

10 Q. Would you also promised -- as you have
11 today, you understand that as you stand today
12 that you bring with you everything that I
13 suggested is necessary, your common sense,
14 your sense of logic and reason and an open
15 mind.

16 A. (Affirmative nod)

17 Q. You have to maintain that open mind in all
18 phases until the court gave you instruction to
19 change that position. Do you understand that?

20 A. Yes, sir.

21 Q. Would you maintain the open mind even at
22 that stage because, obviously, at that stage
23 the jury would have concluded that he is
24 guilty of the offense of murder, at least, and
25 maybe some of the other charges -- do you

1 understand that?

2 A. Yes, sir.

3 Q. But now having concluded that you would
4 still be able to be fair and impartial and not
5 have predetermined the appropriate sentence
6 and would consider all the facts and
7 circumstances, including aggravating and
8 mitigating circumstances?

9 A. Yes.

10 Q. The requirement, as you've observed, and I
11 will ask you now, you have not read anything
12 or talked to anyone about this case since we
13 were last together, have you?

14 A. No, sir.

15 Q. That will remain throughout this trial.

16 A. (Affirmative nod).

17 Q. This trial will go into a -- it will be a
18 multiweek trial, do you understand that?

19 A. (No verbal response).

20 Q. Will that create a burden for you or a
21 hardship to you, that you can't follow?

22 A. Will we get out at 6:00 o'clock every day?

23 Q. We will get out -- I will talk about that
24 on the jury, we will let the jury make that
25 determination. If the jury says that we would

1 like to work until 6:00 o'clock, (affirmative
2 nod). There may be some days just to finish a
3 witness that we would go a little longer, but
4 I will do my best to honor that commitment to
5 you.

6 A. That kind of hurts me a little bit because
7 I work in a restaurant. I usually get there
8 about 1:00 or 2:00 but I told them that I
9 might have jury duty, so -- (pause).

10 Q. So they will work with you?

11 A. Yeah, but I -- I not only work my station
12 but I work a fire drill, so ---

13 Q. But if you're on the jury you could set
14 aside that and focus on this trial?

15 A. Yes, sir.

16 Q. All right, thank you.

17 THE COURT: Mr. Bloom?

18 MR. BLOOM: May it please the
19 court.

20 VOIR DIRE EXAMINATION

21 BY MR. BLOOM:

22 Q. Mr. Hood, good morning. My name is Jeff
23 Bloom and with Andrew Carroll we represent
24 William Dickerson. We've got some follow
25 questions that I want to ask you. First let

1 me let you understand that we just kind of
2 want to understand your honest opinions and
3 responses. You can understand that in this
4 type of case, right?

5 A. Yes, sir.

6 Q. Let me just kind of start off with, what
7 is your opinion of the death penalty?

8 A. I am -- I think it needs to be there but
9 there are certain situations that -- I mean, I
10 am not too up-to-date on this whole system but
11 I feel like a lot of people get the death
12 penalty when it is not deserved. People die
13 all the time, I mean get put to death, when
14 they're innocent. So -- I don't know. It's a
15 big thing.

16 Q. Okay. All right. So you've kind of
17 considered it some although it is not
18 something that you think about every day?

19 A. Well, I've been thinking about it a lot
20 lately, like an "eye for an eye" kind of thing,
21 but -- it's a hard situation.

22 Q. Can you explain that for me a little bit?

23 A. Well, I mean if someone -- if he was
24 defending himself and he ended up killing,
25 then I think maybe it is like life

1 imprisonment. Okay. But if he just brutally
2 murdered someone, then I think that might be
3 where the death penalty should come in.

4 Q. Okay. Let's start there and let's kind of
5 make sure that we are all talking about the
6 same thing. A lot of times folks come in and
7 they're not familiar with process either. So
8 let's just start with the term "murder" and
9 let me tell you what murder is not. Murder is
10 not self-defense or accident or manslaughter -
11 - like, you know, you catch someone in bed
12 with someone else, ---

13 A. Yes.

14 Q. It's not insanity. Murder is where a
15 person did it, meant to do it, and the State
16 proves beyond a reasonable doubt that the
17 person did it.

18 A. Yes.

19 Q. In those types of situations, now that you
20 know what the term "murder" is, not accident,
21 self-defense, manslaughter or insanity, would
22 you always automatically vote for murder if
23 the person who did it meant to do it and they
24 had the right person?

25 A. Do you ---

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 THE COURT: Hold on a second before
2 you answer that. You said 'would you vote for
3 murder'.

4 MR. BLOOM: Well, I -- I'm sorry.
5 Would you vote for the death penalty?

6 THE COURT: Okay.

7 MR. BLOOM: Thank you, Your Honor.
8 Sometimes my mouth gets ahead of my brain.

9 EXAMINATION CONTINUED

10 BY MR. BLOOM:

11 Q. Would you vote for the death penalty?

12 A. I would still have to hear all the
13 evidence, everything behind it.

14 Q. Okay.

15 A. When, how, where, all that stuff.

16 Q. Okay. So even if there is no accident,
17 self-defense, manslaughter, insanity, the
18 State has proved it beyond a reasonable doubt,
19 did it, meant to do it and they had the right
20 person; in those cases you're not going to
21 automatically vote for the death penalty?

22 A. I guess -- I guess I would. If it was
23 absolute, then definitely.

24 Q. When you say "absolutely", you mean ---

25 A. Exactly what you just said, all those.

1 Q. If the judge told you -- and we are not
2 talking about this case, we're just talking
3 about any case.

4 A. Right.

5 Q. And you understand that we're kinda
6 getting the cart before the horse because Mr.
7 Dickerson has entered a not guilty plea but we
8 have to kind of ask you these questions, do
9 you understand that?

10 A. Uh-humm, (affirmative nod).

11 Q. In that case if you're on a jury and you
12 and the other eleven jurors just found a
13 person guilty of murder, did it, meant to do
14 it, beyond a reasonable doubt, they got the
15 right person, all that other stuff, then there
16 is a second part and that's where the State
17 puts up -- and you heard the Judge use the
18 term "aggravating circumstances". That just
19 means evidence that supports reasons for the
20 death penalty, do you understand that?

21 A. Yes.

22 Q. In that case, if the State -- and often it
23 is a murder and a burglary, murder and
24 something else.

25 A. Right.

1 Q. Okay?

2 A. (Affirmative nod).

3 Q. In that case, if the State can prove
4 beyond a reasonable doubt and they also
5 establish those other what we call "bad facts"
6 that supported a death sentence, are you
7 saying again that you would automatically vote
8 for the death penalty?

9 A. Yeah.

10 Q. One other thing, in that sentencing part
11 where the jury has found one guilty of murder
12 and the jury gets to decide between life and
13 death but the defendant can, or his attorneys
14 can but they don't have to, put up stuff
15 called mitigating circumstances -- and all
16 that is, since we're talking terms, is
17 evidence or reasons to support a life without
18 parole sentence. Do you understand that?

19 A. Um-humm, (affirmative nod).

20 Q. That can be stuff like a person's back-
21 ground, mental health issues, substance abuse,
22 those kinds of things, things that may have
23 nothing to do with the crime itself.

24 A. Right. That's why -- all those
25 situations, like who he is, like -- that kinds

1 of stuff is what I'd want to hear before I
2 just say 'give them the death penalty.'

3 Q. Okay. Those types of things, personal
4 background and all that other stuff that you
5 just said, can you give meaningful
6 consideration to that?

7 A. (No verbal response).

8 Q. The law requires that you give meaningful
9 consideration to that, that you don't just sit
10 there without ear open. You hear it but
11 you're really listening to it and weighing it?

12 A. Yeah, certainly.

13 Q. Okay. If -- would you expect, though --
14 and let me just back up a minute because
15 you've told us that if the State proves to you
16 that it was murder, that he did it, meant to
17 do it, and they had the right person and they
18 had all that other kind of stuff, you would
19 listen to the mitigating circumstances but --
20 and I don't want to put words in your mouth,
21 so I want to make sure that I am understanding
22 you.

23 A. I mean, it was -- yeah, I'd go with the
24 death penalty.

25 Q. Okay. In that same line, would you expect

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

300

- 1 the defendant or his attorney to present
2 something to you to give you a reason not to
3 vote for death? To kind of convince you,
4 'Okay, I found him guilty of murder, I've
5 heard all this other stuff but I'm for death.'
6 Would you expect the defense to show, 'you
7 need to show me stuff that would convince me
8 otherwise, to vote for life'?
- 9 A. (No verbal response).
- 10 Q. Is that what you're telling me?
- 11 A. I -- yeah, isn't that what you've got to
12 do?
- 13 Q. Both sides may or may not present
14 evidence. I guess what I am asking is what if
15 the defense lawyers didn't put up any
16 witnesses or evidence, just basically argued -
17 --
- 18 A. It's a hundred percent proof that he did
19 it?
- 20 Q. Yes.
- 21 A. And all that bad stuff in there and they
22 just argue for mercy, that is not something
23 that is going to persuade you?
- 24 A. No.
- 25 Q. So you would be looking at the defense to

1 kind of convince you that a death penalty
2 wasn't the right sentence?

3 A. Yeah. Just to represent him, show
4 something -- I mean, something had to happen.

5 Q. I just have a few other questions. On
6 your questionnaire, you had put that either
7 you or someone that you knew had been the
8 victim of a crime in terms of a robbery and
9 fight?

10 A. Yeah.

11 Q. Can you tell us what that was about?

12 A. I was in New York, a guy was robbing my
13 car. I walked up to him and we got in a
14 fistfight, he pulled out a knife.

15 Q. Was he ever arrested by the police?

16 A. No, I didn't even call the police. I won
17 the fight.

18 Q. All right. Then on another question on
19 your questionnaire you put that you knew
20 someone that had died as a result of a violent
21 action. Can you explain that to me?

22 A. My best friend in North Charleston in a
23 gunfight. I don't know all the details.

24 Q. How long ago was that?

25 A. Two years.

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 Q. Was anybody charged in that, do you know?

2 A. I am not sure. I lost touch with the
3 whole family after that.

4 Q. Did that -- having that experience in your
5 life, would that make it difficult for you to
6 sit in a murder case?

7 A. Not really.

8 Q. Also on your questionnaire, number ten,
9 you list your father's occupation -- I am not
10 sure I am reading your handwriting.

11 A. Bum.

12 Q. I am not trying to embarrass you but can
13 you explain what that answer means?

14 A. He just doesn't work, kind of a
15 freeloader, unemployment. I don't even know
16 what state he is in.

17 Q. Okay. Thank you very much.

18 A. You're welcome.

19 THE COURT: Solicitor?

20 VOIR DIRE EXAMINATION

21 BY SOLICITOR WILSON:

22 Q. Mr. Hood, I am Scarlet Wilson. I'm the
23 chief prosecutor here. This is Bruce Durant
24 and Rutledge Durant, they will be trying this
25 case along with me.

1 I am going to try not to be redundant,
2 they kind of took some of my questions, but I
3 just want to make sure that we're clear on
4 some things.

5 When the Judge was talking to you, he was
6 telling you about different instructions that
7 he would give you. For instance, that the
8 State had to prove aggravating circumstances
9 beyond a reasonable doubt before you could
10 even consider the death penalty. Did you
11 understand that?

12 A. Yes, ma'am.

13 Q. What I am getting at here is that there
14 was another instruction that the Judge would
15 give you and that would be that you couldn't
16 hold the fact that a defendant in a case
17 didn't testify or didn't present evidence, you
18 couldn't hold that fact against him.

19 A. Which is -- right.

20 Q. The Judge would tell you that it wouldn't
21 be right and that it is the law that a juror
22 cannot hold the fact that a defendant doesn't
23 testify or doesn't put anything up against
24 him.

25 A. Right.

1 Q. If the Judge gave you that instruction,
2 could you take that off the table?

3 A. Yes, ma'am.

4 Q. Because just a minute ago you were saying
5 that you would expect the defendant to put
6 something up.

7 A. Well, I mean -- I thought that was kind of
8 how it worked. But if -- (pause).

9 Q. Well, the Judge would tell you that it
10 works differently and ---

11 A. If he told me that, yeah, then I wouldn't
12 expect it.

13 Q. You wouldn't consider that, the fact that
14 they didn't put anything up -- any evidence?

15 A. Yeah.

16 Q. So you could follow the Judge's
17 instructions?

18 A. Yes, ma'am.

19 Q. And even if there were a case where a
20 murder conviction, you believe beyond a
21 reasonable doubt that the State has proven
22 those aggravating circumstances, you would
23 still want to hear if there were going to be
24 some mitigation. You would want to hear, I
25 think you said, the whole story, what was

1 going on?

2 A. Yes.

3 Q. So you could -- even though there were

4 aggravating circumstances, you could still

5 consider life imprisonment without the

6 possibility of parole?

7 A. Yeah.

8 Q. And you in some cases would consider that

9 life imprisonment without the possibility of

10 parole is a tough, harsh, serious sentence?

11 A. Yeah.

12 Q. Okay. So I guess what I am getting at is

13 that it is not automatic for you even if the

14 State has proven the murder and proven the

15 aggravating circumstances, it is not going to

16 be automatic that a person would get the death

17 penalty?

18 A. No.

19 Q. If you found those aggravating

20 circumstances and you believed, you listened

21 to the mitigating circumstances, you

22 considered them and you still thought the

23 death penalty was appropriate, could you sign

24 your name on a form ---

25 A. Absolutely.

State of South Carolina v. William O. Dickerson
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1 Q. Okay. You mentioned that you had some
2 problems with law enforcement but you don't
3 think that would affect anything ---

4 A. (Negative gesture).

5 Q. And you said that your best friend was
6 killed, and I'm sorry about that. Do you --
7 I guess you know his name?

8 A. Diamond.

9 Q. Diamond?

10 A. Yeah.

11 Q. Do you know what his real name is?

12 A. His mom's last name is Johnson.

13 Q. But you weren't with him or anything like
14 that when it happened?

15 A. No.

16 Q. You weren't a witness?

17 A. No.

18 SOLICITOR WILSON: Beg the court's
19 indulgence.

20 THE COURT: Certainly.

21 SOLICITOR WILSON: That's all.

22 THE COURT: I want to follow up
23 with just a couple of questions. I want to be
24 sure of something because -- I think I
25 understand your answer but, Mr. Hood, as you

1 know, and I think you said this but I want to
2 be sure, that -- I asked you whether you would
3 follow the law notwithstanding your personal
4 opinions about the law or what you thought it
5 was or should be; is that correct?

6 JUROR NUMBER 370: Yes, sir.

7 THE COURT: And, so with respect --
8 you said 'I am not familiar with how this all
9 works'. There is no question that it is the
10 law that not only are they presumed innocent
11 but, as I stated, Mr. Dickerson has nothing to
12 prove or disprove or explain, he doesn't have
13 to say anything, he doesn't have to present
14 any evidence whatsoever. The jury can't
15 consider that against him. That would be the
16 instruction. Do you understand that?

17 JUROR NUMBER 370: Yes, sir.

18 THE COURT: Would you have any
19 problem following that instruction?

20 JUROR NUMBER 370: No.

21 THE COURT: You would follow that
22 and honor that in every respect?

23 JUROR NUMBER 370: Yes, sir.

24 THE COURT: Any additional
25 questions, Mr. Bloom?

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
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1 MR. BLOOM: Just briefly, Your
2 Honor, very briefly.

3 EXAMINATION CONTINUED

4 BY MR. BLOOM:

5 Q. Mr. Hood, again there are no right or
6 wrong answers, I just want to make sure that
7 we understand. Before I asked you about
8 murder, so you know what that is?

9 A. (Affirmative nod).

10 Q. That the aggravating circumstances, that's
11 the bad stuff?

12 A. (Affirmative nod).

13 Q. Even though you'd listen, then you'd look
14 to the defense attorneys to kind of prove to
15 you that a death penalty was the right
16 sentence, is that still your belief? Is that
17 still how you feel?

18 A. Can you explain that question, kind of
19 break it down?

20 Q. Sure. The Judge just told you that in
21 that kind of case a jury first decided whether
22 someone is guilty or not guilty of murder;
23 right?

24 A. (Affirmative nod).

25 Q. We are not talking about accident, self-

VOLUME TWO OF TEN

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
R. Markley Dennis, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WILLIAM O. DICKERSON,

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VOLUME TWO
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INDEX

INDEX	i

VOLUME I

TRANSCRIPT, APRIL 3, 2009	1

MOTIONS	2

TESTIMONY

JERARD ANTONIO SMITH

Direct Examination by Mr. Bloom	28

Cross Examination by Mr. Durant	41

VANTE BIRCH

Direct Examination by Mr. Bloom	44

Cross Examination by Mr. Durant	68

MOTIONS	72

JOHNETTE WATSON

Direct Examination by Mr. Bloom	98

Cross Examination by Ms. Wilson	110

Redirect Examination by Mr. Bloom	123

MOTIONS	124

FRIDAY, APRIL 17, 2009

COURT REPORTERS INDEX	194

STATUTORY JURY QUALIFICATION	224

JUROR #27

Examination by the Court	236

JUROR # 95

Examination by the Court	237

JUROR #37	
Examination by the Court.....	239
JUROR #132	
Examination by the Court.....	239
JUROR #55	
Examination by the Court.....	240
JUROR #308	
Examination by the Court.....	241
JUROR #93	
Examination by the Court.....	242
JUROR #356	
Examination by the Court.....	242
JUROR #320	
Examination by the Court.....	243
JUROR #359	
Examination by the Court.....	244
JUROR #95	
Examination by the Court.....	246
JUROR #44	
Examination by the Court.....	247
JUROR #391	
Examination by the Court.....	248
JUROR #359	
Examination by the Court.....	249
JUROR #164	
Examination by the Court.....	249
JUROR #103	
Examination by the Court.....	250
JUROR #396	
Examination by the Court.....	250
JUROR #325	
Examination by the Court.....	251

JUROR #145	
Examination by the Court.....	252
JUROR #395	
Examination by the Court.....	252
JUROR #245	
Examination by the Court.....	252
JUROR #173	
Examination by the Court.....	253
JUROR #43	
Examination by the Court.....	254
JUROR #238	
Examination by the Court.....	255
JUROR #379	
Examination by the Court.....	256
JUROR #205	
Examination by the Court.....	257
JUROR #110	
Examination by the Court.....	259
JUROR #383	
Examination by the Court.....	259
JUROR #176	
Examination by the Court.....	261
JUROR #214	
Examination by the Court.....	263
JUROR #150	
Examination by the Court.....	265
JUROR #385	
Examination by the Court.....	266
JUROR #358	
Examination by the Court.....	267
JUROR #278	
Examination by the Court.....	268

JUROR #119	
Examination by the Court.....	269
JUROR #63	
Examination by the Court.....	270
JUROR #232	
Examination by the Court.....	271
JUROR #27	
Examination by the Court.....	272
JUROR #47	
Examination by the Court.....	273
JUROR #262	
Examination by the Court.....	274
JUROR #216	
Examination by the Court.....	216
JUROR #46	
Examination by the Court.....	276
JUROR #165	
Examination by the Court.....	277
JUROR #383	
Examination by the Court.....	277
JUROR #350	
Examination by the Court.....	279
JUROR #107	
Examination by the Court.....	279
JUROR #138	
Examination by the Court.....	280
JUROR #291	
Examination by the Court.....	281
JUROR #406	
Examination by the Court.....	282
JUROR #161	
Examination by the Court.....	284

JUROR #64	
Examination by the Court.....	285
JUROR #68	
Examination by the Court.....	285
JUROR #214	
Examination by the Court.....	286
JUROR #399	
Examination by the Court.....	288
JUROR #20	
Examination by the Court.....	288
JUROR #359	
Examination by the Court.....	290
JUROR #321	
Examination by the Court.....	291
JUROR #253	
Examination by the Court.....	293
JUROR #390	
Examination by the Court.....	294
JUROR #383	
Examination by the Court.....	298
JUROR #46	
Examination by the Court.....	300
JUROR #237	
Examination by the Court.....	301
JUROR #394	
Examination by the Court.....	301
JUROR #110	
Examination by the Court.....	303
JUROR #89	
Examination by the Court.....	304
JUROR #52	
Examination by the Court.....	304

JUROR #176	
Examination by the Court.....	306
JUROR #165	
Examination by the Court.....	307
JUROR #224	
Examination by the Court.....	307
JUROR #5	
Examination by the Court.....	308
JUROR #202	
Examination by the Court.....	309
JUROR #190	
Examination by the Court.....	310
JUROR #399	
Examination by the Court.....	311
JUROR #99	
Examination by the Court.....	313
JUROR #194	
Examination by the Court.	314
JUROR #325	
Examination by the Court.....	315
JUROR #115	
Examination by the Court.....	314
JUROR #223	
Examination by the Court.....	318
JUROR #273	
Examination by the Court.....	319
JUROR #127	
Examination by the Court.....	321
JUROR #372	
Examination by the Court.....	322

JUROR #361	
Examination by the Court.....	323
JUROR #262	
Examination by the Court.....	323
JUROR #166	
Examination by the Court.....	324
JUROR #245	
Examination by the Court.....	325
JUROR #230	
Examination by the Court.....	325
JUROR #320	
Examination by the Court.....	326
COLLOQUY	327
JUROR #107	
Examination by the Court.....	332
JUROR #262	
Examination by the Court.....	335
JUROR #201	
Examination by the Court.....	335
JUROR #146	
Examination by the Court.....	336
JUROR #183	
Examination by the Court.....	337
JUROR #125	
Examination by the Court.....	339
JUROR #385	
Examination by the Court.....	340
JUROR #116	
Examination by the Court.....	343
JUROR #118	
Examination by the Court.....	344

JUROR #161	
Examination by the Court.....	345
JUROR #389	
Examination by the Court.....	346
JUROR #149	
Examination by the Court.....	348
JUROR #234	
Examination by the Court.....	349
JUROR #201	
Examination by the Court.....	352
JUROR #220	
Examination by the Court.....	354
JUROR #330	
Examination by the Court.....	355
JUROR #178	
Examination by the Court.....	357
JUROR #262	
Examination by the Court.....	358
JUROR #63	
Examination by the Court.....	359
JUROR #255	
Examination by the Court.....	361
JUROR #54	
Examination by the Court.....	363
JUROR #214	
Examination by the Court.....	365
JUROR #221	
Examination by the Court.....	367
JUROR #127	
Examination by the Court.....	368
JUROR #286	
Examination by the Court.....	369

JUROR #275	
Examination by the Court.....	370
JUROR #97	
Examination by the Court.....	371
JUROR #113	
Examination by the Court.....	373
JUROR #289	
Examination by the Court.....	373
COLLOQUY	374
JUROR #362	
Examination by the Court.....	383
JUROR #225	
Examination by the Court.....	385
JUROR #161	
Examination by the Court.....	385
JUROR #115	
Examination by the Court.....	387
JUROR #168	
Examination by the Court.....	388
JUROR #377	
Examination by the Court.....	388
JUROR #234	
Examination by the Court.....	389
JUROR #253	
Examination by the Court.....	390
JUROR #389	
Examination by the Court.....	391
JUROR #254	
Examination by the Court.....	392
JUROR #275	
Examination by the Court.....	393

JUROR #14	
Examination by the Court.....	393
JUROR #380	
Examination by the Court.....	394
JUROR #201	
Examination by the Court.....	395
JUROR #403	
Examination by the Court.....	396
JUROR #160	
Examination by the Court.....	396
JUROR #227	
Examination by the Court.....	397
JUROR #289	
Examination by the Court.....	398
JUROR #325	
Examination by the Court.....	399
JUROR #401	
Examination by the Court.....	399
JUROR #404	
Examination by the Court.....	400
JUROR #339	
Examination by the Court.....	401
JUROR #125	
Examination by the Court.....	402
JUROR #353	
Examination by the Court.....	403
JUROR #123	
Examination by the Court.....	404
JUROR #374	
Examination by the Court.....	405
JUROR #148	
Examination by the Court.....	406

JUROR #146	
Examination by the Court.....	407
JUROR #22	
Examination by the Court.....	407
JUROR #220	
Examination by the Court.....	408

COLLOQUY	409

MONDAY, APRIL 20, 2009

JURY VOIR DIRE

JUROR #383	
Examination by the Court.....	456
Examination by Ms. Wilson.....	461
Examination by Mr. Bloom.....	466
JUROR #370	
Examination by the Court.....	474
Examination by Mr. Bloom.....	485
Examination by Ms. Wilson.....	494
Examination by Mr. Bloom.....	500

VOLUME TWO

JUROR #377	
Examination by the Court.....	507
Examination by Ms. Wilson.....	509
Examination by Mr. Bloom.....	510

JUROR #278	
Examination by the Court.....	514
Examination by Mr. Bloom.....	516

JUROR #386	
Examination by the Court.....	522
Examination by Ms. Wilson.....	531
Examination by Mr. Bloom.....	534

JUROR #228	
Examination by the Court.....	551
Examination by Mr. Bloom.....	562
Examination by the Ms. Wilson.....	574

JUROR #133	
Examination by the Court.....	582
Examination by Ms. Wilson.....	592

Examination by Mr. Bloom.....	597
JUROR #227	
Examination by the Court.....	619
Examination by Mr. Bloom.....	627
Examination by Ms. Wilson.....	646
JUROR #372	
Examination by the Court.....	652
Examination by Ms. Wilson.....	662
Examination by Mr. Bloom.....	667
Examination by Ms. Wilson.....	674
Examination by Mr. Bloom.....	680
JUROR #134	
Examination by the Court.....	688
Examination by Mr. Bloom.....	697
Examination by Ms. Wilson.....	706
JUROR #19	
Examination by the Court.....	712
Examination by Ms. Wilson.....	721
JUROR #280	
Examination by the Court.....	732
Examination by Mr. Bloom.....	732
JUROR #232	
Examination by the Court.....	740
Examination by Ms. Wilson.....	754
Examination by Mr. Bloom.....	760
JUROR #37	
Examination by the Court.....	771
Examination by Mr. Bloom.....	783
JUROR #65	
Examination by the Court.....	794
Examination by Ms. Wilson.....	796
Examination by Mr. Bloom.....	797
JUROR #389	
Examination by the Court.....	801
Examination by Mr. Bloom.....	804
JUROR #197	
Examination by the Court.....	810
Examination by Ms. Wilson.....	811

Examination by Mr. Bloom.....	814
JUROR #66	
Examination by the Court.....	817
Examination by Mr. Bloom.....	819
JUROR #101	
Examination by the Court.....	824
Examination by Ms. Wilson.....	836
JUROR #160	
Examination by the Court.....	852
Examination by Mr. Bloom.....	864
Examination by Ms. Wilson.....	870
Examination by Mr. Bloom.....	873
JUROR #207	
Examination by the Court.....	881
Examination by Mr. Durant.....	891
Examination by Mr. Bloom.....	896
JUROR #92	
Examination by the Court.....	900
Examination by Mr. Bloom.....	913
Examination by Ms. Wilson.....	920
JUROR #256	
Examination by the Court.....	927
Examination by Ms. Wilson.....	938
Examination by Mr. Bloom.....	941
Examination by Ms. Wilson.....	947
JUROR #402	
Examination by the Court.....	950
Examination by Mr. Bloom.....	962

TUESDAY, APRIL 21, 2009

JUROR #385	
Examination by the Court.....	980
Examination by Ms. Wilson.....	983
JUROR #363	
Examination by the Court.....	988

VOLUME THREE

JUROR #363	
Examination by Mr. Bloom.....	1002
Examination by Ms. Wilson.....	1011

JUROR #378

Examination by the Court.....	1016
Examination by Ms. Wilson.....	1029
Examination by Mr. Bloom.....	1034

MOTIONS 1050

JUROR #315

Examination by the Court.....	1056
Examination by Mr. Bloom.....	1058
Examination by Ms. Wilson... ..	1066
Examination by the Court.....	1070
Examination by Ms. Wilson.....	1076

JUROR #306

Examination by the Court.....	1093
Examination by Mr. Durant.....	1106
Examination by Mr. Bloom.....	1110

JUROR #398

Examination by the Court.....	1119
Examination by Mr. Bloom.....	1123
Examination by Mr. Durant.....	1126

JUROR #124

Examination by the Court.....	1136
Examination by Mr. Bloom.....	1152

JUROR #330

Examination by the Court.....	1163
Examination by Mr. Bloom.....	1178

JUROR #121

Examination by the Court.....	1188

JUROR #209

Examination by the Court.....	1192
Examination by Ms. Wilson.....	1205
Examination by Mr. Bloom.....	1210

JUROR #54

Examination by the Court.....	1224
Examination by Mr. Bloom.....	1226

JUROR #343

Examination by the Court.....	1238
Examination by Ms. Wilson.....	1253
Examination by Mr. Bloom.....	1256

JUROR #358	
Examination by the Court.....	1264
Examination by Ms. Wilson.....	1268
JUROR #149	
Examination by the Court.....	1272
Examination by Mr. Bloom.....	1287
Examination by Ms. Wilson.....	1295
JUROR #314	
Examination by the Court.....	1299
Examination by Ms. Wilson.....	1313
Examination by Mr. Bloom.....	1319
JUROR #157	
Examination by the Court.....	1330
Examination by Mr. Bloom.....	1347
JUROR #392	
Examination by the Court.....	1359
Examination by Ms. Wilson.....	1362
JUROR #381	
Examination by the Court.....	1371
Examination by Ms. Wilson.....	1387
Examination by Mr. Bloom.....	1395
JUROR #247	
Examination by the Court.....	1401
Examination by Mr. Bloom.....	1416
Examination by Ms. Wilson.....	1420
JUROR #177	
Examination by the Court.....	1423
Examination by Ms. Wilson.....	1427
JUROR #221	
Examination by the Court.....	1434
Examination by Mr. Bloom.....	1449
Examination by Ms. Wilson.....	1454
JUROR #289	
Examination by the Court.....	1462
Examination by Ms. Wilson.....	1471
JUROR #364	
Examination by the Court.....	1480

Examination by Mr. Bloom.....	1494
Examination by Ms. Wilson.....	1498

VOLUME FOUR

JUROR #364

Examination by the Court.....	1506
Examination by Ms. Wilson.....	1506

WEDNESDAY, APRIL 22, 2009

JUROR #234

Examination by the Court.....	1523
Examination by Ms. Wilson.....	1545
Examination by Mr. Bloom.....	1549

JUROR #8

Examination by the Court.....	1557
Examination by Mr. Bloom.....	1572
Examination by Mr. Durant.....	1578

JUROR #50

Examination by the Court.....	1583
Examination by Mr. Durant.....	1589
Examination by Mr. Bloom.....	1591

JUROR #262

Examination by the Court.....	1595

JUROR #4

Examination by the Court.....	1599
Examination by Mr. Bloom.....	1615
Examination by Mr. Durant.....	1521

JUROR #72

Examination by the Court.....	1626
Examination by Mr. Durant.....	1645
Examination by Mr. Bloom.....	1648

JUROR #246

Examination by the Court.....	1667
Examination by Mr. Durant.....	1684
Examination by Mr. Bloom.....	1686

JUROR #331

Examination by the Court.....	1695
Examination by Mr. Bloom.....	1709
Examination by Mr. Durant.....	1714

JUROR #264	
Examination by the Court.....	1720
Examination by Mr. Durant.....	1731
JUROR #272	
Examination by the Court.....	1739
Examination by Mr. Bloom.....	1741
JUROR #148	
Examination by the Court.....	1748
Examination by Mr. Durant.....	1766
Examination by Mr. Bloom.....	1768
JUROR #357	
Examination by the Court.....	1775
Examination by Mr. Bloom.....	1778
JUROR #11	
Examination by the Court.....	1785
Examination by Mr. Durant.....	1804
Examination by Mr. Bloom.....	1807
JUROR #104	
Examination by the Court.....	1815
Examination by Mr. Bloom.....	1833
Examination by Mr. Durant.....	1838
JUROR #69	
Examination by the Court.....	1842
Examination by Mr. Durant.....	1861
Examination by Mr. Bloom.....	1865
JUROR #22	
Examination by the Court.....	1872
Examination by Mr. Bloom.....	1875
JUROR #252	
Examination by the Court.....	1878
Examination by Mr. Bloom.....	1880
JUROR #90	
Examination by the Court.....	1885
Examination by Mr. Durant.....	1903
Examination by Mr. Bloom.....	1904
JUROR #287	
Examination by the Court.....	1909
Examination by Mr. Bloom.....	1913

JUROR #317	
Examination by the Court.....	1916
Examination by Mr. Bloom.....	1918

JUROR #63	
Examination by the Court.....	1920

JUROR #319	
Examination by the Court.....	1925
Examination by Mr. Durant.....	1933
Examination by Mr. Bloom.....	1935

JUROR #38	
Examination by the Court.....	1940
Examination by Mr. Bloom.....	1942

JUROR #26	
Examination by the Court.....	1946
Examination by Mr. Durant.....	1959

JUROR #281	
Examination by the Court.....	1964
Examination by Mr. Bloom.....	1974
Examination by Mr. Durant.....	1976

JUROR #304	
Examination by the Court.....	1979
Examination by Mr. Durant.....	1987

THURSDAY, APRIL 23, 2009

COLLOQUY	1992

JUROR #133	
Examination by the Court.....	2000

VOLUME FIVE

JUROR #133	
Examination by the Court.....	2001

JUROR #19	
Examination by the Court.....	2002

JUROR #247	
Examination by the Court.....	2007

COLLOQUY	2008

SELECTION OF JURY	2016
OPENING REMARKS BY THE COURT	2033
OPENING STATEMENT BY MS. WILSON	2065
OPENING STATEMENTS BY MR. CARROLL	2080

TESTIMONY

KANESHIA SINGLETON

Direct Examination by Ms. Wilson	2104
Cross Examination by Mr. Bloom	2116
Redirect Examination by Ms. Wilson	2116

SHAREEN ROPER

Direct Examination by Ms. Wilson	2117

STEVO RIVERS

Direct Examination by Mr. Durant	2131
Cross Examination by Mr. Carroll	2149
Redirect Examination by Mr. Durant	2156
Recross Examination by Mr. Carroll	2164

BENJAMIN DRAYTON

Direct Examination by Mr. Durant	2168
Cross Examination by Mr. Carroll	2178

ANTONIO NELSON

Direct Examination by Ms. Wilson	2189
Cross Examination by Mr. Carroll	2242
Redirect Examination by Ms. Wilson	2262

DEVON KEELING

Direct Examination by Mr. Durant	2265
Cross Examination by Mr. Carroll	2281
Redirect Examination by Mr. Durant	2293

FRIDAY, APRIL 24, 2009

COLLOQUY	2309

TESTIMONY

TOMISHA "SHELLEY" NELSON

Direct Examination by Mr. Durant	2344
Cross Examination by Mr. Bloom	2385
Redirect Examination by Mr. Durant	2421

Recross Examination by Mr. Bloom.....	2429
DARREN PROIETTI	
Direct Examination by.....	2434
Cross Examination by Mr. Bloom.....	2444
Redirect Examination by Ms. Wilson.....	2453
KIMBERLY RENEE GREGG.....	
Direct Examination by Ms. Wilson.....	2455
STEVEN ARCHIE	
Direct Examination by Mr. Durant.....	2464
Cross Examination by Mr. Carroll.....	2481
Redirect Examination by Mr. Durant.....	2491
Recross Examination by Mr. Carroll.....	2494
TYRE JOHNSON	
Direct Examination by Ms. Wilson.....	2500

VOLUME SIX

OCTAVIO FABISIEWICZ	
Direct Examination by Ms. Wilson.....	2507
Cross Examination by Mr. Bloom.....	2512

MONDAY, APRIL 27, 2009

DONTAIRE ANDERSON	
Direct Examination by Mr. Durant.....	2523
Cross Examination by Mr. Carroll.....	2533
Redirect Examination by Mr. Durant.....	2538
MARLINA PINCKNEY	
Direct Examination by Mr. Durant.....	2539
Cross Examination by Mr. Carroll.....	2548
Redirect Examination by Mr. Durant.....	2552
PATRICK PONTERI, SR.	
Direct Examination by Ms. Wilson.....	2554
Cross Examination by Mr. Carroll.....	2563
STEVEN HOOD	
Direct Examination by Mr. Durant.....	2567
Cross Examination by Mr. Bloom.....	2665
Redirect Examination by Mr. Durant.....	2707
JEFFREY MILLER	
Direct Examination by Mr. Durant.....	2714

Cross Examination by Mr. Bloom.....	2738
JUDITCH GORDON	
Direct Examination by Mr. Durant.....	2742
MICHAEL R. SHERMAN	
Direct Examination by Mr. Durant.....	2752
Cross Examination by Mr. Hood.....	2765
Redirect Examination by Mr. Durant.....	2768

TUESDAY, APRIL 28, 2009

COLLOQUY	2771
JUROR #234	
Examination by the Court.....	2772
JENNIFER WOOLEY	
Direct Examination by Mr. Durant.....	2778
Cross Examination by Mr. Bloom.....	2784
ANITA MAESTAS	
Direct Examination by Mr. Durant.....	2787
Cross Examination by Mr. Bloom.....	2794
RENEE CHARLES	
Direct Examination by Mr. Durant.....	2796
RANDY UNTERBRINK	
Direct Examination by Mr. Durant.....	2799
KINNEY KINSEY	
Direct Examination by Mr. Durant.....	2801
Cross Examination by Mr. Bloom.....	2832
LILLY SMALL GALLMAN	
Direct Examination by Mr. Durant.....	2852
Cross Examination by Mr. Bloom.....	2890
Redirect Examination by Mr. Durant.....	2916
Recross Examination by Mr. Bloom.....	2918
CYNTHIA SCHANDL	
Direct Examination by Ms. Wilson.....	2920
Cross Examination by Mr. Bloom.....	2979
Proffer Examination by Mr. Bloom	2985
Proffer Cross Examination by Ms. Wilson.....	2987

ARMON RASHAD DICKERSON	
Direct Examination by Mr. Durant.....	2993

VOLUME SEVEN

ARMON RASHAD DICKERSON	
Direct Examination by Mr. Durant.....	3000

WEDNESDAY, APRIL 29, 2009

MOTIONS	3060

ARMON RASHAD DICKERSON	
Direct Examination by Mr. Durant.....	3067
Cross by Mr. Carroll	3080
Redirect Examination by Mr. Durant.....	3123

COLLOQUY	3126

IN CAMERA.....	3127

JURY IN	3144

ARMON RASHAD DICKERSON	
Redirect Examination by Mr. Durant.....	3145
Recross Examination by Mr. Carroll.....	3146

SELENA KERISE ROUSE	
Direct Examination by Ms. Wilson.....	3148
Cross Examination by Mr. Carroll	3215
Redirect Examination by Ms. Wilson.....	3243
Recross Examination by Mr. Carroll.....	3248

RASHID ABDUL MALIK	
Direct Examination by Ms. Wilson.....	3259
Cross Examination by Mr. Carroll	3306

SANDRA FOKES	
Direct Examination by Ms. Wilson.....	3322
Cross Examination by Mr. Bloom.....	3329

AVEN ROPER	
Direct Examination by Ms. Wilson.....	3335
Cross Examination by Mr. Bloom.....	3354

MOTIONS	3358

EXAMINATION OF DEFENDANT	3361

THURSDAY, APRIL 30, 2009

COLLOQUY	3373
CLOSING ARGUMENT BY MS. WILSON.....	3397
STATEMENT BY MR. DICKERSON.....	3433
CLOSING ARGUMENT BY MR. CARROLL.....	3436
JURY CHARGE.....	3475

VOLUME EIGHT

VERDICT	3524
MOTIONS	3532

FRIDAY, MAY 1, 2009

IN CHAMBERS CONFERENCE.....	3548
TESTIMONY	
LEESTER WILLIAMS (<i>IN CAMERA</i>)	
Direct Examination by Mr. Durant.....	3553
Cross Examination by Mr. Carroll	3566
MICHAEL HUGGINS (<i>IN CAMERA</i>)	
Direct Examination by Mr. Durant.....	3583
Cross Examination by Mr. Carroll	3586
MOTIONS (<i>IN CAMERA</i>)	3590

MONDAY, MAY 4, 2009

JURY IN	3613
OPENING STATEMENT BY MR. DURANT	3613
OPENING STATEMENT BY MR. BLOOM.....	3618
TESTIMONY	
EDWARD HASELDEN, JR.	
Direct Examination by Mr. Durant.....	3627
Cross Examination by Mr. Carroll	3631

IAN F. TRAYNOR	
Direct Examination by Mr. Durant.....	3632
Cross Examination by Mr. Carroll.....	3651
RONALD HULL (<i>IN CAMERA</i>)	
Direct Examination by Mr. Durant.....	3649
Cross Examination by Mr. Carroll.....	3651
Proffer Examination by Mr. Durant.....	3653
GEORGE FORDHAM (<i>IN CAMERA</i>)	
Proffer Examination by Mr. Durant.....	3657
Proffer Examination by Mr. Carroll.....	3663
Proffer Redirect Examination by Mr. Durant.....	3666
JURY IN.....	3673
LEON FLUDD	
Direct Examination by Mr. Durant.....	3673
Cross Examination by Mr. Carroll.....	3677
ANTONIO NELSON	
Direct Examination by Ms. Wilson.....	3680
Cross Examination by Mr. Carroll.....	3690
RASHID MALIK	
Direct Examination by Ms. Wilson.....	3692
Cross Examination by Mr. Carroll.....	3697
Redirect Examination by Ms. Wilson.....	3698
JOHN SCARBOROUGH	
Direct Examination by Mr. Durant.....	3699
Cross Examination by Mr. Carroll.....	3709
CARLOS CESPEDES	
Direct Examination by Mr. Durant.....	3715
Cross Examination by Mr. Carroll.....	3725
JEFFREY MILLER	
Direct Examination by Mr. Durant.....	3729
MOTIONS.....	3734
CEDEDRICK DAVIS (<i>IN CAMERA</i>)	
Proffer Examination by Mr. Durant.....	3742
Cross Examination by Mr. Bloom.....	3744
Redirect Examination by Mr. Durant.....	3747

JUROR #234 (<i>IN CAMERA</i>)	
Examination by the Court.....	3754
JURY IN	3756
LAWRENCE GAINES	
Direct Examination by Mr. Durant.....	3757
Cross Examination by Mr. Bloom.....	3769
CEDERICK DAVIS	
Direct Examination by Mr. Durant.....	3770
Cross Examination by Mr. Bloom.....	3774
Redirect Examination by Mr. Durant.....	3777
Recross Examination by Mr. Bloom.....	3777
TOMIESHA NELSON	
Direct Examination by Mr. Durant.....	3778
Cross Examination by Mr. Bloom.....	3784
LESTER WILLIAMS	
Direct Examination by Mr. Durant.....	3788
Cross Examination by Mr. Carroll	3795
Redirect Examination by Mr. Durant.....	3799
Recross Examination by Mr. Carroll.....	3800
MICHAEL HUGGINS	
Direct Examination by Mr. Durant.....	3801
Cross Examination by Mr. Bloom.....	3805
Redirect Examination by Mr. Durant.....	3810
MOTIONS (<i>IN CAMERA</i>)	3811
JURY IN	3816
MOTIONS (<i>IN CAMERA</i>)	3818
TUESDAY, MAY 5, 2009	
JURY IN	3843
SHAREEN ROPER	
Direct Examination by Ms. Wilson.....	3846
CYNTHIA SCHANDL, MD	
Direct Examination by Ms. Wilson.....	3872
MOTIONS (<i>IN CAMERA</i>)	3898

WILLIAM DICKERSON (*IN CAMERA*)

Examination by the Court.....3902

JURY IN 3907

JOSPEH LADSON

Direct Examination by Mr. Bloom.....3908

Cross Examination by Mr. Durant 3911

JOHN HEWITT

Direct Examination by Mr. Bloom.....3913

Cross Examination by Ms. Wilson.....3915

STACY SIMMONS

Direct Examination by Mr. Bloom.....3916

Cross Examination by Ms. Wilson.....3917

CURTIS HOOD

Direct Examination by Mr. Bloom.....3918

Cross Examination by Mr. Durant 3920

DAVID GADEIC

Direct Examination by Mr. Bloom.....3921

Cross Examination by Mr. Durant 3923

JAMES AIKEN

Direct Examination by Mr. Bloom.....3925

Cross Examination by Mr. Durant 3948

Redirect Examination by Mr. Bloom.....3955

Recross Examination by Mr. Durant.....3958

BARRY BRITT

Direct Examination by Mr. Carroll 3967

Cross Examination by Mr. Durant.....3972

ALEXANDER MORTON

Direct Examination by Mr. Bloom.....3976

VOLUME NINE

ALEXANDER MORTON

Cross Examination by Mr. Durant 4016

Redirect Examination by Mr. Bloom 4025

JOHNETTE R. WATSON

Direct Examination by Mr. Bloom.....4027

Cross Examination by Ms. Wilson.....4035

TIERRA MCINTOSH

Direct Examination by Mr. Bloom.....4036

JOHNNIE K. RIVERS

Direct Examination by Mr. Bloom.....4043

Cross Examination by Mr. Durant 4060

Redirect Examination by Mr. Bloom.....4071

Recross Examination by Mr. Durant.....4075

WEDNESDAY, MAY 6, 2009

MOTIONS.....4078

MARY E. RANKIN

Direct Examination by Mr. Bloom.....4089

Cross Examination by Mr. Durant 4097

Redirect Examination by Mr. Bloom.....4100

MARJORIE HAMMOCK

Direct Examination by Mr. Bloom.....4101

Cross Examination by Mr. Durant 4157

Redirect Examination by Mr. Bloom.....4172

DORIS GAMBLE

Direct Examination by Mr. Bloom.....4177

Cross Examination by Ms. Wilson.....4180

Redirect Examination by Mr. Bloom.....4181

JIMMY MITCHELL

Direct Examination by Mr. Bloom.....4182

JAMES DUNN

Direct Examination by Mr. Bloom.....4185

Cross Examination by Ms. Wilson.....4193

Redirect Examination by Mr. Bloom.....4197

ROBERT PHILLIPS

Direct Examination by Mr. Bloom.....4204

Cross Examination by Mr. Durant.....4240

MARK CUNNINGHAM

Direct Examination by Mr. Bloom.....4262

Cross Examination by Ms. Wilson.....4312

ADELE WATSON

Direct Examination by Mr. Bloom.....4335

WILLIAM DICKERSON	
Examination by the Court.....	4340
MOTIONS	4347

THURSDAY, MAY 7, 2009

MOTIONS	4353
CLOSING ARGUMENT BY MR. DURANT.....	4364
CLOSING ARGUMENT BY MR. BLOOM	4378
JURY CHARGE.....	4403
VERDICT SENTENCING PHASE	4431
TRANSCRIPT DATED JULY 7, 2009 MOTION FOR A NEW TRIAL	4443
INDICTMENTS	4454
MOTION FOR NEW TRIAL	4460
STATE'S EXHIBIT 307, TRANSCRIPT OF PHONE CALL BETWEEN WILLIAM DICKERSON AND TOMISA NELSON.....	4463
STATE'S EXHIBIT 319, AUTOPSY DIAGRAM.....	4465
STATE'S EXHIBIT 320, AUTOPSY DIAGRAM.....	4466
STATE'S EXHIBIT 321, AUTOPSY DIAGRAM.....	4467
STATE'S EXHIBIT 322, AUTOPSY DIAGRAM.....	4468
JUROR QUESTIONNAIRES OF SITTING JURORS AND STRUCK JURORS	4469

VOLUME TEN

JUROR QUESTIONNAIRES OF SITTING JURORS AND STRUCK JURORS	4501
STATE'S EXHIBITS 141, 153, 160, 161, 162, 166, 171, 172, 173, 177, 178, 181, 184, 335, AND 336 (AUTOPSY PHOTOGRAPHS ADMITTED DURING PENALTY PHASE); AND STATE'S EXHIBIT 78 (PHOTOGRAPH OF VICTIM'S BODY AT DISCOVERY SITE) HAVE BEEN TRANSPORTED TO THE COURT.	

1 defense, all that stuff.

2 THE COURT: Could you use "yes" or
3 "no" for me, please?

4 JUROR NUMBER 370: Yes, sir.

5 THE COURT: I just want to be sure
6 what you're saying.

7 EXAMINATION CONTINUED

8 BY MR. BLOOM:

9 Q. Then the jury hears aggravating
10 circumstances, evidence for ---

11 A. (Affirmative nod).

12 Q. Is that a "yes"?

13 A. Yes.

14 Q. Okay. She's (court reporter) got to take
15 that down. This is your first time sitting up
16 there, I take it?

17 A. Yeah.

18 Q. I just want to make sure that I understand
19 you. If you found someone guilty of murder
20 and you found all that evidence of
21 aggravation, all that bad stuff supporting the
22 death penalty, just personally you would look
23 to the defense to kind of prove to you that
24 the death penalty wasn't the right thing, that
25 you'd auto-matically tend to vote for the

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 death penalty; did I get that right?

2 A. Yes.

3 MR. BLOOM: Thank you, sir.

4 THE COURT: Anything else,
5 Solicitor?

6 VOIR DIRE EXAMINATION

7 BY SOLICITOR WILSON:

8 Q. I just want to make sure that we're clear.
9 Even if the Judge told you that you couldn't
10 hold that against ---

11 A. Well, even if the Judge told me, is that
12 all the time?

13 THE COURT: Yes.

14 JUROR NUMBER 370: Okay. Well, then I
15 would listen to him (indicating Judge).

16 SOLICITOR WILSON: You would listen
17 to what the Judge said?

18 JUROR NUMBER 370: Yes. Sorry, I was
19 -- I understand.

20 SOLICITOR WILSON: That's all that
21 I have. Thank you.

22 THE COURT: Thank you. All right,
23 sir. I am going to ask that you step out for
24 just a moment. We will be with you -- if
25 you'll step out the door for just a second.

1 (JUROR NUMBER 370 EXITS COURTROOM)

2 THE COURT: State's decision?

3 SOLICITOR WILSON: Your Honor, I
4 believe that he is qualified. His answers
5 regarding it being sort of automatic were in
6 the context of his not understanding the law.
7 I think he was very clear that he could listen
8 to your instructions and that when you give
9 him those instructions that he could put those
10 things aside.

11 THE COURT: Mr. Bloom?

12 MR. BLOOM: Your Honor, we submit
13 that he is not qualified. He is what we call
14 a burden shifter, he is looking for the
15 defense to persuade him that death would not
16 be the appropriate verdict. At that tag end
17 there he said that he would follow your
18 instructions but under *Illinois v. Lockert*
19 and other cases it requires something more
20 than a mere expression to follow the law. We
21 submit that he is a burden shifter. Every
22 time -- he even said at the beginning that if
23 someone was found guilty of murder that he
24 would be in favor of the death penalty. While
25 he might hear some of the mitigating

1 circumstances that he would be looking for the
2 defense to persuade him that death was not
3 appropriate, so we contend that he is a burden
4 shifter and not qualified.

5 THE COURT: Okay.

6 MR. BLOOM: Thank you.

7 THE COURT: I think obviously he
8 demonstrated some personal concept of what the
9 law was but I -- I believe that the young man
10 specifically stated and unequivocally stated
11 that he would follow the instructions. He
12 demonstrated that in one of his answers to
13 your question when he said, and I'm
14 paraphrasing what he said, but he said 'that's
15 what I mean, I would want to hear all the
16 circumstances.'

17 I think while he may be prone for
18 that, I don't think that disqualifies him.
19 He said that he would consider it and
20 meaningful consideration that and impose the
21 death penalty. I appreciate your position.
22 I understand the position and I find that he
23 is qualified. All right, let's bring him in.

24 (JUROR NUMBER 370 ENTERS COURTROOM)

25 THE COURT: Thank you so much, I

1 appreciate it. Mr. Hood, we're -- I'm going
2 to excuse you now. We probably are going to
3 bring the pool, altogether, the qualified pool
4 from which we will select our jury -- and you
5 will in that pool -- we will pick our jury,
6 twelve persons, from that pool. That
7 hopefully will be done about 3:00 on
8 Wednesday.

9 You'll need to call the number, the
10 number that was given to you by the Clerk's
11 office after 6:00 on Tuesday.

12 JUROR NUMBER 370: After 6:00?

13 THE COURT: Yes. There will be a
14 message -- there may be many messages but
15 there will be a message that says, 'the
16 Dickerson jury pool needs to report' at such-
17 and-such time. It will probably be 3:00 but
18 if for some reason it changes, just follow
19 that instruction. It may say to call back the
20 next morning between 10:00 and 11:00. If that
21 is the case you'll know we're not sure when it
22 is going to be. Just follow that instruction
23 and when it tells you to report, then you'll
24 need to be here at that time. Where you will
25 report is you will report to this courtroom.

1 Okay?

2 JUROR NUMBER 370: Yes, sir.

3 THE COURT: Thank you very much.

4 While you're out at work and going home,
5 please remember that the restriction on
6 talking about this case, reading about this
7 case, watching any television program still
8 stands. I will be giving you an oath every
9 day and when we select you again, asking you
10 to take an oath and commit to all the parties
11 and the court that you've followed the
12 instruction. It's very, very important that
13 you do so. Okay?

14 JUROR NUMBER 370: Yes, sir.

15 THE COURT: Thank you, sir.

16 (JUROR NUMBER 370 EXITS COURTROOM)

17 THE COURT: Let's bring in our next
18 one, Mr. Mainer.

19 (JUROR NUMBER 377 ENTERS COURTROOM)

20 THE COURT: Good morning, would you
21 give me your full name, please, for the
22 record?

23 JUROR NUMBER 377: Terry Mainer.

24 THE COURT: Mr. Mainer, thank you
25 very much. I hope you had a good weekend. We

1 have a number of questions that we are going
2 to ask of you this morning. None of these
3 questions have any correct answers. There
4 really is, as I mentioned to you when we
5 talked on Friday, they're really to assist you
6 in making a determination of whether you could
7 be a fair and impartial juror. That's the
8 purpose of these questions. So, please, we
9 expect that you will answer them truthfully.
10 I remind you in that regard that you are still
11 under oath in this matter.

12 TERRY MAINER, being duly sworn to
13 tell the truth, the whole truth and nothing
14 but the truth, testified, as follows:

15 VOIR DIRE EXAMINATION

16 BY THE COURT:

17 Q. I failed to mention when I was qualifying
18 you, identifying persons, two persons. Are
19 you related by blood or marriage, have any
20 business dealings with, socially or casually
21 acquainted with, have any dealings with Jeff
22 Osborne or Matt Casey?

23 A. I don't know either of those.

24 Q. Okay. You were given a sheet of paper
25 that had three types of jurors?

1 A. Yes, sir.

2 Q. Of those three types of jurors, which one
3 most accurately depicts you?

4 A. Number two.

5 Q. Number two?

6 A. Yeah.

7 Q. That's a jury that says basically, after
8 determining, after having found a defendant
9 guilty beyond a reasonable doubt of the crime
10 of murder that there are no circumstances
11 under which you could ever impose a death
12 sentence?

13 A. That's correct.

14 Q. And that would not change by the evidence
15 -- of course, as I mentioned to you when we
16 talked on Friday, it's only if the State
17 convinces a jury beyond a reasonable doubt
18 that Mr. Dickerson committed the crime of
19 murder would we go into the second phase.
20 It's that phase where you would hear
21 aggravating circumstances, could hear
22 mitigating circumstances. It's my
23 understanding from your answer that
24 notwithstanding there may be aggravating
25 circumstances -- well, there would have to be

1 aggravating circumstances before the jury
2 could even consider a death penalty. A jury
3 would have to conclude beyond a reasonable
4 doubt. But it is your position that even
5 after concluding that, that there are no
6 circumstances that would warrant your signing
7 or voting for a death penalty?

8 JUROR NUMBER 377: Yes, sir. If one
9 of the possibilities is that the end result
10 might be the death penalty, I couldn't do
11 that.

12 THE COURT: Could never do it?

13 JUROR NUMBER 377: That's right, I
14 could not.

15 THE COURT: Solicitor?

16 VOIR DIRE EXAMINATION

17 BY SOLICITOR WILSON:

18 Q. I believe that you brought your feelings
19 to the Judge's attention on Friday, your
20 strong feelings against the death penalty; is
21 that right?

22 A. That's correct.

23 Q. So this is something that you -- you've
24 had feelings against the death penalty for a
25 long time or just something that you've just

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 been thinking about since you got the
2 questionnaire?

3 A. Quite a while.

4 Q. And you can't see any circumstance where
5 the death penalty would be warranted, at all?

6 A. I feel it's wrong. I don't believe that
7 it teaches people that it's wrong to kill
8 somebody by killing someone.

9 Q. Okay.

10 A. Period.

11 Q. If the Judge told you or asked you to set
12 those feelings aside, ---

13 A. I can't.

14 Q. You can't do that?

15 A. (Negative gesture), right.

16 SOLICITOR WILSON: That's all that I
17 have, Your Honor. Thank you.

18 THE COURT: Mr. Bloom?

19 VOIR DIRE EXAMINATION

20 BY MR. BLOOM:

21 Q. Mr. Mainer, my name is Jeff Bloom. Along
22 with Andrew Carroll, we represent William
23 Dickerson. Of course, no one is here to
24 question your beliefs, we're just trying to
25 make sure that we understand clearly -- you've

1 been pretty clear so far, but I'd like to ask
2 you a few questions.

3 The law allows someone to have moral
4 scruples or opinions against the death penalty
5 and still serve in a case such as this.

6 A. Sure.

7 Q. What the law does require though is
8 several steps. The first is can a juror, even
9 with strong feelings against the death
10 penalty, set those personal beliefs aside and
11 listen to all the evidence and be fair to both
12 the defense and the State? You could listen
13 to the evidence?

14 A. Sure.

15 Q. Then the next step that the law requires
16 is that if a juror got to that point, to first
17 be able to consider life without parole -- you
18 told us that you could do that?

19 A. Yes, sir.

20 Q. And then next to consider the additional
21 evidence in support of the death penalty.
22 Could you listen and consider that evidence?

23 A. I -- repeat that, please?

24 Q. Could you at least listen and consider the
25 evidence? That's kind of the next step.

1 A. No.

2 Q. Okay. So if you knew that the State was
3 going ---

4 A. Not if the death penalty is an option.

5 Q. There are no situations where you could
6 consider, in your own mind, that would be bad
7 enough or horrific enough where you think,
8 'Golly, even with my personal beliefs against
9 the death penalty, you know, in this
10 particular case even I could impose a death
11 sentence'?

12 A. I understand that there are two parts to
13 it, I get that. The latter option, I would
14 not participate in. Sorry.

15 MR. BLOOM: Thank you very much,
16 sir. We appreciate you being honest with us.

17 THE COURT: Thank you, sir. If you
18 would, if you could just step out for just a
19 moment we will be with you momentarily.

20 (JUROR NUMBER 377 EXITS COURTROOM)

21 THE COURT: State's position?

22 SOLICITOR WILSON: He is not
23 qualified.

24 MR. BLOOM: We have no objection,
25 Your Honor.

1 THE COURT: Clearly. Ask him to
2 step in.

3 (JUROR NUMBER 377 ENTERS COURTROOM)

4 THE COURT: Thank you so much, sir.
5 I appreciate. I am going to excuse you from
6 further participation in this matter. I hope
7 that you have a good day. You're now at
8 liberty to discuss anything that you want.

9 I would love to tell you that you are
10 excused for the week but they need a jury at
11 1:30, so if you could be in the main panel
12 room at 1:30. I don't know how long you will
13 be but hopefully it won't be too long. If you
14 would, hand Mr. Robinson the sheet. Have a
15 great day, sir.

16 (JUROR NUMBER 377 EXCUSED)

17 THE COURT: Mr. Robinson (bailiff),
18 we need the next one, Mr. Simmons.

19 (JUROR NUMBER 278 ENTERS COURTROOM)

20 THE COURT: Good morning, Mr.
21 Simmons.

22 JUROR NUMBER 278: Good morning.

23 THE COURT: Just take a seat right
24 there, sir, and pull up so that you can speak
25 comfortably into that microphone. If you

State of South Carolina v: William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 could, state your full name for the record,
2 please.

3 JUROR NUMBER 278: Nathaniel Simmons.

4 THE COURT: Mr. Simmons, I hope
5 that you had a fairly good weekend. We're
6 ready to continue that matter that we started
7 on Friday. As you will recall, I placed the
8 jury panel under oath at that time and I would
9 remind you that you are still under oath this
10 morning. Okay?

11 JUROR NUMBER 278: Yes, sir.

12 NATHANIEL SIMMONS, being
13 duly sworn to tell the truth, the whole truth
14 and nothing but the truth, testified, as
15 follows:

16 VOIR DIRE EXAMINATION

17 BY THE COURT:

18 Q. I am going to have some questions of you
19 and the attorneys may have some questions of
20 you, as well. We just need you to give a
21 truthful and complete response to those
22 questions. There are no correct answers to
23 any of them. They are just designed to help
24 you make a decision as to whether or not you
25 can be a fair and impartial juror in this

1 case. As we stated on Friday, that's what
2 both sides are looking for to assist in
3 resolving this dispute. Okay?

4 A. Okay.

5 Q. I gave you a number of names on Friday and
6 asked the jury whether they knew those persons
7 or had any dealings with them. I need to add
8 two to that list. Do you know or are you
9 related by blood or marriage, have any
10 business dealings with Jeff Osborne or Matt
11 Casey?

12 A. No, sir.

13 Q. Now, you were given a sheet of paper that
14 described three types of jurors.

15 A. Yes, sir.

16 Q. Of those three types of jurors, which one
17 most accurately describes you?

18 A. Number two.

19 Q. Number two?

20 A. (Affirmative nod).

21 Q. Number two is a juror that basically says,
22 'If I was on a panel and I'd concluded that
23 the person was, beyond a reasonable doubt,
24 guilty of the crime of murder that it wouldn't
25 matter how aggravating the circumstances were,

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 there is no situation in which I could impose
2 the death penalty.' Is that correct?

3 A. That's correct.

4 Q. There's none in which you consider or
5 impose a death sentence?

6 A. No, sir.

7 Q. Notwithstanding the fact that the court
8 would tell you that if the State presents
9 aggravating circumstances, which a jury
10 concludes beyond a reasonable doubt have been
11 established, you may consider that, you still
12 would not consider that?

13 A. No, sir, I couldn't.

14 THE COURT: Mr. Bloom?

15 MR. BLOOM: May it please the
16 court.

17 VOIR DIRE EXAMINATION

18 BY MR. BLOOM:

19 Q. Good morning, Mr. Simmons.

20 A. Good morning.

21 Q. My name is Jeff Bloom and with Andrew
22 Carroll, we represent William Dickerson. I've
23 just got a few questions to follow up from the
24 Judge's. Okay?

25 A. Okay.

1 Q. First off, there are no right or wrong
2 answers and your opinions are your own. We
3 just ask that you be honest with us, as I
4 believe that you have been so far. Okay?

5 A. Okay.

6 Q. Let me ask you, do you understand that --
7 Judge Dennis will tell you that the law never
8 requires you to vote for the death penalty.
9 It doesn't mandate or require that you do. Do
10 you understand that?

11 A. Right.

12 Q. What the law does require is that you at
13 least consider it and listen to the evidence
14 that the prosecution puts up; do you
15 understand that?

16 A. Right.

17 Q. What I want to ask you is -- well, let me
18 first say that the law also allows you to have
19 strong opinions against the death penalty.
20 You've expressed those this morning, is that
21 fair to say?

22 A. Right.

23 Q. What the law then asks, though, is can you
24 set those strong opinions aside and listen to
25 the State's evidence. There are several other

1 steps but let me start there. Are you able to
2 do that?

3 A. Right.

4 Q. Okay. What the law then asks is that you
5 at least be able to consider both penalties.

6 By your answer, you could consider life
7 without parole; right?

8 A. Right.

9 Q. And that if you felt the evidence
10 supported a life without parole decision, you
11 could vote that way; correct?

12 A. Correct.

13 Q. But the law then asks that you listen to
14 the evidence that also supports the death
15 penalty. I take it by your answers that you
16 are telling me that you could set your
17 opinions aside and at least listen and
18 consider that evidence; is that right?

19 A. I'd listen.

20 Q. I understand you but let me go to the next
21 step. What the law then asks is if the
22 evidence, in your view, was sufficient -- it
23 never requires that you vote for the death
24 penalty but if there was a case and the
25 evidence, in your view, said 'Golly, I can set

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

327

1 my opinions aside on that particular case and
2 vote for the death penalty', could you do that
3 next step?

4 A. (Negative gesture).

5 Q. If in your view the evidence supported
6 that?

7 A. No, I wouldn't.

8 Q. So is there any circumstance you can think
9 of where, 'Golly, you know, I don't believe in
10 the death penalty but in that particular case
11 that I heard about or read about or seen, even
12 I could vote for it in that case.' Is there
13 any situation like that?

14 A. No, I wouldn't.

15 MR. BLOOM: All right. Thank you
16 very much for your time, please.

17 THE COURT: Any questions?

18 SOLICITOR WILSON: No, sir.

19 THE COURT: Thank you. Mr.

20 Simmons, if you would just step out for just a
21 moment we will be with you in just a few
22 seconds, a few minutes. Thank you, sir.

23 (JUROR NUMBER 278 EXITS COURTROOM)

24 THE COURT: What says the State?

25 SOLICITOR WILSON: Disqualified.

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 MR. BLOOM: No objection, Your
2 Honor.

3 THE COURT: Ask him to step in. He
4 clearly is not qualified.

5 (JUROR NUMBER 278 ENTERS COURTROOM)

6 THE COURT: Thank you, Mr. Simmons.
7 Mr. Simmons, I'm going to excuse you from any
8 further participation in this dispute. I
9 appreciate your attention to all matters, I
10 appreciate you being here this morning.

11 I'd love to tell you that you don't
12 have to come back anymore but they need a jury
13 panel in a civil case at 1:30, so you need to
14 report downstairs, please, at 1:30. I don't
15 know how long they will keep you but they're
16 going to pick that jury and then once that
17 jury has been picked they will ---

18 JUROR NUMBER 278: Second floor?

19 THE COURT: On the second floor,
20 (affirmative nod), where we were on Friday.
21 Have a great day, sir.

22 (JUROR NUMBER 278 EXCUSED)

23 THE COURT: The next one I think is
24 Mr. Partee.

25 (JUROR NUMBER 386 ENTERS COURTROOM)

1 THE COURT: Good morning, sir.

2 Come on up and take a seat right there, pull
3 up so that you can sit comfortably, speak into
4 that microphone.

5 JUROR NUMBER 386: Good morning.

6 THE COURT: If you would, state
7 your full name for the record, please.

8 JUROR NUMBER 386: Joshua Mims Partee.

9 THE COURT: Thank you, Mr. Partee.
10 I appreciate you being here and patiently
11 waiting. We are going to continue the process
12 that we started on Friday. As I mentioned,
13 there are a number of questions that I will
14 have of and the attorneys may ask you some
15 questions, as well. None of these questions
16 are designed to invade your privacy or change
17 your mind about anything. They're really to
18 assist you in determining whether or not, and
19 to assist us in determining whether or not,
20 you can be a fair and impartial judge with me
21 in this case. Do you understand that?

22 JUROR NUMBER 386: Yes, sir.

23 THE COURT: I would remind you in
24 that connection that you are still under oath
25 and we would anticipate that all your

1 responses will be consistent with that, that
2 they will be truthful and complete answers.
3 Again, there are no correct answers to any of
4 these questions. Do you understand that?

5 JUROR NUMBER 386: Yes, sir.

6 JOSHUA PARTEE, being duly sworn
7 to tell the truth, the whole truth and nothing
8 but the truth, testified, as follows:

9 VOIR DIRE EXAMINATION

10 BY THE COURT:

11 Q. When we were together on Friday I
12 identified a number of persons. I failed to
13 mention two persons. Do you know or are you
14 related by blood or marriage, socially or
15 casually acquainted with, have any business
16 dealings with Jeff Osborne or Matt Casey?

17 A. No, sir.

18 Q. Now, you were given a sheet of paper this
19 morning that described three types of jurors?

20 A. Yes, sir.

21 Q. Which one of those three types most
22 accurately describes you?

23 A. Third.

24 Q. Number three?

25 A. Yes.

1 Q. Number three is that juror, as I
2 understand it, is a juror that in certain
3 circumstances could vote to impose a death
4 sentence and in certain circumstances, even
5 though they could consider the death sentence,
6 they would impose a life imprisonment without
7 the possibility of parole?

8 A. Yes, sir, from what I read I agree with
9 type three.

10 Q. It just depends on ---

11 A. --- all on the circumstances.

12 Q. --- the circumstances?

13 A. Yes, sir.

14 Q. All of it depends on the circumstances?

15 A. Yes, sir.

16 Q. You understand that of course in this type
17 of case, as I mentioned to you, the fact that
18 we're asking you questions today does not
19 imply or suggest anything about Mr. Dickerson
20 involvement or culpability concerning these
21 charges; you understand that? He's accused of
22 these charges?

23 A. Yes, sir, I understand he's innocent.

24 Q. He's innocent?

25 A. (Affirmative nod).

1 Q. And that's the way that you see him this
2 morning?

3 A. Yes, sir.

4 Q. And that is, of course, as I mentioned to
5 you a part of our law that -- that view is
6 consistent with the law because the law says
7 that persons accused of committing criminal
8 offenses are innocent until and unless the
9 State proves them guilty beyond a reasonable
10 doubt. Do you understand that?

11 A. Yes, sir, understood.

12 Q. And that the only person, the only party
13 that has to prove anything in these
14 proceedings is the State; do you understand
15 that?

16 A. Yes, sir.

17 Q. That means that persons who are accused of
18 committing criminal offenses don't have to
19 prove anything. They don't have to explain
20 anything, they don't have to justify anything,
21 they don't prove their innocence. Do you have
22 any problem with that principle of law?

23 A. No, sir.

24 Q. Would you follow that at all times?

25 A. Yes, sir.

1 Q. Furthermore, that persons who are accused
2 of committing offenses, not only do they not
3 have to prove anything, they don't have to say
4 anything, they don't have to even speak to the
5 jury at any time. Do you understand that?

6 A. Yes, sir.

7 Q. The jury can never consider that against
8 them, and you would follow that law, as well?

9 A. Yes, sir.

10 Q. You understand, as I told you, that the
11 first part of this proceeding would deal with
12 the crimes with which Mr. Dickerson has been
13 accused, stands accused, and the jury would
14 first hear evidence concerning those charges.
15 You understand that?

16 A. Yes, sir.

17 Q. At that time of course the State would
18 present evidence and, after hearing all the
19 evidence in the case, the jury would then be
20 instructed and determine whether or not the
21 State has proved all the elements of those
22 crimes beyond a reasonable doubt. Do you
23 understand that?

24 A. Yes, sir.

25 Q. If the jury concludes that the State had

1 proved all of the elements beyond a reasonable
2 doubt of the crime of murder, then and only
3 then would we move into the second phase; do
4 you understand that?

5 A. Yes, sir.

6 Q. Because if the jury were to conclude that
7 the State failed on the murder charge, then
8 that would end -- there would be no second
9 phase. You understand that?

10 A. Yes, sir, I do.

11 Q. In the second phase, if you had that --
12 and, again, just as the defendant has nothing
13 to prove as to the charge, the defendant
14 doesn't have anything at any -- if there was a
15 second phase, that continues throughout. Do
16 you understand that, through the entire time?
17 He has nothing to prove or disprove or
18 explain, do you understand that?

19 A. Yes, sir.

20 Q. Now, please understand that that doesn't
21 mean that the defendant doesn't have a right
22 to present evidence. They do. But the jury
23 can't ever expect them to. Do you understand
24 that?

25 A. Yes, sir.

1 Q. But if we had a second phase, that's when
2 the State would present evidence that would
3 deal with the crime itself and some other
4 factors concerning the defendant which the
5 jury would consider when it went to determine
6 the appropriate punishment. Do you understand
7 that?

8 A. Yes, sir.

9 Q. One of the things that the State has to
10 prove beyond a reasonable doubt in the second
11 phase is something called aggravating
12 circumstances, that is those circumstances
13 that make this offense of murder worse and,
14 therefore, entitle the jury to consider the
15 death sentence. Do you understand that?

16 A. A harsher sentence, (affirmative nod).
17 Yes, sir.

18 Q. Not every murder offense carries the
19 potential for a death sentence.

20 A. I understand that.

21 Q. Do you understand that?

22 A. Yes, sir.

23 Q. Only if the jury concludes beyond a
24 reasonable doubt that the evidence establishes
25 aggravating circumstances may it then consider

1 the death penalty; do you realize that?

2 A. Yes, sir.

3 Q. Now, while the aggravating circumstances
4 may be established that doesn't mean that the
5 jury has to return a death sentence; do you
6 understand that?

7 A. (No verbal response).

8 Q. In other words, they can consider that and
9 they then would make a determination between
10 the two, whether it would be the death
11 sentence or life imprisonment without the
12 possibility of parole. Is that your
13 understanding?

14 A. Yes, sir, it is.

15 Q. It is my understanding that you would,
16 when we started the second phase, as you
17 stated in the type three juror, you'd have an
18 open mind at that point about what the
19 appropriate sentence would be?

20 A. (Affirmative nod), always.

21 Q. Because at that point the only thing that
22 the jury has concluded is that he was guilty
23 of the offense of murder.

24 A. Correct.

25 Q. But now you want to hear the evidence

1 concerning the issue -- concerning the
2 appropriate sentence, is that correct?

3 A. Yes, sir.

4 Q. It is only after you were instructed to
5 consider that that you would then make the
6 determination of what you believe to be the
7 most appropriate sentence?

8 A. Correct.

9 Q. And you could consider both of them?

10 A. Yes.

11 Q. And would consider both of them?

12 A. Yes, sir.

13 Q. I would also tell you that during that
14 second phase that you may hear evidence of
15 mitigating circumstances, that is which could
16 lessen the gravity of the offense with which
17 he is charged. That would be something else
18 that you would be instructed to consider, any
19 mitigating circumstances that you may find in
20 the evidence. Do you understand that?

21 A. Understood.

22 Q. You would do that and give due
23 consideration to mitigating circumstances, as
24 well?

25 A. Yes, sir.

1 Q. It is my understanding then that you
2 would, at the appropriate time, and could,
3 fairly and impartially consider both and make
4 a determination based on the evidence and the
5 law and report that determination?

6 A. Yes, sir.

7 Q. And honor ---

8 A. Honorably.

9 Q. --- that commitment that you made to both
10 side?

11 A. Yes, sir.

12 Q. This trial will go for more than a week
13 for sure.

14 A. Understood.

15 Q. You will be instructed -- while we won't
16 be keeping you overnight, necessarily, you
17 understand that you will be instructed that
18 you can't talk to anybody about that or permit
19 anybody to talk about this trial, read
20 anything about it or watch any News programs
21 about it. Do you understand that?

22 A. I understand.

23 Q. And you would honor that in every respect?

24 A. Yes, sir.

25 THE COURT: Thank you very much.

1 Please answer any questions that the attorneys
2 may have.

3 JUROR NUMBER 386: All right.

4 THE COURT: Solicitor.

5 VOIR DIRE EXAMINATION

6 BY SOLICITOR WILSON:

7 Q. Good morning. I'm Scarlet Wilson. I'm
8 the solicitor here. This is Bruce Durant and
9 Rutledge Durant. They'll be trying this case
10 with me.

11 A. Yes, ma'am.

12 Q. You understand that we are like the DA's
13 that you see on TV, that sort of thing?

14 A. I understand your title.

15 Q. Okay. I wanted to ask you, I noticed on
16 your questionnaire that you put "n/a" on the
17 question about the death penalty. It says,
18 "What is your opinion, if any, about the death
19 penalty?" You wrote "n/a".

20 A. I just -- honestly, I didn't take as much
21 time as I probably should have with the
22 survey, honestly.

23 Q. That's all right, that's why we are doing
24 all this.

25 A. Yeah. In all honesty, I was just ready to

1 -- there was like three days 'get it back to
2 us', so I was more worried about putting it in
3 the postal system than I was ---

4 Q. All right.

5 A. I am not saying that all the answers that
6 I provided were not accurate because they're
7 answered to the best of my ability at the
8 time.

9 Q. From what I am understanding from your
10 questions and answers from the Judge and --
11 the death penalty is not automatic for you?

12 A. No, ma'am. Not at all.

13 Q. So after the guilt phase in a trial, just
14 speaking generally and not necessarily this
15 trial, you could consider aggravating
16 circumstances presented by the State?

17 A. Yes, ma'am.

18 Q. And if you found those aggravating
19 circumstances, you wouldn't just tune out but
20 you would want to hear the mitigating
21 circumstances if there were any?

22 A. Both sides, (affirmative nod). Yes,
23 ma'am.

24 Q. Okay. Do you understand that the Judge
25 would tell you, and all the other jurors, that

1 you couldn't hold the defendant's not
2 testifying or the defendant's not putting up
3 evidence against him? You couldn't hold that
4 against him?

5 A. That's correct.

6 Q. You have to make your decision just based
7 on the aggravating circumstances that the
8 State proves?

9 A. Yes, ma'am.

10 Q. And even if the State proved to you beyond
11 a reasonable doubt those aggravating
12 circumstances, you would still consider life
13 imprisonment without the possibility of
14 parole?

15 A. Yes, ma'am.

16 Q. Okay. You would follow the Judge's
17 instructions regarding how to deliberate, what
18 you should consider and what you should not
19 consider?

20 A. Yes, ma'am.

21 Q. If there were a time that you believed
22 that the defendant deserved the death penalty
23 and the State had proved aggravating
24 circumstances in that second phase, could you
25 actually sign your name to the death warrant

1 if you believed that death was appropriate?

2 A. If I was convinced that the death penalty,
3 as you mentioned if there was -- if he
4 deserved it, then honestly I would follow
5 through with it.

6 Q. Okay.

7 A. Yes, ma'am.

8 Q. So there are situations that you believe
9 would call for the death penalty?

10 A. Yes, ma'am, of course.

11 SOLICITOR WILSON: That's all that I
12 have. Thank you.

13 THE COURT: Mr. Bloom?

14 MR. BLOOM: May it please the
15 court?

16 THE COURT: Yes, sir.

17 VOIR DIRE EXAMINATION

18 BY MR. BLOOM:

19 Q. Good morning, Mr. Partee.

20 A. Hey, good morning.

21 Q. My name is Jeff Bloom and along with
22 Andrew Carroll, we represent William
23 Dickerson. It's obvious that we are here to
24 ask you some questions this morning. Your
25 opinions are your own, no one is here to judge

1 you, no one is trying to -- we are just trying
2 to understand what those opinions are. Okay?

3 A. Okay.

4 Q. Fair enough?

5 A. Yes, sir.

6 Q. Let me just kind of ask you, what is your
7 opinion about the death penalty?

8 A. If somebody exercised something that went
9 to extremes, in an extreme situation I would
10 just act accordingly. In my opinion, the
11 death penalty is -- you'd have to do something
12 really out of the ordinary to deserve such a
13 thing.

14 Q. Okay.

15 A. As I said earlier, for me to say -- to put
16 somebody to death or to be a part of a death
17 conviction, there would definitely have to be
18 substantial evidence.

19 Q. Can you tell me what you mean by that,
20 just explain that a little bit just to make
21 sure that I understand what you're saying?

22 A. As far as substantial evidence?

23 Q. The answer that you just gave, if you
24 could just kind of explain that to me a little
25 bit more what you meant by that.

1 A. Regarding the death penalty?

2 Q. Sure. Yes, sir.

3 A. As far as my actions towards it, I would
4 just approach it based on the facts.

5 Honestly, it's hard to tell you. It would
6 depend on what was presented on the table
7 before I could give you my reaction, take
8 action accordingly.

9 Q. Can you tell me what are some of the
10 reasons why you're in favor of the death
11 penalty, just generally? You know, we're not
12 talking about this case. Just generally in
13 terms of your opinion, what are ---

14 A. What are some of the events?

15 Q. What are some of the feelings that you
16 hold as to why you support the death penalty
17 in some situations?

18 SOLICITOR WILSON: Your Honor, I
19 object.

20 THE COURT: I sustain the
21 objection. That's going -- that's going to
22 specifics. No, sir. He's answered your
23 question. I am not going to allow you to ask
24 him to define the facts.

25 MR. BLOOM: Yes, sir.

EXAMINATION CONTINUED

1

2 BY MR. BLOOM:

3 Q. Some people feel "an eye for an eye", do
4 you understand that expression?

5 A. (No verbal response).

6 Q. Would you say that's you or not?

7 A. I am not familiar with that expression.

8 Q. Okay. So you're not kind of an eye-for-
9 an-eye or a tooth-for-a-tooth kind of person?

10 A. I am not familiar with that expression.

11 Eye for an eye, what do you mean?

12 Q. All right. The Bible has an expression
13 that if ---

14 SOLICITOR WILSON: Your Honor, I would
15 object to ---

16 THE COURT: Sustained.

17 MR. BLOOM: If I could explain the
18 "eye for an eye", ---

19 THE COURT: You can explain it but
20 he's answered your question. He doesn't know.
21 I mean, you can explain it to him but he
22 doesn't know that. It's not necessary.

23 MR. BLOOM: Yes, sir.

24 EXAMINATION CONTINUED

25 BY MR. BLOOM:

1 Q. Some people feel that anytime there's a
2 murder that there should automatically be
3 imposed the death penalty. And let me first
4 explain "murder", so that we're both on the
5 same page, we both understand the same terms.
6 Fair enough?

7 A. Yes, sir.

8 Q. Murder is not accident, it's not self-
9 defense, it is not manslaughter like you
10 caught someone in bed with someone, and it is
11 not insanity. Murder is where a person did
12 it, meant to do it, with malice, and the State
13 has proven that they've got the right person
14 beyond a reasonable doubt. In those cases,
15 what we call malice murder, -- did it, meant
16 to do it, got the right person, no accident,
17 no self-defense, no manslaughter, no insanity.
18 Some people say, 'Well, if you show me that
19 I'm always going to vote for the death penalty
20 in every situation, for me.' Is that your
21 situation?

22 A. As I said earlier, the evidence supports
23 the death sentence. I would act accordingly.
24 If all the evidence adds up, then of course I
25 am not to say that but -- I mean, I am not

1 going to automatically prone to death. No.

2 Q. I guess that's all that I was asking. It
3 took me a long way to get there, and I
4 apologize. So you're telling me that even
5 though the State proved to you that they got
6 the person, that the right person who did it,
7 meant to do it, malice murder, you're not
8 going to stop there and automatically go to
9 the death penalty?

10 A. No, sir, not by any means.

11 Q. And as the Judge explained to you, there
12 are two steps to any case like this.

13 A. (Affirmative nod).

14 Q. The jury has to first establish whether
15 someone is guilty or not guilty. Right, you
16 understand?

17 A. Yes, sir.

18 Q. Like on TV, all those shows?

19 A. Yes, sir.

20 Q. And of course we are kinda putting the
21 cart before the horse here today because
22 William Dickerson has entered a Not Guilty
23 plea, so we aren't -- but we've kind of got to
24 talk to you about these things, do you
25 understand?

1 A. Yes, sir.

2 Q. Then if, and only if, the jury finds a
3 person guilty of murder, that malice murder,
4 then they go to the next phase where they hear
5 more evidence and decide whether the penalty
6 if life without parole or death. Okay?

7 A. Yeah.

8 Q. And it is that second part in which the
9 State introduces additional evidence to
10 support the death penalty. Do you understand
11 that?

12 A. Yes, sir.

13 Q. So my next question is, if you found
14 someone guilty of that malice murder and the
15 State proved to you what is called aggravating
16 circumstances, all that extra "bad evidence"
17 that supports the death penalty, you are still
18 not going to automatically vote for death.

19 A. That's right.

20 Q. You are still going to look at and want to
21 hear evidence?

22 A. That's right.

23 Q. And some of that other evidence is that
24 sometimes defense attorneys will put things in
25 evidence such as a person's background, how

1 they were brought up, -- that's something that
2 you would consider?

3 A. Yes, sir.

4 Q. Additional things like substance abuse,
5 right?

6 A. I understand, (affirmative nod). Mental
7 issues, (Affirmative nod).

8 Q. Mental issues, how they did in school and
9 all that stuff?

10 A. Background, (affirmative nod). Yes, sir.

11 Q. We call those mitigating circumstances,
12 that's a fancy word for evidence that may have
13 nothing to do with the crime but supports a
14 life without parole sentence and you could
15 give -- the law requires that you give
16 meaningful consideration to that evidence.

17 A. Yes, sir.

18 Q. So you're not going to have your mind made
19 up just because you found someone guilty of
20 malice murder and heard all the bad evidence,
21 you're going to wait and hear all the ---

22 A. Both sides.

23 Q. Both sides?

24 A. Yes, sir.

25 Q. The law requires one more thing. Judge

1 Dennis has explained this very well but I want
2 to make sure that I've got your answer. The
3 State always has the burden of proof, so
4 you're not one of those jurors who is going to
5 be saying, 'Okay, I'm kind of in the death
6 penalty camp and I believe in that, I want the
7 defense to prove to me that the death penalty
8 isn't the right sentence in this case.'

9 A. I want both parties to prove what they
10 have to put on the table and then I'd act
11 accordingly.

12 Q. But you're not going to put any burden of
13 proof on the defense if the Judge instructs
14 you to ---

15 A. The Judge can't instruct my decision, I've
16 got to ---

17 Q. What you are telling me is that you are an
18 open-minded juror?

19 A. Yes, sir.

20 Q. You're going to listen to their evidence?

21 A. Yes, sir.

22 Q. And you're going to listen to things like
23 background, substance abuse, mental illness,
24 the ---

25 A. (Affirmative nod), the entire case.

1 Q. The entire case?

2 A. Yes.

3 Q. And, lastly, you understand -- sometimes
4 jurors, is this your first time ever serving
5 on a jury?

6 A. Yes, sir.

7 Q. The law never requires the death penalty,
8 do you understand that?

9 A. Yes, sir.

10 Q. Even if the State prove everything beyond
11 a reasonable doubt, what the law requires is
12 that each juror make a moral, individualized
13 choice as to which sentence they feel is the
14 right thing. Can you accept that moral,
15 individualized choice?

16 A. Yes, sir.

17 Q. And in that vein, if -- if you were on
18 such a jury and you were voting one way, your
19 moral, individualized choice, whatever it had
20 to do with, life without parole or the death
21 penalty, and the other eleven jurors are
22 voting another way, can you -- you're not just
23 going to fold and say, 'Oh, my god, they're
24 all voting that way. I'm done.'

25 A. No, that's not -- I'm not that kind of

1 person. I will cast my vote accordingly.

2 Q. You strike me as someone who can stand
3 their moral ground, once you make your mind
4 up?

5 A. Yes, sir.

6 Q. On the other hand, you would want those
7 other eleven to respect your moral,
8 individualized choice?

9 A. Yes, sir.

10 Q. On the other hand, if you're with the
11 eleven jurors and there is one other juror,
12 you can respect that juror's moral,
13 individualized choice as well; correct?

14 A. Of course.

15 Q. And you're not going to tell that one
16 other juror, 'Hey, we all got to get home for
17 dinner. It's time...' ---

18 A. No, I'm not.

19 Q. So you could respect their vote?

20 A. Yes, sir.

21 Q. You would want them to respect your vote?

22 A. Yes, sir.

23 Q. And, lastly, of course there's been some
24 newspaper and other media articles about this
25 particular case. The Judge the other day, I

1 think, instructed you not to look at the news
2 media. Have you been able to follow that
3 instruction?

4 A. Yes, sir.

5 Q. Okay. I think the Judge also instructed
6 you the other day that we're not going to
7 sequester jurors. That means that we're not
8 going to put you in a hotel room every night,
9 you'll be able to come and go from your house
10 and that sort of thing. You're able to not
11 look at any media or newspaper articles every
12 day throughout how ever long?

13 A. Yes, sir. I don't read the newspaper.

14 Q. You can tell that I've got a little gray
15 in my hair. I've got sons about your age and
16 they do the Google thing. You're not going to
17 go on the internet and look up stuff about
18 this case?

19 A. (Negative gesture). No, sir.

20 Q. You can follow the judge's instructions?

21 A. I go by you'all and that's it, what you
22 all present.

23 MR. BLOOM: Thank you very much,
24 sir.

25 JUROR NUMBER 386: Yes, sir, you're

1 welcome.

2 THE COURT: One thing I want to be
3 sure and I think you clarified it but I want -
4 - I want to be sure that I understood what you
5 said. You said 'the judge is not going to
6 interfere' with your decision. Of course, you
7 have to understanding that I don't have
8 anything to do with the jury's determination
9 of the facts. That's yours. Nothing that I
10 say should ever be considered by you if you're
11 on this jury as to how you are to resolve one
12 of the factual issues, which you resolve by
13 considering the evidence. Do you understand
14 that?

15 JUROR NUMBER 386: Yes, sir, I
16 understand that the part of a jury -- having a
17 jury.

18 THE COURT: That's correct. There
19 are two working together. As I said, there
20 are two judges -- one judge has the
21 responsibility for the factual determination,
22 the other judge has the responsibility for the
23 law. But it is my responsibility to give you
24 the law and you will follow that instruction
25 notwithstanding your personal feelings about

1 any law. I'm not suggesting that you have any
2 that may differ, but if you do then you have
3 to set those aside. Would you do that?

4 JUROR NUMBER 386: Yes, sir.

5 THE COURT: You would follow the
6 instruction that the court gave you?

7 JUROR NUMBER 386: Yes, sir.

8 THE COURT: Anything else from the
9 State?

10 SOLICITOR WILSON: No, sir.

11 THE COURT: Anything else, Mr.
12 Bloom?

13 MR. BLOOM: No, Your Honor.

14 THE COURT: Thank you very much.
15 If you would step out, we'll be with you in
16 just a moment.

17 (JUROR NUMBER 386 EXITS COURTROOM)

18 THE COURT: State?

19 SOLICITOR WILSON: Qualified.

20 THE COURT: Defense?

21 MR. BLOOM: He's qualified, Your
22 Honor.

23 THE COURT: Ask him to come in,
24 please. He is qualified.

25 (JUROR NUMBER 386 ENTERS COURTROOM)

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 THE COURT: Thank you, Mr. Partee.
2 We find that you're qualified to do a member
3 of the panel from which we will select our
4 jury. We anticipate that will occur at 3:00
5 o'clock on Wednesday. There is a chance that
6 it may have to be postponed. So what I am
7 going to ask you to do is to on Tuesday night
8 there will be a message placed on that
9 answering machine
10 -- you have the number that they gave you to
11 call?

12 JUROR NUMBER 386: yes, sir.

13 THE COURT: After 6:00 o'clock call
14 that and the message will say "the Dickerson
15 jury panel is to report" at such-and-such
16 time. More than likely it's going to be 3:00
17 o'clock. But if for some reason we are not
18 sure, it may say to call at a certain time on
19 Wednesday. Just follow that instruction.

20 Ignore any other instructions that
21 may be on there. If it says 'Panel 11' need
22 to -- that is not you, of course. You're the
23 Dickerson panel. Okay?

24 JUROR NUMBER 386: I understand.

25 THE COURT: Okay. Until we see

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

357

1 each other again, please know that you're
2 still not at liberty to discuss this case with
3 anyone, permit anyone to talk with you about
4 the case or to talk about it in your presence.
5 You are not permitted to read anything about
6 this case or watch any news program about this
7 case. I will be administering an oath through
8 the entire trial, every day, that will state
9 that the jurors will make a commitment to the
10 court and to both sides that they have honored
11 that commitment. Please make sure that you
12 can honor that, sir.

13 JUROR NUMBER 386: Yes, sir.

14 THE COURT: Thank you very much,
15 have a good day.

16 (JUROR NUMBER 386 EXITS COURTROOM)

17 THE COURT: We need Mr. Nicklaus.

18 (JUROR NUMBER 228 ENTERS COURTROOM)

19 THE COURT: Good morning, Mr.
20 Nicklaus. If you would, just come up and take
21 a seat there in that chair. Position yourself
22 so that you can speak comfortably into that
23 microphone. If you would, please, sir, state
24 your full name for the record.

25 JUROR NUMBER 228: James Nicklaus.

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 THE COURT: Mr. Nicklaus, good
2 morning to you, sir.

3 JUROR NUMBER 228: Good morning.

4 THE COURT: Thank you for your
5 patience in waiting. We are going to continue
6 the process that we started on Friday. As I
7 mentioned to you then, we would be asking you
8 some questions. I'll be asking you some and
9 the attorneys may also ask you questions.

10 These questions, there really are no
11 correct answers to any of them. They are
12 really designed to help you make a decision,
13 and to help us make a decision, as to whether
14 or not you can be a fair and impartial judge
15 in this case with me, to help resolve this
16 dispute. Okay?

17 JUROR NUMBER 228: I understand.

18 THE COURT: In that regard you were
19 placed under oath on Friday. You are still
20 under oath, so we would expect that all your
21 answers are truthful and complete. May we
22 rely on that, as well?

23 JUROR NUMBER 228: Yes, Your Honor.

24 JAMES NICKLAUS, being duly sworn to
25 tell the truth, the whole truth and nothing

1 but the truth, testified, as follows:

2 VOIR DIRE EXAMINATION

3 BY THE COURT:

4 Q. I mentioned to you on Friday a number of
5 names and I failed to mention two names to
6 you. Do you know or are you related by blood
7 or marriage, socially or casually acquainted
8 with, have any business dealings with Jeff
9 Osborne or Matt Casey?

10 A. No, Your Honor.

11 Q. When you came this morning they gave you a
12 sheet that had three types of jurors. Have
13 you had an opportunity to review the sheet?

14 A. Yes, I have.

15 Q. Which of those three types, which one most
16 accurately describes you?

17 A. I believe number three.

18 Q. You believe number three?

19 A. (Affirmative nod).

20 Q. Number three is the juror, as I understand
21 it says that there are circumstances in which
22 a person has committed the offense of murder
23 that may exist that -- that 'If I am convinced
24 beyond a reasonable doubt, I could sentence
25 that person to death. But there are

1 circumstances where when a person is convicted
2 of murder, I could consider it and after fully
3 considering it, even though I could sentence
4 him to death, I believe the most appropriate
5 sentence would be life imprisonment without
6 the possibility of parole. I can't tell you
7 which one until I hear all those circum-
8 stances.'

9 A. You're absolutely right. I wouldn't know
10 the answer to that without hearing the entire
11 case?

12 Q. And you don't have any strong feelings or
13 predetermination as to which may be the most
14 appropriate?

15 A. I could not at this time without ---

16 Q. Without hearing the case?

17 A. --- hearing the case, (negative gesture).

18 Q. Now, you understand, as I mentioned to you
19 on Friday that there are two phases to this
20 process by which the State is seeking a death
21 sentence in this case as a punishment.

22 A. (Affirmative nod).

23 Q. There are two phases. The first phase
24 will deal with the charges, the crimes for
25 which Mr. Dickerson -- or with which Mr.

1 Dickerson has been accused. You understand
2 that that first phase, the fact that we have
3 that, all you're going to hear of evidence
4 concerning those charges. You understand
5 that?

6 A. Yes.

7 Q. And you also understand at this point under
8 our law, as I mentioned to you, Mr. Dickerson
9 is innocent of those charges; do you realize
10 that?

11 A. I realize that.

12 Q. That's based on the presumption of
13 innocence and that is a principle of law that
14 applies in this state and every state, as far
15 as I know, in this country. Do you understand
16 that?

17 A. Yes, I do.

18 Q. That principle says that basically that a
19 person accused is presumed to be innocent and
20 that is an active presumption. That means that
21 a juror has to actively presume that they are
22 innocent. Would that be a problem for you?

23 A. No, it wouldn't.

24 Q. This morning as he sits here, do you
25 believe that he is innocent of these charges?

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 A. I have no way of knowing.

2 Q. Well, I just told you that the law says
3 that you have to believe that?

4 A. Well, yes, presumed innocent until proven
5 guilty. Yes.

6 Q. That's correct. And it further states that
7 the only party that has any burden of proof is
8 the State, the party that makes the accusation.
9 Do you understand that?

10 A. Yes, I do.

11 Q. And that means that persons accused of
12 criminal offenses have no obligation at any
13 point to prove anything, disprove anything,
14 explain anything, justify anything, and they
15 certainly don't have an obligation to prove
16 their innocence. Does that cause you or create
17 any problems for you?

18 A. No, it would not.

19 Q. And that means that at no point during this
20 proceeding will you ever be able to look to Mr.
21 Dickerson to answer any question whatsoever,
22 because he has no obligation to do that. Do
23 you understand that?

24 A. Yes, I do.

25 Q. In fact, persons accused of criminal

1 offenses don't have to say anything, they don't
2 have to speak the jury -- ever, in any part of
3 a proceeding. Do you understand that?

4 A. Yes, I do.

5 Q. If that were to occur, I would instruct you
6 that you could not use that against him in any
7 manner. Would you have any problem following
8 that principle of law?

9 A. Would you repeat that?

10 Q. Certainly. I would instruct you that it is
11 the law in this state, and in every state, that
12 persons accused don't have to testify, they
13 don't have to say anything, they don't have to
14 say a word and the jury can never use that
15 against them at any point.

16 A. That part, yes, I understand.

17 Q. Would you have any problem following that
18 instruction?

19 A. No, I would not.

20 Q. If at the end of the first phase when the
21 jury considered the evidence presented the jury
22 concludes beyond a reasonable doubt that the
23 State has convinced that jury, all twelve,
24 beyond a reasonable doubt that the elements of
25 murder had been established, only then would we

1 move into the second phase. Do you understand
2 that?

3 A. Yes, I do.

4 Q. Or if the jury concludes that the State
5 fails in its burden, that would end the
6 proceeding. You understand that?

7 A. Yes, I understand that.

8 Q. That would be the burden as it pertains to
9 murder, do you understand that?

10 A. Yes.

11 Q. The second phase is when you would hear
12 additional elements or evidence and
13 circumstances that the jury would be ultimately
14 instructed to consider in determining what was
15 the appropriate sentence. It is at that time
16 that in order for the jury to consider the
17 death penalty, the State has the burden of
18 proving beyond a reasonable doubt aggravating
19 circumstances. Those are circumstances that
20 basically the law allows if the State can prove
21 beyond a reasonable doubt would permit the jury
22 to then consider a death penalty. Do you
23 understand that?

24 A. I -- yes.

25 Q. Because not every offense of murder in this

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

365

1 state is the jury even involved in the
2 sentencing and only would the jury be involved
3 when the State presents evidence of aggravating
4 circumstances. Do you understand that?

5 A. Yes, I do.

6 Q. Now, once a jury hears the second phase,
7 all of the evidence, they would be instructed
8 to make a determination first as to whether or
9 not the State has proved beyond a reasonable
10 doubt aggravating circumstances. Do you
11 understand that?

12 A. Yes.

13 Q. If the jury concludes that they have, then
14 that means that jury may then consider a death
15 sentence. Do you understand that?

16 A. Yes, I understand.

17 Q. But the law would say that they are not
18 obligated or required to return a death
19 sentence, do you understand that?

20 A. I understand, yes.

21 Q. Notwithstanding that they have concluded,
22 yes, the person committed the offense of; that,
23 yes, the State had convinced them beyond a
24 reasonable doubt of aggravating circumstances;
25 the jury could consider the death sentence but

1 decide life imprisonment without the
2 possibility of parole is the most appropriate
3 sentence in that case?
4 A. I understand.
5 Q. And you could do that, as well?
6 A. Yeah.
7 Q. In addition to aggravating circumstances,
8 there may be evidence of something -- and these
9 terms, "aggravating circumstances" and
10 "mitigating circumstances", I would define for
11 you before you began your deliberation. But
12 you would be instructed also to consider
13 mitigating circumstances, as well. That would
14 be that which tends to lessen the effect of the
15 murder -- it would be something that you would
16 consider in deciding what would be an
17 appropriate sentence. Do you understand that?
18 A. Yeah. And you would explain that to me?
19 Q. (Affirmative nod), I would explain it to
20 you.
21 A. In more detail?
22 Q. (Affirmative nod), in more detail.
23 A. When necessary.
24 Q. Well, I would explain it to you at the
25 charge portion. Mitigating circumstances mean

1 just that, they make the crime less, they
2 lessen the effects of it. There may be
3 circumstances of background and that type of
4 evidence. Do you understand?

5 A. Right, yes.

6 Q. You would give due consideration to that,
7 as well?

8 A. Yes.

9 Q. And you would consider all of that?

10 A. Yes, I would.

11 Q. And you understand that while -- as I
12 mentioned to you, the only party that has any
13 burden of proof is the State and the defendant
14 has absolutely nothing to prove even -- in the
15 first or if we go to the second phase. Do you
16 understand that?

17 A. Yeah.

18 Q. Because the defendant doesn't have any
19 responsibility.

20 A. I understand.

21 Q. But the defendant has the right to present
22 evidence if he chooses to, you understand that?

23 A. Yes.

24 Q. And if he does you would consider that
25 evidence and weigh that evidence as you would

1 all the evidence; is that correct?

2 A. Am I understanding you to say that
3 notwithstanding -- because you said 'I need to
4 hear all the evidence and circumstances before
5 I could decide whether a death sentence or a
6 life imprisonment without the possibility of
7 parole was appropriate, that's the type three
8 juror. As a part -- if we were to start the
9 second phase, notwithstanding that you had
10 found that Mr. Dickerson was guilty of the
11 offense of murder and I am not suggesting that
12 the jury will, but assuming that you had, you
13 would not then have an opinion as to what the
14 appropriate sentence was until you've heard all
15 the evidence in the second phase. Is that
16 correct?

17 A. That is correct, yes.

18 Q. And then only after you then had had an
19 opportunity to hear the law and then consider
20 the evidence, decide what you believe to be the
21 truth and then you would apply the law fairly
22 and impartially; is that correct?

23 A. That is correct. As you define the law,
24 based on the situation at the time. Yes.

25 Q. And you would follow that notwithstanding

1 your own personal opinions or feelings what the
2 law was or should be?

3 A. I would try to the best of my ability.

4 Q. Well, I appreciate that. I mentioned --
5 these questionnaire, I thought your answer was
6 very interesting to me because it -- because I
7 -- that's why we have them and why some of them
8 are written in kind of a vague fashion because
9 your response was very astute. You said,
10 'Well, I can't answer that until I know what it
11 is that you're asking me.' That means to me
12 that you are somebody that is somewhat
13 analytical. The reason I ask you that and say
14 that is -- you understand that when we are
15 working together that I don't have anything to
16 do with the facts and you don't have anything
17 to do with the law. Being the type of person
18 you are, would that cause you any problem of
19 allowing the law, taking it as I gave it to
20 you, and applying it fairly and impartially?

21 A. No, I would not have a problem with that
22 -- continue.

23 Q. Is there anything else that you want to add
24 to that?

25 A. No, I would try to act upon the information

1 that was given with the law as the foundation
2 in reference to ---

3 Q. I appreciate the words "I would try" and I
4 think that I understand what that means.

5 A. No one is perfect.

6 Q. That's correct. But you will be making a
7 commitment to the court and to both sides that
8 you would do that. To the best of your ability
9 you would do that.

10 A. (Affirmative nod), to the best of my
11 ability. Yes.

12 Q. That means that you have to consciously set
13 aside anything with which you may differ.

14 A. Correct.

15 Q. You would do that?

16 A. Yes, I would.

17 Q. Thank you. Please answer any questions
18 that Mr. Bloom may have.

19 VOIR DIRE EXAMINATION

20 BY MR. BLOOM:

21 Q. Good morning, Mr. Nicklaus.

22 A. Good morning.

23 Q. My name is Jeff Bloom and with Andrew
24 Carroll we represent William Dickerson, seated
25 on the far left there. How are you doing this

1 morning?

2 A. Okay.

3 Q. We -- is this your first time for this type
4 of jury duty?

5 A. This type, yes.

6 Q. What other kinds of jury duty have you had?

7 A. Many years ago a civil case.

8 Q. Was that in city court, a magistrate's
9 court or was that up here in court?

10 A. It was in the State.

11 Q. State. Okay? You said it was a civil
12 case. Was it like a small claims or was it a
13 fairly big case?

14 A. I would say it was a small claim, yes.

15 Q. And you didn't have any problems then
16 following instructions from the presiding
17 judge?

18 A. No. I was relatively familiar, but it has
19 been many years.

20 Q. Okay. If there is anything that I ask you
21 this morning that you don't understand, please
22 tell me to repeat. Likewise, we are just
23 interested in your honest answers. Okay?

24 A. I will do that, to the best of my ability.

25 Q. Thank you, sir. Let me just kind of start

1 right off. If you could tell me, what is your
2 opinion about the death penalty?

3 A. I think I attempted to answer that in the
4 questionnaire. I am qualified -- I mean, not
5 qualified in terms of knowledge but qualifying
6 that answer according to the situation.

7 Q. Can you explain to me a little bit more
8 what you mean by that?

9 A. It depends on the situation is basically
10 what I am saying.

11 Q. Okay. Let me ask you this. Some folks
12 feel that they are an eye-for-an-eye and a
13 tooth-for-a-tooth juror. Does that describe
14 you, or not?

15 A. From what I just said no, it would not. I
16 would want to hear the whole story.

17 Q. That is what I was understanding but I was
18 just trying to use some common terms, so that
19 we could both ---

20 A. Right.

21 Q. Just to go one more sheet, I think that
22 there is a sheet that describes you as a type
23 the juror. Some folks are going to go for
24 life without parole all the time, just because
25 they are that opposed to the death penalty.

1 That doesn't describe you, I take it?

2 A. No.

3 Q. And it's okay -- and let me tell you also
4 that the law never requires a juror to vote for
5 death. You understand that, from what the
6 judge has told you so far?

7 A. Yes.

8 Q. Okay. The law even says that people can be
9 opposed to or have reservations about the death
10 penalty but if they can kind of set those
11 strong feelings aside can still serve on a
12 jury. Do you understand that?

13 A. Yes.

14 Q. How would you place your -- and let me go
15 one more step. The judge has told you that
16 some jurors can never vote for -- some jurors
17 always vote for the death penalty. Anytime
18 that there is a murder case they just say, 'you
19 know, that's such a bad crime I would always
20 vote for it if I'm a juror.' I take it that
21 doesn't describe you either.

22 A. (No verbal response).

23 Q. Or does it?

24 A. I'll have to go back and refer to the
25 comment about that I would have to hear all the

1 circumstances. Never say 'never.'

2 Q. Okay. Are there particular feelings you
3 have about the death penalty, for or against
4 just in a general sense? Not a particular case
5 and certainly not this case, we can't ask you
6 how you would vote in this case but just
7 generally do you have opinions either for or
8 against it?

9 A. I think I have been trying to answer that.
10 I think that I will go back and say that it
11 depends on the situation's ethics, to coin a
12 phrase. It would depend upon the situation and
13 what ---

14 Q. Okay.

15 A. --- I felt was ethical or moral or just
16 in a case would be the appropriate thing.
17 Unfortunately we have a lot of other
18 individuals who would be making the same
19 decision, so I'm not going to be doing it
20 alone.

21 Q. Absolutely. Let me ask you this to make
22 sure that we are talking about the same terms.
23 When folks hear "murder", a lot of times they
24 have false assumptions about it. Let me first
25 tell you what murder is not, sometimes that

1 helps. Murder is not a case where there was an
2 accident, murder is not a case of self-defense
3 -- that is not murder -- murder is not
4 manslaughter, like where someone catches their
5 loved one in bed with someone else, and murder
6 is not insanity.

7 Murder is where a person did it, meant to
8 do it -- what we call malice -- and the State
9 has proved beyond a reasonable doubt that
10 they've got the right person.

11 With me so far?

12 A. Yeah.

13 Q. So did it, meant to do it, got the right
14 person, beyond a reasonable doubt, malice
15 murder. Some jurors feel in every situation
16 they don't want to hear anything else, that's
17 enough for them, the fact of the crime, that he
18 did it, meant to do it with malice. 'They've
19 got the right person, I don't want to hear
20 anything else. I'm done. I'm always going to
21 vote for the death penalty.' Is that you or
22 not?

23 A. That's not correct.

24 Q. That's what I thought but, again, I didn't
25 want to put words in your mouth. I want to

1 make sure.

2 The next step is if you were a juror on
3 that type of case is what we call the
4 sentencing phase or penalty phase. Again,
5 remember that the jury has already convicted
6 that person of malice murder -- did it, meant
7 to do it, got the right person, beyond a
8 reasonable doubt.

9 Then you hear extra evidence. This is
10 where we kind of use a lot of legal words and I
11 want to make sure that I define those terms so
12 that we are on the same page.

13 A. Okay.

14 Q. The State in those types of cases presents
15 evidence of aggravation. All that is is
16 evidence which makes the situation bad enough
17 to support the death penalty. Do you
18 understand that?

19 A. Yes.

20 Q. You're with me so far?

21 A. (Affirmative nod).

22 Q. That is things like murder and a burglary
23 or murder of a police officer, murder with
24 something else -- other "bad stuff" -- to
25 support the death penalty. With me so far?

1 A. Yes.

2 Q. I take it that you're not a juror that,
3 even though you've convicted someone of that
4 malice murder and you hear that extra, bad
5 stuff, that you're going to stop and say 'Okay,
6 that's enough. I don't need to hear anything
7 more. I am always going to vote for death in
8 that situation.' That does not describe you is
9 what you're telling me?

10 A. I would want to hear the other side of the
11 story.

12 Q. And know that the Judge told you that the
13 defense doesn't have to present anything, the
14 defense could just come and ask for mercy, are
15 you a juror that would require the defense to
16 kind of prove to you that death is not
17 warranted, that you would listen to everything.

18 A. I would consider everything.

19 Q. Okay. I appreciate that. This is the only
20 opportunity that we get to ask you, so I kind
21 of know -- I can tell where you're headed but
22 let me go one step further. If the defendant
23 choose to present anything, as Judge Dennis
24 said, they could present mitigating
25 circumstances. Again, that's just a fancy

1 legal phrase for evidence or things that
2 support a life without parole sentence. That
3 is something that you could give meaningful
4 consideration -- that's what the law requires,
5 that you give meaningful consideration to that.

6 A. Yes.

7 Q. And what that means is 'I am not just going
8 to sit here and listen to it with my arms
9 folded and when we get done vote for death.
10 I'm going to really listen to that evidence and
11 weigh it.' Whatever weight that you decide to
12 give it. You could do that?

13 A. (Affirmative nod), I think that would be
14 the best thing to do.

15 Q. Okay. And if Judge Dennis told you that
16 type of evidence, which we call mitigating
17 evidence are things like a person's background.
18 Is that something that you can give meaningful
19 consideration to?

20 A. Yes.

21 Q. How a person is raised, their upbringing.
22 Is that something that you can give meaningful
23 consideration to?

24 A. Yes.

25 Q. Maybe things like substance abuse, is that

1 something that you can give meaningful
2 consideration to?

3 A. Yes.

4 Q. Maybe mental health issue or a whole host
5 of things, is that something ---

6 A. (Affirmative nod), the list.

7 Q. Like a laundry list?

8 A. The list, yes.

9 Q. Now, I want to go back to something else
10 you started with. You talked about -- when I
11 was asking your opinion about the death penalty
12 -- that for you it's a situational ethical
13 choice; does that kind of fit your words? I am
14 not trying to put words in your mouth, I am not
15 writing down all this -- but is that about
16 right?

17 A. It would depend on the situation.

18 Q. Depend on the situation and your own
19 ethical and moral choice as well as the ethical
20 moral choices of the other eleven jurors?

21 A. If I could define my moral opinion in terms
22 of the situation's ethics.

23 Q. I ask that because -- and Judge Dennis is
24 right. I understand how you have kind of
25 analytical approach and I appreciate that.

1 That is exactly what the law requires in that
2 type of situation where you're deciding death
3 penalty versus life without parole. The law
4 requires each juror to make a moral,
5 individualized choice and I'm just going to ask
6 you -- from your answers, I take it that you
7 can do that?

8 A. Yeah.

9 Q. All right. And if you were in a situation
10 where you were making your moral individualized
11 choice for one particular penalty and the other
12 eleven jurors were making their own choice, you
13 wouldn't just say, 'You know what? I'm going
14 to give up. It's time to go home.' Just go
15 along to get along?

16 A. (No verbal response).

17 Q. I take it that you're not that kind of
18 person?

19 A. I would want to hear their opinions.

20 Q. Absolutely and that's why twelve jurors are
21 in a room by themselves.

22 A. Right.

23 Q. You discuss it and debate it but at the end
24 of the day you say, 'you know, I am making my
25 own moral, individualized choice and I want

1 you'all to respect my vote.' You are not just
2 going to fold to get the case over with?

3 A. Correct.

4 Q. You can stand your ground if you feel
5 that's what the evidence supports, whatever
6 that moral, individualized choice is; correct?

7 A. Correct.

8 Q. And you would want those other eleven to
9 respect your choice?

10 A. As I would theirs, (affirmative nod).

11 Q. That was the next question. If the flip
12 side happened and you are in the eleven and
13 there is one other juror making their moral,
14 individualized choice, you're not going to let
15 everybody -- once everybody has discussed and
16 debated and considered make that juror fold
17 just to go home? You're going to respect that
18 juror's moral, individualized choice?

19 A. Yes.

20 Q. The last thing that I want to ask you, Mr.
21 Nicklaus, is that on your juror questionnaire I
22 noticed that you manage properties that you
23 own. What was your occupation before you were
24 doing that?

25 A. I've been doing that for about thirty

1 years.

2 Q. Oh, okay, so that's been your ---

3 A. (Affirmative nod), along with various other
4 jobs.

5 Q. All right.

6 MR. BLOOM: Thank you very much,
7 sir.

8 THE COURT: Solicitor?

9 SOLICITOR WILSON: I will try not to be
10 redundant.

11 VOIR DIRE EXAMINATION

12 BY SOLICITOR WILSON:

13 Q. I am Scarlet Wilson, I'm the Solicitor
14 here. Good morning.

15 A. Good morning.

16 Q. I appreciate your enduring all of this. I
17 wanted to ask you a little bit more about what
18 you mean by situation ethics. Can you describe
19 what that means?

20 A. It is my way of asking that before I can
21 make a decision on a particular situation that
22 I need to know as many facts as are available
23 for me to consider. Maybe I made up my own
24 interpretation of "situation ethics" but it
25 would have to be that in certain situations one

1 can and sometimes does feel that certain

2 responses would be more appropriate.

3 Q. Would you say that you are generally

4 against the death penalty or generally for it,

5 just generally speaking, in sort of an abstract

6 way?

7 A. Yes, I know that this is a major question.

8 I have to keep going back to that I am not

9 either for or against. It would depend on the

10 situation.

11 Q. I believe that in the judge's questions and

12 maybe even in Mr. Bloom's questioning, too, you

13 said that there are some situations where you

14 think life without parole would be sufficient

15 for someone who committed murder?

16 A. I don't know.

17 Q. But there are situations where ---

18 A. There are ---

19 Q. --- you could imagine that?

20 A. --- additional things to be considered,

21 which I would want to consider.

22 Q. Are there situations that you can imagine

23 where the death penalty would be appropriate?

24 A. Yes, there probably would be but that's a

25 Catch 22 question. I don't think that that is

1 -- well, we don't need to go there. We could
2 say that ---

3 Q. No. Go there.

4 A. (Laughs), ---

5 Q. I know this is hard.

6 A. Yeah, I know. I know. It's not an easy
7 question. I would like to think that I would,
8 to the best of my ability, make a fair and just
9 interpretation of the situation before I made a
10 decision.

11 Q. You said again, and I believe you said it
12 when you talked with the judge, that you would
13 try, to the best of your ability, to act on
14 information presented in court and you said
15 several times the words "to the best of my
16 ability". I feel like -- I mean, is there
17 something that concerns you about making that
18 decision?

19 A. At the moment, not knowing the facts --
20 (affirmative nod).

21 Q. Not knowing the facts, that's what causes
22 you concern?

23 A. (Affirmative nod).

24 Q. And you mentioned that -- as far as the
25 other jurors, you would be interested in what

1 their thoughts were?

2 A. Yes. That would be part of the process, if
3 I understand it correctly.

4 Q. But you also understood that it wouldn't be
5 a situation -- the death or the punishment
6 phase of the trial is not a situation where the
7 Judge would say 'if you find the State has
8 proven three aggravating circumstances, you
9 must give the death penalty.' You wouldn't be
10 ordered under any circumstances to find for
11 death. That would be totally up to you.

12 A. I understand that.

13 Q. Okay. When you were making comments about
14 following the judge's instructions and the law,
15 I just wanted to make sure that you understand
16 that part, that he is never going to interfere
17 with your thoughts or your verdict?

18 A. I understand.

19 Q. And if there were a situation where the
20 State has proven beyond a reasonable doubt
21 aggravating circumstances, and the judge will
22 tell you about aggravating circumstances, you
23 think that there could be situations where you
24 would vote for the death penalty?

25 A. There can always be a situation.

1 Hypotheticals are difficult to deal with. You
2 know, if "A" happens would you do "B" or "C",
3 as opposed to "D" or "E."

4 Q. Right.

5 A. I would be more than happy -- or putting it
6 another way, I would encourage information
7 coming from other jurors. I don't know what to
8 say. It's a little hypothetical, would I do
9 this if that happens. Well, I can only let you
10 know what I would do if that happened.

11 Q. If you were convinced that the death
12 penalty were appropriate, you couldn't have any
13 qualms about signing your name to that verdict
14 or to that death warrant, if you were
15 convinced?

16 A. If I was convinced that was warranted,
17 that's what I would do.

18 Q. But you can't think now of a situation
19 where you would be convinced? It just depends.

20 A. I'm trying to keep an open mind.

21 Q. Okay. When you say that you're "trying",
22 what are you struggling with?

23 A. I am struggling with trying to answer your
24 hypothetical questions.

25 Q. Without any individual facts, (affirmative

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

387

579

1 nod) .

2 A. That is correct.

3 SOLICITOR WILSON: Okay, that's all
4 that I have, Your Honor. Thank you.

5 MR. BLOOM: Nothing further.

6 THE COURT: Thank you very much, Mr.
7 Nicklaus. If you will step out, we'll be with
8 you momentarily, sir.

9 (JUROR NUMBER 228 EXITS COURTROOM)

10 THE COURT: What is the State's
11 position?

12 SOLICITOR WILSON: I think he is
13 qualified.

14 MR. BLOOM: Qualified.

15 THE COURT: He is qualified. Bring
16 him in, please.

17 (JUROR NUMBER 228 ENTERS COURTROOM)

18 THE COURT: Thank you, Mr. Nicklaus.
19 You've been found to be qualified to be a part
20 of the panel from which we will select a jury.
21 We are hoping that process will take place at
22 3:00 o'clock on Wednesday.

23 I am going to ask that you call the
24 number, please, that was given to you after
25 6:00 on Tuesday and follow the instruction that

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

388

1 will be placed on that answering machine
2 pertaining to "the Dickerson panel." That is
3 what you are now a member of, the Dickerson
4 panel. It will say that you need to report --
5 hopefully it will be 3:00 o'clock but if for
6 some reason we haven't completed the process we
7 will give you further instruction. Just follow
8 that instruction.

9 Plaintiff remember that while you are
10 away and until we are together again, you're
11 not at liberty to discuss this case with anyone
12 or permit anyone to talk with you about the
13 case. You're not at liberty to read anything
14 about it or watch any news accounts. In fact,
15 each day throughout the process I'll be
16 administering an oath to the jury where you
17 state every day that you have honored that
18 commitment, so you will need to do that
19 throughout the process. Okay?

20 JUROR NUMBER 228: Okay.

21 THE COURT: Thank you very much.
22 Have a good day.

23 (JUROR NUMBER 228 EXITS COURTROOM)

24 THE COURT: I know that it's already
25 11:30. We will take about five minutes and

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

389

1 then we will come back. Thank you.

2 (BRIEF RECESS)

3 (DEFENDANT PRESENT)

4 THE COURT: Are we ready?

5 SOLICITOR WILSON: Yes, sir.

6 MR. BLOOM: Defense ready?

7 MR. BLOOM: Yes, Your Honor.

8 THE COURT: Please let the record
9 reflect that Mr. Dickerson has returned.

10 Ask Mr. Heyward to join us, Juror Number 133.

11 (JUROR NUMBER 133 ENTERS COURTROOM)

12 THE COURT: Mr. Heyward, if you
13 would, take a seat right there. Sit down, pull
14 that chair close to you so that you can speak
15 into the mic comfortably. If you would, state
16 your full name for the record, please.

17 JUROR NUMBER 133: Denode Heyward.

18 THE COURT: Mr. Heyward, good
19 morning. I appreciate your patience. You've
20 been waiting a little while. We are going to
21 continue that process that we started on Friday
22 where I asked the jury certain questions. Now
23 we are asking you individually. Just as I told
24 you, none of these questions are really
25 designed to invade any privacy or to -- there

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 are no correct answer to any of them. They are
2 really to help you to make a determination
3 whether you can be a fair and impartial juror
4 and for us to make a determination as to
5 whether you could be a fair and impartial juror
6 in this case. Okay? Do you understand that?

7 JUROR NUMBER 133: Yes.

8 THE COURT: You understand that
9 you're still under oath, so all of your
10 responses will be pursuant to that oath and we
11 will -- by that, we are certain that your
12 responses will be truthful and complete. Is
13 that fair?

14 JUROR NUMBER 133: Yes, sir.

15 VOIR DIRE EXAMINATION

16 BY THE COURT:

17 Q. I identified a number of persons on Friday
18 and I failed to mention two names that I need
19 to find out whether you're related by blood or
20 marriage, have any business dealings with,
21 socially or casually are acquainted with Jeff
22 Osborne or Matt Casey? Either of those
23 persons?

24 A. I don't know them.

25 Q. Okay. Now, when you were -- when you came

1 today they gave you a sheet of paper that
2 listed three types of jurors. Have you had a
3 chance to review that sheet?

4 A. Not quite yet.

5 Q. How about take a moment and review it all,
6 please.

7 A. (Upon review), okay.

8 Q. Have you had a chance to review it?

9 A. Yes, sir.

10 Q. Of the three types which type most
11 accurately describes you?

12 A. Number three.

13 Q. Type three?

14 A. (Affirmative nod).

15 Q. That is the type juror that basically says,
16 'if I am sitting in a case and I've been placed
17 on a jury and a person has been convicted of
18 the crime of murder and it is one of those
19 cases where the jury is going to participate in
20 the sentencing, determine the appropriate
21 sentence for that person, there are
22 circumstances where I could vote for the
23 sentence of death and there are circumstances
24 where I could vote for the sentence of life
25 imprisonment without the possibility of parole,

1 but as to which one I would give a certain
2 sentence, I would have to hear all of the facts
3 and circumstances first before I could tell
4 you.' Is that you?

5 A. (No verbal response).

6 Q. You need to answer.

7 A. (Affirmative nod).

8 Q. The reason you need to answer verbally is -
9 - it doesn't bother me, I could see you shake
10 your head but the lady seated to your right is
11 taking down everything that we're saying, so we
12 need for you to make sure that your responses
13 -- that you speak your responses, okay?

14 A. Yeah.

15 Q. And it would help us if you would say "yes"
16 and "no" and not "um-humm" or "uh-huh" because
17 -- I'm prone to do that also. But if you'll do
18 that for the record then we can make sure that
19 your answer is 'yes' or 'no.'

20 A. All right.

21 Q. So basically as you sit here today you
22 don't have a predetermination of what the
23 appropriate sentence would be for the offense
24 of a certain murder where the jury would be
25 participating?

1 A. No.

2 Q. I would tell you that not in every case of
3 murder does the jury make that sentence. There
4 are only certain circumstances in this state
5 where the jury is involved in sentencing. Do
6 you understand that?

7 A. Um-humm, (affirmative nod).

8 Q. Before you even get to that point
9 obviously, as I told you Friday, there are two
10 phases of this proceeding. The first phase
11 deals with the charges that have been made
12 against Mr. Dickerson. Do you understand that?

13 A. Yes, sir.

14 Q. And I want to ask you some questions and
15 you understand that what I am asking you about
16 and the fact that we may talk about the
17 possible sentence, the sentencing process, that
18 is not to suggest how the jury should determine
19 anything concerning that because we haven't
20 heard the evidence in that case. Do you
21 understand that?

22 A. Yes.

23 Q. In the first phase you would hear evidence
24 that dealt solely with the offenses and the
25 jury would have to determine from the evidence

1 whether the State has met its burden of proof.

2 Do you understand that?

3 A. Yes.

4 Q. I would tell you that the State has the
5 obligation to prove the charges. Mr. Dickerson
6 doesn't have to prove anything, do you
7 understand that?

8 A. Yeah.

9 Q. In fact, I told you that one aspect of the
10 law in criminal disputes is that persons who
11 are accused of criminal offenses are never
12 required to prove anything or disprove
13 anything, they're not required to put any
14 evidence -- they're not required to say
15 anything, they're not required to do anything
16 at all because the only party that has to prove
17 anything is the party that makes the claim
18 against that individual, and that's the State
19 of South Carolina; do you understand that?

20 A. Yes.

21 Q. In fact, persons accused are presumed
22 innocent. That means that everyone, including
23 you, would have to presume that Mr. Dickerson
24 is innocent of these charges. Is that the way
25 that you see him today? Is he innocent of

1 these charges, as far as you're concerned?

2 A. I don't know.

3 Q. Well, the law says that you have to
4 actively presume that. That means that as you
5 look at him you have to say that he is
6 innocent. You don't change that position until
7 you've been instructed to make a determination
8 from the evidence and consider whether or not
9 the State has convinced you beyond a reasonable
10 doubt that he did any one or more of these
11 charges; do you understand that?

12 A. Um-humm.

13 Q. And you could follow that instruction?

14 A. Yes.

15 Q. If the jury is considering in the first
16 phase and they determine that the State has not
17 met its burden of proof, that is convinced the
18 twelve jurors beyond a reasonable doubt of each
19 element of the crime of murder, that would end
20 this proceeding. Do you understand that?

21 A. Yes.

22 Q. But if the jury found that the State had
23 met its burden of proof, and that is
24 established the offense of murder, then and
25 only then would we go into the second phase.

1 Do you understand that?

2 A. Um-humm.

3 Q. Now, am I -- if I understood you correctly
4 when you said that you're type three, if you're
5 on the jury you will have obviously at that
6 point have made a determination that the State
7 has met its burden of proof; in other words,
8 convinced you beyond a reasonable doubt that he
9 committed the offense of murder. Do you
10 understand that?

11 A. Yes.

12 Q. At that point you still would not have an
13 idea or an opinion of what the appropriate
14 sentence would be; is that right?

15 A. (No verbal response).

16 Q. Because you would want to hear all the
17 circumstances that you would be asked to
18 consider before making the determination?

19 A. Yes.

20 Q. And you'd have to hear all of it and the
21 law before you made that determination, is that
22 correct?

23 A. That's correct.

24 Q. So you would have an open mind until the
25 court told you to decide the case, is that

1 true?

2 A. True.

3 Q. In the second phase, if there was a second
4 phase, it's then that the State would present
5 evidence of something that they are required to
6 prove beyond a reasonable doubt for the jury to
7 even consider the death penalty. The State has
8 to prove aggravating circumstances. There are
9 a number that are list by law and I would
10 define those for you. The jury makes a
11 determination first as to whether or not the
12 State has met its burden of proof; that is,
13 convinced you of the existence of aggravating
14 circumstances. Do you understand that?

15 A. (Affirmative nod), um-humm.

16 Q. If the jury concludes beyond a reasonable
17 doubt that the State has met its burden of
18 proof and established one or more aggravating
19 circumstances then, and only then, can the jury
20 even consider a death penalty. Do you
21 understand that?

22 A. (Affirmative nod).

23 Q. At that time, then you would consider all
24 of the evidence and you may hear additional
25 evidence in the trial, in the second phase,

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 called mitigating circumstances. I would
2 define that for you. Basically it can deal
3 with the background surrounding the defendant,
4 his mental condition and that sort of thing.

5 Do you understand that?

6 A. (Affirmative nod).

7 COURT REPORTER: Is that a "yes", Mr.
8 Heyward?

9 JUROR NUMBER 133: Yeah

10 EXAMINATION CONTINUED

11 BY THE COURT:

12 Q. The jury would then be instructed to
13 consider all evidence and you would evaluate
14 that evidence as well; is that correct?

15 A. Correct.

16 Q. And then at that time, after considering
17 all the evidence, am I to understand that you
18 as a juror on that case could then consider
19 imposing a death sentence or imposing life
20 imprisonment without the possibility of parole
21 but as to which one you'd have to hear it all
22 before you could make that determination?

23 A. Yes.

24 Q. Is that correct?

25 A. Correct.

1 Q. Now, you understand, as I mentioned to you,
2 that the defendant doesn't have to prove
3 anything or disprove anything and that is --
4 that applies in both phases. In other words,
5 you can never look at him to explain anything
6 or justify anything. Would you do that?

7 A. (No verbal response).

8 Q. Would you honor that, that principle of
9 law?

10 A. Yes, sir.

11 Q. So the only person that has -- the only
12 party that has anything to prove is the State,
13 whether it is the first or second phase; do you
14 understand that?

15 A. Um-humm.

16 Q. But if the defendant chooses to, and he
17 doesn't have to but if he chooses to, he has
18 the right to present evidence for your
19 consideration. You would consider that
20 evidence and weigh all the evidence in making
21 your final determination, in either phase; is
22 that correct?

23 A. Correct.

24 THE COURT: Thank you. Please
25 answer questions the attorneys may have.

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 Solicitor?

2 SOLICITOR WILSON: Thank you, Your
3 Honor.

4 VOIR DIRE EXAMINATION

5 BY SOLICITOR WILSON:

6 Q. Good morning.

7 A. Good morning.

8 Q. I am Scarlet Wilson, I'm the Solicitor here
9 and I am going to be prosecuting this case
10 along with Bruce Durant and Rutledge Durant.

11 I want to just follow up on a few
12 questions. I will try not to repeat the
13 judge's questions. Okay?

14 A. Yes.

15 Q. Can you just tell us in your own words what
16 your thoughts are on the death penalty?

17 A. (No verbal response).

18 Q. There is no right or wrong answer. We are
19 just curious as to what you think about it.

20 A. I mean, uh, -- (pause) -- hummm.

21 THE COURT: I didn't hear your
22 answer. What did you say?

23 JUROR NUMBER 133: (Pause) --

24 I don't know how to answer that.

25 EXAMINATION CONTINUED

1 BY SOLICITOR WILSON:

2 Q. I mean, I just need to know what your
3 opinions are on it. Do you think the death
4 penalty is given too often in this country, not
5 enough?

6 A. (Pause) -- I mean, it's for that person,
7 whatever he did.

8 THE COURT: You need to sit up
9 closer to that mic. I can't hear you, sir.

10 JUROR NUMBER 133: I said it depends on
11 the person that did the charge (sic).

12 EXAMINATION CONTINUED

13 BY SOLICITOR WILSON:

14 Q. Do you think as a nation that we give the
15 death penalty too much or not enough?

16 A. (Pause) -- I do.

17 Q. Do what?

18 A. Give it.

19 Q. Too much?

20 A. Yeah.

21 Q. Okay. What makes you think that?

22 A. (No verbal response).

23 Q. Or why do you feel that way? It's okay
24 that you feel that way, I just wonder why.

25 A. I don't think that they have to get the

1 death penalty every time.

2 Q. You feel like it is given every time?

3 A. (Pause) -- yes.

4 Q. But you understand, as the Judge was

5 telling you, not every murder case is a death

6 penalty case?

7 A. Yeah.

8 Q. You do understand that?

9 A. (Affirmative nod).

10 Q. Okay. And do you think life without parole

11 is a harsh sentence?

12 A. Yeah.

13 Q. Do you think life without parole is a

14 better option than the death sentence?

15 A. Yeah.

16 Q. Do you think life without parole should be

17 given instead of the death penalty in every

18 situation?

19 A. Yeah.

20 Q. And if you were instructed by the Judge to

21 consider what are called aggravating

22 circumstances, things that make a case really

23 bad, would you consider those things?

24 A. Yeah.

25 Q. But you still would give life without

1 parole?

2 A. Yes.

3 Q. So in every situation, if you knew that
4 there were an option of life without parole,
5 that is what you would vote for?

6 A. Yeah.

7 Q. And it wouldn't matter how bad or how
8 aggravated the crime was? If life without
9 parole was available, you would give that?

10 A. Yeah.

11 Q. Now, when the Judge asked you what kind of
12 juror you considered yourself, you said you
13 thought that you'd be type three.

14 A. Yeah.

15 Q. Okay. All right. Type three is the type
16 of juror that it just depends on the situation.
17 What you're telling us is that it doesn't
18 depend on the situation. That if life without
19 parole is available, that's what you would vote
20 for. Is that right?

21 A. That's right.

22 Q. So under no circumstances would you sign
23 your name to a death penalty when life without
24 parole is available?

25 A. No.

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 Q. In no situation?

2 A. No.

3 Q. You would not do that?

4 A. (Negative gesture).

5 THE COURT: Was that -- you would
6 not?

7 JUROR NUMBER 133: No.

8 EXAMINATION CONTINUED

9 BY SOLICITOR WILSON:

10 Q. So you couldn't even consider giving the
11 death penalty if life without parole were an
12 option?

13 A. (Pause) -- yes.

14 Q. You could consider it?

15 A. Say again.

16 Q. You're telling us that if life without
17 parole were an option you could never consider,
18 fairly consider, giving someone the death
19 sentence?

20 A. Yeah, I'm not.

21 Q. You would give life without parole?

22 A. Yeah.

23 SOLICITOR WILSON: That's all that I
24 have.

25 MR. BLOOM: May it please the court?

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

405

1 THE COURT: Yes, sir, Mr. Bloom.

2 VOIR DIRE EXAMINATION

3 BY MR. BLOOM:

4 Q. Mr. Heyward, how are you doing this
5 morning?

6 A. All right.

7 Q. My name is Jeff Bloom. Along with Andrew
8 Carroll, we represent William Dickerson. There
9 are no right or wrong answers here. Let me ask
10 you this, have you ever served as a juror
11 before?

12 A. No, sir.

13 Q. Have you ever found yourself in this kind
14 of situation where you've got to kind of think
15 about this and answer these questions?

16 A. (Negative gesture).

17 Q. So, let me just start. You understand that
18 Judge Dennis told you that the law never
19 requires a jury to vote for death. Do you
20 understand that?

21 A. Yes.

22 Q. It's just that if you serve as a juror the
23 law asks you to consider the death penalty as
24 an option. You gave Judge Dennis one set of
25 answers, said that you could look at all the

1 evidence and you could consider life without
2 parole and death penalty. Remember that?
3 A. (Affirmative nod).
4 Q. I'm sorry, but you have to answer "yes" or
5 "no" because this lady (court reporter) has to
6 take it down.
7 A. Yes.
8 Q. That's all right. You a little nervous
9 this morning?
10 A. Yeah, a little bit.
11 Q. You've never had to come sit in a room like
12 this before a bunch of people?
13 A. (Negative gesture).
14 Q. Never done that. All right. Then the
15 Solicitor asked you some questions and you told
16 her that you'd always vote for life without
17 parole. I just kind of want to follow up and
18 make sure where we're at. Okay? Fair enough?
19 A. Yes, sir.
20 Q. You understand that we're not asking you
21 how you would vote in this case. We can't do
22 that. Okay?
23 A. (Affirmative nod).
24 Q. All Judge Dennis wants to be able to know
25 is, first, if you were a juror in a case you

1 could consider life without parole. Right?

2 A. Right.

3 Q. Initially you told him that you could also
4 consider, if the facts depended on it, you
5 could consider the possibility of the death
6 penalty; is that right?

7 A. Right.

8 Q. Now, do you still feel that way?

9 A. Yes, sir.

10 Q. So were -- are you a little confused by
11 some of the questions and terms that we are
12 using this morning?

13 A. (No verbal response).

14 Q. Is that fair to say, that you're not real
15 familiar with legal terms?

16 A. (No verbal response).

17 Q. Is that fair to say?

18 A. Yeah.

19 Q. I am not trying to embarrass you, but is
20 that fair to say?

21 A. (Affirmative nod).

22 Q. That's a "yes"?

23 A. Yes.

24 Q. All right. Now, knowing that the law never
25 orders you or requires you to vote for death,

1 just to consider it, is that something that you
2 could do once you've heard all the evidence in
3 this case?

4 A. Yeah.

5 Q. And you can think of some situations -- and
6 we are not asking you what those are today, but
7 you can think of some situations where you
8 would say, 'Oh, my goodness, my case is bad
9 enough. I could vote for the death penalty in
10 that case.' Is that fair to say about you?

11 A. Yes.

12 Q. All right. And you may not like the death
13 penalty -- is that also fair to say?

14 A. Yes.

15 Q. And that's okay. Under the law, Judge
16 Dennis will even tell you that it is okay to
17 have strong opinions about the death penalty,
18 either for it or against it, as long as you can
19 consider both sentences. Is that describing
20 you, that you could consider both sentences?

21 A. Yeah.

22 Q. And all Judge Dennis want to know is that
23 you're not going to automatically vote one way
24 or the other on a sentence, is that fair to
25 say?

1 A. Yes.

2 Q. So once you heard all the evidence, you're
3 not always going to vote for life; is that fair
4 to say?

5 A. Yeah.

6 Q. You are going to want to hear evidence
7 about a person's background, is that fair to
8 say?

9 A. Yes.

10 Q. You are going to want to hear maybe
11 evidence about substance abuse, is that fair to
12 say?

13 A. Yes.

14 Q. You're going to want to hear evidence about
15 mental health issues, is that fair to say?

16 A. Yes.

17 Q. But you are also going to listen to and
18 hear the State's evidence that we call
19 aggravations? All that means is "bad stuff"
20 that supports their argument for a death
21 penalty in the case. You can listen to all
22 that evidence, too; right?

23 A. Right.

24 Q. And you can consider a situation that is
25 bad enough to where you might say, 'Okay, you

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 know what? At the end of the day, after I've
2 heard everything, I've talked to my fellow
3 jurors and, you know what, I've listened to
4 everything from the prosecutor's case, the
5 district attorney's case, and I agree with them
6 that the death penalty is the sentence that I
7 am going to vote for in that case.' You could
8 do that in that -- if it came up and you felt
9 that way, is that fair to say?

10 A. Yeah.

11 Q. On the other hand, if the defense brought
12 other information to you, you could look at it
13 and say, 'You know, that's a bad case but
14 because of this other evidence about the
15 person's background, in this case I am going to
16 vote for life without parole.' Could you do
17 that?

18 A. Yes.

19 Q. And, again, we're not talking about William
20 Dickerson's case. No one is trying to ask you
21 how you'd vote in this case. Do you understand
22 that?

23 A. (Affirmative nod).

24 Q. Now, I take it from all your answers that
25 you have some concerns or problems with the

1 death penalty; is that right?

2 A. Yes.

3 Q. Okay. You have some issues with it, is
4 that fair to say?

5 A. Yes.

6 Q. But you can consider life without parole in
7 some case -- is that right?

8 A. Yes.

9 Q. And you consider in some situations -- and,
10 again, I don't want to ask you what those are
11 in your head -- but you can think of some cases
12 in your head where you say 'Golly, I can vote
13 for the death penalty in that case.' That's
14 fair to say, isn't it?

15 A. Yes.

16 Q. You wouldn't like it but -- I don't want to
17 put words in your mouth but that's kind of what
18 you're telling us? You wouldn't like it, you
19 may not like having to vote for the death
20 penalty, right.

21 A. (Affirmative nod).

22 Q. But you could consider it and give it the
23 weight that it is due and, if necessary, vote
24 for it?

25 A. Yeah.

1 Q. Likewise, you could vote for life; right?

2 A. Yes.

3 Q. And I'm not trying to talk you into one
4 side or the other because obviously at the end
5 of the case the prosecutor is going to come to
6 you and say 'here's our evidence, we want you
7 to vote for death'; you understand that, right?

8 A. Yes.

9 Q. You could listen to that evidence, right?

10 A. Yes.

11 Q. And weigh it, right?

12 A. Yes.

13 Q. Talk to your fellow jurors about it?

14 A. Yes.

15 Q. And if you thought that case was warranted,
16 you could say, 'You know what, I am going to
17 vote for death.' You could do that if a proper
18 case was brought to you and you thought that
19 was warranted; right.

20 Q. And if that were your verdict, it requires
21 one more thing. The jurors who do vote for
22 death, they have to sign their name to a
23 verdict form saying 'this is my verdict, I vote
24 for death.' You could do that, is that fair to
25 say?

1 A. Yes.

2 Q. On the other hand you could also listen to
3 the defense attorneys in a case who bring you
4 other evidence and say, 'You know what? This
5 may be a bad case, it may be a murder case but
6 here is some other information about a person's
7 background, upbringing and I want to vote for
8 life without parole.' You could consider the
9 evidence, right?

10 A. Yes.

11 Q. You could give it meaningful consideration;
12 right?

13 A. Yes.

14 Q. And if you thought that was the right
15 verdict, you could vote for life without
16 parole; right?

17 A. Yes.

18 Q. But you're not going to always vote for
19 life without parole, in a hundred out of a
20 hundred cases, if you were a juror in that
21 situation; is that fair to say?

22 A. Right.

23 Q. And, again, this isn't something that --
24 what kind of work did you do before your
25 current unemployed status?

1 A. Welder.

2 Q. You welded?

3 A. (Affirmative nod).

4 Q. Okay. I take it that this isn't the kind
5 of topic that came up around the shop when you
6 were doing your ordinary job. Everybody didn't
7 stand around and someone would say, 'let's talk
8 about the death penalty.' Is that fair to say?

9 A. Right.

10 Q. So when you came in here today, it wasn't
11 something that you had really thought a lot
12 about and you're not familiar with some of the
13 legal terms.

14 A. Right.

15 Q. But at the end of the day you could vote
16 for either penalty depending on all the
17 evidence; correct?

18 A. Correct.

19 Q. Even though you have strong feelings
20 perhaps against the death penalty, that it
21 might be used too much, you could set those
22 feelings aside and follow the instructions
23 Judge Dennis gives you in the case; right?

24 A. Yes.

25 Q. And essentially -- I don't want to speak

- 1 for the Judge, he will give you those
2 instructions. But essentially the court tells
3 you that you have to consider all the evidence,
4 weigh both sides, the State has the burden of
5 proof and you have to make a moral choice, a
6 moral, individualized choice for you as to
7 which penalty is appropriate after -- following
8 the burden of proof and all those other things.
9 You could do that, right?
- 10 A. Yes.
- 11 Q. You could make a moral choice for one
12 penalty or the other?
- 13 A. Yes.
- 14 Q. And if you were in the jury room and eleven
15 jurors are voting one way and you're making
16 your moral choice for a different way, you're
17 not just going to say, 'You know what? I've
18 got to get back to the welding shop. I am just
19 going to vote...' -- you're not just going to
20 fold to go home. You can stand by your
21 individual moral choice?
- 22 A. Yes.
- 23 Q. And you would want those other jurors to
24 respect your choice?
- 25 A. (Affirmative nod).

1 Q. Likewise, if you're with the eleven and one
2 juror has voted another way you're not going to
3 make that juror give up his or her vote just to
4 get home, get done. You're going to respect
5 that juror's vote?

6 A. Yeah.

7 Q. All right. Has this process been a little
8 confusing to you, a little intimidating?

9 A. No, it's not.

10 Q. Oh, okay. Have some of the terms been a
11 little confusing; is that fair to say?

12 A. (Affirmative nod).

13 Q. And there is no doubt, again -- even though
14 you have feelings against the death penalty,
15 you can set those aside and follow Judge
16 Dennis' instructions. Right?

17 A. (Affirmative nod).

18 Q. Knowing that the law never requires the
19 death penalty, you can consider all of the
20 evidence; right?

21 A. (Affirmative nod).

22 Q. And you can make your own moral choice for
23 whichever penalty you think fits that
24 particular case; right?

25 A. Yes.

1 Q. And you know that we are not asking you
2 about Mr. Dickerson's case because it's
3 improper for us to kind of ask you ahead of
4 time how you vote in this case; you understood
5 that?

6 A. Yes, I do.

7 MR. BLOOM: Thank you very much,
8 sir.

9 JUROR NUMBER 133: You're welcome

10 THE COURT: Solicitor?

11 VOIR DIRE EXAMINATION

12 BY SOLICITOR WILSON:

13 Q. Mr. Heyward, now I'm confused. Do you
14 understand that in any death penalty case
15 there's always going to be the option of life
16 without parole?

17 A. (No verbal response).

18 Q. Do you understand that?

19 A. Yes, ma'am.

20 Q. So life without parole is always on the
21 table. Okay?

22 A. Yeah.

23 Q. And I believe that you've told us that you
24 don't like the death penalty.

25 A. (No verbal response).

1 Q. Right?

2 A. Right.

3 Q. You think that it is applied too often in
4 this country, right?

5 A. Yeah.

6 Q. And you told me when I was asking you
7 questions before that if life without parole
8 were an option that you would always choose
9 life without parole; is that correct?

10 A. Well, I mean, I made a mistake and gave the
11 wrong answer.

12 Q. You made a mistake and gave me the wrong
13 answer?

14 A. (Affirmative nod).

15 Q. Well, tell me how you feel about it.

16 A. What?

17 Q. How you feel about the death penalty.

18 A. (No verbal response).

19 Q. In your words.

20 A. No, I'm not talking about that. I'm
21 talking about when you said -- about taking the
22 death penalty over a life sentence.

23 Q. What did you make a mistake in?

24 A. That I would always go with life
25 imprisonment.

1 Q. So you wouldn't always go with life?

2 A. As far as the verdict?

3 Q. No, I am talking about after the verdict.

4 After the person has been found guilty and the

5 State has presented aggravating circumstances,

6 bad things about the crime, ---

7 A. Yeah, I am not saying that I would always

8 go with the life imprisonment.

9 Q. So you could think of situations where

10 death would be appropriate?

11 A. Yes.

12 Q. And if the State had proved aggravating

13 circumstances, do you think the death penalty

14 would always be appropriate if we had proven

15 those aggravating circumstances?

16 A. (Pause) -- yeah.

17 Q. So if we had proven beyond a reasonable

18 doubt one or more aggravating circumstances,

19 you don't think death would be appropriate

20 every time?

21 THE COURT: Solicitor, I am not

22 going to allow -- I am not going to permit that

23 question. He's answered your question.

24 EXAMINATION CONTINUED

25 BY SOLICITOR WILSON:

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 Q. Can you tell me what your thoughts on the
2 death penalty are based on?

3 A. (No verbal response).

4 Q. Is it religion or family or ---

5 A. Yes, it's religious.

6 Q. What type of church do you go to?

7 A. Baptist.

8 Q. Do you go there regularly?

9 A. Yes.

10 Q. Do you know if the death penalty is ever
11 discussed in church, in Sunday School or by the
12 preacher?

13 A. Yeah.

14 Q. Do you know what the church's views are on
15 the death penalty?

16 A. It depends on the verdict.

17 Q. So the church doesn't have an opinion as to
18 whether or not the death penalty is a good
19 thing or a bad thing?

20 A. Yes.

21 Q. They do?

22 A. It would just depend.

23 Q. I couldn't understand you.

24 THE COURT: I need for you to speak
25 into the mic, please.

1 JUROR NUMBER 133: That would depend
2 on the verdict, to, but most likely just, you
3 know, not often it is not too much and often to
4 give.

5 SOLICITOR WILSON: I'm sorry, I can't
6 hear you.

7 JUROR NUMBER 133: It's not too often
8 you give it.

9 EXAMINATION CONTINUED

10 BY SOLICITOR WILSON:

11 Q. The church is against the death penalty?

12 A. You could say that.

13 Q. Is that something that is important to you,
14 how your church feels about it?

15 A. Yeah.

16 Q. Would you be able to act against what your
17 church believes?

18 MR. BLOOM: Judge, I object to the
19 form of the question.

20 THE COURT: Sustained. Solicitor,
21 you've gone too far.

22 EXAMINATION CONTINUED

23 BY SOLICITOR WILSON:

24 Q. How often do you go to your church?

25 THE COURT: Solicitor, you're

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 invading his privacy now.

2 MR. BLOOM: I -- (affirmative nod).

3 THE COURT: He's answered your
4 questions.

5 SOLICITOR WILSON: Beg the court's
6 indulgence.

7 THE COURT: Certainly.

8 SOLICITOR WILSON: (Sidebar with Mr.
9 Bruce Durant), that's all that I have, Your
10 Honor.

11 THE COURT: Very well, anything
12 else?

13 MR. BLOOM: Nothing further, Your
14 Honor.

15 THE COURT: Thank you very much, Mr.
16 Heyward. If you would step out, we'll be with
17 you momentarily.

18 (JUROR NUMBER 133 EXITS COURTROOM)

19 THE COURT: Solicitor?

20 SOLICITOR WILSON: Your Honor, I would
21 argue that under *State v. Wood* that the juror
22 is not qualified. He gave inconsistent answers
23 throughout. I would also note despite our
24 starting forty-five minutes late he had not
25 read the types of jurors. He seemed to be

1 extremely easily confused and I don't know that
2 anyone can be sure as to where he stands.

3 THE COURT: Okay.

4 MR. BLOOM: Your Honor, we submit
5 that he is qualified. I acknowledge that he
6 answered the Solicitor, as she's indicated,
7 several times that he would vote for life but
8 he clearly told you that he's in category three
9 and he answered both times that I questioned
10 him that it would depend on the circumstances.

11 Obviously he is not a juror who is not
12 a strong proponent of the death penalty but
13 that's not what the law requires. If a juror
14 has a conscientious or religious belief against
15 it, as long as they can set those aside and
16 consider both penalties, which during your
17 instruction he clearly told you that he could
18 do that, he told me that he could do that.

19 The juror when I first started
20 questioning him, it was obvious from his facial
21 expressions that he was nervous. He answered
22 that he was a little nervous, that he's never
23 been through this process before.

24 It's obvious from his responses that
25 he has not given a lot of consideration to this

1 topic and has preconditioned answers. He
2 finally, in the final analysis, said that he
3 could listen to evidence from both sides,
4 evidence of mitigation, evidence of
5 aggravation, that he could listen to the
6 prosecutor's case and the defense's case and in
7 his mind if he felt the appropriate verdict was
8 for death that he could vote for it. He even
9 said that he could sign the verdict form if
10 that was he decision.

11 We submit that he is qualified. He
12 obviously has opinions against it, but he's
13 qualified.

14 THE COURT: Thank you. Well, he's
15 not the first one today to equivocate and give
16 differing answers. Clearly after listening to
17 him -- and he stated categorically that he made
18 a mistake. The juror has indicated to me that
19 he is a type three, he clearly responded, he
20 clearly responded on further examination. He
21 may have a preference but he clearly, just as
22 other jurors in other cases have said, --
23 preference is the controller. He said that he
24 could give meaningful consideration to all the
25 evidence and, therefore, I find him to be

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

425

617

1 qualified. All right, let's bring him in.

2 (JUROR NUMBER 133 ENTERS COURTROOM)

3 THE COURT: Thank you, Mr. Heyward.

4 You've been qualified to be a part of the panel

5 from which we will select our jury. That will

6 take place, we hope, on Wednesday afternoon.

7 You will need to call the number that you were

8 given on Friday for the Clerk's office and

9 follow the instruction that will appear for

10 "the Dickerson panel need to report" at such-

11 and-such time. It is probably going to say

12 3:00 o'clock but just follow that instruction.

13 Please, until we are together again,

14 do not discuss this case with anyone, do not

15 permit anyone to talk about this case in your

16 presence or talk to you about serving on this

17 jury. Don't read anything about it, don't

18 watch any News programs about it. Okay?

19 JUROR NUMBER 133: All right.

20 THE COURT: Thank you, sir. You're

21 excused and we will see you, hopefully,

22 Wednesday. Call after 6:00 on Wednesday.

23 Okay?

24 JUROR NUMBER 133: Okay.

25 CLERK, MIKE CALLAHAN: Do you mean

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

426

1 Tuesday?

2 THE COURT: Wait a minute. I said
3 Wednesday -- thank you, Mike. I'm getting
4 ahead of myself. Call after 6:00 on Tuesday
5 and we'll give you instructions about what time
6 to report on Wednesday. Tomorrow night at 6:00
7 o'clock.

8 JUROR NUMBER 133: Thank you, sir.

9 (JUROR NUMBER 133 EXITS COURTROOM)

10 THE COURT: All right, let's have
11 227.

12 (JUROR NUMBER 227 ENTERS COURTROOM)

13 THE COURT: Good afternoon, -- you
14 pronounce your name Newkirkpaggi?

15 JUROR NUMBER 227: Yes, sir.

16 THE COURT: Good afternoon, Ms.
17 Newkirkpaggi. Thank you very much for your
18 patience. We are going to continue the process
19 that we started on Friday. I told you that we
20 would be asking you some questions and now I'll
21 be asking you some questions and the attorneys
22 may be asking you question, as well.

23 As noted on Friday, none of these
24 questions have any correct answers. They are
25 really designed to help you make a

1 determination as to whether or not you can be
2 a fair and impartial judge in this case and for
3 us to make a determination as to whether you
4 can be a fair and impartial judge. All that we
5 ask is that your responses be truthful and
6 complete. I remind you in that regard that you
7 are still under oath in this matter. Okay?

8 JUROR NUMBER 227: Okay.

9 VOIR DIRE EXAMINATION

10 BY THE COURT:

11 Q. I mentioned the names of a number of
12 persons but I failed to mention two names. Are
13 you related by blood or marriage, have any
14 business dealings with, socially or casually
15 acquainted with do you know or have any
16 dealings with Jeff Osborne or Matt Casey?

17 A. No, sir.

18 Q. You were given a sheet when you came.

19 A. (Affirmative nod).

20 Q. That sheet contains three types of jurors.
21 Have you had an opportunity to review the
22 sheet?

23 A. Yes, sir.

24 Q. Which type of juror most accurately
25 describes you?

1 A. The third one.

2 Q. That is a juror that basically says 'I
3 could in certain situations impose a death
4 sentence. I could in certain situations impose
5 life imprisonment without the possibility of
6 parole. As to which one would apply in a given
7 situation, I need to hear all the facts and
8 circumstances and the law. Is that correct?

9 A. That's correct.

10 Q. And you don't have any predetermination
11 based on the fact that someone had been
12 convicted beyond a reasonable doubt of the
13 crime of murder as to which sentence would be
14 appropriate in that setting?

15 A. (Negative gesture).

16 Q. Is that correct?

17 A. Yes, sir.

18 Q. Now, you understand -- and I want to ask
19 you, basically what your answer on the form
20 that you completed, uh, -- I want to ask you
21 something. There was a statement that followed
22 that situation where you stated "In general, I
23 am concerned about the populations in prisons."
24 That -- I am not asking you to justify or
25 explain that concern. I am asking, would that

1 influence in any way your decision as to
2 whether or not the sentence, the appropriate
3 sentence was a death sentence or life
4 imprisonment without the possibility of parole?

5 A. No, sir.

6 Q. The first phase of this proceeding would be
7 a phase where the State would have the
8 obligation or burden of proof to prove the
9 elements of each these crimes beyond a
10 reasonable doubt, as I mentioned to you on
11 Friday; you understand that?

12 A. Yes, sir.

13 Q. And as I stated to you, it is the law of
14 this state and this country that persons who
15 are accused of criminal offenses are presumed
16 innocent. I believe that you did not stand or
17 indicate that you had any problem with that
18 principle of law; is that correct?

19 A. Correct.

20 Q. So as Mr. Dickerson sits here today you
21 understand that he is presumed innocent and you
22 see him as being innocent at this point; is
23 that correct?

24 A. Yes, sir.

25 Q. Do you understand that is an active

1 presumption that has to be maintained
2 throughout that first phase and cannot -- can
3 only be removed when and if the State were to
4 present evidence that would persuade you beyond
5 a reasonable doubt that he committed one or
6 more of these offenses. Do you understand
7 that?

8 A. Yes, sir.

9 Q. And you would, of course, be instructed as
10 to the offenses as to the various elements and
11 you would -- you would then be instructed to
12 analyze the evidence and decide what you find
13 to be the truth and decide whether you were
14 convinced. If you found that the State had met
15 its burden of proof as to the offense of
16 murder, then and only then would we move into
17 the second phase. Do you understand that?

18 A. (Affirmative nod).

19 Q. Is that a "yes"?

20 A. Yes, sir.

21 Q. I understand that but this lady seated to
22 your right is taking down what we're saying and
23 it helps her. Thank you.

24 Now, understanding that these questions
25 that I am asking you, and I reiterate something

1 that I said on Friday, I am not suggesting by
2 these questions that the jury has to conclude
3 anything at all. Do you understand that?

4 A. Yes, sir.

5 Q. So you're not to imply (sic) anything from
6 this but if we were to get into the second
7 phase it is then that the jury would hear
8 additional information concerning the
9 appropriate sentence. You understand that?

10 A. Yes, sir.

11 Q. Because in this state every time a person
12 is convicted of murder, it does not necessarily
13 warrant the imposition of a death sentence or
14 life imprisonment without the possibility of
15 parole. Do you understand that?

16 A. Yes, sir.

17 Q. In fact, I would instruct you that the jury
18 may not even consider a death sentence in this
19 situation until and unless they are convinced
20 beyond a reasonable doubt that the State has
21 established, by evidence, one or more
22 aggravating circumstances. The law says that
23 they have to prove that before the jury can
24 even consider a death sentence, do you
25 understand that?

1 A. Yes, sir.

2 Q. And I would further instruct you that if we
3 got to that point that even if the jury -- even
4 if the jury is convinced that the State has
5 established one or more aggravating
6 circumstance, then the jury may consider a
7 death sentence but they're not required to
8 impose a death sentence. In other words, they
9 would then make a determination which of the
10 two is most appropriate, whether it be a death
11 sentence or life imprisonment without the
12 possibility of parole. Do you understand that?

13 A. Yes, sir.

14 Q. It is my understanding that when we started
15 that phase, if we did, that you -- being a type
16 three juror -- since you hadn't heard any
17 evidence about the appropriate sentence would
18 have an open mind as to which sentence was
19 appropriate?

20 A. Yes, sir.

21 Q. You would not have predetermined anything?

22 A. (Negative gesture).

23 Q. Is that correct?

24 A. Correct.

25 Q. And then after completing that trial you

1 still would not have determined it until I'd
2 given you the law and then the jury had retired
3 and considered the evidence, evaluation that
4 evidence and decided what they find to be
5 credible and believable. Then you would take
6 the law, apply it to those facts and make that
7 determination at that time. Is that correct?

8 A. Yes, sir.

9 Q. And you would not make it before then?

10 A. No, sir.

11 Q. Now, you understand that in addition to the
12 consideration of aggravating circumstances
13 there may be evidence of mitigating
14 circumstances that you may hear. I would
15 define both of those for you, but mitigating
16 circumstances could be something concerning the
17 background of the defendant, could be his --
18 any possible addictions that may have been
19 involved in his life, those types of things.
20 Do you understand that?

21 A. Yes, sir.

22 Q. And you would be instructed to consider
23 that, as well. Would you give due
24 consideration to any evidence concerning
25 mitigating circumstances?

1 A. Yes, sir.

2 Q. And you would evaluate all the evidence
3 before making the determination?

4 A. That's right.

5 Q. You also understand that in addition to
6 being presumed innocent that persons who are
7 accused of criminal offenses, I would instruct
8 you, and this applies to the first and, if
9 necessary, the second phase. Those persons
10 don't have any obligation to prove or disprove
11 or explain anything. Do you understand that?

12 A. Yes, sir.

13 Q. In fact, they don't have to say anything,
14 they don't have to present any evidence, they
15 have no obligation because the only party that
16 has anything to prove is the State; do you
17 understand that?

18 A. Yes, sir.

19 Q. And you could never hold that against the
20 defendant if he chooses not to say anything or
21 not to present any evidence. Do you understand
22 that?

23 A. Yes, sir.

24 Q. Would that cause you any problem, following
25 that principle of law?

1 A. No, sir.

2 Q. Now, of course if the defendant chooses to,
3 but he doesn't have to, he has the right to
4 present evidence for your consideration. And,
5 as I understand, if he does then you would
6 certainly consider that evidence the same as
7 you considered the State's evidence in deciding
8 what you find to be credible and believable?

9 A. Yes, sir.

10 Q. As I understand, after deciding then you
11 believe you could fulfill your responsibility;
12 that is, to fairly and impartially decide what
13 you believe to be the most appropriate sentence
14 consistent with the evidence, circumstances and
15 all evidence that is submitted in this case?

16 A. Yes, sir.

17 THE COURT: Thank you. Please
18 answer any questions that either party may
19 have. Mr. Bloom.

20 VOIR DIRE EXAMINATION

21 BY MR. BLOOM:

22 Q. Good morning, ma'am. Can you pronounce
23 your last name for me?

24 A. Newkirkpaggi.

25 Q. Newkirkpaggi. I just want to make sure

1 that I get it accurate. My name is Jeff Bloom
2 and together with Andrew Carroll, we represent
3 William Dickerson. I just want to ask you a
4 few questions this morning. Okay?

5 A. (Affirmative nod).

6 Q. You understand that we're getting the cart
7 a little bit before the horse because as
8 William Dickerson sits here he has entered a
9 not guilty plea and he is presumed innocent.
10 You understand that, as Judge Dennis told you?

11 A. Right..

12 Q. But have to ask you these questions
13 beforehand. Okay?

14 A. Okay.

15 Q. I just kind of want to start out asking if
16 we're sitting at your kitchen table, having a
17 cup of coffee and we're just talking about the
18 death penalty, having seen something on the
19 news or in the newspaper, what would your
20 opinion about the death penalty be? And there
21 are no right or wrong answers, we just need to
22 know.

23 A. As I mentioned before, I'd need to know
24 more of the facts of the case.

25 Q. And you understand that we're not asking

1 you about this gentleman?

2 A. Right.

3 Q. And it is unfair -- in fact, we can't ask
4 you what you would do in this case; do you
5 understand that?

6 A. Right.

7 Q. So I am just wondering what your general
8 feelings are about the death penalty?

9 A. I've been thinking about it a lot this
10 weekend and I think it's an interesting
11 question, and I think it would just depend on
12 all the facts and basically -- the crime.

13 Q. Some people kind of feel that they are an
14 eye-for-an-eye juror. Do you know what I mean
15 when I ask you about that expression?

16 A. (Affirmative nod).

17 Q. Would you place yourself in that kind of
18 group?

19 A. No, sir.

20 Q. Okay. How would you place yourself so far
21 as the death penalty?

22 A. I don't know how to answer what you're -- I
23 don't understand what you're asking.

24 Q. Well, let me ask it this way, do you think
25 that it is used too much, not enough or about

1 -- just sort of your general view?

2 A. I really don't know. I don't know if there
3 are a lot of death penalty cases or -- (pause).

4 Q. Okay, then let me ask you now -- let's make
5 sure that we are talking about the same terms.

6 Okay?

7 A. (Affirmative nod).

8 Q. One of the terms is "murder". Some people
9 have false assumptions about that. So let me
10 define murder so that we both know what we're
11 talking about. Okay?

12 A. Okay.

13 Q. First thing, let me tell you what murder is
14 not. Murder is not accident, it is not self-
15 defense, it is not manslaughter where someone
16 catches someone in bed with someone else, and
17 it is not insanity. Those aren't murder.

18 Murder is where a person did it, they
19 intended to do, with malice, what we call
20 malice murder, they got the right person, the
21 State has proved all that beyond a reasonable
22 doubt.

23 So if you were a juror and found someone
24 guilty of murder, who did it, meant to do it,
25 they got the right person, it was not an

1 accident, self-defense, manslaughter, insanity.

2 Is that going to be enough for you, for you --
3 to cause you to go for death?

4 A. No, sir. No, sir, I think that is an easy
5 way out for someone who is guilty.

6 Q. Can you explain to me what you mean by
7 that?

8 A. I just think it might -- if you were to
9 kill a bunch of people, like at Columbine, for
10 some reason and then you kill yourself it's the
11 easy way out.

12 Q. All right. Is that something you've given
13 some thought to, or can you explain that a
14 little further for me to make sure that I
15 understand what you're talking about?

16 A. Well, as I said, I have been thinking about
17 this a lot. I just think that's -- that having
18 to spend the rest of your life in what I'd
19 consider hell is probably better than -- I
20 mean, (pause).

21 Q. Well, let me ask you this next, on your
22 questionnaire, and Judge Dennis asked you a
23 little bit about it, you wrote something about
24 prison populations, in prisons.

25 A. (Affirmative nod).

1 Q. Can you explain to me what you meant by
2 that?

3 A. Well, I just worry about it as a taxpayer
4 that that costs a lot of money to house
5 somebody for the rest of their life, take care
6 of them and -- their medical needs.

7 Q. How do you -- if you can, explain to me
8 your feeling about that and your last comment
9 that life without parole might be living in
10 hell or words to that effect. There's no right
11 or wrong answer, I am just trying to ---

12 A. Right, I know it sounds a little
13 contradictory. It's just something that I
14 worry about. I don't know what the answer is.
15 Probably after this experience, I will be a lot
16 more educated and a lot more interested, know
17 more of the facts.

18 Q. Okay. If we can go back to the murder
19 definition for a minute and let me add one
20 more, kind of back step. If you were a juror
21 and you found someone guilty of that murder --
22 did it, meant to do, got the right person, not
23 accident of self-defense, not manslaughter or
24 insanity -- the jury would then hear what the
25 Judge called aggravations. To define that,

1 that means that the State would then have to
2 show why the evidence would support a death
3 penalty. That type of situation, once you hear
4 that, you've found him guilty of malice and
5 then when you hear this other bad stuff --
6 which could be, for example, murder and a
7 robbery, murder and a burglary, murder and
8 something else -- you hear this other bad
9 stuff, is that what -- is that going to cause
10 you to then say, 'Okay, in this case I am going
11 to vote for death.'

12 A. It could.

13 Q. Can you explain that for me?

14 A. Meaning the viciousness of the horrific-
15 ness of the event, it could.

16 Q. Okay. And if the State prove that malice
17 murder -- did it, meant to do it, intended to
18 do it -- and proved that other bad stuff, are
19 you going to automatically vote for the death
20 penalty?

21 A. No.

22 Q. All right, can you explain that for me?

23 A. You know, that's hard to know without
24 knowing the facts. I think you can tell that
25 I am not leaning one way or another, I just

1 really would have to hear all the facts.

2 Q. Okay. When you say that you're not leaning
3 one way or another strongly, if -- where would
4 you place yourself in the spectrum of death
5 penalty to -- you know, some people are against
6 it in every situation and some people are for
7 the death penalty in every murder. Where are
8 you in kind of ---

9 A. I would probably, if I had to say, it would
10 be that life is more -- (pause).

11 Q. So you kind of lean that way but ---

12 A. Right.

13 Q. --- you would want to hear all the
14 evidence?

15 A. (Affirmative nod).

16 Q. I can't ask you about particular facts and
17 you've been very gracious in saying that's why
18 you would want to hear, that it would depend on
19 the facts. Obviously we can't talk about this
20 case but in a case, if a prosecutor came to you
21 with that malice murder -- they meant to do,
22 got the right person -- and presented all that
23 bad evidence, you're telling me that you're not
24 going to automatically vote for death at that
25 point?

1 A. That's correct.

2 Q. You've still got an open mind and you'd
3 want to hear everything else. The next step is
4 that some jurors think, 'Okay, I found him
5 guilty of malice murder, I've heard all this
6 other horrific stuff...' -- I'm going to use
7 one of your words -- '...I need the defense
8 attorneys to come in and prove to me that life
9 would be the right sentence.' Does that
10 describe you?

11 A. Yes.

12 Q. So you would want the defense to bring to
13 you -- you'd expect the defense to bring to you
14 and convince you that death is not the right
15 verdict?

16 A. I would expect that. Yes, sir.

17 Q. Okay. And I don't want to put words in
18 your mouth, I'm trying to make sure that I
19 understand. Judge Dennis explained that the
20 State has the burden of proof.

21 A. Right.

22 Q. That's true in the murder phase, as well as
23 death or life without parole. He also
24 explained that the defendant never has a burden
25 of proof.

1 A. (Affirmative nod).

2 Q. If the defense brought nothing to you -- if
3 they just asked you to consider mercy, is that
4 you can do?

5 A. (Affirmative nod).

6 Q. Okay. Earlier I used the word that you
7 would "expect" the defense counsel would come
8 forward -- of course, you've seen TV shows and
9 watched lawyer and we explain them to present
10 something. Would you require the defense to
11 prove something to you?

12 A. No. I guess what I meant to say was that
13 the State would have to give me those facts...

14 Q. That's why -- I wasn't trying to put words
15 in your mouth.

16 A. Right.

17 Q. I really -- I am trying to be fair.

18 A. This is a grueling process.

19 Q. Absolutely. You've never been here before?

20 A. Right.

21 Q. Have you ever sat in the jury booth before?

22 A. No, sir, I don't even watch those TV shows.

23 Q. Fair enough. I don't either. If the
24 defense brought information to you, and I -- I
25 can't recall if Judge Dennis used some of these

1 examples. But if the defense presented things
2 such as a persons' background of upbringing, is
3 that something that you can consider?

4 A. In terms of ---

5 Q. Life without parole?

6 A. Yes.

7 Q. And let me kind of back up and define our
8 terms again. If the jurors are in that phase
9 and they're bringing aggravating circumstances
10 -- and, again, that is a fancy legal phrase for
11 evidence that just shows bad stuff to support
12 the death penalty. Do you understand that
13 part?

14 A. Um-humm, (affirmative nod).

15 Q. And you're telling me that even though you
16 lean towards life that you could consider that
17 and be fair to the State?

18 A. (Affirmative nod).

19 Q. Is that a "yes"?

20 A Yes, sir.

21 Q. Likewise, mitigating circumstances is just
22 a fancy legal phrase for evidence or
23 information that they have nothing to do with
24 the crime; do you understand that now?

25 A. Right.

1 Q. Okay. Some jurors say, 'You know what? If
2 it doesn't have anything to do with the crime
3 but is about how a person was raised or what
4 kind of upbringing that they had, that just
5 doesn't matter to me. I'm not going to listen
6 to that. It might be all well and good and
7 nice but, you know, that's just -- I'm going to
8 decide it on the facts of the crime.' Which
9 one are you?

10 A. I would base it on the facts of what they
11 did.

12 Q. I may not have asked that well, so -- and,
13 again, I don't want to put words in your mouth.
14 I just want to make sure that I understand.
15 Are you telling me that you're just going to
16 focus on facts of the crime and stuff that may
17 have nothing to do with the defendant's
18 childhood or upbringing isn't going to matter
19 to you?

20 A. (Negative gesture).

21 Q. Or did I say that -- I don't want to put
22 words in your mouth. I just want to make sure
23 that I understand.

24 A. That's a little strong. That's a little
25 black-or-white. I think that it would be hard

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

447

1 to not have those things influence you a little
2 bit. You know, depending on what those are.

3 Q. When you say "those things", ---

4 A. Things from their childhood or, you know,
5 events that have happened to them.

6 Q. So are you telling -- and sometimes we
7 lawyers get caught up in our own language. I
8 am going to ask it as plainly as I can. Are
9 you just going to look at the facts of the
10 crime to make your mind up about life without
11 parole or death, or are you going to look at
12 other things that may have nothing to do with
13 the crime?

14 A. I will look at some of the other facts,
15 (affirmative nod).

16 Q. Again, the law asks one thing more -- some
17 jurors can do and some can't. The law requires
18 jurors to give meaningful consideration to
19 mitigation. Mitigation are things that may
20 have nothing to do with the crime, but may have
21 to do with the person's childhood or
22 upbringing. I just need your honest answer,
23 would that -- can you give that meaningful
24 consideration to those things that may have
25 nothing to do with the crime. Or are you

1 honestly telling us, you know, that it just
2 doesn't matter to you?

3 A. So you're telling me as a jury that we are
4 supposed to consider mitigating things, prior
5 to saying ---

6 THE COURT: Hold on a second. Mr.
7 Bloom, you're getting into an area that is a
8 legal ---

9 JUROR NUMBER 227: Right, I ---

10 THE COURT: I am going to instruct
11 you on the law. Part of the law that I give
12 instruction on is mitigating circumstances.
13 You consider the evidence -- if there are any
14 -- and you have to make that determination.
15 I'll give you instruction that you have to
16 consider those. I mean, that's part of the
17 law.

18 You (Mr. Bloom) need to phrase it that
19 way, because otherwise -- otherwise they may
20 think that they're not supposed to do that.

21 MR. BLOOM: I was going to get
22 there, Your Honor.

23 THE COURT: Thank you, sir.

24 EXAMINATION CONTINUED

25 BY MR. BLOOM:

1 Q. And there are no right or wrong answers.

2 Some jurors just ---

3 THE COURT: No, sir. That's -- let
4 me say this. If you will phrase it and say,
5 'will you disregard the judge's instruction'
6 then I don't have any problem. Then it is --
7 you're correct.

8 MR. BLOOM: I will rephrase it.

9 THE COURT: Thank you.

10 MR. BLOOM: (Affirmative nod), I
11 will rephrase it.

12 EXAMINATION CONTINUED

13 BY MR. BLOOM:

14 Q. Some jurors say, 'you know, I respect that
15 that is the law but I just can't do that.'

16 MR. BLOOM: Judge, did I get that.

17 THE COURT: Thank you.

18 EXAMINATION CONTINUED

19 BY MR. BLOOM:

20 Q. Some jurors just say, 'Judge Dennis, I
21 understand that you're telling me that is the
22 law but just because of my own personal beliefs
23 and how I feel...' -- and there is nothing
24 wrong with that -- '...I can't do that.. I am
25 going to just look at the crime and the bad

1 stuff about how someone was raised or their
2 childhood, I've got to tell you that I can't
3 consider that.' Judge Dennis just kind of
4 needs to know that now.

5 A. No, I'm going to be looking to what the
6 judge says.

7 Q. Okay.

8 A. If I am supposed to consider that, then I
9 will.

10 Q. And can you give meaningful consideration
11 to it and not just kind of lip service to it, I
12 guess is what I'm asking you?

13 A. Yeah.

14 Q. Because you understand how some jurors
15 might say, 'Judge Dennis, I just can't do
16 that.'

17 A. I understand.

18 Q. That's okay. But you're telling me now --
19 what, in that regard?

20 A. That I will do as the judge instructed us.
21 If that is the law, then I ---

22 Q. Okay. So you could give meaningful
23 consideration to a person's background and
24 childhood?

25 A. I could consider that.

1 Q. You could give meaningful consideration to
2 things like substance abuse?

3 SOLICITOR WILSON: Judge, I believe
4 that has been asked and answered.

5 THE COURT: It has been. She
6 answered your question. Thank you, sir.

7 EXAMINATION CONTINUED

8 BY MR. BLOOM:

9 Q. Let me kind of get to the very end of that
10 then, is that once a jury has found a person
11 guilty of murder, if they have found a person
12 guilty of murder, and they hear all that bad
13 stuff and then when they hear the other stuff
14 that may have nothing to do with the facts of
15 the crime, are you going to be predisposed or
16 have your mind made up, one way or another,
17 before you hear all that?

18 A. Can you repeat that?

19 Q. I may have to break it down, for myself.
20 If Judge Dennis instructed you -- if you found
21 someone guilty of that malice murder charge and
22 now you're going to hear evidence that supports
23 the death penalty, evidence of mitigation that
24 supports a life without parole, you would have
25 to keep an open mind and consider all that.

1 Is that something that you can do? If not, you
2 just need to tell Judge Dennis, 'I respect all
3 that but my views are so strong that I am going
4 to have my mind made up based on the malice
5 murder and all the aggravating circumstances.

6 I'm just going to automatically vote for
7 death.' Is that you or ---

8 A. That's not me, no.

9 Q. Ma'am, lastly, -- of course, jurors go out
10 and they have to choose -- after they've heard
11 all the evidence, they have to choose between
12 life without parole or the death penalty but
13 the law never requires a jury to vote for
14 death. You understand Judge Dennis when he
15 told you that?

16 A. Yes, sir.

17 Q. The law doesn't mandate or order it,
18 totally what the law calls for is the juror's
19 moral, individualized choice. You can accept
20 that, right?

21 A. Yes, sir.

22 Q. And nothing in the law ever requires that.
23 Can you make that moral, individualized choice
24 for yourself after ---

25 A. Yes, sir.

1 Q. --- after you hear all the evidence?

2 A. Yes, sir.

3 Q. If you're with the jury and you, Lauri
4 Newkirkpaggi, vote one way and the other eleven
5 jurors are voting another one and you have all
6 discussed it, debated it, had your say, but
7 you're certain of your moral, individual
8 choice, are you the type of juror that is going
9 to say, 'You know what? It's 5:00 o'clock,
10 it's the end of the day, I'll just go with
11 you'all to get it over it.' Or not?

12 A. (Negative gesture). No, sir.

13 Q. So if that is your moral, individualized
14 choice you would expect the other eleven jurors
15 to respect your vote and stand by that?

16 A. Yes, sir.

17 Q. And you would stand by that?

18 A. Yes, sir.

19 Q. Likewise, if you're in the eleven and there
20 is one juror left there, you could respect that
21 juror's moral, individual choice?

22 A. Yes, I could.

23 Q. And you're not going to force that juror
24 because it's the end of the day to just hurry,
25 get it done with?

1 A. (Negative gesture).

2 Q. You are going to respect their moral,
3 individualized and you would expect they would
4 respect yours?

5 A. Yes, sir.

6 MR. BLOOM: Thank you very much.

7 THE COURT: Thank you, Mr. Bloom.
8 Solicitor?

9 VOIR DIRE EXAMINATION

10 BY SOLICITOR WILSON:

11 Q. I just have a few questions. I'm Scarlet
12 Wilson. I am the Solicitor. This is Bruce
13 Durant and Rutledge Durant, they are going to
14 be trying this case with me. I will try not to
15 repeat anything.

16 One of the things that you mentioned in
17 your questionnaire and in your answering
18 questions was the cost of prison and prison
19 overcrowding concerns you.

20 A. Right.

21 Q. But you also said that if the Judge gave
22 you instructions that you could follow those
23 instructions?

24 A. Yes.

25 Q. So if he tells you that you're not to

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

455

1 consider external things like jail population,
2 you can put those feelings aside and base your
3 decision on the evidence?

4 A. Yes, I would.

5 Q. I think that I got where you are going
6 from. Neither death or life without parole are
7 off-the-table for you?

8 A. That's correct.

9 Q. They are both valid options?

10 A. Yes.

11 Q. I am not going to ask you what they are but
12 you can think of situations where the death
13 penalty might be appropriate?

14 A. Yes.

15 Q. And situations where life without parole
16 would be appropriate?

17 A. Yes.

18 Q. One other thing. If you were convinced
19 that the death penalty was the appropriate
20 option, if you had decided that, -- that would
21 be the hard part, right?

22 A. (Affirmative nod).

23 Q. You would have to actually sign your name
24 to a death warrant, not just voting and raising
25 your hand but signing your name on the warrant.

1 Could you do that if you were convinced that
2 was the right thing to do?

3 A. Yes, ma'am.

4 SOLICITOR WILSON: Thank you.

5 THE COURT: Anything further, Mr.
6 Bloom?

7 MR. BLOOM: Nothing further, Your
8 Honor.

9 THE COURT: Thank you. If you would
10 step out just for a minute, Ms. Newkirkpaggi,
11 we will be with you momentarily.

12 (JUROR NUMBER 227 EXITS COURTROOM)

13 THE COURT: What says the State?

14 SOLICITOR WILSON: I think she is
15 qualified.

16 THE COURT: What says the defendant?

17 MR. BLOOM: Qualified, Your Honor.

18 THE COURT: Thank you. Ask her to
19 step in, please.

20 (JUROR NUMBER 227 ENTERS COURTROOM)

21 THE COURT: Thank you very much, and
22 I appreciate your patience. You've been found
23 to be qualified to be a member of the panel
24 from which we will select our jury.

25 We are hopeful that process will take

1 place Wednesday after. Of course at this point
2 there is no way to know how long the process is
3 going to take to get the requisite number. If
4 you will, call the number that was given to you
5 tomorrow night after 6:00, Tuesday night, there
6 will be a message that says "the Dickerson
7 panel" needs to -- it is probably going to say
8 to report at 3:00 o'clock, we're hopeful. If
9 not, it will tell you what you need to do.
10 Just follow that instruction that pertains to
11 the Dickerson panel. There may be some other
12 instructions but you can ignore any others.

13 Please remember that until you are
14 excused from this case that you are not at
15 liberty to read anything about it or to watch
16 any news programs about it, do not permit
17 anyone to talk with you about this case or talk
18 about it in your presence.

19 Have a good day. We'll probably see
20 you Wednesday. Thank you.

21 (JUROR NUMBER 227 EXITS COURTROOM)

22 THE COURT: Just one second before
23 bringing in the next juror, Mr. Williams
24 (bailiff).

25 Mr. Bloom, I apologize for

1 interrupting you. You're certainly free to
2 explore exactly that area but I just would ask
3 that you -- it's more helpful to me if we do
4 frame it that way, because they may not know
5 that they're supposed to consider that.

6 MR. BLOOM: Right.

7 THE COURT: That's the concern,
8 because some jurors aren't aware of that.

9 MR. BLOOM: Right.

10 THE COURT: That's my only reason.
11 I am not trying to control how you examine the
12 witness.

13 MR. BLOOM: Your Honor, I wasn't
14 trying to trick her.

15 THE COURT: I know that.

16 MR. BLOOM: I appreciate your
17 guidance. I think once that I picked up from
18 you to preface it with, 'even if Judge Dennis
19 instructed you this way some jurors say they
20 can't do that.'

21 THE COURT: Right.

22 MR. BLOOM: Once you guided me that
23 way, we got to where we needed to be.

24 THE COURT: That's precisely what I
25 want, because there are people that will do,

1 that will ignore it. We know that.

2 MR. BLOOM: That's all that I am
3 trying to get to, is their honest response.

4 THE COURT: I understand.

5 MR. BLOOM: What I don't want to get
6 from the jurors, and I know that the trial
7 court doesn't either, is just rote answers that
8 they will follow the law. They don't know the
9 law.

10 THE COURT: Precisely.

11 MR. BLOOM: They may go into the
12 jury room and say 'I am not going to listen all
13 that stuff.' I appreciate the guidance.

14 THE COURT: Precisely. Okay, let's
15 bring in Ms. Howard, Number 372.

16 (JUROR NUMBER 372 ENTERS COURTROOM)

17 THE COURT: Good afternoon, Ms.
18 Howard.

19 JUROR NUMBER 372: How you doing?

20 THE COURT: I'm fine, I hope you
21 are.

22 JUROR NUMBER 372: Yes, sir.

23 THE COURT: If you will, take your
24 seat and position it so that you can speak into
25 that mic comfortably. If you will, state your

1 full name for the record.

2 JUROR NUMBER 372: Marina J. Howard.

3 THE COURT: Thank you, Ms. Howard.

4 I appreciate you being patience. We're going
5 to continue the process that we started on
6 Friday; that is, asking you certain questions
7 for which there really are no correct answers.
8 These are questions that are really designed to
9 help you to make a determination as to whether
10 you can be a fair and impartial judge in this
11 and to assist us in making that determination,
12 as well. Okay?

13 JUROR NUMBER 372: Okay.

14 THE COURT: All that we ask is that
15 you be truthful in your responses, complete in
16 your responses and we anticipate that you will
17 do that. In that regard, I would remind you
18 that you are still under oath. Okay?

19 JUROR NUMBER 372: Yes, sir.

20 MAXINE HOWARD, being duly sworn to
21 tell the truth, the whole truth and nothing but
22 the truth, testified, as follows:

23 VOIR DIRE EXAMINATION

24 BY THE COURT:

25 Q. I mentioned to you all, all the jurors, on

1 Friday, gave you a number of names. I failed
2 to mention two names that I need to ask you
3 about.. Are you related by blood or marriage,
4 have any business dealings with, are socially
5 or casually acquainted with either a Jeff
6 Osborne or Matt Casey?

7 A. No, sir.

8 Q. Okay. Now, when you came today you were
9 given a sheet that listed three types of
10 jurors. Have you had the opinion to review
11 those, that sheet?

12 A. Yes, sir.

13 Q. Considering those types of jurors, which
14 one most accurately describes you?

15 A. Number three.

16 Q. Number three is that type of juror who can
17 in certain situations vote to impose a death
18 sentence and can in certain situations vote to
19 impose a life imprisonment without the
20 possibility of parole, but as to which one is
21 most suitable or which one that you would do,
22 you would need to know all the facts and
23 circumstances ---

24 A. (Affirmative nod), all the facts.

25 Q. --- before you could make that call?

1 A. Yes.

2 Q. But you could consider both?

3 A. Yes.

4 Q. If given -- if proper and consistent with
5 the law, is that correct?

6 A. Yes, sir.

7 Q. Let's talk about that. Please understand
8 that all these questions, of course, are
9 necessary for us to all make a determination as
10 to whether this is a case in which you can
11 serve as a judge with me. It's not to suggest
12 how the jury is going -- what the jury should
13 do in this case or what is going to happen in
14 this case. Do you understand that?

15 A. (Affirmative nod).

16 Q. And just because I am talking about it is
17 not to be taken as a suggestion of how you're
18 -- how you, if you're on the jury, are to
19 decide any of the factual issues. Do you
20 understand that?

21 A. Yes, sir.

22 Q. Do you remember that I told you on Friday
23 that persons such as Mr. Dickerson who are
24 accused of committing criminal offenses in this
25 state are never required to prove anything,

1 that they are presumed innocent. Do you
2 understand that?

3 A. Yes.

4 Q. And that that is an active presumption that
5 means today as he sits there, under that law
6 and consistent with that principle, you have to
7 see him as innocent. Do you do that?

8 A. Yes, sir.

9 Q. No problem with following that law, then?

10 A. No.

11 Q. In fact, person who have that presumption
12 are never required to prove anything or
13 disprove anything. They don't have to explain
14 anything, they don't have to offer any
15 evidence, they don't have to do anything at
16 all. Do you understand that?

17 A. (Affirmative nod).

18 Q. Because the law says that the party that
19 accuses a person is the only party that has
20 anything to prove. Do you understand that?

21 A. (Affirmative nod).

22 Q. I appreciate -- you're not offending me by
23 your answer. I just need to be sure of your
24 answer. The lady that is seated between us is
25 taking down what you're saying and what I'm

1 saying, so if you will say 'yes' or 'no' it
2 will help her.

3 A. Okay.

4 Q. I am not in the slightest offended. I do
5 the same thing. Okay?

6 A. (Affirmative nod).

7 Q. I understand how easy it is to do that. If
8 you will just say 'yes' or 'no, that would be
9 most helpful.

10 A. Okay.

11 Q. Now, if certain things happen, there could
12 be two phases in this proceeding. I mentioned
13 that to you on Friday. Do you understand that?

14 A. Yes.

15 Q. The first phase is when you will hear
16 evidence if you are on the jury concerning the
17 charges that have been brought against Mr.
18 Dickerson. Do you understand that?

19 A. Yes.

20 Q. I would instruct the jury as to the various
21 elements that the State is required to prove
22 beyond a reasonable doubt and after the jury
23 has heard all of the evidence and received the
24 law, then they would retire and decide whether
25 the State has met its burden of proof. Do you

1 understand that?

2 A. Yes.

3 Q. If the jury in considering all the evidence
4 and the law decided that the State had not
5 convinced that jury beyond a reasonable doubt
6 of the elements of murder, then that would end
7 this proceeding and there would be no second
8 phase. Do you understand that?

9 A. Yes.

10 Q. But if the jury were to return a verdict of
11 guilty; that is, that the jury was convinced
12 that the State had proved that Mr. Dickerson
13 took the life of another with malice
14 aforethought, in other words killed someone
15 with malice, intending to do so, then the jury
16 would go into the second phase and only then.
17 Do you understand that?

18 A. Yes.

19 Q. Now, it is the law of this state that not
20 every murder warrants a death sentence or life
21 imprisonment without the possibility of parole.
22 Do you understand that?

23 A. Yes.

24 Q. Only in certain situations, is that your
25 understanding?

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 A. Yes.

2 Q. And only in those certain situations does
3 the jury participate and become involved in
4 that sentencing. Do you understand that?

5 A. Yes.

6 Q. In the second phase you would hear evidence
7 concerning and surrounding the murder, the
8 effects of the murder, you would hear evidence
9 concerning Mr. Dickerson, if he'd been found
10 guilty, and evidence that would be appropriate
11 in deciding what would be the proper sentence.
12 One of the things that the State has to prove,
13 for you to even consider a death penalty, is
14 that they have to prove beyond a reasonable
15 doubt certain aggravating circumstances that I
16 would define for you. Before the jury could
17 even consider imposing a death sentence, they
18 would have to conclude that the evidence
19 convinced them beyond a reasonable doubt that
20 one or more of those aggravating circumstances
21 were present. Do you understand that?

22 A. Yes, sir.

23 Q. Now, if the jury finds that there were
24 aggravating -- one or more aggravating
25 circumstances, the instruction would further

1 say that then the jury, and only then, may
2 consider as a possible sentence a death
3 sentence. I would further instruct you that
4 you're required to return a death sentence
5 because you found aggravating circumstances.
6 In other words, just because the State
7 convinces you beyond a reasonable doubt that
8 there were aggravating circumstances, the jury
9 still -- it's your decision as to what the
10 appropriate sentence was. That may be life
11 imprisonment without the possibility of parole.
12 Do you understand that?
13 A. Yes.
14 Q. You could follow that instruction, is that
15 correct?
16 A. Yes.
17 Q. Okay. And only after you've heard all of
18 the evidence that you could consider that and
19 make that determination.
20 A. Yes.
21 Q. Is that correct?
22 A. Yes.
23 Q. Another aspect of that proceeding is that
24 you may hear evidence of mitigating
25 circumstances. I would define that term for

1 you but those are circumstances that may exist,
2 may not have anything to do with the crimes at
3 all but generally deals with the background --
4 it could be the background of the defendant,
5 what's gone on in his life, how he has been
6 affected by certain things such as possible
7 addictions and that sort of thing.

8 If that evidence is present, those
9 mitigating circumstances, would you consider
10 that evidence? Meaningfully and intentionally
11 consider that evidence in weighing a decision
12 of what is the appropriate sentence?

13 A. (No verbal response).

14 Q. Would you evaluate that also?

15 A. Yes.

16 Q. I would instruct you that you have to
17 consider, if there are any, mitigating
18 circumstances. That you should consider them
19 and evaluate that. You would follow that
20 instruction, is that correct?

21 A. Yes.

22 Q. Now, you understand that while -- as I told
23 you -- the defendant has nothing to prove, and
24 that is in both phases, he has no obligation
25 whatsoever. He has the right. He has the

1 right to do if he wants to, but he is not
2 required to do it. If he does it, you can't
3 use that against him in either phase, do you
4 understand that??

5 A. Yes.

6 Q. Would you have any problem following that
7 instruction?

8 A. No.

9 Q. You would honor that?

10 A. Yes.

11 Q. So you would never expect him to do
12 anything at all in this proceeding?

13 A. No.

14 Q. Okay. Am I to understand that as you sit
15 here today, if you were to finish the first
16 phase finding a verdict of guilty as to murder,
17 you would still have an open mind as to what
18 the appropriate punishment would be and
19 wouldn't change that position until you'd heard
20 all the evidence, received instruction on the
21 law and been instructed to deliberate and
22 decide the case?

23 A. Yes, sir.

24 THE COURT: Thank you, ma'am.

25 Answer any questions the attorneys may have.

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 VOIR DIRE EXAMINATION

2 BY SOLICITOR WILSON:

3 Q. Good afternoon. How are you?

4 A. Fine.

5 Q. Good. I'm Scarlet Wilson, I'm the
6 Solicitor here. I will be prosecuting this
7 case along with Mr. Bruce Durant and Mr.
8 Rutledge Durant.

9 A. Okay.

10 Q. So we will be the ones presenting evidence
11 about these crimes to you. Okay?

12 A. Okay.

13 Q. Thank you for filling out your
14 questionnaire.

15 A. Okay.

16 Q. I wanted to ask you a couple of things.
17 First of all, when you were asked in your
18 questionnaire about the death penalty, you said
19 that you didn't have an opinion?

20 A. Yeah, I didn't have an opinion..

21 Q. Have you been thinking about it?

22 A. (Negative gesture).

23 Q. Not since you got your questionnaire,
24 you've haven't?

25 A. Naw, I didn't -- like I said, I picked

1 number three because I would have to hear the
2 whole thing before I could make a decision.

3 Q. So you don't have an opinion on this case,
4 because you haven't heard any of the facts?

5 A. (Negative gesture), I haven't heard any of
6 the facts.

7 Q. But generally speaking about the death
8 penalty itself -- not in this case but just
9 generally speaking, do you have any opinions or
10 thoughts about it?

11 A. I believe -- I feel that if a person is
12 guilty and did something brutal, really, really
13 bad, I think it would call for the death
14 penalty.

15 Q. Okay. And if you thought -- well, in this
16 second phase, the Judge told you that there
17 would be two separate parts to a death penalty
18 trial: the guilt phase and then pretty much
19 starting all over with the penalty phase.

20 A. (Affirmative nod).

21 Q. In the penalty phase, the State would be
22 required to prove certain aggravating factors,
23 things that make it worse, beyond a reasonable
24 doubt. Do you understand that?

25 A. Yeah.

1 Q. Not every murder case goes to that second
2 phase.

3 A. Oh, okay.

4 Q. Some people who are convicted of murder are
5 just sentenced by the judge. This is different
6 because a jury actually makes the sentence. Do
7 you understand that?

8 A. Yes.

9 Q. Okay. So if someone was found guilty of
10 murder and then the State proved aggravating
11 circumstances, could you still listen to and
12 consider anything that lessens the crime or
13 anything about a defendant that made the crime
14 more understandable or not as bad. Could you
15 consider those things?

16 A. Yes.

17 Q. Even though you had already found that
18 there were aggravating circumstance to make the
19 crime really bad?

20 A. Yeah.

21 Q. You could still considering the mitigating
22 circumstances?

23 A. Yeah.

24 Q. Do you think life without parole is a harsh
25 sentence?

1 A. (Pause) -- no. If you took somebody's
2 life, (negative gesture).

3 Q. Do you have any thoughts as to whether the
4 death penalty or life without parole, that one
5 is better than the other?

6 A. Do I think one or the other is better?

7 Q. Yes.

8 A. (No verbal response).

9 Q. Or does it just depends on the facts of the
10 case?

11 A. Yeah.

12 Q. It would depend on the facts?

13 A. (Affirmative nod), the facts of the case.

14 Q. I think you also -- I don't want to get all
15 in your business but you mentioned in your
16 questionnaire that you belong to the Reformed
17 House of God.

18 A. Yes.

19 Q. What denomination is that?

20 A. It's nondenominational.

21 Q. Okay. So people who believe all sorts of
22 things go to that church?

23 A. (Affirmative nod), they believe the Bible.

24 Q. Okay. That's the only requirement, pretty
25 much?

1 A. (Affirmative nod).

2 Q. Okay, I gotcha. Would you say that in your
3 mind both the death penalty and life without
4 parole would be on the table as options for you
5 in the penalty phase of the case?

6 A. Yes.

7 Q. You would be able to listen to anything
8 that the State presented and anything that the
9 defense presented?

10 A. Yes.

11 Q. Do you understand that the Judge would
12 instruct the jury that you couldn't hold it
13 against the defendant if they decided not to
14 put anything up?

15 A. Yes.

16 Q. You couldn't hold that against him. Could
17 you put that out of your mind?

18 A. Yeah.

19 Q. And only consider what the State has
20 presented?

21 A. Yeah.

22 Q. Did you have any discussions after Friday
23 about your jury service, with anyone?

24 A. No.

25 Q. Okay. I think you told the judge that that

1 is not going to be a problem for you in the
2 future if you were to get put on the jury?

3 A. No.

4 SOLICITOR WILSON: That's all that I
5 have. Thank you.

6 MR. BLOOM: May it please the court?

7 THE COURT: Yes, sir, Mr. Bloom.

8 VOIR DIRE EXAMINATION

9 BY MR. BLOOM:

10 Q. Ms. Howard, good morning.

11 A. Good morning.

12 Q. My name is Jeff Bloom, this is Andrew
13 Carroll. Together we represent William
14 Dickerson.

15 A. Okay.

16 Q. And you understand that there are no right
17 or wrong answers this morning, we just kind of
18 need to understand how you feel about some of
19 these issues. Okay?

20 A. Yes.

21 Q. We just need you to be as honest as you can
22 be. All right?

23 A. Okay.

24 Q. First let me define some of the terms that
25 we are talking about because some people have

1 different assumptions about what murder is.

2 Murder is -- let me tell you what it is
3 not. It is not accident, it's not self-
4 defense, it is not manslaughter like you catch
5 someone in bed with someone, it's not insanity.
6 Murder is that a person did it, intended to do
7 it, with malice, that they got the right person
8 beyond a reasonable doubt.

9 In that situation are you going to vote for
10 the death penalty?

11 A. Can you repeat that one more time?

12 Q. Sure. Some people have the mistaken
13 belief, they think 'okay, I can find him guilty
14 of murder and keep an open mind' but they're
15 thinking, you know, that it was making an
16 accident or that in self-defense they could
17 vote for life. I want to take those things
18 out.

19 If a person is found guilty by a jury of
20 murder -- that you did it, that you intended to
21 do it, with malice, that they got the right
22 person, all beyond a reasonable doubt, that it
23 was not accident, it was not self defense, that
24 it was no insanity, it was not manslaughter.
25 For some jurors, you know, they say that's

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

477

1 enough of a reason; that if someone is guilty
2 of that kind of malice murder, then I am going
3 to vote for the death penalty each and every
4 time.

5 You may say, 'I understand that Judge
6 Dennis may give me different instructions but
7 it's just a strong view that I have, that if
8 you did it, you meant to do, with malice and
9 they've got the right person, all beyond a
10 reasonable doubt, that it is not accident,
11 self-defense, you messed up and I'm going to
12 vote for the death penalty each and every
13 time.'

14 I am just trying to find out, is that how
15 you feel?

16 A. (Pause) -- I guess I have to answer it, one
17 way or the other?

18 THE COURT: I'm sorry, I didn't hear
19 you, ma'am.

20 JUROR NUMBER 372: I guess I have to
21 answer that? One way or the other?

22 THE COURT: If you understand the
23 question.

24 JUROR NUMBER 372: Yeah. If it was
25 that it done intentionally ---

1 EXAMINATION CONTINUED

2 BY MR. BLOOM:

3 Q. (Affirmative nod), did it, meant to do,
4 intentional, with malice, got the right person,
5 is that the situation where each and every time
6 you are going to vote for death?

7 A. If he meant to do it, I am.

8 Q. Some jurors feel very strongly that way and
9 that's okay. We just kind of need to know.
10 The next step is that some jurors will say,
11 'You know what, Judge Dennis? I know you're
12 telling me that I am supposed to keep an open
13 mind until I hear all this other stuff about
14 the sentencing but I've got to tell you now,
15 and I'm just being honest, I'm one of those
16 folks who feels strongly that if he did it,
17 meant to do it, with malice, I really don't
18 need to hear any other evidence. I just need
19 to tell you, Judge, that I'm going to vote for
20 death each and every time. If he did it, they
21 got the right person and he meant to do it,
22 with malice, for me that's enough.'

23 Is that what you're telling us?

24 A. Yeah.

25 Q. That's where you fit?

1 A. Yes.

2 Q. Okay. The next step, if you were -- if you
3 found someone guilty of that type of malice
4 murder, the Judge would say, 'Okay, now you
5 have to hear aggravating circumstances.' That
6 is a fancy legal word for other evidence that
7 supports the death penalty; for instance,
8 murder and a robbery or murder and a burglary
9 or the murder of a child. Some jurors say,
10 'You know what? If you've got the right
11 person, he did it, meant to do, malice, and
12 you've got the right person beyond a reasonable
13 doubt and then you add that other evidence in
14 to support the death penalty, I'm going to vote
15 for death each and every time. Judge Dennis,
16 you may tell me to still keep an open mind but
17 that's just how strongly that I feel.' Is that
18 where you are?

19 A. Yeah.

20 Q. The next thing is that you might hear
21 mitigating circumstances. That's a fancy legal
22 phrase for things that might be evidence to
23 support a life without parole conviction. It
24 could be things such as a person's background
25 or upbringing, mental health, substance abuse.

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 Some jurors say, 'You know what, Judge? I am
2 not going to sit here with my fingers in my
3 ears but, you know what, I've got to tell you
4 upfront that I am not going to consider that.
5 I'm looking at the facts of the crime, the fact
6 that he did it, meant to do, they got the right
7 person. That is going to decide it for me and
8 I really don't want to hear all that stuff
9 about how he was raised, his upbringing, his
10 mental health.'

11 We just need to know if that's how you
12 honestly feel. Is that kind of where you are
13 at?

14 A. Yes, sir.

15 Q. Okay.

16 A. Yes.

17 Q. So even if Judge Dennis -- and that's why
18 we kind of need to know, because some jurors
19 feel strongly one way or another and Judge
20 Dennis just needs to know your honest belief
21 right now. I feel like that is what you're
22 trying to share with us. Is that fair to say?

23 A. Yes.

24 Q. Okay. And some jurors say, 'You know what,
25 Judge? I don't need to hear all that about how

1 he was raised. If he did it, meant to do it,
2 it was with malice, they've got the right
3 person beyond a reasonable doubt and all this
4 other stuff, I am just going to vote for death
5 each and every time. You add this other bad
6 stuff, this aggravation, that's enough for me.'
7 As I understand what you're telling me, that's
8 kind of where you are?

9 A. Yeah.

10 Q. And that's okay. Judge Dennis just needs
11 to know that upfront. Again, I don't want to
12 put words in your mouth. I just want to make
13 sure that I understand. At the end of the day,
14 life without parole when it is a malice murder,
15 you intended to do it, aggravating evidence,
16 life without parole to you is not really on the
17 table. Judge Dennis just needs to know that
18 upfront if that is how you feel. Is that kind
19 of where you are?

20 A. Yes.

21 Q. Okay.

22 MR. BLOOM: Thank you, Judge.

23 THE COURT: Solicitor?

24 SOLICITOR WILSON: Just a few more.

25 VOIR DIRE EXAMINATION

1 BY SOLICITOR WILSON:

2 Q. I want to make sure that I understand where
3 you are, too. If the Judge instructed you
4 after the guilt phase, a defendant has been
5 found guilty, that the State would have to
6 prove beyond a reasonable doubt the aggravating
7 circumstances before you could even consider
8 death, would you listen to his instruction and
9 do what he said, consider those things?

10 A. Yeah.

11 Q. And if the State didn't prove those
12 aggravating factors, would you then be able to
13 give life without parole?

14 MR. BLOOM: I would object. It
15 doesn't ---

16 THE COURT: Rephrase your question,
17 please.

18 EXAMINATION CONTINUED

19 BY SOLICITOR WILSON:

20 Q. Could there be situations when you would
21 vote for life without parole?

22 A. Could there be situations?

23 Q. Yes, could there be in your mind a time
24 when you would vote for life without parole if
25 someone were convicted of murder?

1 A. Like right now?

2 Q. We're not talking about this case in
3 particular.

4 A. Okay.

5 Q. But could there a situation, a set of
6 facts, where you think life without parole
7 would be appropriate for someone even though
8 they had been convicted of murder?

9 A. Probably, just whatever the situation is.

10 Q. It would depend on what the situation ---

11 A. Okay. Like an accident?

12 Q. No, no, no. That wouldn't be a murder.

13 Remember Mr. Bloom was telling you a murder is
14 going to be something that is always

15 intentional. That the person who ---

16 A. Oh, are you saying that the person
17 intentionally had in their mind to do it?

18 Q. Right, they intentionally killed someone.

19 A. Um-humm, (affirmative nod).

20 Q. And there's no question that they are the
21 person is guilty, could there be situations

22 where that person would be entitled to life
23 without parole, in your mind?

24 A. I have to answer -- life without parole,

25 yeah.

1 THE COURT: I didn't hear what your
2 answer was.

3 JUROR NUMBER 372: "Yes."

4 EXAMINATION CONTINUED

5 BY SOLICITOR WILSON:

6 Q. You'd think life without parole would be
7 fair?

8 A. (Affirmative nod).

9 Q. So if there were a situation where a
10 defendant or a defense attorney had this
11 mitigating circumstances, things about himself,
12 things that didn't really have to do with a
13 crime but things that made you understand more
14 why he may have acted the way that he acted.
15 Would you be interested in hearing those things
16 about the defendant?

17 A. About stuff that doesn't have nothing to do
18 with the crime?

19 Q. It has to do with the defendant himself?

20 A. Like his bringing up and ---

21 Q. Yes, his upbringing ---

22 THE COURT: Solicitor, I am going to
23 ask you to rephrase that in the same fashion as
24 the previous thing with Mr. Bloom. Just
25 rephrase it concerning the instruction, please.

EXAMINATION CONTINUED

1

2 BY SOLICITOR WILSON:

3 Q. If there were evidence admitted regarding a
4 defendant's background, a history of abuse,
5 drug abuse, things like that, would you be
6 interested in hearing those types of things
7 before you made a decision?

8 A. Yes.

9 Q. Would you give those things fair
10 consideration?

11 A. Yes.

12 Q. And you would want to hear those before
13 making a final determination of life without
14 parole or the death penalty?

15 A. Yes.

16 Q. So where the confusion is, I believe that
17 you told Mr. Bloom that if someone was
18 convicted of a malice murder that they would
19 automatically get the death penalty, in your
20 mind?

21 A. Yes. Like that, malice, yeah.

22 Q. All right. I hear you. So in a malice
23 murder, would you still be able to consider
24 those mitigating factors? The background,
25 whether there were drugs involved, whether or

1 not -- you know, things like that about a
2 person. Could you consider those?

3 A. Yes.

4 Q. In considering those, could you then vote
5 for life without parole if you felt that was
6 appropriate?

7 A. Considering the background, considering the
8 upbringing and all that?

9 Q. Right, any sort of thing that made the
10 crime less severe or that made you understand
11 the defendant or why he may have done what he
12 did -- even in a malice murder, you could then
13 consider that and perhaps give life without
14 parole?

15 A. Yeah.

16 Q. So there would be situations where life
17 without parole in a malice murder might be
18 appropriate?

19 A. (Affirmative nod)

20 Q. Is that right?

21 A. Yeah?

22 Q. So in your mind life without parole is on
23 the table, it's an option for a malice murder?

24 A. You say whether it would be an option?

25 Q. Yes.

1 A. Option?

2 Q. It would be an option for you?

3 A. Can you say that one more time?

4 Q. I think maybe where we are getting hung up
5 is malice murder. All murders have malice in

6 the heart, they have intention, they have

7 malice. What we're talking about is where a

8 person has been convicted beyond a reasonable

9 doubt -- okay?

10 A. Um-humm, (affirmative nod).

11 Q. Not all those murder cases are subject to
12 the death penalty. Okay?

13 A. (Affirmative nod).

14 Q. Some people get sentenced by the judge.

15 In this case, in a death penalty case the jury

16 makes the decision. What we are trying to find

17 out is if you could consider both the option of

18 life without parole and the option of the death

19 sentence. Could you consider both or would it

20 always be the death penalty or always life

21 without parole?

22 A. I could consider both.

23 Q. You would consider both?

24 A. Yeah.

25 Q. And you would pay attention and ---

1 A. Yeah.

2 Q. --- and fairly consider and give your full
3 attention to anything about the defendant, his
4 background, substance abuse, history, social
5 history, school history, anything like that,
6 you'd want to hear before making your decision?

7 A. Yeah.

8 Q. And there could be things in that that
9 might make you decide life without parole would
10 be fine for a sentence; right?

11 A. Depending on things, yeah.

12 Q. Okay. It just depends on what the facts
13 were?

14 A. Yeah.

15 Q. You would want to hear all the facts,
16 right?

17 A. Yeah.

18 SOLICITOR WILSON: That's all that I
19 have, Your Honor.

20 THE COURT: Mr. Bloom?

21 MR. BLOOM: I will be brief, I will
22 try to be brief.

23 VOIR DIRE EXAMINATION

24 BY MR. BLOOM:

25 Q. Ma'am, we are not trying to trick you. Is

1 this the first time you've kind of been in this
2 situation?

3 A. Yes.

4 Q. People asking you questions?

5 A. Yeah.

6 Q. None of us are trying to trick you, believe
7 me. We just want to make sure that
8 we understand your honest feelings. Okay?

9 A. Yes.

10 Q. And if I can go back and just ask you --
11 because you gave two different answers when we
12 were talking about murder. I just want to make
13 sure that you understand that murder is where
14 he did it, intended to do, with malice. Malice
15 is a depraved heart. They have the right
16 person, it is beyond a reasonable doubt. Is
17 that a situation where you -- that it just kind
18 of sums it up for you, that you're going to
19 vote for death each and every time when that
20 type of murder is shown you?

21 A. Would I vote for death every time?

22 Q. When you're shown a malice murder, did it,
23 intended to do, with malice, got the right
24 person, beyond a reasonable doubt, not
25 accident, not self-defense, ---

1 A. You said, you asking -- I'd hear all the
2 facts.

3 Q. (Affirmative nod), you've had heard all the
4 facts about the murder case at that point.

5 A. Yes.

6 Q. That -- you would decide, if that person is
7 guilty of malice murder, you're going to vote
8 for death every single time?

9 A. (No verbal response).

10 Q. Judge Dennis just really kind of needs to
11 know if that is where you are, or not. Is that
12 where you are?

13 A. Yes.

14 Q. You would consider life without parole if
15 it was were an accident, is that what you're
16 trying to tell us?

17 A. If it was an accident.

18 Q. Or if it was self-defense ---

19 SOLICITOR WILSON: Objection.

20 THE COURT: I sustain that. I'm
21 sorry.

22 MR. BLOOM: I was trying to use her
23 words.

24 THE COURT: I understand, Mr. Bloom.
25 You're invading this lady's ---

MR. BLOOM: All right.

EXAMINATION CONTINUED

1

2

3 BY MR. BLOOM:

4 Q. Let me ask you if -- for you, if the State
5 has proved that malice murder and the State has
6 proved that other bad stuff that we talked
7 about to support a death penalty, even if Judge
8 Dennis told you you're supposed to consider
9 mitigating circumstances, and that's such like
10 a person's addiction, drug abuse, background,
11 childhood, you're not able to give meaningful
12 consideration to that kind of evidence on a
13 person's behalf? For you, murder itself and
14 other bad acts, aggravating circumstances, you
15 would decide each and every time for death.
16 Is that where you are? Judge Dennis just needs
17 to know, is that where you are?

18 A. Yes.

19 Q. And you -- and if the defense tried to
20 prove to you that the death penalty wasn't the
21 proper penalty, right?

22 A. Huh?

23 Q. You're not going to let the defense bring
24 you something to show you that the death
25 penalty ---

1 SOLICITOR WILSON: Objection.

2 THE COURT: Mr. Bloom, really and
3 truly, you're just -- you've gone far enough.
4 Let's stop.

5 MR. BLOOM: Okay.

6 EXAMINATION CONTINUED

7 BY MR. BLOOM:

8 Q. Ma'am, if you could just tell me -- I know
9 you have ---

10 THE COURT: She's answered you.
11 Let's just stop with her.

12 MR. BLOOM: Yes, sir.

13 THE COURT: Thank you, sir.

14 MR. BLOOM: May I ask her what her
15 prior employment was?

16 THE COURT: No, sir. Thank you,
17 sir. All right. I am not going to allow any
18 more questions. Ma'am, if you will just step
19 out, I need to hear from the attorneys and we
20 will be with you momentarily.

21 (JUROR NUMBER 372 EXITS COURTROOM)

22 THE COURT: The State thinks she is
23 qualified, I understand.

24 SOLICITOR WILSON: I think she is
25 qualified. Where I think the problem is, is

1 when she says the words "all evidence" she's
2 including that and she's saying that she wants
3 to consider all the evidence.

4 THE COURT: I thank you. This is
5 classic. I was wondering, having read the case
6 where the judge -- where the person equivocated
7 and the judge's reasoning was that the person
8 just doesn't understand. Their educational
9 background really restricts their ability to
10 truly comprehend it. That is where this lady
11 is. I think she is being just as honest as she
12 knows how to be, but she -- what concerns the
13 court is that I don't think she comprehends
14 what we are talking about, able to fully
15 evaluate it and assess it. That's my concern.
16 I just don't think she is qualified. I assume
17 that you don't think she is qualified?

18 MR. BLOOM: Judge, the State ---

19 THE COURT: I can't even honestly
20 get to whether she's a type one, two or three,
21 an "A", "B", "C". She really doesn't
22 appreciate what they are. I think in her mind
23 that she does but she doesn't understand the
24 difference -- frankly, when you said
25 "intentional", she doesn't appreciate even

1 that, that there is a distinction. All murders
2 are intentional. I appreciate the Solicitor's
3 position and I understand your position. She
4 said it both ways but -- unlike Mr. Heyward,
5 Mr. Heyward said 'I made a mistake', which
6 acknowledged for my purposes that he did
7 appreciate it at least to that point and made
8 some reference to it, understood it and was
9 consistent. She was very consistent in
10 answering your questions, very consistent in
11 answering mine, and very consistent in
12 answering Mr. Bloom's. She was consistently
13 inconsistent. I can't possible let her sit.
14 Thank you.

15 BAILIFF: Shall I bring her in?

16 THE COURT: Yes. Thank you.

17 (JUROR NUMBER 372 ENTERS COURTROOM)

18 THE COURT: Ms. Howard, thank you
19 very much. I appreciate your participation.
20 I am going to excuse you from further
21 participation in this dispute. You are free to
22 talk about this case if you want to now or free
23 not to. That's your choice. Call the number
24 that you've been given and the instructions
25 given to the jury panel as a whole will apply

1 to you. It won't apply to -- any that deal
2 with this case, you don't have to worry about
3 any instruction on there that pertains to the
4 "Dickerson panel". That is not you. It will
5 be the instructions for the general jury. Have
6 good day. You're free. Just call the number
7 after 6:00 tonight.

8 JUROR NUMBER 372: Thank you. Have a
9 good day.

10 (JUROR NUMBER 372 EXITS COURTROOM)

11 THE COURT: Okay, let's bring in Mr.
12 High.

13 (JUROR NUMBER 134 ENTERS COURTROOM)

14 THE COURT: Good afternoon, Mr.

15 High. How are you, sir?

16 JUROR NUMBER 134: Good.

17 THE COURT: I appreciate your

18 patience. We want to continue the process that
19 we started on Friday when we were asking you
20 some questions. As you noticed on Friday,
21 there really are no correct answers to any of
22 these questions. We just ask that you be
23 truthful in your responses. We're not here to
24 invade anything or try to change your mind on
25 anything. We just want you to respond.

1 completely to the questions, and in that regard

2 I would remind that you are still under oath.

3 Okay?

4 JUROR NUMBER 134: Okay.

5 CHARLES HIGH, being duly sworn to tell
6 the truth, the whole truth and nothing but the
7 truth, testified, as follows:

8 VOIR DIRE EXAMINATION

9 BY THE COURT:

10 Q. Since we met, have you talked with anyone
11 or has anyone talked with you about this case?
12 Have you read anything or watched any News
13 programs about it?

14 A. No.

15 Q. Friday I gave you some names of some
16 individuals and I failed to mention two names
17 that I need to ask you about. Are you related
18 by blood or marriage, have any business
19 dealings with or are you socially or casually
20 acquainted with either a Jeff Osborne or Matt
21 Casey?

22 A. No.

23 Q. You were given a sheet when you came in
24 that sets forth three types of jurors, have you
25 had a opportunity to review that sheet?

1 A. Yes, I have.

2 Q. Which type most accurately describes you?

3 A. Number three.

4 Q. And that is basically the juror who
5 believes in some cases when a person has been
6 convicted of murder and the laws allow it --
7 and murder, of course, is the intentional
8 killing of someone with malice. It's a person,
9 you intended to kill them. In those situations
10 there are circumstances where if you were on a
11 jury you could impose a death sentence and
12 there are situations where notwithstanding that
13 you could have imposed a death sentence that
14 you would choose, because of the circumstances,
15 to impose life imprisonment without the
16 possibility of parole?

17 A. Yes, sir.

18 Q. Which one would apply, you don't have any
19 predetermination as to which one is most
20 suited, you would have to hear all the facts
21 and circumstances first?

22 A. That's correct.

23 Q. Now, you understand that what we are
24 talking about today, that we are going to talk
25 about some things concerning Mr. Dickerson's

1 case, and please understand that of course at
2 this point, as I mentioned on Friday, he is, as
3 anyone accused of committing a criminal offense
4 in this state, presumed innocent of that charge
5 until the State and unless the State proves him
6 guilty beyond a reasonable doubt. Do you
7 understand that?

8 A. Yes, sir.

9 Q. You don't have any problem with that
10 principle of law?

11 A. No, I don't.

12 Q. So today as he sits here you would presume
13 and you believe him to be innocent of these
14 charges?

15 A. That's correct.

16 Q. Persons who are accused obviously have no
17 obligation, because the State is the only party
18 that has any burden of proof. They have no
19 obligation to prove or disprove anything at
20 all. You understand that? They certainly
21 don't have to prove their innocence.

22 A. That's right.

23 Q. In fact, they don't have to say anything,
24 they don't have to present evidence, they don't
25 have to do anything. Do you understand that?

1 A. Yes, sir.

2 Q. But if you were on a jury trying a case for
3 murder and the defendant in that case chose not
4 to testify, not to offer any evidence, the
5 court would instruct you that you could not use
6 that against that person, you wouldn't have any
7 problems following that instruction; is that
8 correct?

9 A. No problems.

10 Q. In this case I mentioned to you that there
11 is a possibility of two phases. There would
12 only be a second phase if at the conclusion of
13 the first phase, where the jury will hear all
14 the evidence concerning this charges, the jury
15 found beyond a reasonable doubt that the State
16 met its beyond a reasonable doubt on the crime
17 of murder; that is, established each element of
18 that crime and, therefore, the jury return a
19 verdict of guilty. Do you understand that?

20 A. That's correct.

21 Q. And as I understand what you're saying,
22 that if you were on the jury and that happened
23 then at that point you still would not have an
24 opinion as to what the appropriate sentence
25 would be; is that correct?

1 A. That's correct.

2 Q. Because you understand that murders in this
3 state, just because a person is guilty of
4 murder does not warrant a jury considering a
5 death sentence. In fact there are only very
6 limited circumstances where that is the
7 situation. Normally the jury does not even
8 participate in the sentencing in a murder case.
9 Do you understand that?

10 A. Yes, sir.

11 Q. In fact it's not -- it's very limited
12 situations where the only options are death or
13 life imprisonment without the possibility of
14 parole. Do you understand that?

15 A. Yes, sir.

16 Q. As I understand, you are aware that the
17 second phase is where you would hear evidence
18 concerning the appropriate sentence. Do you
19 understand that?

20 A. Yes, sir.

21 Q. Again, the only party that has any burden
22 to prove anything is the State; do you realize
23 that?

24 A. Yes.

25 Q. In fact the defendant doesn't have to prove

1 anything at that stage either. Do you
2 understand that?

3 A. Yes, sir.

4 Q. In fact, doesn't have to offer any
5 evidence.

6 A. Yes, sir.

7 Q. And you would be instructed that you can't
8 use that against him. Any problem with that?

9 A. (Negative gesture), not at all.

10 Q. And that would mean that you are
11 considering at that point, if you get to that
12 point, what the appropriate sentence would be;
13 do you understand that?

14 A. That's right.

15 Q. But you still -- it wouldn't influence or
16 affect your decision on that, at all?

17 A. (Negative gesture), not at all.

18 Q. I would instruct you in that stage, if you
19 got to that point, that in order for the jury
20 to even consider a death sentence that the
21 State will have had to first convince the juror
22 beyond a reasonable doubt, from the evidence
23 that they have established one or more
24 aggravating circumstance. I will define those
25 for you at the appropriate time.

1 A. Okay.

2 Q. The jury would weigh the evidence, decide
3 whether they were convinced that that had been
4 established. If the jury was convinced beyond
5 a reasonable doubt that one or more had been,
6 then and only then could the jury even consider
7 a death sentence. Do you understand that?

8 A. Yes, sir.

9 Q. Any problem following that instruction?

10 A. (Negative gesture), not at all.

11 Q. I would further instruct you in that regard
12 that after the jury concluded that there were
13 aggravating -- an aggravating circumstance or
14 more -- aggravating circumstances, one or more,
15 -- that the jury still would not be required to
16 impose the death sentence. In other words, you
17 may consider it but you aren't required to, to
18 return a death sentence. Do you understand
19 that?

20 A. I understand that.

21 Q. That you may then consider, after
22 considering all the evidence, what was the most
23 appropriate: a death sentence or life
24 imprisonment without the possibility of parole.
25 Do you understand?

1 A. Yes, sir, I do.

2 Q. And am I understanding that you at that
3 point would still be able to consider all of
4 the evidence that was pertinent to you in
5 making that determination?

6 A. That's right.

7 Q. One of the things that I would instruct you
8 that you may consider -- there may be in the
9 evidence something that we call mitigating
10 circumstances. Typically those are
11 circumstances that don't have anything to do
12 with the crime itself. It could, but it is not
13 something that has to be a part of the crime
14 itself. Sometimes it is background concerning
15 the defendant, situations in the defendant's
16 life, that the jury would be instructed to
17 consider and weigh in weighing and determining
18 whether or not they found mitigating
19 circumstances and, if so, if it would affect
20 and influence them they would give it the
21 weight given to those circumstances in
22 determining the appropriate sentence. Would
23 you consider those and follow that instruction?

24 A. Yes, sir, I would.

25 Q. And am I to understand that it is only

1 until you have -- until you have received all
2 of the evidence, until you've been instructed
3 on the law and completed the process and the
4 judge had -- I had instructed you to begin your
5 deliberation, it is only then, after fully
6 considering the evidence, discussing it with
7 your other jurors, that you could come to a
8 determination of what the most appropriate
9 sentence would be.

10 A. That would be correct.

11 Q. And that would be true if you were in the
12 case but that would also be true of your
13 position of how you would view whether a death
14 penalty were appropriate or life imprisonment
15 without the possibility of parole? It doesn't
16 matter.

17 A. That's correct.

18 Q. You need to know it all ---

19 A. (Affirmative nod), um-humm.

20 Q. --- before you could answer the question?

21 A. Yes, sir.

22 Q. Any problem with the fact that this case is
23 going to be multi-week and you're going to be
24 instructed that you can't talk with anyone
25 about this case, you can't read anything about

1 it, you can't watch any News programs about it
2 and you can't permit anybody to talk about it
3 in your presence? Any problem with following
4 that instruction?

5 A. I don't see any problem with that.

6 THE COURT: Thank you, sir. Please
7 answer any questions that the attorneys may
8 have.

9 MR. BLOOM: May it please the court?

10 THE COURT: Yes, Mr. Bloom.

11 VOIR DIRE EXAMINATION

12 BY MR. BLOOM:

13 Q. Good morning, Mr. High. How are you?

14 A. Well. How are you today?

15 Q. Good. My name is Jeff Bloom and together
16 with Andrew Carroll, we represent William
17 Dickerson. We are kinda getting the cart
18 before the horse, as you can imagine, because
19 as Judge Dennis told you, Mr. Dickerson is
20 presumed innocent until found guilty. But we
21 have to kind of ask you these questions now.

22 Do you understand that?

23 A. Um-humm, (affirmative nod).

24 Q. I notice that you took some criminal
25 justice courses in college.

1 A. Yes, sir.

2 Q. During that period of time, either inside
3 or outside of the classes, did the death
4 penalty ever come up as an issue?

5 A. Not that I recall.

6 Q. Okay. If you and I were just having a Diet
7 Dr. Pepper at the golf course or after we'd
8 gotten off work and we saw something on the
9 News and I turned to you and said, 'Hey, what's
10 your opinion about the death penalty?' What
11 would be your response?

12 A. To be honest, I really don't have much of
13 an opinion at all.

14 Q. Have you thought about it much?

15 A. Not very much at all, no.

16 Q. Some people place themselves in what is
17 called an-eye-for-an-eye group. Do you
18 understand what that term means?

19 A. Yes, sir.

20 Q. Would you consider yourself one of those
21 folks?

22 A. I think that would probably depend on the
23 circumstances of the case.

24 Q. Can you explain what you mean, tell me a
25 little bit about that?

1 A. What I'm trying to say is that I think an
2 eye-for-an-eye would be, I would say, like if
3 he committed murder that he would definitely
4 get murdered. I don't necessarily think that.
5 I think it depends on the circumstances in a
6 case, what transpired and different things.

7 Q. Okay. As Judge Dennis will tell you, some
8 folks have and some principle (sic) against the
9 death penalty, some people are very strong
10 supporters of it. What the Judge needs to do
11 if you could set those feelings aside and
12 listen to all the evidence. I guess I just
13 kind of want to ask you, you understand those
14 two positions?

15 A. Yes.

16 Q. Where do you kind of place yourself in that
17 spectrum?

18 A. You know, I can see -- I've heard arguments
19 for it. I can see both sides of it. As I
20 said, I really am kind of in the middle. I
21 don't really have any leanings toward whether
22 it's a good idea or a horrible idea.

23 Q. Okay.

24 A. I think it would just depend on the
25 circumstances of the case and what transpired

1 and I'd go from there.

2 Q. Let me start next with what murder is,
3 because some people have false assumptions
4 about it. Let me tell you first what murder is
5 not. Murder is not accident, murder is not
6 self-defense, it is not manslaughter like where
7 you catch someone in bed with someone else, and
8 it's not insanity. Murder is where a person
9 did it, they intended to do, with malice --
10 which is an evil heart, -- that they got the
11 right person and they State can prove that all
12 beyond a reasonable doubt.

13 Some folks say, 'You know, once I've found
14 someone guilty of murder, I am going to vote
15 for the death penalty. That's enough for me.'

16 A. (Negative gesture), I understand.

17 Q. Are you in that group or ---

18 A. I don't think I could answer that until the
19 case is over and I'd be put in that situation.
20 I can't make a predetermine call on that right
21 now.

22 Q. So the next step would be, if a juror found
23 someone guilty of that kind of what we call
24 malice murder, because malice is an element of
25 murder, a person did it, intended to do it,

1 with malice, got the right person beyond a
2 reasonable doubt. Then the State would submit
3 what is called aggravating circumstances. So
4 that we're not using a legal phrase, all that
5 means is evidence that the State presents to
6 the jury to support the death penalty. Do you
7 understand that?

8 A. Yes, sir.

9 Q. Some jurors feel, 'Even though, Judge
10 Dennis, you tell me to keep an open mind, once
11 they've prove to me that a person did it,
12 intended to go it, with malice, they got the
13 right person and I hear all this other bad
14 evidence to support the death penalty, I'm
15 done.. I don't need to hear anything else. You
16 can instruct me all day long but I'm going to
17 vote for death each and every time in that
18 scenario.' Where do you fall in that?

19 A. That is definitely not me. I think every
20 situation is different.

21 Q. Okay. All right. The next thing that
22 comes in the stage of questions that I have for
23 you is that the defense can present what are
24 called mitigating circumstances. Again, that's
25 a legal phrase just meaning evidence or reasons

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 to support a life imprisonment without the
2 possibility of parole sentence. Okay?

3 A. Okay.

4 Q. Those can be things such as a person's
5 background or childhood, upbringing. Okay? Do
6 you understand that?

7 A. Um-humm, (affirmative nod).

8 Q. Is that something that you could give
9 meaningful consideration to?

10 A. I think that everything would have to be
11 taken into consideration on something as
12 serious as the death penalty or life
13 imprisonment, as in this case.

14 Q. Okay. Because some people are of the view,
15 you know, 'I just want to know about the facts
16 of the crime. If he did it, with intent, with
17 malice, and they got the right person and this
18 other bad stuff in aggravation, I don't need to
19 hear about his childhood. 'Judge Dennis, you
20 can instruct me all day long but I'm just not
21 going to listen to that.

22 A. I understand.

23 Q. I take it from what you are telling me that
24 that is not you?

25 A. That's right.

- 1 Q. And so you can give meaningful
2 consideration to things such as a person's
3 upbringing?
4 A. Correct.
5 Q. Drug abuse?
6 A. (Affirmative nod).
7 Q. Mental health issues?
8 A. Yes, sir.
9 Q. A whole host of information that may have
10 nothing to do with the crime itself?
11 A. Yes, sir.
12 Q. So that's what -- you could listen to those
13 things in support of a life imprisonment
14 sentence and still make up your own mind?
15 A. Yes. I would be able to consider that
16 information. Like I said, it's a serious
17 matter and I would listen to all the
18 information.
19 Q. Okay. Now, next let me ask you this, the
20 law never requires the death penalty. Did you
21 understand Judge Dennis when he explained that?
22 A. Yes, sir.
23 Q. And in fact the jury is never ordered under
24 any definition -- under any conditions to vote
25 for death. Do you understand that?

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

512

1 A. Yes, sir.

2 Q. In fact, what the law requires is that each
3 juror make a moral, individualized choice. Can
4 you accept that?

5 A. Um-humm, (affirmative nod).

6 Q. And if you were a juror in such a case,
7 could you make your own moral, individualized
8 choice after hearing all the evidence, talking
9 to the other jurors but make up your own mind?

10 A. Yes, sir.

11 Q. And if you had to be on a jury and you all
12 had discussed it, heard the evidence, debated
13 but Charles High has made his moral,
14 individualized choice and the other eleven ---

15 SOLICITOR WILSON: Your Honor, I
16 object.

17 THE COURT: Yes. You need to
18 rephrase that question.

19 MR. BLOOM: Yes, sir. I will
20 rephrase it.

21 THE COURT: Thank you.

22 EXAMINATION CONTINUED

23 BY MR. BLOOM:

24 Q. If you had made your moral, individualized
25 choice and eleven jurors are voting another

1 way, you're not just going to say, 'You know
2 what? It's 5:00 o'clock, I've got to go. I'm
3 hungry, it's dinnertime. I've going to fold
4 and go home.' Is that ---

5 A. That definitely would not be the case.

6 Q. I took that but I kind of needed to ask
7 you?

8 A. Yes, sir.

9 Q. And you would ask those other eleven to
10 respect your own moral, individualized choice?

11 SOLICITOR WILSON: Your Honor, again I
12 would object to ---

13 THE COURT: I will allow him to ask
14 about the deliberation process. He's not gone
15 overboard -- yet.

16 EXAMINATION CONTINUED

17 BY MR. BLOOM:

18 Q. You would ask those other jurors to respect
19 your moral, individualized choice?

20 A. Of course.

21 Q. Just as you would respect theirs?

22 A. Of course.

23 Q. On the flip side, if you were among the
24 eleven and there was one, you would be able to
25 respect that juror's moral, individualized

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 choice?

2 A. Of course.

3 Q. Just as you would want them to respect
4 yours?

5 A. Yes.

6 MR. BLOOM: Thank you very much, Mr.
7 High.

8 JUROR NUMBER 134: You're welcome.

9 THE COURT: Solicitor?

10 VOIR DIRE EXAMINATION

11 BY SOLICITOR WILSON:

12 Q. Good afternoon, Mr. High.

13 A. Good afternoon.

14 Q. I am Scarlet Wilson, I'm the Solicitor
15 here. This is Bruce Durant and Rutledge Durant
16 and we'll be trying this case together,
17 presenting the evidence to the jury. I just
18 want to ask you a few questions. I know you've
19 answered a lot already.

20 First of all, I wanted to ask you if you
21 have any thoughts about how often the death
22 penalty is given in this country? Is it too
23 much, not enough or -- any thoughts at all?

24 A. I have not given it any thought, really, so
25 I'm not really sure how many times it's given.

1 Q. All right. So you pretty much have a clean
2 slate?

3 A. Yes, ma'am.

4 Q. If you were to find a situation where you
5 believed that the State had proven aggravating
6 circumstances in the penalty phase, aggravating
7 circumstances beyond a reasonable doubt, could
8 you still consider life imprisonment without
9 the possibility of parole?

10 A. Yes, I believe that I could. Like I said,
11 it's definitely something that would have to be
12 considered once it's all said and done. I'd
13 have to hear the case, both sides, and hear all
14 the circumstances.

15 Q. The aggravating circumstances and the
16 mitigating circumstances?

17 A. (Affirmative nod).

18 Q. If you had decided that the death penalty
19 were appropriate, it sounds like to me that
20 would be the most difficult part for you,
21 making that decision not voting or signing your
22 name to a death warrant?

23 A. I would imagine that sentencing someone to
24 death would be a difficult decision.

25 Q. Right.

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 A. Of course, I've never been in that
2 situation but I think it would be.

3 Q. If you had made the decision that the death
4 penalty was appropriate, could you actually
5 sign your name?

6 A. I don't see any problem with it, to be
7 honest with you that's ---

8 Q. That part wouldn't be an issue?

9 A. (Negative gesture).

10 Q. It's coming to that decision that would be
11 an issue?

12 A. It wouldn't be an easy decision to come to.

13 Q. Right. Can you think of situations in your
14 mind, and I am not going to ask you what they
15 are, but can you think of situations where you
16 think the death penalty might be appropriate?

17 A. I can -- I mean, (Affirmative nod).
18 Probably. Yes.

19 Q. And certainly you can think of situations
20 where life imprisonment without the possibility
21 of parole would be appropriate?

22 A. Yes.

23 SOLICITOR WILSON: That's all that I
24 have.

25 THE COURT: Anything else, Mr.

1 Bloom.

2 MR. BLOOM: Nothing on our behalf,
3 Your Honor.

4 THE COURT: Thank you very much.
5 You may step out, Mr. High, just for a moment.
6 We will be with you momentarily.

7 (JUROR NUMBER 134 EXITS COURTROOM)

8 THE COURT: State?

9 SOLICITOR WILSON: He's qualified.

10 MR. BLOOM: He qualified, Your
11 Honor.

12 THE COURT: He is qualified. Ask
13 him to return, please.

14 (JUROR NUMBER 134 ENTERS COURTROOM)

15 Mr. High, you've been selected to be a
16 part of the panel from which we will pick our
17 jury that will decide this case with me.

18 I am going to ask you, please, not to
19 talk with anyone or permit anyone to talk with
20 you, that you not read anything about this
21 case.

22 We anticipate that that process of
23 selecting a jury will go forward on Wednesday
24 afternoon. It could be later. I am going to
25 ask that you call the number that you were

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 given, tomorrow after 6:00, and follow the
2 instruction that pertain to the "Dickerson jury
3 panel."

4 JUROR NUMBER 134: Okay.

5 THE COURT: It will either tell you
6 to report. It may say call back at another
7 time. But just follow that instruction and
8 whenever it says to report, if you'll come and
9 report directly to the courtroom.

10 JUROR NUMBER 134: Make the call
11 tomorrow after 6:00?

12 THE COURT: Yes, sir. Thank you
13 very much. Have a good afternoon.

14 JUROR NUMBER 134: Thank you.

15 (JUROR NUMBER 134 EXITS COURTROOM)

16 THE COURT: You can tell Panel
17 Number Three that they can take a stroll for
18 awhile because we're going to take about thirty
19 minutes after this. We're here as long as
20 you'all need to be but you don't -- there's a
21 little bit of redundancy going on here. That's
22 your choice.

23 Okay, bring in Ms. Bergen. There is
24 no need for Panel Number Two to sit cooped up
25 in that room.

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

519

711

1 MR. BLOOM: You mean three?

2 THE COURT: (Affirmative nod), panel
3 three. Just tell them that they can come back
4 about a quarter to 3:00.

5 CLERK, MIKE CALLAHAN: Yes, sir.

6 (JUROR NUMBER 19 ENTERS COURTROOM)

7 THE COURT: Hi, Ms. Bergen. How are
8 you?

9 JUROR NUMBER 19: Okay. How are you?

10 THE COURT: I'm great, thank you.
11 Just get seated, get comfortable so that you
12 can talk into that mic. I appreciate your
13 patience.

14 We're continuing the process that we
15 started on Friday. We need to ask you some
16 more questions. Please know that there are no
17 correct answers to any of these questions, they
18 are just to assist in making a determination as
19 to whether you're a juror that could be a fair
20 and impartial judge in this case with me.
21 That's for your benefit and our benefit. All
22 we ask is that you be truthful in responding
23 and completely answer the question.

24 I would remind you in that regard that
25 you are still under oath. Okay.

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 JUROR NUMBER 19: Okay.

2 VOIR DIRE EXAMINATION

3 BY THE COURT:

4 Q. I mentioned a number of named but I failed
5 to mention two names that I need to ask you
6 about. Are you related by blood or marriage,
7 have any business dealings with or are you
8 socially or casually acquainted with either a
9 Jeff Osborne or a Matt Casey?

10 A. No, sir, I don't know either one of them.

11 Q. You were given a sheet when you came in
12 that sets forth three types of jurors, have you
13 had a opportunity to review that sheet?

14 A. Yes, I have.

15 Q. Which of the three types most accurately
16 describes you?

17 A. I had a difficult time with this. I
18 believe that I am somewhere between type two
19 and a type three.

20 Q. Okay. Type two is a person that would
21 always impose a life imprisonment, given an
22 option. Type three is a person that says,
23 'Well, there are circumstances where, if
24 established beyond a reasonable doubt, I could
25 vote to impose a death sentence.'

1 A. I think I would have to know what the law
2 was regarding that.

3 Q. Okay.

4 A. I would follow the law even though I do not
5 believe in the death penalty.

6 Q. All right. I appreciate that. That's a
7 very legitimate question because, obviously,
8 there are a number of things that have to be
9 honored. One of those is obviously the
10 separation between the judge of the facts and
11 the judge of the law.

12 As I stated Friday, and I will
13 reiterate, nothing that I say is to be taken as
14 a suggestion of what an outcome has to be, what
15 the factual determination has to be, because
16 that's the jury's prerogative. I don't have
17 anything to do with that, and you understand
18 that?

19 A. Yes.

20 Q. Insofar as the law is concerned, I will
21 instruct you that not all murders in this State
22 result in the jury being involved in the
23 sentencing. In fact, it is very limited where
24 the jury participates but the court imposes a
25 sentence. Not all murders warrant a life

1 imprisonment without the possibility of parole
2 or the death penalty.

3 What this type of case says is that the
4 jury makes that determination consistent with
5 the law.

6 What you've asked me is what is the law? I
7 will tell you that the law would be that first
8 of all we have to go through a first phase.
9 The first phase would deal with the evidence
10 concerning the crime of murder and other
11 crimes.

12 We are talking about it generally,
13 we're not talking about Mr. Dickerson at this
14 point. Say there is a case where a person has
15 been accused of committing the crime of murder,
16 the jury would hear the evidence on that charge
17 and then they would be instructed on the law of
18 the various elements and would make a
19 determination.

20 Murder is the killing of someone with
21 malice aforethought, meaning that 'I intended
22 to kill that person, that's the person that I
23 wanted to kill and I was motivated by malice in
24 my decision. I carried it out.'

25 The jury in a death sentence trial,

1 where that is a potential sentence, would then
2 move into a second phase but only once the jury
3 determines that murder had been established.

4 In the second phase the jury would
5 then hear evidence concerning what the law
6 defined, and I would define for you if you were
7 on this jury, called aggravating circumstances.
8 Those are the circumstances that have to be
9 established beyond a reasonable doubt to
10 warrant a death sentence, or to warrant even
11 the trial because without those aggravating
12 circumstances there can be no death penalty
13 imposed. Okay?

14 So if the State fails to convince a jury
15 beyond a reasonable doubt as to the existence
16 of aggravating circumstances that jury can't
17 even return a verdict that imposes death. That
18 would be part of the instruction.

19 If the jury determines that there were
20 aggravating circumstances and they found that
21 beyond a reasonable doubt then and only then
22 may they consider it. But that doesn't mean
23 that they have to return a verdict. It means
24 simply that they have to consider that. They
25 may consider that as an appropriate sentence.

1 They consider all the evidence and decide what
2 they believe and decide between life
3 imprisonment without the possibility of parole
4 or the death sentence is the most appropriate
5 sentence for that crime.

6 Part of the evidence that may be considered
7 by the jury in addition to aggravating
8 circumstances is other evidence concerning the
9 nature of the crime, how it affected person
10 involved in it, there may also be issues of
11 mitigating circumstances, which are matters
12 that can be connected with the crime which may
13 have occurred -- such as the person being
14 intoxicated at the time he alleged -- well, the
15 jury would have determined that he did. And
16 others that aren't even related. It could be
17 background information, any mental health
18 issues that may exist, addiction issues that
19 may exist, a host of others that the jury may
20 consider.

21 The jury then would consider all of that
22 evidence and decide as to which of the
23 sentences is most appropriate.

24 Having explained that process to you now,
25 which type do you believe most appropriately

1 identifies you?

2 A. Then I would have to say three, because I
3 would take everything into consideration.

4 Q. And there are circumstances, and I am not
5 asking you what they are, but there are
6 circumstances that you believe, if established
7 beyond a reasonable doubt, in which you could
8 return a verdict that would sentence someone
9 for death for murder?

10 A. It would be difficult but I -- I can't, it
11 really hard to say. It would be difficult for
12 me to do but I ---

13 Q. Please understand something, because you
14 said something -- the law. The law would never
15 be that you have to do either.

16 A. Okay.

17 Q. It's your choice. The question that I have
18 is, would you -- could you seriously consider --
19 - there are circumstances in which you could
20 consider and could impose a death sentence if
21 convicted?

22 A. I think that probably would be
23 circumstances where I could do that.

24 Q. Now, you understand that throughout this
25 entire process and this would be -- what we

- 1 talked about generally would apply the
2 procedure that we will follow here. Mr.
3 Dickerson, as I mentioned to you on Friday,
4 just as anybody who is accused of committing a
5 criminal offense in this state, is presumed
6 innocent. You don't have any problem with that
7 principle of law, as I understand?
- 8 A. No, I don't.
- 9 Q. And today as you see him he is innocent of
10 these charges, as far as you're concerned?
- 11 A. Yes.
- 12 Q. And that presumption remains until you have
13 been convinced beyond a reasonable doubt, if
14 you were on the jury, that State established
15 each of the elements required and convinced you
16 that he was guilty of the crime of murder. Do
17 you understand that?
- 18 A. Yes, sir.
- 19 Q. It would be only then that we would have a
20 second phase because if the jury returned a
21 verdict of not guilty on the crime of murder,
22 that would end this process. Do you understand
23 that?
- 24 A. Yes, sir.
- 25 Q. Okay. Of course that trial, you would hear

1 all the evidence, you would be instructed on
2 the law and I would instruct and tell you now
3 that not only are people presumed innocent but
4 they don't have burden to prove anything at
5 all. They certainly don't have to prove their
6 innocence. You understand that?

7 A. Yes, sir.

8 Q. And I would instruct you that you can't use
9 it against -- they don't have to say anything,
10 they don't have to present any evidence. They
11 don't even have to testify if they don't want
12 to, you understand that?

13 A. Yes, sir.

14 Q. And the jury would be instructed that they
15 cannot use that against them under any
16 circumstances. Would you have any problem
17 following and adhering to that principle of
18 law?

19 A. No, sir.

20 Q. That applies in the first phase and if
21 there was second phase it would apply there,
22 because he has no burden to prove anything
23 there because that burden is on the State to
24 prove the circumstances required for you to
25 consider a death sentence. Do you understand

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 that?

2 A. Yes, sir.

3 Q. Okay. It is my understanding, then, from
4 our discussions that if you were on this jury
5 -- and, again, I am not trying to suggest or
6 imply anything but we've moved into the second
7 phase, that is the jury had returned a verdict
8 of guilty as to murder, at that point you still
9 would have a decision and would not know and
10 would not have concluded what the most
11 appropriate sentence would be for Mr.
12 Dickerson. Is that correct?

13 A. Yes, sir.

14 Q. And that would not change until you'd hear
15 all the evidence in the second phase and
16 received the law, is that correct?

17 A. Yes, sir.

18 Q. Then you would be instructed to begin your
19 deliberations, so you would discuss it with the
20 other jurors, and you believe that you could
21 honor your commitment; that is, to consider at
22 that stage, assuming that you -- you have to
23 have that to consider, to even consider the
24 death penalty, that aggravating circumstances
25 had been established beyond a reasonable doubt.

1 You could consider the death sentence and life
2 imprisonment without the possibility of parole
3 and decide based on those circumstances that
4 you were convinced that it had been established
5 by the evidence which one was most appropriate,
6 which of the two.

7 A. Yes.

8 Q. You could consider both and make a decision
9 as to which one was the best?

10 A. Yes.

11 THE COURT: Very well. Please
12 answer any questions that the attorneys may
13 have.

14 VOIR DIRE EXAMINATION

15 BY SOLICITOR WILSON:

16 Q. Good afternoon, Mr. Bergen. I'm Scarlet
17 Wilson, I'm the Solicitor here. This is Bruce
18 Durant and Rutledge Durant and we're the
19 prosecutors in the case, so we will be the ones
20 presenting evidence. I will be asking you a
21 few more questions. Okay?

22 A. (Affirmative nod).

23 Q. It sounds like to me, in reading your
24 questionnaire which we were given copies of,
25 that your opinion on the death penalty has sort

1 of evolved; is that right?

2 A. (Pause) -- you mean when I filled that out,
3 how I answered the questions?

4 Q. Yes.

5 A. I'd have to say still that I am
6 uncomfortable with the death penalty, however
7 I've never been the victim of a violent crime,
8 I've never had a loved one who has been ever a
9 victim of that, and I am open-minded enough to
10 know that once hearing the details of a crime
11 that I would, you know, consider that.

12 Q. Okay. Before getting this questionnaire
13 and being involved in this process, had you
14 given much thought to the death penalty? Just
15 with friends or family, talking about it?

16 A. Not a whole lot but the subject would come
17 up, you know, but no.

18 Q. What would you say that you based your
19 views on the death penalty on, your personal
20 thoughts, religious thoughts, philosophy,
21 education?

22 A. Probably just philosophy.

23 Q. Okay. I know that these are awkward
24 questions. We are just trying to figure out,
25 you know, where you're coming from. When you

1 filled out your form you said, "I do not
2 believe in it, it is never ..." -- and "never"
3 is underlined -- "...right to take a life."
4 Have you changed your mind on that?

5 A. No, I don't think that I have.

6 Q. So you still believe that it is never right
7 to take a life?

8 A. Yeah.

9 Q. So with that in mind, thinking about it
10 that way, do you think you ever could vote for
11 the death penalty?

12 A. I think that I would have to hear all the
13 facts of the case first; I am considering,
14 hearing all the facts it would be something
15 that I would consider.

16 Q. Would you be able to vote for it?

17 A. It depends on the facts.

18 Q. So if the facts were there, if the State
19 had proven aggravating circumstances beyond a
20 reasonable doubt, you think that there are some
21 situations where you could actually sign your
22 name to the death warrant?

23 A. I think it is possible there are some, yes.

24 Q. There are some situations?

25 A. Yes. I think it would be difficult for me

1 because I am not really comfortable with it.

2 Q. Right.

3 A. It would be very difficult but I think that
4 is it possible that there are some situations
5 where I could do that.

6 Q. You understand that the court would never
7 tell you that 'if the State proves this, this
8 and this, you have to give the death penalty'?

9 A. I understand.

10 Q. It would be totally up to the jury to
11 decide.

12 A. Okay.

13 Q. Do you also understand that life
14 imprisonment without the possibility of parole
15 would always be on the table in a death penalty
16 case in South Carolina?

17 A. Yes.

18 Q. So in your mind there would be some
19 situations, or would you say even in most
20 situations where life imprisonment without the
21 possibility of parole would be the appropriate
22 sentence?

23 A. I'm not sure what you're asking.

24 Q. Do you think that you would say, generally
25 speaking or in most situations, that life

1 imprisonment without the possibility of parole
2 would be the appropriate sentence?

3 MR. BLOOM: Judge, I am going to
4 object to the form of the question.

5 THE COURT: I sustain the objection.

6 EXAMINATION CONTINUED

7 BY SOLICITOR WILSON:

8 Q. Again, -- let me see if I can rephrase it.
9 You told the judge that you could consider each
10 of the aggravating circumstances?

11 A. (Affirmative nod).

12 Q. And if the State had proven those, that
13 would be the only time that the death penalty
14 would even be on the table; do you understand
15 that concept?

16 A. Yes.

17 Q. Life without parole would be on the table
18 regardless, do you understand that?

19 A. Yes.

20 Q. But you can think of situations where life
21 without parole would be certainly appropriate?

22 A. Yes.

23 Q. And can you think of situations yourself
24 where the death penalty would be?

25 A. In certain situations, yes.

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 Q. So with that in mind, do you think you
2 really would give the death penalty fair and
3 meaningful consideration?

4 A. (No verbal response).

5 Q. If you can't think of a situation and you
6 still believe that it's never right to kill
7 someone, do you really think that you're giving
8 it meaningful consideration?

9 MR. BLOOM: Your Honor, I would
10 object. That is the not the standard for
11 meaningful consideration, by ---

12 THE COURT: I disagree with you.
13 Thank you, sir. Overruled. I will allow the
14 question.

15 JUROR NUMBER 19: It is really hard to
16 say without knowing, without hearing the facts,
17 how I'd feel about it. I will say that I am
18 not comfortable with the death penalty in any
19 case but I ---

20 EXAMINATION CONTINUED

21 BY SOLICITOR WILSON:

22 Q. You're what?

23 A. I'm not comfortable with the death penalty.

24 Q. Are you saying you would be able to set
25 your personal feelings aside?

1 A. Yes. I mean, if the facts were such that -
2 - you know, if it is something that is -- it is
3 something that I could consider, I suppose.

4 Q. If you had considered it and decided that
5 it was appropriate, you could sign off on the
6 death penalty?

7 A. Yes.

8 SOLICITOR WILSON: That's all that I
9 have, Your Honor.

10 THE COURT: Mr. Bloom?

11 MR. BLOOM: Ms. Bergen, my name is
12 Jeff Bloom. Along with Andrew Carroll, we
13 represent William Dickerson. Thank you for
14 being here today. I have no questions for you.

15 THE COURT: Thank you, ma'am. If
16 you will step down, step out, I need to talk to
17 the lawyers for a few moments and we will be
18 with you momentarily.

19 (JUROR NUMBER 19 EXITS COURTROOM)

20 THE COURT: Solicitor?

21 SOLICITOR WILSON: I think she is
22 qualified.

23 MR. BLOOM: She's qualified.

24 THE COURT: She is. Bring her in,
25 please.

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

536

1 (JUROR NUMBER 19 ENTERS COURTROOM)

2 THE COURT: Ms. Berger, thank you
3 very much. Thank you very much, and I
4 appreciate your patience. You've been found to
5 be qualified to be a member of the panel from
6 which we will select our jury.

7 Hopefully that process will take place
8 Wednesday afternoon. We're not positive of
9 that but that's what we are shooting for. I
10 need for you to call the number that was given
11 to you, the Clerk's office, after 6:00 tomorrow
12 night. Follow the instruction as it pertains
13 to the "Dickerson panel". There will be an
14 instructions that says "needs to" -- hopefully
15 -- "report at 3:00 o'clock." If not, there
16 will be an instruction of what to do. Just
17 follow that instruction until it tells you to
18 come. When you are instructed to come, you
19 will come directly to this courtroom. Okay?

20 JUROR NUMBER 19: Okay.

21 THE COURT: Please remember that
22 until you're excused from this case that you
23 are not at liberty to talk with anyone about
24 this case, or allow them to talk about it in
25 your presence. You are not permitted to read

1 anything about it or watch any News accounts
2 about it. Please honor that, because you will
3 be given an oath each morning that you've
4 honored that commitment throughout the trial.
5 Thank you very much. I hope you have a good
6 afternoon. Hopefully we'll see you on
7 Wednesday.

8 (JURY NUMBER 19 EXITS COURTROOM)

9 THE COURT: Ms. Singleton.

10 (JUROR NUMBER 280 ENTERS COURTROOM)

11 THE COURT: Good afternoon, Ms.
12 Singleton. Thank you for your patience. How
13 are you?

14 JUROR NUMBER 280: I'm good.

15 THE COURT: Would you State your
16 full name for the record, please?

17 JUROR NUMBER 280: Jeanette Delores
18 Singleton.

19 THE COURT: We're continuing the
20 process that we started on Friday. We need to
21 ask you some additional questions. The only
22 thing that we ask if that you truthfully
23 respond to these questions and you answer them
24 completely. Okay?

25 JUROR NUMBER 280: Yes.

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 THE COURT: I would remind you that
2 you are still under oath. Okay?

3 JUROR NUMBER 280: Okay.

4 JEANETTE SINGLETON, being duly sworn
5 to tell the truth, the whole truth and nothing
6 but the truth, testified, as follows:

7 VOIR DIRE EXAMINATION

8 BY THE COURT:

9 Q. Have you talked with anyone or permitted
10 anyone to talk about this case in your
11 presence?

12 A. No, sir.

13 Q. Have you watched any News programs or read
14 any articles about it?

15 A. In the newspaper.

16 Q. You did?

17 A. Yes, sir.

18 Q. What did you read?

19 A. About the trial beginning.

20 Q. Why did you do that? Didn't I instruct you
21 not to do that?

22 A. I always read the newspaper.

23 Q. Yes, ma'am. Well, the court instructed you
24 not to do that. You can't do that.

25 A. Well, that I read the paper early every

1 morning.

2 Q. I understand. I read it. I am, because I
3 have to but jurors are not supposed to. The
4 reason for that is that you can't be influenced
5 and you can't have the appearance of being
6 influenced by anything that takes place outside
7 of this courtroom. Do you understand that?

8 A. Yes, sir.

9 Q. And when a juror reads something that's in
10 the newspaper, that is not something that is
11 evidence because the evidence is what you hear
12 in the courtroom and that's what you have to
13 decide this case. So when jurors read
14 something or hear something outside, then that
15 has the potential of influencing that juror.
16 Do you understand that?

17 A. Yes.

18 Q. You were given a sheet when you came in
19 that sets forth three types of jurors, have you
20 had a opportunity to review that sheet?

21 A. Oh, yes. I got it right here.

22 Q. Which type most accurately describes you?
23 Type one, type two or type three?

24 A. Type two.

25 Q. Type two says that -- this is how I

1 understand type two, that if a person is
2 convicted of murder that your decision would
3 always be life imprisonment, that you could
4 never vote for a death sentence under any
5 circumstance. Is that you?

6 A. Yes.

7 Q. There are no circumstances that would
8 warrant your returning a verdict of sentencing
9 someone to death. Is that right?

10 A. Right.

11 THE COURT: Mr. Bloom?

12 VOIR DIRE EXAMINATION

13 BY MR. BLOOM:

14 Q. Ms. Singleton, good afternoon. My name is
15 Jeff Bloom and along with Andrew Carroll, we
16 represent William Dickerson. I just have a few
17 follow up questions to ask you about your
18 conversation with the judge. We just need your
19 honest opinion. Okay?

20 A. Okay.

21 Q. I think Judge Dennis told you that the law
22 of course never requires a juror to vote for
23 the death penalty. You understanding that,
24 right?

25 A. Yes.

1 Q. And the law also allows jurors to have
2 opinions against the death penalty. Do you
3 understand that?

4 A. Yeah.

5 Q. What the law does require is that if you
6 have a strong opinion against the death penalty
7 that's okay, but can you set that aside and
8 listen to all the evidence?

9 A. I could set it aside and listen.

10 Q. Can you set your opinion against the death
11 penalty aside and still listen to all the
12 evidence in the case?

13 A. Yes.

14 Q. The law doesn't stop there, it goes a few
15 more steps, so let me -- the law also requires
16 you, if you can set your opinion against the
17 death penalty aside, to consider the
18 prosecution's evidence in support of the death
19 penalty. Can you do that?

20 A. I don't know.

21 Q. You don't know?

22 A. (Negative gesture).

23 Q. Well, let me go one more step. The law
24 says that if you can set your opinion aside
25 that you have to consider their evidence in

1 support of the death penalty and decide if that
2 is the proper verdict or if life imprisonment
3 without the possibility of parole is the proper
4 verdict. Can you consider their evidence in
5 deciding if the death penalty is the proper
6 verdict?

7 A. I don't think, (negative gesture).

8 Q. Okay. I just have a couple more quick
9 questions, I think. Is there any situation
10 that you could consider, if you were a juror,
11 -- you know, where you thought 'I don't believe
12 in the death penalty but here's a situation
13 where I could vote for it.' Is there any
14 situation where you could consider a vote for
15 the death penalty?

16 A. I don't think I can vote for the death
17 penalty.

18 Q. And are those strongly-held religious views
19 that you hold? Are those views based on your
20 faith and your church and your religion?

21 A. Yeah.

22 Q. All right. Have you held those for a long
23 time, as a part of your faith, your church and
24 your religion?

25 A. Yes.

1 MR. BLOOM: All right. Thank you
2 very much, Ms. Singleton.

3 THE COURT: Anything, Solicitor?

4 SOLICITOR WILSON: No, sir.

5 THE COURT: Thank you, ma'am. If
6 you will step out, we will be with you in just
7 a moment.

8 (JUROR NUMBER 280 EXITS COURTROOM)

9 THE COURT: Solicitor?

10 SOLICITOR WILSON: She's not qualified.

11 THE COURT: Mr. Bloom?

12 MR. BLOOM: Judge, this is the first
13 juror that we reached. We would object and I'd
14 like to make a very brief argument. I
15 understand that you're ---

16 THE COURT: How about doing me this
17 favor? Let me bring her in ---

18 MR. BLOOM: Yes, sir.

19 THE COURT: --- and then I'll let
20 you put it on the record, because I don't have
21 any problem with this one.

22 MR. BLOOM: Yes, sir.

23 THE COURT: Let's bring her in.

24 (JUROR NUMBER 280 ENTERS COURTROOM)

25 THE COURT: Ms. Singleton, thank you

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

544

1 very much. We are going to excuse you from any
2 further participation in this trial. Call the
3 number today for the jury. Follow the
4 instruction where it says "jurors need to
5 call". If you hear an instruction about the
6 Dickerson panel of panel-so-and-so, that's not
7 you. Just follow the general instructions.
8 Have a good day. You're free to leave. Thank
9 you ma'am.

10 JUROR NUMBER 280: Thank you.

11 (JUROR NUMBER 280 EXITS COURTROOM)

12 THE COURT: Thank you, Mr. Bloom.

13 I didn't mean to interrupt you. I'll be happy
14 to hear from you, sir.

15 MR. BLOOM: Certainly. No, I'm
16 always agreeable with tending to the jurors
17 first. Your Honor, I would acknowledge that
18 this is an argument on precedent. I understand
19 that the trial court has certain guidance that
20 it must use. Very briefly, we would object on
21 the First Amendment grounds, the Eighth and
22 Fourteenth Amendments of the United States
23 Constitution. There are some Federal Courts
24 who are now acknowledging that if a juror who
25 is opposed to the death penalty states that it

1 is based on strongly-held religious grounds
2 that that is an exception to a traditional
3 Whitt standard in that those jurors represent
4 the conscience of the community and under the
5 First Amendment, they kind of override prior
6 case law, which traditionally recused such
7 jurors. So we would simply object on the
8 First, Eighth and Fourteenth Amendment grounds.
9 Thank you, Your Honor.

10 THE COURT: Thank you very much.
11 The concern that I have, of course, really
12 doesn't even get to the -- the concern that I
13 have and what the case law seems to say is,
14 'Can this juror follow the court's
15 instruction?' The instruction is to consider
16 both. When they say 'I cannot consider it
17 under any circumstances', then they can't
18 follow the instruction of the court. So it's
19 at loggerheads. I understand where you are
20 coming from but that's the reason for it.

21 The basis may be very legitimate and I
22 certainly express my concern in chambers, and
23 it is my personal concern but I try not to let
24 it influence any decision that I have, I'm
25 conscious of it so I remind myself of it. You

1 know, I understand the difference where a
2 person may be pro death penalty but they can
3 answer the question sufficiently to serve. But
4 someone who is anti, absolutely against it can
5 never because they can't follow the
6 instructions.

7 I understand your objection and it is
8 noted for the record. Thank you, sir.

9 Let's take a few minutes, about twenty
10 minutes and get some lunch.

11 (BRIEF RECESS)

12 (DEFENDANT PRESENT)

13 THE COURT: Let the record reflect
14 that Mr. Dickerson is present. Let's bring in
15 Juror Number 232, Mr. Orr.

16 (JUROR NUMBER 232 ENTERS COURTROOM)

17 THE COURT: Hello, Mr. Orr.

18 JUROR NUMBER 232: How are you?

19 THE COURT: I am well. I hope that
20 you are, sir?

21 THE COURT: Yes, sir. If you would,
22 just take a seat there and position yourself so
23 that you can speak into that mic comfortably.
24 If you would, tell us your full name.

25 JUROR NUMBER 232: James Elbert Orr.

1 THE COURT: Mr. Orr, good afternoon to
2 you. Thank you very much for your patience.
3 We ran a little long this morning and let
4 you'all take a break rather than sit around in
5 there. Sorry we've held you as long as we have
6 but it won't take much longer.

7 We have some questions that we need to
8 ask of you and it's really a continuation of
9 the process that we started on Friday. These
10 questions, as you will recall on Friday, they
11 really do not have any correct answers to them.
12 They are designed to assist us and to assist
13 you in making a determination as to whether or
14 not you're able to be a fair and impartial
15 judge in this case and resolve the issues that
16 the jury has to resolve, that is the factual
17 issues.

18 So the only thing that I ask of you is
19 that you truthfully respond to those questions,
20 as you have thus far, and I would remind you in
21 that connection that you are still under oath.
22 That oath, of course, will apply -- and also
23 that you completely answer the questions.

24 JUROR NUMBER 232: Yes, sir.

25 JAMES ORR, being duly sworn to

1 tell the truth, the whole truth and nothing but
2 the truth, testified, as follows:

3 VOIR DIRE EXAMINATION

4 BY THE COURT:

5 Q. First of all, since Friday have you talked
6 with anyone or permitted anyone to talk with
7 you about this case?

8 A. No, Your Honor.

9 Q. Have you read any newspaper articles about
10 it or watched any News programs?

11 A. No, Your Honor.

12 Q. You were given a sheet when you came in
13 that sets forth three types of jurors, have you
14 had a opportunity to review that sheet. Have
15 you had an opportunity to review that?

16 A. (Affirmative nod). Yes, Your Honor.

17 Q. Which type most accurately describes you?

18 A. Three, type three.

19 Q. The third type?

20 A. (Affirmative nod).

21 Q. Type three is the type of juror that would
22 in some situations be able to impose a death
23 sentence and in some situations for murder they
24 would impose a life imprisonment without the
25 possibility of parole; is that correct?

1 A. Yes, Your Honor.

2 Q. And that applies to you?

3 A. Yes, Your Honor.

4 Q. Now, you remember that I gave you a number
5 of names on Friday and asked you if you were
6 related by blood or marriage to any of those
7 persons. I failed to mention two names that I
8 need to ask you about. Are you related by
9 blood or marriage, have any business dealings
10 with or socially or casually acquainted with or
11 have any dealings with either Jeff Osborne or
12 Matt Casey?

13 A. No, Your Honor.

14 Q. Okay. Now, as you know, what we're going
15 to talk about today, just as I stated on
16 Friday, is not to imply anything or to suggest
17 anything about this particular case because at
18 this point, as I mentioned to you, Mr.

19 Dickerson who has been accused of these crimes
20 is innocent under our law. You remember that I
21 told you about the presumption of innocence?

22 A. Yes, Your Honor.

23 Q. You don't have any problem with that
24 principle of law?

25 A. No, Your Honor.

1 Q. That principle means, today as he sits
2 there you believe as we all believe consistent
3 with that principle that he is innocent of
4 these charges?

5 A. Yes, Your Honor.

6 Q. And that presumption of innocence remains
7 until and unless the State can prove his guilt
8 beyond a reasonable doubt. Do you understand
9 that?

10 A. Yes, Your Honor. Your Honor, I believe I
11 know one of the names -- I had to find out for
12 sure.

13 Q. Okay. Miss Singleton?

14 A. Yes.

15 Q. You know that person?

16 A. I believe that she lives on property that I
17 work for.

18 Q. If that is the person that you know, would
19 that affect you in this case?

20 A. Most certainly.

21 Q. So you believe that would prevent you from
22 being fair and impartial in this case?

23 A. Most certainly.

24 THE COURT: Anything from the State?

25 SOLICITOR WILSON: I just want to make

1 sure that we're talking about the right person.

2 THE COURT: All right. Sure. What
3 person is it, which Miss Singleton -- what
4 Singleton is it?

5 JUROR NUMBER 232: I think it's Tanya
6 or Toya. You said her name and then I checked
7 the records at the property and I believe that
8 it is the same person. Do you have a picture
9 or the address? Because I know the address, I
10 could give you the address.

11 THE COURT: What is the address?

12 SOLICITOR WILSON: What is the address?

13 JUROR NUMBER 232: 5600 Dorchester
14 Road, Apartment 104.

15 MR. RUTLEDGE DURANT: Tanesha live on
16 Dorchester -- (sidebar with Solicitor Wilson).

17 THE COURT: Let me ask you while
18 they're looking, that would affect you if it is
19 that person. If it is not that person, then it
20 would not affect you, is that correct?

21 JUROR NUMBER 232: No, sir. If I don't
22 know her, Your Honor, it wouldn't have any
23 affect on me.

24 SOLICITOR WILSON: Kanesha Singleton is
25 our witness' name? I don't know if she lives

1 at that address?

2 JUROR NUMBER 232: I am pretty sure
3 that's the one.

4 BRUCE DURANT: I thought Tanesha
5 lived on Ashley Hall Road. Could I just check
6 on that while you are ---

7 SOLICITOR WILSON: What was the address
8 again?

9 JUROR NUMBER 232: 5600 Dorchester
10 Road.

11 MR. BRUCE DURANT: We have 6220 Murray
12 Drive.

13 THE COURT: It's not the person.

14 JUROR NUMBER 232: It might not be but
15 I just wanted to make sure.

16 THE COURT: That's fine. I
17 appreciate your candor in that regard. I want
18 to be sure of something else. As long as -- I
19 understand that if it is not that person, then
20 you would not have any problem?

21 JUROR NUMBER 232: No, Your Honor.

22 THE COURT: All right. Good.
23 Solicitor? Well, let me ask him ---

24 EXAMINATION CONTINUED

25 BY THE COURT:

1 Q. Obviously, consistent with that, you
2 understand that if you're empaneled on the jury
3 that it would be your responsibility to decide
4 what you believe to be the true facts by
5 considering the evidence. Do you understand
6 that?

7 A. Yes, Your Honor.

8 Q. That means that you would consider the
9 testimony of the witnesses and exhibits that
10 were introduced through their testimony and
11 that is the sole source of evidence?

12 A. Yes, Your Honor.

13 Q. And you believe that you could and would be
14 fair and impartial in evaluating that evidence
15 and decide what you believe to be true?

16 A. Yes, Your Honor.

17 Q. You also understand that while you have the
18 sole responsibility of being the judge of the
19 facts that my responsibility would be to be the
20 judge of the law?

21 A. Yes, Your Honor.

22 Q. And you would promise to take the law as I
23 give it to you and apply that law fairly and
24 impartially to those facts. Do you understand
25 that?

1 A. Yes, Your Honor.

2 Q. That would mean that even if you heard some
3 principles of law with which you differed, in
4 other words you either thought 'that's not the
5 law as I knew or thought I knew it, or I don't
6 agree with that law.' Notwithstanding whatever
7 your opinion may be about it, you would set
8 that opinion aside and take the law and apply
9 it fairly and impartially.

10 A. Yes, Your Honor.

11 Q. Now, as I mentioned to you, we talked about
12 the presumption of innocence and there is
13 another presumption that also applies to
14 persons who are accused of committing criminal
15 offenses -- there's another aspect of the law
16 and that is that people who are accused of
17 committing criminal offenses do not have to
18 prove anything. The presumption of innocence
19 carries the day. Do you understand that?

20 A. Yes, Your Honor.

21 Q. They don't have to prove anything at all,
22 they don't have to present any evidence, they
23 don't have to explain anything, they don't have
24 to justify anything. They certainly don't have
25 to prove their innocence. Do you understand

1 that?

2 A. Yes, Your Honor.

3 Q. Do you have any problem with that principle
4 of law?

5 A. No, Your Honor.

6 Q. So you would never look -- and we're
7 talking about this generally. If you were on
8 the jury in a case involving murder, the person
9 accused of murder would have no responsibility
10 whatsoever. Do you understand that?

11 A. Yes, I do.

12 Q. To prove anything.

13 A. I understand.

14 Q. And you could never use that against them,
15 and you would not; is that correct?

16 A. Yes, Your Honor.

17 Q. Persons accused of committing criminal
18 offenses also don't have to testify, they don't
19 have to state anything, they don't have to do
20 anything at all, as I stated, and likewise that
21 could not be used against a person. Would you
22 have any problem following that principle?

23 A. No, Your Honor.

24 Q. You understand that in this case, as I
25 mentioned on Friday, that there is the

1 potential or possibility of two phases?

2 A. (Affirmative nod).

3 Q. The second phase would not occur unless the
4 jury hearing this case, on hearing all the
5 evidence, was convinced -- and after hearing
6 the law, applying that law to the evidence --
7 beyond a reasonable doubt that the State had
8 proven all of the elements of murder and only
9 then would we go into the second phase. Do you
10 understand that?

11 A. Yes, Your Honor.

12 Q. And as I understand your being a type three
13 juror, and that's a juror that basically says
14 'there are some times I would vote for the
15 death penalty and there are some times the
16 cases I don't believe would warrant a death
17 sentence but would instead would warrant life
18 imprisonment without the possibility of
19 parole.'

20 A. Yes, Your Honor.

21 Q. 'But as to which one would apply, I'd have
22 to hear all the evidence and receive the charge
23 on the law before I could tell you which one.'

24 A. Yes, Your Honor.

25 Q. That's you?

1 A. Yes, Your Honor.

2 Q. So if you were sitting in the case, and
3 again I am not suggesting that that would be
4 the outcome in this situation, and the jury
5 returned a verdict and we went into the second
6 phase, is it my understanding that at that
7 point you still would not know what the
8 appropriate sentence would be?

9 A. Yes, Your Honor.

10 Q. And you understand that in this state that
11 there are only very limited circumstances where
12 a jury participates in the sentencing in a
13 murder case. Do you understand that?

14 A. Yes, Your Honor.

15 Q. Most of the time the court sentences for
16 murder. Do you understand that?

17 A. Yes, Your Honor.

18 Q. And the only two options that you will have
19 to consider will be life imprisonment or a
20 death sentence. Do you understand that?

21 A. Yes, Your Honor.

22 Q. Those two aren't controlling in other
23 murders where certain circumstances don't exist.
24 Do you understand that?

25 A. Yes, Your Honor.

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

558

1 Q. But as I understand, notwithstanding that
2 you would only have two options to consider, at
3 the time that you started the second phase, if
4 you got that far, you would not have any pre-
5 determination or decision as to what the
6 appropriate sentence would be. Is that
7 correct?

8 A. (Affirmative nod). No, Your Honor.

9 Q. I would instruct you if you were on the
10 jury and we in the second phase that in
11 addition to only considering two, you can't
12 even consider a death sentence unless the jury
13 has beyond a reasonable doubt from the evidence
14 that the State has established one or more
15 aggravating circumstances. I would define that
16 term for you. Those are the terms that simply
17 under our law warrant the jury even considering
18 it and they have to exist before the jury can
19 consider a death sentence. Do you understand
20 that?

21 A. Yes, Your Honor.

22 Q. If the jury found beyond a reasonable doubt
23 aggravating circumstances or an aggravating
24 circumstance, then the jury may consider it but
25 I would further instruct you that they are not

1 required to return a death sentence. Only that
2 you may return it if the jury determines that
3 is the most appropriate punishment. Do you
4 understand that?

5 A. Yes, Your Honor.

6 Q. At that time, if you found aggravating
7 circumstances, the jury would have to decide
8 whether life imprisonment without the
9 possibility of parole or the death sentence was
10 the most appropriate sentence for those
11 circumstances. Do you understand?

12 A. Yes, Your Honor.

13 Q. And it is my understanding that you would
14 be able to consider all the evidence and fairly
15 and impartially make that decision as to which
16 one was the most appropriate at that time?

17 A. Yes, Your Honor.

18 Q. But only after you'd hear all the evidence
19 and received the charge on the law?

20 A. Yes, Your Honor.

21 Q. There are other things that you may
22 consider in addition to the aggravating
23 circumstances. The evidence may contain, and
24 I would charge you on this, mitigating
25 circumstances; which typically are not

1 circumstances necessarily related directly to
2 the crime itself but may involve background
3 information about the defendant's life, the
4 defendant's history with respect to any mental
5 illness or problems in that vein, addictions
6 and that sort of testimony. There are a number
7 of areas. Again, in that situation, remember
8 that the defendant has nothing to prove. Do
9 you understand that? .

10 A. Yes, Your Honor.

11 Q. So you're not looking to the defendant to
12 prove anything about that, but am I to
13 understand that you would consider all the
14 circumstances and evidence, including
15 mitigating circumstances?

16 A. Yes, Your Honor.

17 Q. And you would consider those ---

18 A. Yes, Your Honor.

19 Q. --- in deciding what was the appropriate
20 sentence?

21 A. Yes, Your Honor.

22 Q. And give weight to those circumstances if
23 they exist?

24 A. Yes, Your Honor.

25 Q. Is there anything about this case that you

1 think would affect or that would in any way
2 impair your ability to apply your common sense,
3 your sense of logic and reasoning fairly and
4 impartially in deciding the facts?

5 A. Yes, Your Honor.

6 Q. What?

7 A. Oh, -- no, there's nothing.

8 Q. Nothing?

9 A. No, nothing at all.

10 Q. Is there anything that would affect your
11 ability to take the law as I gave it to you
12 notwithstanding your own personal opinion and
13 apply that law fairly and impartially?

14 A. Yes, Your Honor.

15 Q. There is? What is it?

16 A. Could you repeat the question?

17 Q. Yes, sir. I want to be sure -- I have a
18 friend of mine, he's retired -- people would
19 sometimes do that and he was doing a process
20 where that was getting a lot of 'yes' answers
21 and he asked the person, 'Do you know that you
22 can dance?' It didn't have a thing in the
23 world to do with anything. The person says
24 'yes.' It pointed out that he was in a routine
25 of just saying 'yes.' I want to be sure that

1 you're not in that routine. Are you?

2 A. Right.

3 Q. You're not in that routine?

4 A. No.

5 Q. You just didn't understand the question?

6 A. Right.

7 Q. My question is, is there anything about
8 your background, anything about what you've
9 heard that would give you any concern about
10 your ability to set aside any opinions that you
11 may have about what the law is, or should be,
12 and follow the law as I gave it to you, then
13 apply that law fairly and impartially to the
14 evidence?

15 A. No, Your Honor.

16 Q. Thank you. Please answer any questions
17 that the attorneys may have.

18 VOIR DIRE EXAMINATION

19 BY SOLICITOR WILSON:

20 Q. Thank you, Mr. Orr. I'm Scarlet Wilson.
21 I'm the Solicitor here. This is Bruce Durant
22 and Rutledge and the three of us together will
23 be the prosecutors in this case. We will be
24 presenting all the evidence. I'll be asking
25 you some followup questions from the Judge's

1 questions. Okay?

2 A. Yes.

3 Q. We were able to -- the Clerk of Court
4 provided us with a copy of the questionnaire
5 that you filled out. First of all, I just want
6 to ask you a few questions about that.

7 You mentioned that you had been the victim
8 of a crime before.

9 A. Yes.

10 Q. That was way back in 1989?

11 A. I believe that it was '90, '89 or '92. I'm
12 not positive on the date.

13 Q. Now, despite that fact, you're having been
14 attacked trying to help somebody, would you
15 still be able to be fair and impartial and
16 judge this case based on the facts here?

17 A. (Affirmative nod), most certainly.

18 Q. That wouldn't have any effect on your
19 sitting as a juror?

20 A. No, ma'am.

21 Q. I also noticed that you answered the
22 question about the death penalty and you said
23 that you believe that if someone is convicted
24 beyond a reasonable doubt for killing another
25 human being, then you were in favor of the

1 death penalty.

2 A. Yes, that I would consider.

3 Q. And you said, "...an eye for an eye. God
4 forgives. I don't." Do you remember writing
5 that?

6 A. No, I don't.

7 Q. Okay. Is your view -- in answering the
8 questions that the judge gave you, it sounds to
9 me more like what you're saying is that you
10 would consider whether or not there were
11 aggravating circumstances, and then you been
12 interested if there were mitigating
13 circumstances, too, whether or not there were
14 things about the crime or about the defendant
15 that might make the crime less severe or might
16 explain his behavior. Is that right?

17 A. Yes.

18 Q. You would want -- you would be interested
19 in that?

20 A. (Affirmative nod), most certainly.

21 Q. Okay. And you mentioned again, and I just
22 want to make sure we're sure about the
23 questionnaire. You understand that not every
24 murder is a case in which the death penalty is
25 an option?

1 A. Yes, I understand that.

2 Q. And you understand that murder is not an
3 accident, it is not a situation where two
4 people are in a fight and there's self-defense
5 and somebody gets killed. It's a situation
6 where somebody intentionally kills another
7 person and there's malice involved in that.
8 That is was malicious. That's what it means to
9 be murdered. Do you understand that?

10 A. Yes.

11 Q. Murder doesn't always just mean somebody
12 died. There's got to be malice and there's got
13 to be intent. Are you with me on that?

14 A. Yes.

15 Q. In those cases, a malicious murder, do you
16 understand that the death penalty or that --
17 that just because it is a malicious murder that
18 the death penalty doesn't automatically apply?

19 A. Yes, I understand that.

20 Q. There's got to be something more. Do you
21 understand that?

22 A. Yes, I understand that.

23 Q. And the judge has told you that was in the
24 form of an aggravating circumstance, that the
25 three of us (indicating solicitors) are going

1 to have to prove to you or would have to prove
2 to you an aggravating circumstance before you
3 could even get to the death penalty?

4 A. Yes, I understand that.

5 Q. Would you be willing to wait until you
6 heard that evidence before making up your mind
7 about the death penalty?

8 A. Well, -- yeah.

9 Q. Okay.

10 A. If the evidence isn't there, you can't very
11 well sentence someone.

12 Q. That's exactly right. You know, some
13 people say that it doesn't matter, that once
14 somebody is convicted of murder that they think
15 every murder, an eye-for-an-eye, death penalty.
16 That is not you, though?

17 A. No.

18 Q. Okay. Likewise, you would be interested if
19 the defendant had mitigating circumstances,
20 things that may made the murder not as bad or
21 different?

22 A. Like mental problems, yes.

23 Q. Yes.

24 A. Yes, drug addiction.

25 Q. Drug use, drug abuse.

1 A. Right.

2 Q. Background?

3 A. (Affirmative nod).

4 Q. Anything like that, you would want to hear
5 that?

6 A. Yes, most certainly.

7 Q. And you would consider that?

8 A. Yes.

9 Q. Give it meaningful consideration?

10 A. Yes.

11 Q. Okay. And you believe that life without
12 parole can be an appropriate sentence for even
13 someone convicted of a malicious murder?

14 A. Yes.

15 Q. Sometimes the death penalty might be
16 appropriate, right?

17 A. Yes.

18 Q. Okay. And you would be able to sign --
19 even in a malicious murder where we had proved
20 an aggravating circumstance, you still might be
21 able to give life without parole; couldn't you?

22 A. It's a possibility.

23 Q. Okay.

24 SOLICITOR WILSON: I don't think that I
25 have anything else, Your Honor.

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 THE COURT: Mr. Bloom?

2 MR. BLOOM: May it please the court?

3 THE COURT: Yes, sir.

4 VOIR DIRE EXAMINATION

5 BY MR. BLOOM:

6 Q. Mr. Orr, good afternoon, sir.

7 A. Good afternoon.

8 Q. My name is Jeff Bloom. Together with
9 Andrew Carroll, we represent William Dickerson.

10 There are just some followup questions that I
11 want to ask you. Okay, sir?

12 A. Yes.

13 Q. And you understand that there are no right
14 or wrong answers here. We just kind of want to
15 know your honest opinion about things.

16 A. Okay.

17 Q. All right. We're kind of getting the cart
18 before the horse because we haven't had a trial
19 and Mr. Dickerson, as Judge Dennis explained,
20 is presumed innocent. You understand that?

21 A. Yes, I understand.

22 Q. But we've kind of got to talk about the
23 issues, right?

24 A. I understand.

25 Q. Can I just ask you what your opinion or

1 feeling is about the death penalty?

2 A. I believe that it was a malicious act --
3 like I said, it's one of those things that you
4 have to know all the facts about before you
5 make a decision. It's as simple as that. If
6 you don't know all the evidence, then you can't
7 make a decision.

8 Q. And in -- on your questionnaire that the
9 solicitor asked you about, I think you put "an
10 eye for an eye, God forgive, I don't." Can you
11 just tell me what you mean by that?

12 A. What I meant was -- that was filled out
13 like at 9:00 o'clock at night when I -- because
14 I got it the day before and it was -- I don't
15 even remember writing that, to be honest with
16 you.

17 Q. Okay.

18 A. Sorry.

19 Q. That's all right. Now, some people feel
20 -- and the solicitor asked you, so I be brief
21 but I just want to make sure that I understand.
22 Some people feel that once they've found a
23 person guilty of murder -- murder means, as the
24 solicitor said, that they did it, intended to
25 do it, with malice, they got the right person

1 beyond a reasonable doubt, it's not accident,
2 not self-defense, not manslaughter like you'd
3 catch someone in bed, it's not insanity but
4 that they did it, intended to do, with malice
5 and they got the right person. Some people
6 feel at that point that they are going to vote
7 for the death penalty every time. Is that
8 where you fall?

9 A. Well, that's one of those things where
10 you'd consider the circumstances that may have
11 caused this to happen. Mental illness. Drug
12 addiction.

13 Q. Okay.

14 A. Things of that nature, so -- (pause).

15 Q. So as Judge Dennis asked you, those are
16 some things that you could give meaningful
17 consideration to?

18 A. Most certainly.

19 Q. Such as drug addiction?

20 A. Right, (affirmative nod), mental illness.

21 Q. Mental illness?

22 A. (Affirmative nod).

23 Q. You're not just going to sit there and
24 listen but you'd give meaningful consideration
25 to it, and that may be stuff that's important?

1 A. Yes.

2 Q. So you could listen to things that may
3 nothing to do with the murder itself but how a
4 person was raised, his background, mental ---

5 A. Yes.

6 Q. You understand that some people can't?
7 They say, 'You know what? Judge Dennis, I
8 gotta be honest with you. I'd try to follow
9 your instructions but I don't want to listen to
10 anything that doesn't have anything to do with
11 the murder but how someone was raised.' You're
12 saying that is not you?

13 A. That has a lot of -- a lot of bearing,
14 especially like mental illness, that would have
15 a lot of bearing on the situation.

16 Q. Judge Dennis talked to you a little bit,
17 too, about the burden of proof. Some folks,
18 once the State proves their case for murder and
19 aggravation -- and "aggravation" is just a
20 fancy legal word for evidence that supports the
21 death penalty -- they expect the defense to
22 kind of come forward and disprove it. Is that
23 something that you would require the defense to
24 do, to kind of disprove that the death penalty
25 is the proper penalty?

1 A. Most definitely not.

2 Q. Let me ask you next, if Judge Dennis
3 instructed you that the law was that you can't
4 put any burden of proof on the defense, they
5 don't have to call any witnesses, is that
6 something that you feel that you could follow
7 or are you still going to say, 'You know what?
8 Judge Dennis, I hear what you're telling me
9 under the law but if the defense doesn't show
10 me something, I'm going to vote for death each
11 and every time.'

12 A. I can't say that. I can't say whether I
13 could do that or not. To be honest with you,
14 like I said, it has a lot to do with evidence
15 and -- (pause) -- you know, again, mental
16 illness or drug addiction.

17 Q. Right.

18 A. But, you know, I can't say that I honestly
19 -- that they didn't in some way disprove it, I
20 can't anything that I could honestly ---

21 Q. You couldn't honestly consider a life
22 without parole unless the defense somehow
23 disproved the death sentence?

24 A. Right.

25 Q. Some people feel strongly about that, they

1 just say, 'Judge Dennis, look. Even if you
2 gave me instruction that I can't put any kind
3 of burden of proof on the defense, if they
4 don't show me something to kind of disprove the
5 death penalty or they don't bring me something,
6 I gotta be honest, I'm going to go for death
7 each and every time.' I don't want to put
8 words in your mouth, but is that kind of the
9 group of folks that you're in?

10 A. Yeah, I would think so.

11 Q. Okay. Let me just ask you a few other
12 questions. I note on your questionnaire, sir,
13 that -- the solicitor asked you, I think you'd
14 been assaulted sometime ago by three black men.
15 I'm not trying to be rude by this question, we
16 just need an honest opinion. Your experience
17 in that incident, the fact that William
18 Dickerson is an African American male, black
19 male, does that cause you any difficulty?

20 A. No, it wouldn't. He didn't do anything.

21 Q. Thank you for your honesty. I appreciate
22 that. You understand why I kind of have to ask
23 that?

24 A. I understand, but it wouldn't.

25 Q. Okay. You also noted that you know someone

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 who has died as the result of a violent act or
2 incident?

3 A. Yes.

4 Q. Can you explain that a little bit?

5 A. A friend of mine, his name was Robert -- I
6 can't think of his last right off -- but he'd
7 just gotten back from New Orleans, it happened
8 on King Street, and they shot him in cold
9 blood, six times, pointblank.

10 Q. This was in New Orleans?

11 A. This was here.

12 Q. I'm sorry.

13 A. Downtown.

14 Q. I'm sorry, I misheard you.

15 A. He came back, he'd worked with me on
16 rehabilitation hospital after KATRINA -- Robert
17 Magwood was his name. They shot him in cold
18 blood, six times.

19 Q. How long ago was that, sir?

20 A. That was about, I'd say, two years ago.

21 Q. This was a good friend of yours?

22 A. A very good friend of mine.

23 Q. Do you know if anyone was ever arrested or
24 charged with anything?

25 A. To my knowledge, no. They just said that

1 it was a random act of violence. Nobody was
2 every found, and his father was I believe a
3 police sergeant for the Charleston Police
4 Department. He didn't even know that he was
5 back in town, he didn't even get to see his son
6 before he was murdered.

7 Q. I can kind of tell by the way that you tell
8 that, that is kind of upsetting to you.

9 I apologize, I'm not trying to upset you.

10 Would that experience cause you any difficulty
11 in sitting as a juror in this murder case?

12 A. I can't honestly say that I could be as
13 impartial as I should be, being that that
14 happened to him in cold blood. He didn't even
15 get to cash his last paycheck, he still had it
16 on him.

17 Q. Sure. I really appreciate you being as
18 honest as you are as you sit there, because you
19 strike me as a very honest person. I know
20 you're trying to do that. What Judge Dennis
21 needs to know, because I think what you
22 mentioned just now is that you're not sure if
23 you could be impartial, that it might affect
24 you?

25 A. Yes, it might.

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

576

1 Q. And Judge Dennis just needs to know, I
2 guess, if that experience has affected you in a
3 way that -- well, let me ask it quite simply
4 like this, if you can't be fair and impartial,
5 can you tell Judge Dennis that? If it concerns
6 you that much or has affected you that much,
7 could you ---

8 A. It has.

9 Q. It has?

10 A. Yes, sir.

11 Q. And is this the type case -- you might be
12 able to sit on some other case but a murder
13 case, ---

14 A. Yeah, it might affect my judgment.

15 Q. And you know if you sit there, you're a
16 citizen of Charleston County, you want if ---

17 SOLICITOR WILSON: Objection.

18 THE COURT: Sustained.

19 MR. BLOOM: I understand. I wasn't
20 trying to ---

21 THE COURT: Just ask your next
22 question. Thank you. If you have one.

23 EXAMINATION CONTINUED

24 BY MR. BLOOM:

25 Q. You could sit on some other case but

1 sitting on a murder case, given what you've
2 just told me, it would be hard for you?

3 A. It would be hard for me. Yes, sir.

4 Q. And you may not be able to do it?

5 A. Yeah.

6 THE COURT: Mr. Bloom, you've asked
7 -- he's answered your question. Just stop,
8 please.

9 MR. BLOOM: Yes, sir.

10 THE COURT: Anything else?

11 MR. BLOOM: No, sir.

12 SOLICITOR WILSON: (Negative gesture).

13 THE COURT: Thank you very much, Mr.
14 Orr. I appreciate your candor, I appreciate
15 you being honest about your situation with your
16 friend. I am going to excuse you from
17 participation in this case. Thank you, sir.
18 Have a good day.

19 Mr. Orr, you're still in the jury
20 panel. So call back after 6:00 and follow the
21 instruction as it pertains to the jury panel in
22 general. Anything that references Mr.
23 Dickerson you can ignore because you're no
24 longer involved in that.

25 JUROR NUMBER 232: Just call that

1 number on that card?

2 THE COURT: Yes, sir. Call after
3 6:00 o'clock tonight.

4 (JUROR NUMBER 232 EXITS COURTROOM)

5 THE COURT: Mr. Orr didn't get to
6 the level of a death penalty qualification.
7 He's excused because he finally confessed a
8 bias, that it obviously would affect him. I
9 appreciate his doing so. Thank you.

10 All right, let's bring in our next
11 one. Ms. Buchanan, Number 37.

12 (JUROR NUMBER 37 ENTERS COURTROOM)

13 THE COURT: Hi, Ms. Buchanan. How
14 are you this afternoon?

15 JUROR NUMBER 37: I'm fine, thank you.

16 THE COURT: Ms. Buchanan, make
17 yourself comfortable so that you can speak into
18 that mic comfortably. If you would, state your
19 full name for the record please.

20 JUROR NUMBER 37: Diane L. Buchanan.

21 THE COURT: Thank you, Ms. Buchanan.
22 I appreciate your patience. We took longer
23 this morning than anticipated but those things
24 happen and I'm sorry that we've had to delay
25 you a little bit, but we hopefully will not

1 detain you much longer.

2 We are continuing the process that we
3 started on Friday. As you will recall, we were
4 asking you a number of questions generally and
5 you will recall also that those questions
6 didn't have any correct answer. They really
7 are questions that are designed to assist you
8 and to assist us in determining whether or not
9 you can be a fair and impartial judge with me
10 in this case.

11 All that we ask is that you truthfully
12 respond to those questions and that you fully
13 respond to the questions asked. I am going to
14 have some for you, the attorneys may have some
15 for you. In that regard, I would remind you
16 that you are still under oath. Okay?

17 JUROR NUMBER 37: Yes, sir.

18 DIANE BUCHANAN, being duly sworn to
19 tell the truth, the whole truth and nothing but
20 the truth, testified, as follows:

21 VOIR DIRE EXAMINATION

22 BY THE COURT:

23 Q. First I would like to ask you, have you
24 talked with anyone or permitted anyone to talk
25 with you about this case since we were together

1 on Friday?

2 A. Absolutely not.

3 Q. Have you read any newspaper articles or
4 watched any News accounts about it?

5 A. No, sir.

6 Q. Thank you. Now, Friday I gave you a list
7 of names and I failed to mention two names that
8 I need to ask you about. Are you related by
9 blood or marriage, have any business dealings
10 with, are socially or casually acquainted with
11 either a Jeff Osborne or Matt Casey?

12 A. No, sir.

13 Q. When you came in today you were given a
14 sheet that has listed on it three types of
15 jurors. Which one of those -- have you had a
16 chance to review that sheet?

17 A. Yes, sir.

18 Q. Which type most accurately describes you?

19 A. Type three.

20 Q. Type three being that you're a juror who in
21 certain circumstances if you were sitting on a
22 jury where the jury had to consider the
23 appropriate sentence, there are certain
24 circumstances where you could participate and
25 find and vote in favor of sentencing a person

1 to death. Likewise under certain
2 circumstances, if you were participating as a
3 juror and the jury convicted a person of
4 murder, that is the intentional killing of
5 another with malice aforethought, meaning that
6 the person intended to kill them, with malice,
7 and in that circumstance you could -- you would
8 not vote for death but would vote instead for
9 life imprisonment without the possibility of
10 parole. Is that correct?

11 A. That's correct.

12 Q. Which one would be most appropriate, you
13 can't answer that because it depends on the
14 circumstances of each case; is that correct?

15 A. That's right.

16 Q. And you would wait until you heard it all
17 until you responded. Is that correct?

18 A. Yes, sir.

19 Q. I noticed on your questionnaire, and I
20 thank you for completing that for us, that in
21 responding to the question about your opinion
22 on the death penalty you said, "I think that if
23 a person takes a life that was no accident that
24 they should give up their life."

25 A. Yes, sir.

1 Q. Now, you understand a murder is not an
2 accident?

3 A. Yes.

4 Q. So when I asked you what type of juror,
5 we're talking about a murder where it was no
6 accident, that a person intended to kill
7 someone, ---

8 A. (Affirmative nod).

9 Q. --- but you said, as I understand you just
10 said, 'Well, there are some circumstances where
11 I impose life imprisonment.'

12 A. After hearing you talk and your statements
13 about the case and everything, I thought,
14 'Well, after I hear all the facts then I could
15 probably make a better judgment call.'

16 Q. So you would not -- if you were sitting on
17 a case where you were trying a case for murder,
18 and I am not talking about this case, ---

19 A. I understand.

20 Q. --- I'm just talking about if you were
21 sitting on a trial involving murder and the
22 State was seeking a death penalty in the case,
23 am I to understand that if you were sitting on
24 that and you found that person guilty -- in
25 other words, that the State had met its burden

1 of proof. At that point you would not have an
2 opinion as to what the appropriate sentence
3 would be?

4 A. Right.

5 Q. Just because you convicted him of murder?

6 A. Right.

7 Q. Or convicted her of murder?

8 A. Exactly, yes.

9 Q. It would depend on what you heard in the
10 second phase?

11 A. Yes.

12 Q. And after you had a chance to evaluate that
13 that and receive the charge on the law?

14 A. Right. Yes.

15 Q. Because you understand that in this process
16 that we have two judges working together. The
17 jury would be the judge of the facts and I
18 would be the judge of the law. Do you
19 understand that?

20 A. Yes, I do.

21 Q. And you realize that nothing that I say
22 during the trial, including this proceeding
23 today is to be taken by you as a suggestion of
24 how you're to resolve any factual issue. Do
25 you understand?

1 A. Right.

2 Q. Because that is the jury's sole
3 prerogative?

4 A. (Affirmative nod).

5 Q. Likewise, the jury would be expected and
6 they would take an oath that they would follow
7 the law as I gave it to them and apply that law
8 fairly and impartially to the facts
9 notwithstanding their own personal opinions
10 about the law or what the law should be or what
11 they thought the law was; do you understand
12 that?

13 A. I understand that.

14 Q. Would you be able to do that?

15 A. Yes.

16 Q. And would you do that?

17 A. Yes, I would.

18 Q. So let's talk for a moment -- and obviously
19 as we discussed on Friday, I told you that Mr.
20 Dickerson has been accused of several crimes.
21 I also instructed you that at this point, just
22 as anyone who is accused of committing a
23 criminal offense in this country, as far as I
24 know, they are presumed innocent. That is an
25 active presumption, it means that we have to

1 actively presume -- we have to see Mr.

2 Dickerson as being totally innocent of these

3 charges. Does that apply to you?

4 A. Yes.

5 Q. You have no problem with that principle of

6 law?

7 A. No, I don't.

8 Q. Do you understand -- part of the

9 instruction that I would give to you would be,

10 in both phases, if there were two phases, but

11 certainly as to the first phase, that the only

12 party that has any burden of proof when we're

13 hearing evidence about the crime is the State.

14 Do you understand that?

15 A. Yes, I do.

16 Q. I would instruct you that during that if

17 Mr. Dickerson didn't offer any evidence, chose

18 not to testify, didn't say anything at all, the

19 jury can't consider that against him under any

20 circumstances. The reason is because people

21 accused of criminal offense don't have to prove

22 anything. They don't have to prove their

23 innocence. Do you understand that?

24 A. I do understand that.

25 Q. Does that give you problem? Would you have

1 any problem compelling with the principle of
2 law?

3 A. No.

4 Q. Because you could never look to him or
5 expect him to prove anything at all in this
6 entire proceeding. Do you understand that?

7 A. I understand that.

8 Q. Now, obviously as I mentioned, there would
9 be one phase and the second phase would only
10 occur if that jury returned a verdict as to the
11 crime of murder. Do you understand?

12 A. Yes.

13 Q. That means that the State would have met
14 its burden of proof beyond a reasonable doubt
15 and established each elements of that crime to
16 the jury's satisfaction.

17 A. I understand that.

18 Q. If you were on the jury, am I to
19 understand, consistent with the principle of
20 laws that we have talked about and consistent
21 with your statement of being a type three
22 juror, notwithstanding that you would have
23 voted to -- voted him guilty of that offense,
24 you still would not know what the appropriate
25 punishment was. Is that correct?

1 A. Yes.

2 Q. You understand in this State that there are
3 very limited circumstances where a jury
4 participates in sentencing someone who is
5 convicted of murder? Do you understand that?

6 A. Yes.

7 Q. Most of the time those intentional
8 killings, murders, not accidents, are handled
9 in court and judges impose the sentences. Do
10 you understand that?

11 A. I do, (affirmative nod).

12 Q. In that situation, judges aren't restricted
13 to a death sentence or life imprisonment
14 without the possibility of parole. Do you
15 understand that?

16 A. Yes.

17 Q. If you were on this jury and the second
18 phase took place, you would not be entitled to
19 even consider a death sentence unless the State
20 proves and convinced you as a member of that
21 jury, and all jurors, that they had established
22 what we call aggravating circumstances. I
23 would define those for you, but would tell you
24 that's what separates this murder from the
25 murder that would be handled in a court where a

1 judge would impose the sentence. Do you
2 understand that?

3 A. Yes, I do.

4 Q. The State has to prove that beyond a
5 reasonable doubt and, if they do, only then
6 may you consider a death sentence. Do you
7 understand?

8 A. Yes.

9 Q. But I would also instruct you that just
10 because that had been established, that doesn't
11 mean that you would have had to have imposed a
12 death sentence, that you could still impose
13 life imprisonment without the possibility of
14 parole. Do you understand that?

15 A. I understand.

16 Q. In other words, you would have to consider
17 both ---

18 A. (Affirmative nod).

19 Q. --- and decide what you believe to be the
20 most appropriate sentence. Do you understand?

21 A. I do understand.

22 Q. Given all circumstances?

23 A. (Affirmative nod).

24 Q. And you could do that?

25 A. Yes, I could.

1 Q. Obviously if you didn't find the
2 aggravating circumstances, then the only
3 sentence would be life without the possibility
4 of parole. Do you understand that?

5 A. I do.

6 Q. Given that, that you would consider all the
7 circumstances, there may be other evidence
8 concerning the background of the defendant for
9 your consideration, both background before and
10 -- the background may have of some prior
11 problems with the law, that type of evidence --
12 just giving you a picture of everything about
13 this person. But one of the things that there
14 may be, there may be evidence of things having
15 nothing to do with the crime itself, that
16 relates to his background purely. Maybe mental
17 illness problems, emotional problems, may have
18 consideration of addictions, that type of
19 evidence, a lot of areas that may be involved.
20 We call those mitigating circumstances. Would
21 you be able to consider that, as well, from the
22 aggravating circumstances and weigh them both
23 and make a determination as to what is
24 appropriate?

25 A. Yes, sir.

1 Q. And you would give due consideration to
2 those?

3 A. Yes, sir.

4 Q. Now, you understand that the defendant
5 doesn't have to prove anything?

6 A. Yes, I do.

7 Q. That means that he doesn't have to prove
8 mitigating circumstances?

9 A. (Affirmative nod).

10 Q. Do you understand?

11 A. I do.

12 Q. But as I would instruct you, the law says
13 that you have to consider both. I am not
14 instructing you to return a death sentence
15 because you found aggravating circumstances.
16 It is my understanding that you would consider
17 both sentences, life imprisonment without the
18 possibility of parole or the death penalty even
19 if there were no mitigating circumstances.

20 A. Yes, sir.

21 Q. And you would make a determination as to
22 whether you thought the circumstances warranted
23 a death sentence or life imprisonment without
24 the possibility of parole?

25 A. Yes.

1 Q. And, of course, you couldn't know the
2 answer to that until you'd heard it all, is
3 that correct?

4 A. Correct.

5 Q. Until you had been instructed on the law
6 and the jury had deliberated and you'd been a
7 part of that?

8 A. Yes.

9 THE COURT: All right, please answer
10 any questions that the attorney may have.

11 MR. BLOOM: May it please the court.

12 THE COURT: Yes, sir.

13 VOIR DIRE EXAMINATION

14 BY MR. BLOOM:

15 Q. Ms. Buchanan, I am Jeff Bloom. How are you
16 doing today?

17 A. Fine, and yourself?

18 Q. Very fine. Thank you. I, along with
19 Andrew Carroll, represent William Dickerson and
20 I have some followups to the Judge. You
21 understand that there are no right or wrong
22 answers today, that we just kind of need to
23 know.

24 A. Okay.

25 Q. First of all, can I just ask you what is

1 your general opinion about the death penalty?

2 A. My general opinion is that I believe that
3 we need death penalties in our state and in our
4 country to deter people from doing things that
5 they shouldn't be doing and if circumstances
6 warrant it, I think I in my own mind would
7 decide whether someone should be put to death
8 or not.

9 Q. Okay. Fair enough. I will try not to ask
10 you the same questions that Judge Dennis asked
11 you. I just want to follow up a little bit and
12 start by making sure that we're talking about
13 things correct. When we use the term "murder"
14 people assume different things. Fair enough?

15 A. Um-humm.

16 Q. And murder is -- first off, as Judge Dennis
17 said, it is not accident, it is not self-
18 defense, it is not manslaughter like you catch
19 someone in bed with a loved one, and it's not
20 insanity. It is where someone did it, intended
21 to do, with malice -- which is an evil or
22 depraved heart, -- and they've got the right
23 person, the State proves all that beyond a
24 reasonable doubt. That kind of murder, did it,
25 meant to do it, with malice, got the right

1 person. You with me?

2 A. Yes, I am.

3 Q. Some folks feel once that is established,
4 that kind of malice murder, that they are going
5 to vote for death each and every time when it
6 is no accident, not self-defense, not
7 manslaughter. Where do you fall within that?

8 A. Oh, gosh. If they did it and there was
9 malice involved and they took a life just
10 because they wanted to do, I think that's
11 murder and that someone should be put to death
12 for that.

13 Q. What judge kind of needs to know is -- you
14 know, there are some folks, people can have
15 strong feelings either way. You accept that?

16 A. Oh, yes. Definitely.

17 Q. It's a serious issue and different folks
18 have different opinions?

19 A. Yes.

20 Q. And what judge kind of needs to know is
21 that if he instructed you that even upon a
22 conviction -- that even upon a conviction -- of
23 that type of murder that you're supposed to
24 keep an open mind until you get to that second
25 half. Some jurors just said, 'You know what,

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

594

- 1 Judge? I understand that's the law, I
2 understand that you're instructing me on all
3 that but I need to tell you upfront that I
4 can't do that. My opinions are strong enough
5 about the death penalty that if I find someone
6 guilty of that kind of murder -- did it, malice
7 murder, intended to do it, not accident, not
8 self-defense, -- I am going to vote for the
9 death penalty each and every time.' Is that
10 where you are?
- 11 A. No.
- 12 Q. Okay.
- 13 A. No.
- 14 Q. That's kind of what I wanted to clarify and
15 that's what Judge Dennis needs to know, too.
- 16 A. No.
- 17 Q. The second step is where the State shows
18 what we call aggravating circumstances. That's
19 a fancy legal phrase for more evidence that
20 shows why the death penalty should be imposed.
21 Do you understand that?
- 22 A. Yes, I do.
- 23 Q. Some jurors are of the view once you show
24 that malice murder and that extra evidence in
25 support of the death penalty that that is

1 enough, that they don't need to hear anything
2 more, the road stops there for them and they
3 vote for death each and every time. Is that
4 where you are?

5 A. I think I'd get an open mind, listen to
6 everything and base my judgment on the facts
7 involved.

8 Q. All right. Judge Dennis asked you some of
9 that, that there may be other things that have
10 nothing to do with the facts of the crime,
11 things such as drug addiction, ---

12 A. Right.

13 Q. --- how someone was raised, their childhood
14 or upbringing, do you understand that?

15 A. Yes, I do.

16 Q. Some jurors are of the view, 'Judge Dennis,
17 I know what you are instructing me on, that I
18 have to consider that and weigh it, but I'm of
19 the mind that that doesn't matter to me. I'm
20 kind of wedded to the facts of the crime and
21 all that other stuff about drug addiction or
22 childhood, that doesn't -- I am not going to
23 consider it.' Is that where you are?

24 A. No, I'd consider it before I made up my
25 mind.

1 Q. That's what I'm just trying to make sure
2 that I understand.

3 A. Okay.

4 Q. And, lastly, I think Judge Dennis told you
5 that he would instruct a jury, as he told you,
6 that a defendant never has a burden of proof
7 and they may not present any mitigating
8 circumstances. Some jurors are, 'You know
9 what? If the defense doesn't show me, if they
10 don't disprove the death penalty, then I am
11 going to vote for it each and every time.'
12 Are you telling me -- what are you telling me
13 in terms of that?

14 A. Well, if he has the right not to do that,
15 then that's fine. I would move on through
16 that.

17 Q. One thing we call that is "mercy", there
18 may be no other evidence presented by the
19 defense, just a request for mercy. If Judge
20 Dennis instructed you that is something that
21 you had to consider, is that something that you
22 could give some weight to and consider?

23 A. Oh, sure, yeah.

24 Q. All right, ma'am. Now let me ask you,
25 next, I notice that you're in the healthcare

1 nursing field. There are a number of other
2 jurors also in the nursing or healthcare field.
3 Do you happen to know any of the other jurors
4 who are ---

5 A. I didn't see anybody that I know through
6 that big crowd, no.

7 Q. Okay. I just have a few more followups.
8 The law says that when a juror is making that
9 choice between life imprisonment without the
10 possibility of parole and the death penalty
11 that it is a moral, individualized choice.

12 If you made that decision after hearing all
13 the evidence and debating with other jurors and
14 eleven jurors were voting one way and you were
15 voting one ---

16 SOLICITOR WILSON: Objection.

17 THE COURT: What is the basis?

18 SOLICITOR WILSON: Invading the
19 privacy of the juror.

20 THE COURT: No, I think he's
21 entitled to phrase the question at this point.
22 I'll allow you to finish phrasing it.
23 Overruled.

24 EXAMINATION CONTINUED

25 BY MR. BLOOM:

1 Q. If eleven jurors were voting one way and
2 you'd made your moral, individualized choice
3 one way, you're not just going to say, 'It's
4 5:00 o'clock, I'm ready to for dinner. I'm
5 just going to fold my tent and just go along to
6 get along.' Are you?

7 A. Oh, absolutely not.

8 Q. You didn't strike me as that person, but I
9 had to ask.

10 A. Okay.

11 Q. And you would want those other eleven
12 jurors to respect you?

13 A. (Affirmative nod), just as I am expected to
14 respect theirs.

15 Q. Absolutely. The flip side of that, if you
16 had made your moral, individualized choice and
17 it was eleven jurors to one, you're not going
18 to force that one juror, say 'Look, it's time
19 that we had dinner.' You would respect that
20 juror's opinion?

21 A. Of course I would.

22 Q. Just as you would want them to respect
23 you?

24 A. Exactly.

25 MR. BLOOM: Thank you. Thank you

1 very much.

2 THE COURT: Solicitor?

3 SOLICITOR WILSON: Judge, I don't have
4 any questions.

5 THE COURT: Thank you. If you will
6 step down, the court will be with you
7 momentarily. Thank you very much. Step
8 outside and we'll be with you in just a moment.

9 (JUROR NUMBER 37 EXITS COURTROOM)

10 THE COURT: State?

11 SOLICITOR WILSON: Your Honor, I think
12 she is qualified.

13 THE COURT: Defendant?

14 MR. BLOOM: She's qualified.

15 THE COURT: She is qualified. Ask
16 her to return, please.

17 (JUROR NUMBER 37 ENTERS COURTROOM)

18 THE COURT: Thank you, Ms. Buchanan.
19 Thank you very much, and I appreciate your
20 patience. You've been found to be qualified to
21 be a member of the panel from which we will
22 select our jury.

23 We hope that will take place
24 Wednesday, I'm hoping by 3:00 o'clock but I
25 can't be positive. Just as we've run longer

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

600

1 today, we just don't know. If you will call
2 the number that you were given after 6:00
3 tomorrow night, follow the instructions that
4 says pertaining to the Buchanan (sic) jury
5 panel. Excuse me -- Buchanan, (negative
6 gesture). The Dickerson jury panel, of which
7 Ms. Buchanan is a member. If you will do that
8 then that message will tell you when to report
9 or what to do. Just follow that until you are
10 instructed to return.

11 When you are instructed to return, you
12 will come directly to this courtroom. Okay?

13 JUROR NUMBER 37: okay.

14 THE COURT: Please understand and
15 remember that until you are released from this
16 case that you are restricted from talking with
17 anyone or permitting anyone to talk with you
18 about it, you're not to read anything or watch
19 any News accounts. Please remember it is
20 important to honor that, as well. Have a good
21 day and we'll see you maybe Wednesday
22 afternoon.

23 JUROR NUMBER 37: Okay. Thank you.

24 (JUROR NUMBER 37 EXITS COURTROOM)

25 THE COURT: Mr. Deas, Juror Number

1 65.

2 (JUROR NUMBER 65 ENTERS COURTROOM)

3 THE COURT: Good afternoon, sir.

4 JUROR NUMBER 65: Doing good, and
5 you?

6 THE COURT: I am doing well. I hope
7 that you are.

8 JUROR NUMBER 65: (Affirmative nod).

9 THE COURT: If you will, pull up so
10 that you can speak into that microphone. I
11 would appreciate it, sir.

12 Mr. Deas, we are continuing the
13 process that we started on Friday and there are
14 a number of questions that I need to ask of
15 you. When I am finished, the attorneys may ask
16 you some questions, too. There are no correct
17 answers to any of these questions. They are
18 designed to help all of us decide whether you
19 can be a fair and impartial judge in this case
20 with me. Do you understand that?

21 JUROR NUMBER 65: Yes, sir.

22 THE COURT: All that we ask is that
23 you respond truthfully to the questions and
24 that you answer the questions completely.
25 Okay?

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

602

1 JUROR NUMBER 65: Yes, sir.

2 THE COURT: Now, I would remind you
3 in that regard that you are still under oath in
4 this matter. Okay?

5 JUROR NUMBER 65: Yes, sir.

6 STEVEN DEAS, being duly sworn to tell
7 the truth, the whole truth and nothing but the
8 truth, testified, as follows:

9 VOIR DIRE EXAMINATION

10 BY THE COURT:

11 Q. Have you talked with anyone or permitted
12 anyone to talk with you about this case or read
13 anything about it since we were together on
14 Friday?

15 A. No, sir.

16 Q. And you haven't watched any TV programs
17 about it?

18 A. No, sir.

19 Q. I mentioned to you a number of names on
20 Friday. I failed to mention two names that I
21 need to ask you about. Are you related by
22 blood or marriage, or do you have any business
23 dealings with or socially or casually
24 acquainted with or have any dealings with
25 either Jeff Osborné or Matt Casey?

1 A. No, sir.

2 Q. You were given a sheet when you came in
3 that sets forth three types of jurors, have you
4 had a opportunity to review that sheet?

5 A. Yes, sir.

6 Q. Of the three types, which type most
7 accurately describes you?

8 A. Number two.

9 Q. Number two, I believe is that juror that
10 says 'if I was on a murder case and had to
11 decide the appropriate punishment, a case where
12 the jury was deciding, I would always decide
13 life imprisonment without the possibility of
14 parole. I could never impose the death
15 penalty.' That's you?

16 A. That's true. That's me.

17 Q. That means that there is no circumstance
18 that you can think of that would warrant you
19 finding a death sentence for ---

20 A. (Negative gesture), I can't do that, sir.

21 Q. You just can't do that?

22 A. That's correct. I can't do that. I get
23 chills just thinking about it. I can't do
24 that.

25 Q. I understand.

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 THE COURT: Please answer any
2 questions that the attorneys may have of you.

3 VOIR DIRE EXAMINATION

4 BY SOLICITOR WILSON:

5 Q. Mr. Deas, thank you for being here today
6 and for filling out your questionnaire. I am
7 Scarlet Wilson, I'm the prosecutor in this
8 case. This is Mr. Bruce Durant and Mr.
9 Rutledge Durant. They are also prosecutors
10 with me. I just want to ask you a couple of
11 questions. You've said that there are no
12 circumstance where you could find ---

13 A. No, ma'am. No, ma'am.

14 Q. --- for the death penalty?

15 A. No, ma'am. I can't do that.

16 Q. You can't even consider it?

17 A. I can't even consider it. No, ma'am.

18 Q. Is that why you didn't fill out that part
19 on the form?

20 A. Yes, ma'am. I can't do that. I cannot.

21 Q. So if the Judge asked you, 'Mr. Deas,
22 please put your personal feelings aside and
23 judge a case based on the law...' ---

24 A. That's going to be hard. I can't do that.
25 I can't.

1 Q. That's what we got to figure out, if it is
2 just going to be hard or you cannot do that?

3 A. I can't see myself doing that. I'm
4 serious, ma'am. I cannot do that. I can't.

5 Q. Is that a feeling that you've had about the
6 death penalty for your whole life or just since
7 you got the questionnaire?

8 A. No, ma'am, my whole life. I can't answer
9 it -- I can't see hurting nobody, I don't care
10 they did, I can't see hurting nobody. I can't.

11 Q. So even under extreme circumstances you
12 couldn't do that?

13 A. (Negative gesture), I couldn't do that.

14 Q. Even after the judge asked you to put it
15 aside you couldn't ---

16 A. I cannot do that.

17 SOLICITOR WILSON: That's all that I
18 have.

19 MR. BLOOM: Very briefly, Your
20 Honor.

21 VOIR DIRE EXAMINATION

22 BY MR. BLOOM:

23 Q. Mr. Deas, my name is Jeff Bloom. Along
24 with Andrew Carroll, we represent Mr. Dickerson
25 and I just have a few followup questions for

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

606

1 you, sir.

2 As His Honor may have told you, the law
3 never requires you to vote for the death
4 penalty. Do you understand that?

5 A. Is that right? Because I can't.

6 Q. The law also says that it is okay to have
7 opinions against the death penalty. Do you
8 understand that?

9 A. Yes, sir.

10 Q. But the question is, can you set those
11 opinions aside and consider ---

12 A. You can put it any way that you want to put
13 it, I can't do that.

14 Q. Okay. Let me ask you this, do you hold
15 strong religious -- is that part of your faith?

16 A. My faith, I cannot do that.

17 Q. That is part of your religion?

18 A. I won't say religion or whatever. I just
19 can't do that, I cannot see myself doing that.

20 Q. Is it part ---

21 A. I cannot do that. I can not do that.

22 Q. Is it part of your religious faith, how you
23 were raised?

24 SOLICITOR WILSON: Objection, Your
25 Honor.

1 THE COURT: I sustain the objection.
2 He's answered that question. He said that was
3 part but not all of it.

4 MR. BLOOM: Thank you.

5 THE COURT: Thank you very much, Mr.
6 Deas. If you will step down, we will be with
7 you momentarily.

8 (JUROR NUMBER 65 EXITS COURTROOM)

9 THE COURT: State?

10 SOLICITOR WILSON: He's not qualified,
11 Your Honor.

12 THE COURT: Defense?

13 MR. BLOOM: Your Honor, we would
14 reassert the same objection that we made before
15 for this juror -- the First, Eighth and
16 Fourteenth Amendment.

17 THE COURT: It is, and thank you
18 very much. I know I've read it, *State v.*
19 *Raymond Patterson*, number one. *State v. Platt*
20 *and Arnold*, number two. Both stand for the
21 proposition that even if he said he could
22 consider it, that that is not sufficient, that
23 he'd have to be able to vote it. That is what
24 governs it. That's the law in this State and I
25 find that this juror, he's been very candid,

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

608

1 very direct about it. Thank you very much. He
2 is disqualified. Ask him to step in, please.

3 (JUROR NUMBER 65 ENTERS COURTROOM)

4 THE COURT: Mr. Deas, thank you very
5 much. We are excusing you from further
6 participation in this dispute. You are still
7 on the jury panel and it is my understanding
8 that the general panel has to call back after
9 6:00 tonight, so just follow that instruction.

10 Any message that says that the jury
11 panel needs to do such-and-such, that will
12 apply to you. But if it says the jury panel or
13 the "Dickerson panel" or panel number so-and-
14 so, if that message -- that's not you. That
15 applies to this case and you are excused from
16 this case.

17 JUROR NUMBER 65: All right. Thank
18 you.

19 (JUROR NUMBER 65 EXITS COURTROOM)

20 THE COURT: Mr. Raymond, Juror 389.

21 (JUROR NUMBER 389 ENTERS COURTROOM)

22 THE COURT: Mr. Raymond, right up
23 here sit, take that seat, get comfortable and
24 pull that microphone close so that you can
25 speak into it comfortably. Good afternoon,

1 sorry for the delay that we had. I hope that
2 it hasn't been too much of an inconvenience for
3 you.

4 Won't take much longer but we want to
5 continue the process that we started on Friday
6 where we were asking you a number of questions
7 concerning this dispute. As you will recall,
8 there really are no correct answers to any of
9 these questions. They really are designed to
10 assist all of us in making a determination of
11 whether or not you can be a fair and impartial
12 juror with us in the case. That's the sole
13 purpose for them, they're not to invade your
14 privacy or pry into anything. All that we ask
15 if that you truthfully respond to the questions
16 and answer the questions completely, if you
17 will. In that regard, I would remind you that
18 you are still under oath.

19 JUROR NUMBER 389: (Affirmative nod).

20 JOHN RAYMOND, being duly sworn to tell
21 the truth, the whole truth and nothing but the
22 truth, testified, as follows:

23 VOIR DIRE EXAMINATION

24 BY THE COURT:

25 Q. Would you state your full name for the

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 record, please?

2 A. It is John Leland Raymond.

3 Q. Thank you, sir. Now, I asked you -- I
4 identified to a number of persons for you on
5 Friday. I failed to mention two names that I
6 need to ask you about. Are you related by
7 blood or marriage, have any business dealings
8 with or socially or casually acquainted with or
9 have any dealings with Jeff Osborne or Matt
10 Casey?

11 A. No, sir.

12 Q. Now, you were handed when you came in a
13 list -- before I ask you that, let me ask this
14 also. You also, the court instructed the jury
15 not to talk to anyone about this case or not to
16 read anything or watch any News accounts. Have
17 you honored that in every respect?

18 A. Yes, sir.

19 Q. So you have not discussed it with anyone?

20 A. (Negative gesture). No, sir.

21 Q. You read the sheet that was handed to you
22 about the three types of jurors?

23 A. Yes, sir.

24 Q. Which type most accurately describes you?

25 A. Number two, type two.

1 Q. Type two is basically that juror, as I
2 understand it, that if they were sitting in a
3 murder trial, a murder case where the jury was
4 to consider the appropriate sentence and had
5 found the person guilty of murder beyond a
6 reasonable doubt and then were instructed that
7 they had to consider life or death, your vote
8 would always be life imprisonment.

9 A. Yes.

10 Q. There is not a circumstance where you could
11 consider and impose a death penalty?

12 A. No, sir.

13 Q. Under any circumstances at all, is that
14 correct?

15 A. That's correct. Yes, sir.

16 Q. Basically, as I am understanding it, it
17 wouldn't matter if there was evidence to be
18 heard in the second phase, your decision would
19 be made at the time you found him guilty and
20 that is 'this is a life sentence'?

21 A. Yes, sir.

22 THE COURT: Any questions?

23 MR. BLOOM: May it please the court,
24 very briefly.

25 VOIR DIRE EXAMINATION

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

612

1 BY MR. BLOOM:

2 Q. Mr. Raymond, how you do this afternoon,
3 sir?

4 A. Doing well.

5 Q. My name is Jeff Bloom and along with Andrew
6 Carroll, we represent William Dickerson. I
7 just have a few followup questions from what
8 Judge Dennis asked you. First, I just want to
9 make sure that you understand that the law
10 never requires a juror to vote for death. Do
11 you understand that?

12 A. Right.

13 Q. That there is no requirement or that you'd
14 never hear Judge Dennis say that 'if you find
15 A, B or C, then you must vote for death.' Do
16 you understand that?

17 A. Right.

18 Q. And the law allows people to have different
19 opinions about the death penalty, do you
20 understand?

21 A. Yes.

22 Q. The law also allows people to have very
23 strong opinions against the death penalty.
24 Right?

25 A. Yes, sir.

1 Q. I take it from your honest answers that you
2 have fairly strong opinions against the death
3 penalty?

4 A. I do.

5 Q. That's okay, no one is here to question
6 that. What the law next requires, though, is
7 can you set those strong opinions aside and
8 first consider whether the death penalty is
9 appropriate in a particular case?

10 A. I'm pretty set on that view. I don't think
11 I'd do that.

12 Q. Let me make sure that I understand your
13 answer. I am not trying to put words in your
14 mouth.

15 A. Right.

16 Q. Are you telling me, then, that your
17 opinions are so strong on the death penalty
18 that you cannot set those aside and consider
19 the death penalty in a particular case, in any
20 situation?

21 A. That's -- (affirmative nod).

22 Q. You can't ever consider it?

23 A. I can't -- I honestly cannot.

24 Q. And you can't set those views aside and
25 consider ---

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

614

1 SOLICITOR WILSON: Objection, Your
2 Honor.

3 THE COURT: He's answered your
4 question. Thank you, sir.

5 MR. BLOOM: Yes, sir.

6 EXAMINATION CONTINUED

7 BY MR. BLOOM:

8 Q. And there is no situation you can ---

9 SOLICITOR WILSON: Objection, Your
10 Honor.

11 THE COURT: He's answered that
12 question. Thank you, sir.

13 MR. BLOOM: Thank you, sir.

14 THE COURT: Okay. Any questions?

15 SOLICITOR WILSON: No, sir.

16 THE COURT: If you'll step down just
17 for a moment, please, Mr. Raymond. We will be
18 with you in just a second.

19 (JUROR NUMBER 389 EXITS COURTROOM)

20 THE COURT: Is it the State's
21 position that he is not qualified?

22 SOLICITOR WILSON: Yes, sir.

23 THE COURT: Mr. Bloom?

24 MR. BLOOM: No objection, Your
25 Honor.

1 THE COURT: Thank you very much.

2 Ask him to step in.

3 (JUROR NUMBER 389 ENTERS COURTROOM)

4 THE COURT: Thank you, Mr. Raymond,
5 I appreciate it, appreciate your patience with
6 us today. I am going to excuse you from any
7 further participation in this dispute.

8 They've selected a jury today on the
9 civil side. I don't know what the civil docket
10 looks like but you are still subject to being
11 called on a civil case. If you will, call the
12 number after 6:00 tonight there will probably
13 be a message that says the jury panel needs to
14 do such-and-such. That would be you.

15 Any message that says panel number so-
16 and-so -- you remember that we had some panels
17 that we gave numbers to?

18 JUROR NUMBER 389: (Affirmative nod).

19 THE COURT: That obviously doesn't
20 apply to you, that would be in this case.
21 There will probably be a message tomorrow night
22 to the effect that the Dickerson jury panel
23 needs to do -- whatever. That's not you. Just
24 follow the general, sort of generic, 'jury
25 panel needs to report.'

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

616

1 JUROR NUMBER 389: Thank you.

2 (JUROR NUMBER 389 EXITS COURTROOM)

3 THE COURT: Mr. Manigault, Number
4 197.

5 (JUROR NUMBER 197 ENTERS COURTROOM)

6 THE COURT: Mr. Manigault, come on
7 forward, take a seat there and get comfortable
8 to where you can speak into that mic. Good
9 afternoon, sir.

10 JUROR NUMBER 197: Good afternoon.

11 THE COURT: If you would, state your
12 full name for the record, please.

13 JUROR NUMBER 197: Brian Darrell
14 Manigault.

15 THE COURT: All right. Thank you
16 for your patience. I'm sorry it's taken longer
17 than we expected but sometimes those things
18 happen. I appreciate you being here.

19 Since we were together last, you have
20 not talked to anyone about this or allowed
21 anybody to talk with you about this case, have
22 you?

23 JUROR NUMBER 197: No, sir.

24 THE COURT: Have you read any
25 newspaper articles or watched any News programs

1 about it?

2 JUROR NUMBER 197: No, sir.

3 THE COURT: Now, you recall when we
4 were last together that we were asking you
5 certain questions and those questions didn't
6 really have any correct answers to them, they
7 were just to help you and help us decide
8 whether you could be a fair and impartial judge
9 in the case?

10 JUROR NUMBER 197: We are going to
11 continue that process now and ask you those
12 questions, ask you some additional questions.
13 Again, there are no correct answers to any of
14 these questions. Okay?

15 JUROR NUMBER 197: Okay.

16 THE COURT: Nor are we trying to pry
17 into your life or change any of your opinions.
18 We just need you to be truthful in responding
19 to the questions and completely respond to
20 them. Will you do that for us?

21 JUROR NUMBER 197: Yes, sir.

22 THE COURT: I would remind you that
23 you are still under oath in this matter. Okay.

24 JUROR NUMBER 197: (Affirmative nod).

25 THE COURT: You need to answer so

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 that Ms. ---

2 JUROR NUMBER 197: Yes, sir.

3 THE COURT: That is not offensive,
4 we just need to keep a record. If you will
5 verbalize your responses it will be helpful.
6 Okay, sir?

7 JUROR NUMBER 197: Yes, sir.

8 BRAIN MANIGAULT, being duly sworn to
9 tell the truth, the whole truth and nothing but
10 the truth, testified, as follows:

11 VOIR DIRE EXAMINATION

12 BY THE COURT:

13 Q. You were given a sheet when you came in
14 that sets forth three types of jurors, have you
15 had a opportunity to review that sheet?

16 A. Yes, sir.

17 Q. Which type most accurately describes you?

18 A. Type two.

19 Q. Type two?

20 A. (Affirmative nod).

21 Q. That's a juror that basically says 'if I
22 was on a jury where the jury had to make a
23 determination as to the appropriate sentence,
24 and I'd found somebody guilty of murder, there
25 is no circumstance that I can think of in which

1 I could ever vote for a death sentence.'

2 A. Yes, sir.

3 Q. That's you?

4 A. Yes, sir.

5 Q. That your decision would always be life
6 imprisonment without the possibility of parole?

7 A. Yes, sir.

8 Q. No situation could ever change that?

9 A. No, sir.

10 Q. So notwithstanding that I would instruct
11 you that you would have to consider that if you
12 were on the jury, you just couldn't in fairness
13 follow that instruction?

14 A. No, sir.

15 Q. Because you would always vote for life
16 imprisonment?

17 A. Yes, sir.

18 THE COURT: Solicitor, questions?

19 VOIR DIRE EXAMINATION

20 BY SOLICITOR WILSON:

21 Q. Mr. Manigault, thank you for answering our
22 questions and for answering the questionnaire.

23 I am Scarlet Wilson. I'm the prosecutor in
24 this case. Bruce Durant and Rutledge Durant
25 are also prosecutors. We will be the ones

1 presenting the evidence in this case. I am
2 just going to ask you a few followup questions.
3 Okay?

4 A. Yes, ma'am.

5 Q. You said that you are a type two juror?

6 A. Yes, sir.

7 Q. How long have you had the -- strong
8 feelings, would you say, about the death
9 penalty? Would you say that you feel strongly
10 about it?

11 A. I don't agree with the death penalty.

12 Q. How long have you had those feelings?

13 A. Always.

14 Q. So this is something that you've struggled
15 with over time?

16 A. No.

17 Q. Do you understand that not every case
18 involving death is a murder? In other words,
19 sometimes there are self-defense cases,
20 sometimes there are manslaughter cases, not
21 every case is a malicious intentional killing
22 like a murder is. Do you understand that?

23 A. Yes.

24 Q. Do you also know that not every murder
25 qualifies or is eligible for the death penalty?

1 A. Yes, ma'am.

2 Q. Only some murders?

3 A. (Affirmative nod).

4 Q. You understand that?

5 A. Yes, ma'am.

6 Q. Okay. So in a situation, where the judge
7 asked you and said 'would you please put aside
8 your personal feelings and consider evidence
9 that the State presents to you', would you be
10 able to do that? To put aside those feelings?

11 A. I don't know. I just don't believe in the
12 death penalty.

13 Q. And you wouldn't be able to take those
14 beliefs and put them aside and then look at the
15 evidence that we presented and consider it
16 fairly?

17 A. No, ma'am.

18 Q. Can you even imagine a situation where you
19 could even vote for the death penalty?

20 A. No, no situation. No, ma'am.

21 Q. No situation?

22 A. No, ma'am.

23 SOLICITOR WILSON: That's all that I
24 have, Your Honor.

25 MR. BLOOM: I just have one or two

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 short followup questions.

2 THE COURT: Sure.

3 VOIR DIRE EXAMINATION

4 BY MR. BLOOM:

5 Q. Mr. Manigault, there are no right or wrong
6 answers here and we are not questioning your
7 views. Are those views that you hold as a
8 matter of your religious faith?

9 A. No, sir, it's how I feel as a person.

10 Q. Thank you very much.

11 THE COURT: Thank you, Mr.

12 Manigault. If you will step out, we will be
13 with you in just a few moments, sir.

14 (JUROR NUMBER 197 EXITS COURTROOM)

15 THE COURT: State?

16 SOLICITOR WILSON: He is not qualified.

17 MR. BLOOM: We acknowledge that he
18 is not qualified.

19 THE COURT: Very well, thank you
20 very much. Ask him to step in, please.

21 (JUROR NUMBER 197 ENTERS COURTROOM)

22 THE COURT: Mr. Manigault, thank you
23 very much. I am going to excuse you from any
24 further participation in the case. You're
25 certainly free to talk about it now if you want

1 to, watch anything that you want.

2 I would love to be able to excuse you
3 for the balance of the week but there is still
4 a civil side going, so you're now in that
5 general panel. Basically there will be a
6 message when you call tonight after 6:00 that
7 will say the civil jury panel needs to do
8 something. You're in that panel, the general
9 jury panel. Ignore any messages concerning the
10 Dickerson trial because that doesn't apply to
11 you. Have a good afternoon.

12 JUROR NUMBER 197: Thank you.

13 (JUROR NUMBER 197 EXITS COURTROOM)

14 THE COURT: Last one in this panel,
15 Number 66.

16 (JUROR NUMBER 66 ENTERS COURTROOM)

17 THE COURT: Hello, Mr. Deas. How
18 are you, sir?

19 JUROR NUMBER 66: Good.

20 THE COURT: Thank you very much for
21 your patience. I need for you to pull up so
22 that you can speak comfortably into that
23 microphone, sir.

24 JUROR NUMBER 66: Okay.

25 THE COURT: State your full name,

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

624

1 please, for the record.

2 JUROR NUMBER 66: Terence Rashad Deas.

3 THE COURT: Thank you. Mr. Deas,
4 you remember on Friday when we were together
5 that we were asking you some questions and none
6 of the questions had any particular answer or
7 correct answers. We just needed you to be
8 truthful and we're going to continue that
9 process. Is that okay with you, sir?

10 JUROR NUMBER 66: Yes, sir.

11 THE COURT: I just ask that you
12 would respond to the questions truthfully. I
13 may have some, the attorneys may have some.
14 That you answer them completely. Is that
15 agreeable?

16 JUROR NUMBER 66: All right.

17 THE COURT: I would also remind you
18 that you are still under oath in this matter.
19 Okay?

20 JUROR NUMBER 66: (No verbal
21 response).

22 THE COURT: Is that agreeable with
23 you?

24 JUROR NUMBER 66: Yes.

25 TERENCE DEAS, being duly sworn to

1 tell the truth, the whole truth and nothing but
2 the truth, testified, as follows:

3 VOIR DIRE EXAMINATION

4 BY THE COURT:

5 Q. Have you talked with anyone or allowed
6 anybody to talk with you about this case since
7 we were together on Friday?

8 A. No, sir.

9 Q. Have you watched any news programs or read
10 any newspaper articles about it?

11 A. No, sir.

12 Q. When we were together on Friday I
13 identified a number of persons for you. I
14 failed to mention two names that I need to ask
15 you about. Are you related by blood or
16 marriage, have any business dealings with or
17 are you socially or casually acquainted with
18 either Jeff Osborne or Matt Casey?

19 A. No, sir.

20 Q. You were handed a sheet when you came in
21 that lists three types of jurors. Have you had
22 a chance to review that sheet?

23 A. Yes, sir.

24 Q. Which type most accurately describes you?

25 A. Two.

1 Q. Two?

2 A. (Affirmative nod).

3 Q. That is a juror that is basically saying,
4 as I understand, 'if I was on a jury and we
5 were to try a murder case and we were empaneled
6 to provide the sentence, the appropriate
7 sentence and I was instructed that I had to
8 consider a death sentence or life imprisonment
9 without the possibility of parole, I could
10 never consider the death sentence.'

11 A. That's correct.

12 Q. There is no circumstance in which you could
13 vote for a death sentence?

14 A. No, sir.

15 Q. Anytime?

16 A. (Negative gesture).

17 Q. It wouldn't matter what the case was about
18 or what had happened?

19 A. No, sir.

20 Q. So that yours would always be, if you found
21 somebody guilty of murder, the only sentence
22 that you could ever impose would be life
23 without parole in that setting?

24 A. Yes, sir.

25 Q. And that would be every time?

1 A. (Affirmative nod), every time.

2 THE COURT: Thank you. Please
3 answer any questions the attorneys may have.

4 VOIR DIRE EXAMINATION

5 BY MR. BLOOM:

6 Q. My name is Jeff Bloom and along with Andrew
7 Carroll, we represent William Dickerson. I
8 just have a few followup questions from what
9 Judge Dennis asked you. First, there are no
10 right or wrong answers and we just appreciate
11 your honest opinion. Okay?

12 A. Okay.

13 Q. First off, the law never requires jurors to
14 vote for the death penalty, do you understand
15 that?

16 A. (Affirmative nod).

17 Q. I'm sorry. You have to say 'yes' or 'no'
18 because that nice lady (court reporter) has to
19 take it down.

20 A. Oh, -- yes, sir.

21 Q. The law allows someone to have a very
22 strong opinion against the death penalty, do
23 you understand that?

24 A. Yes.

25 Q. The next step, though, is that the law does

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

628

1 ask that you set that strong opinion aside and
2 consider the evidence and consider death. Are
3 you able to do that or not?

4 A. No, sir.

5 Q. Is that a belief that you have as part of
6 your religious upbringing?

7 A. No, that's just what I believe.

8 Q. Just a personal belief?

9 A. (Affirmative nod).

10 Q. Thank you very much, sir.

11 A. No problem.

12 THE COURT: Any questions?

13 SOLICITOR WILSON: No, sir.

14 THE COURT: If you would step down,
15 Mr. Deas. We will be with you in just a
16 moment.

17 (JUROR NUMBER 66 EXITS COURTROOM)

18 THE COURT: State?

19 SOLICITOR WILSON: He is not qualified.

20 THE COURT: Defense?

21 MR. BLOOM: No challenge, Your
22 Honor.

23 THE COURT: Very well, bring him
24 back in.

25 (JUROR NUMBER 66 ENTERS COURTROOM)

1 THE COURT: Mr. Deas, thank you very
2 much, sir. I am going to excuse you from any
3 further participation in this dispute. There
4 are still civil trials going on, so you're
5 still part of the jury panel. If you would,
6 just call the number that were given for the
7 clerk's office, whatever the number is on that
8 card that they gave to you.

9 JUROR NUMBER 66: Oh, okay?

10 THE COURT: Would you make sure that
11 he has one, Mr. Williams (bailiff)?

12 BAILIFF: Yes, sir.

13 THE COURT: Mr. Williams will give
14 you one again. Just call that and follow the
15 instruction as it pertains to -- they may say
16 the general jury panel or the civil jury panel
17 needs to, and that would be you.

18 If it has any connection to Mr.
19 Dickerson, you don't need to respond to that.
20 Thank you so much, sir. Have a good day, sir.

21 (JUROR NUMBER 66 EXITS COURTROOM)

22 THE COURT: Let's take ten minutes
23 and stretch.

24 (BRIEF RECESS)

25 (DEFENDANT PRESENT)

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

630

1 THE COURT: Let the record reflect
2 that Mr. Dickerson is present.

3 Before we start, and I am going to ask
4 that we do this -- Georana Gadsden has written
5 a note that I will share with you. It was
6 passed to Mike (Clerk).

7 SOLICITOR WILSON: Is she a juror?

8 THE COURT: Yes, Number 101 on Panel
9 Number Four.

10 SOLICITOR WILSON: Okay.

11 THE COURT: She's been apparently
12 discussing with the bailiffs about having to be
13 at work at 7:00 today. They told her to sit
14 tight that we will get to her, get her there on
15 time. Any objection to taking her now?

16 MR. BLOOM: None of our behalf, Your
17 Honor.

18 THE COURT: Any objection from the
19 State?

20 THE COURT: All right, let's bring
21 Ms. Gadsden in, please.

22 (JUROR NUMBER 101 ENTERS COURTROOM)

23 THE COURT: Hey, Ms. Gadsden. How
24 are you?

25 JUROR NUMBER 101: Hey. How are you,

1 Your Honor?

2 THE COURT: Fine, thank you. If you
3 will sit and pull yourself up so that you can
4 speak into that mic comfortably. If you would,
5 state your name for the record.

6 JUROR NUMBER 101: I am Georana
7 Gadsden.

8 THE COURT: Ms. Gadsden, we started
9 on Friday this process where we were asking you
10 a number of questions. We are going to
11 continue that now in this setting. I will ask
12 some questions, the attorneys may have some
13 questions for you. All that we ask that you
14 respond fully to the questions and that you
15 respond truthfully to answering those
16 questions. There are no correct answers to any
17 of them, they are really designed to help you
18 and us to make a determination as to whether
19 you can be a fair and impartial juror in this
20 proceeding. Do you understand that?

21 JUROR NUMBER 101: Yes, sir.

22 THE COURT: In that regard, I would
23 remind you that you are still under oath in
24 this matter.

25 JUROR NUMBER 101: Yes.

1 GEORANA GADSDEN, being duly sworn to
2 tell the truth, the whole truth and nothing but
3 the truth, testified, as follows:

4 VOIR DIRE EXAMINATION

5 BY THE COURT:

6 Q. Since we were together, have you talked
7 with anyone about this case or permitted anyone
8 to talk about the case to you or in your
9 presence?

10 A. No. People have tried to and I cut them
11 off.

12 Q. Very good. That's exactly what you were
13 supposed to do. Did they tell you anything or
14 were they just inquiring?

15 A. They were inquiring and I said 'I don't
16 want to talk about it.'

17 Q. Okay. They honored your request?

18 A. Yes.

19 Q. Have you watched any news programs about it
20 or read any newspaper articles about it?

21 A. No, I haven't. I work the night shift, so
22 in the daytime I am asleep.

23 Q. Okay. When you came -- well, before I ask
24 you that. You will remember that I identified
25 a number of persons and asked the question

1 whether you were related by blood or marriage
2 to any of them?

3 A. Yes.

4 Q. I failed to mention two names that I need
5 to ask you about. Are you related by blood or
6 marriage, have any business dealings with or
7 socially or casually acquainted or have any
8 dealings with a Jeff Osborne or Matt Casey?

9 A. I don't know them.

10 Q. You don't know them?

11 A. (Negative gesture).

12 Q. You were given a sheet when you came in
13 that sets forth three types of jurors, have you
14 had a opportunity to review that sheet?

15 A. Yes.

16 Q. Which type most accurately describes you?

17 A. (Reviewing sheet) -- number three.

18 Q. That is basically a juror who sitting in a
19 case where the jury was empaneled to decide the
20 appropriate punishment and they had found a
21 person guilty of murder, basically that juror
22 is saying 'Before I could decide what the
23 appropriate punishment would be, I need to hear
24 all the facts and circumstances that I am
25 supposed to consider. Until I hear all those

1 facts and circumstances, I can't tell you
2 whether I would vote for a death sentence or a
3 life sentence. In some circumstances, it would
4 warrant me voting for a death sentence and some
5 would warrant me imposing a life imprisonment
6 sentence without the possibility of parole.'

7 Is that correct?

8 A. Yes, sir.

9 Q. Which one would apply, you don't know
10 because you'd have to hear all the
11 circumstances?

12 A. Yes, sir.

13 Q. But you could in certain situations impose
14 a death sentence, is that correct?

15 A. I just would need to know all the facts.

16 Q. I understand and I'm not asking you to tell
17 me what they are, I am just asking if in
18 considering that what you're saying is, 'Yes,
19 there are circumstances where I would probably
20 impose a death sentence if all these
21 circumstances were present.' Is that correct?

22 A. No, sir, actually not.

23 Q. You would never impose a death sentence?

24 A. No, I can't do that.

25 Q. Under any circumstances?

1 A. It just depends.

2 Q. I understand that. You'd have to hear the
3 circumstances first, is that correct?

4 A. Yes.

5 Q. I am not asking you to tell me,
6 necessarily, what they are. I am just asking
7 you are there circumstances where you could
8 consider imposing a death sentence?

9 A. Yes.

10 Q. Okay. And there are circumstances where
11 you could consider imposing a life imprisonment
12 sentence without the possibility of parole.

13 A. Yes.

14 Q. But which one, you'd have to hear it all
15 before you ---

16 A. Exactly.

17 Q. You understand that it would be the jury's
18 responsibility to decide the true facts of the
19 dispute. Do you understand that?

20 A. Yes.

21 Q. The judge has nothing to do with that.
22 That would be me, I have nothing to do with the
23 factual determination in this particular case.
24 Do you understand that?

25 A. Yes.

1 Q. And you understand that it would be my
2 responsibility to be the judge of the law and
3 that means give the jury the law, make rulings
4 on matters of law and, of course, it would be
5 the jury's responsibility to accept the law as
6 I gave it to them and apply it fairly and
7 impartially. Do you understand that?

8 A. Yes, sir.

9 Q. And you could do that ---

10 A. (Affirmative nod).

11 Q. --- and would do that?

12 A. Yes, sir.

13 Q. And you could set aside any personal
14 feelings you have, strong feelings that you had
15 about what the law is or should be and take the
16 law as I gave it to you and apply that law
17 notwithstanding your personal feelings, which
18 may be in direct conflict with some of the
19 principles of law that I gave? Is that
20 correct?

21 A. Yes, sir.

22 Q. Because that's my responsibility to give
23 you the law.

24 A. Exactly.

25 Q. And while I don't have anything to do with

1 the facts, you don't have anything to do with
2 the law. Do you understand that?

3 A. Exactly.

4 Q. That's the beauty of the system, two judges
5 working together. You understand?

6 A. Yes, sir.

7 Q. Certainly -- we're talking about Mr.

8 Dickerson and Mr. Dickerson, as I mentioned on

9 Friday, he -- as any person who is accused of

10 committing a criminal offense is presumed

11 innocent. I believe that you didn't stand

12 indicting that you had any problem with the

13 principle of law; is that correct?

14 A. No, sir. Yes, sir.

15 Q. So you don't have a problem?

16 A. No, I don't any.

17 Q. As I mentioned to you, that is an active

18 presumption; which means that he has to be

19 actively presumed to be innocent. So as he is

20 sitting here today and you look at him, you

21 believe him to be innocent of these charges; is

22 that correct?

23 A. Yes, sir.

24 Q. Okay. That position can't change until the

25 State present evidence that would persuade you,

1 if you were on the jury, beyond a reasonable
2 doubt that they've convinced that they have
3 established each element of the crime or crimes
4 charged. You understand that?

5 A. Exactly, (affirmative nod). Yes, sir.

6 Q. And only the State has any burden of proof
7 in this proceeding, do you understand that?

8 A. Yes, sir.

9 Q. Mr. Dickerson, who is accused of the
10 criminal offenses, has absolutely nothing to
11 prove, disprove or explain. Do you understand
12 that?

13 A. Yes, sir.

14 Q. In fact, he doesn't have to offer any
15 evidence, he doesn't have to say anything
16 because he doesn't he doesn't have anything to
17 explain, he doesn't have to prove his
18 innocence. Do you understand that?

19 A. Yes, sir.

20 Q. And if I so instructed you, you would never
21 expect him to do anything in this proceeding,
22 would you?

23 A. (No verbal response).

24 Q. If I instructed you that he has no
25 responsibility and you can't use that, would

1 you ever look to him to prove anything?

2 A. No, sir.

3 Q. That means that he doesn't even have to
4 testify if he doesn't want to. Do you
5 understand that?

6 A. Yes, sir.

7 Q. And you can't use that against him. I
8 would instruct the jury to that effect. Do you
9 realize that?

10 A. Yes, sir.

11 Q. You would honor that instruction, as well.
12 Is that correct?

13 A. Yes, sir.

14 Q. At the conclusion of the first phase -- I
15 mentioned to you that there was the possibility
16 there would be two phases.

17 A. (Affirmative nod).

18 Q. The first phrase is when you would hear
19 evidence of the crime. If the jury, and I am
20 not suggesting that is what will happen, but if
21 the jury at the conclusion would find that the
22 State has met its burden of proof and
23 established each element of the crime of murder
24 beyond a reasonable doubt -- the jury returned
25 a verdict, therefore, of guilty -- then and

1 only then would we go into the second phase.

2 Do you understand that?

3 A. Yes.

4 Q. And the second phase is the phase where you

5 would consider evidence that you wouldn't hear

6 in the first phase, evidence concerning the

7 appropriate sentence to be imposed. Do you

8 understand that?

9 A. Yes, sir.

10 Q. Now, if I am understanding you correctly,

11 if you were sitting on that jury and the jury

12 had concluded, as you did, that the State had

13 met its burden of proof of guilty, you'd found

14 guilty, -- and what you would have found him

15 guilty of is committing a murder. Murder is

16 the intentional killing of someone, with

17 malice. Do you understand that?

18 A. Yes.

19 Q. It is not an accident, not somebody getting

20 angry, it's going out and killing somebody,

21 with malice; do you understand that?

22 A. Yes, sir.

23 Q. And the person, they intended to do just

24 what was done and you concluded that.

25 A. (Affirmative nod).

1 Q. As I understand your statement about what
2 type of juror, at that moment you still would
3 not know which of the two sentences would be
4 most appropriate; is that correct?

5 A. (No verbal response). I still would be
6 number three.

7 Q. I understand that, because number three
8 says that 'while I know the circumstances
9 surrounding the crime, I haven't heard the
10 circumstances' -- certainly that is a part of
11 what you would consider.

12 A. (Affirmative nod).

13 Q. 'I haven't heard the other circumstances,
14 which deals with the appropriate sentence.' Do
15 you understand that?

16 A. Yes.

17 Q. And it is very important that that's the
18 case and I'll tell you why, because not every
19 murder committed in this state does the jury
20 participate in the sentencing. In fact, it is
21 very seldom that that happens. Most of the
22 time that's a matter for the court, the court
23 makes the determination of the appropriate
24 sentence. The jury may try it and find him
25 guilty of murder but there is no sentencing

1 phase. Do you understand that?

2 A. Yes, sir.

3 Q. Okay. In those situations, the options are
4 not just death or life imprisonment without the
5 possibility of parole. Do you understand that?

6 A. Yes, sir.

7 Q. So at this point you wouldn't have decided
8 what the sentence should be. Is that correct?

9 A. (Affirmative nod), no, sir.

10 Q. All right. And another reason that is is
11 important is that before a jury can even
12 consider, even consider, the jury has to first
13 conclude that the State has established an
14 aggravating circumstance or aggravating
15 circumstances which create the situation for a
16 jury to be involved in the sentencing. Without
17 those aggravating circumstances, if a jury
18 doesn't find that beyond a reasonable doubt,
19 then the only sentence is life imprisonment
20 without the possibility of parole. Do you
21 understand that?

22 A. Yes, sir.

23 C. I would instruct you that if the jury
24 concludes that the aggravating circumstances
25 have been established -- in other words, you're

1 convinced beyond a reasonable doubt, based on
2 your view of the evidence, that circumstance or
3 circumstances have been established. Then and
4 only then may you consider a death sentence.
5 If that should be established, then the jury
6 would have the right to consider imposing a
7 death sentence or life imprisonment. I would
8 tell you that just because you found
9 aggravating circumstances doesn't mean that you
10 have to return a death sentence. You're not
11 required to do that. It's merely an option,
12 that you can do that if those circumstances
13 have been established. Do you understand that?

14 A. Yes, sir.

15 Q. And it is my understanding that at that
16 point you could consider both sentences and
17 decide what you believe to be the most
18 appropriate, considering all the evidence that
19 would have been presented. Is that true?

20 A. Yes

21 Q. There are a lot of things that we could
22 talk about in aggravating circumstances but
23 there is another aspect that you would be
24 instructed to consider. There may be
25 mitigating circumstances. Mitigating

1 circumstances are circumstances that in some
2 way lessen the effect or the impact of that
3 particular action.

4 Generally there are a lot of circumstances,
5 such as the background, upbringing of the
6 person, whether the person had some drug
7 addiction, what sort of situations may have
8 occurred in their life with regard to mental
9 problems, mental illness and the like. Those
10 are what I would instruct you could be
11 considered mitigating circumstances. I would
12 instruct you that you would have to consider
13 those, as well. Would you do that?

14 A. Yes, sir.

15 Q. Okay. You would weigh all the evidence,
16 all the evidence submitted in that second phase
17 and decide what you believed to be the
18 appropriate sentence?

19 A. (No verbal response).

20 Q. You could do that?

21 A. Yes, sir.

22 Q. And after considering it all and applying
23 the law, you would honor the commitment and,
24 that is, decide between -- assuming you got to
25 that point -- a life imprisonment sentence or a

1 death sentence?

2 A. Yes, sir.

3 Q. And which one would be most appropriate,
4 you couldn't say because you'd have to hear all
5 of it?

6 A. Exactly, (affirmative nod).

7 Q. Consistent with your being a type three?

8 A. Yes.

9 Q. Okay.

10 THE COURT: Please answer any
11 questions that the attorneys may have.

12 VOIR DIRE EXAMINATION

13 BY SOLICITOR WILSON:

14 Q. Ms. Gadsden, I am Scarlet Wilson. I'm the
15 prosecutor in this case. Bruce Durant and
16 Rutledge Durant are also prosecutors. We will
17 be the ones presenting the evidence in this
18 case. I am just going to ask you a few
19 followup questions. Okay?

20 A. Yes.

21 Q. First of all, ---

22 SOLICITOR WILSON: Your Honor, may I
23 approach the juror?

24 THE COURT: Certainly.

25 EXAMINATION CONTINUED

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

646

1 BY SOLICITOR WILSON:

2 Q. I wanted to ask you about your question-
3 naire. I couldn't read your handwriting on the
4 question number forty-seven, What is your
5 opinion, if any, about the death penalty? I
6 wasn't sure what you wrote. Is that your
7 handwriting?

8 A. Um-humm, (reviewing questionnaire). As I
9 said, I am a type three and that I'd have to
10 know all the facts before ---

11 Q. What is that word, the last word. I think
12 "don't have" ---

13 A. I really haven't thought much about it.

14 Q. Okay. I just couldn't read what the word
15 was. I get where you are. So before you got
16 the questionnaire, you had not considered much
17 about the death penalty?

18 A. No. No, ma'am.

19 Q. I believe that you mentioned to one of the
20 bailiffs that you have to work tonight?

21 A. Yes, I do.

22 Q. Do you always work nights?

23 A. Yes, I do -- well, it just depends.

24 Q. So for the next few weeks you aren't
25 scheduled nights, or you are or ---

1 A. I am scheduled for nights. In fact, I
2 picked up overtime before knowing ---

3 Q. What does that mean, you picked up
4 overtime?

5 A. I have, like for the next couple of weeks
6 I'm going to be working and I think I only have
7 one day off.

8 Q. What are your hours for the next few weeks?

9 A. All night shift.

10 Q. Is that 5:00 to 5:00 or 7:00 to 7:00?

11 A. I work 7:00 p.m. to 7:00 a.m.

12 Q. Okay. Do you think that would cause you a
13 hardship, serving on the jury if after you got
14 off work at 7:00 a.m. that you had to come into
15 court at 9:00 or so and spend the day in court
16 with us?

17 A. It probably would as far as me getting
18 sleep. I'd need to let my supervisor know to
19 reassign the schedule.

20 Q. So you could get off of work for the next
21 couple of weeks ---

22 A. Exactly.

23 Q. --- if need be?

24 A. Yes.

25 Q. Okay. So if the Judge told you that it

1 wouldn't be appropriate for you to work after
2 leaving after your service during the day, you
3 would be able to have that rearranged?

4 A. Yes, I could.

5 Q. That would make for quite a long day if you
6 had to go to work and then sit in here and do
7 all this all day?

8 A. Yeah.

9 Q. I want to talk to you a little more about
10 some of your views on the death penalty.

11 Again, I know we've asked you a bunch of things
12 but can you just kind of break it down in a
13 nutshell what your thoughts are on the death
14 penalty?

15 A. Well, like I said, I've never really
16 thought much of it.

17 Q. Right.

18 A. You know, the questions are coming at me so
19 fast. The issue, uh, -- I just feel that I
20 wouldn't have to -- I wouldn't rule that, the
21 death penalty, because I feel like a life
22 should be taken because a life was taken. I
23 just feel like some other measure should be
24 taken because that person will have to deal
25 with that himself, about what he did.

1 Q. By the same token, tell me what you think
2 about life without parole. Do you think that
3 is a pretty stiff sentence?

4 A. Yes, because he had to deal with what he
5 did the rest of his life.

6 Q. Again, we're not talking about this
7 defendant.

8 A. Talking in general, yes. That person would
9 have to deal with that for the rest of their
10 lives and they will have to think about what
11 they did for the rest of their life. I just
12 don't feel like a life should be taken.

13 Q. In any situation?

14 A. I feel like that in any situation.

15 Q. You understand, again, that any case that
16 involves a death isn't necessarily a murder.
17 For instance, there could be self defense
18 situations where that kind of case wouldn't be
19 a murder case. There are certain types of
20 cases where, say, a man were to catch his wife
21 in the arms of another man and somebody might
22 be killed. That might be considered a
23 manslaughter situation. When we talk "murder",
24 we are talking intent and malice.

25 A. Um-humm, (affirmative nod).

1 Q. There's no accident involved, there's no
2 heat of passion involved, just a malicious,
3 mean, evil killing.

4 A. Um-humm, (affirmative nod).

5 Q. So even in those situations, you think life
6 without parole would be the better opinion and
7 what you would vote for?

8 A. I still stand by that, yes.

9 Q. Okay. Because at one point I believe that
10 you told the Judge that you could consider
11 death. Do you ---

12 A. I could consider it but ---

13 Q. You couldn't vote for it?

14 A. I just wouldn't vote for it.

15 Q. Because if you -- to really consider
16 something, you have to be able to actually vote
17 and actually sign your name to a death warrant.
18 Could you ever sign your name to a death
19 warrant?

20 A. (Pause) -- I don't think I can.

21 Q. Okay. There's not a right or wrong answer
22 here. I know, especially if it is not
23 something that you deal with every day or think
24 about every day, so just take your time and --
25 I don't mean to pepper you with questions.

1 If the Judge asked you to set aside your
2 personal feelings, would you feel comfortable
3 doing that? Setting aside your personal
4 feelings?

5 A. I can set aside my personal feelings,
6 (affirmative nod).

7 Q. And vote to ---

8 A. And be able to do it, do what I need to do.

9 Q. What does that mean 'be able to do what you
10 need to do'?

11 A. I would be able to set aside my feelings.

12 Q. Would you be able to sign your name to a
13 death warrant?

14 A. Like I said, I would still need to
15 investigate everything.

16 Q. Definitely.

17 A. I would ---

18 Q. We're talking about -- go ahead.

19 A. I would still need to look at all aspects
20 before making a decision.

21 Q. Again, we're talking about situations where
22 it is a malicious killing. That is the first
23 step.

24 A. (Affirmative nod).

25 Q. It is a malicious killing a murder.

1 A. Okay.

2 Q. Before we even get to a second phase, the
3 penalty phase, -- okay?

4 A. Um-humm, (affirmative nod).

5 Q. In situations where the State has presented
6 evidence of aggravating circumstances, if we
7 had proven those circumstances beyond a
8 reasonable doubt, --
9 do you understand that the Judge would never
10 require you to have a finding of death?

11 A. Okay.

12 Q. Nobody would ever make you do that. Do you
13 understand that?

14 A. Yes.

15 Q. It is not like the Judge would say, 'Okay,
16 the State has proven A, B, C and D, you've got
17 to vote death.' It's always going to be up to
18 you and up to the other jurors. Do you
19 understand that?

20 A. Yes.

21 Q. Okay. What I want to make sure of, though,
22 is that if we got to that point and if the
23 State had proven the aggravating circumstances,
24 you would not just consider those circumstances
25 but that you could actually vote for the death

1 penalty and then sign off on it with your name,
2 to put this man to death?

3 MR. BLOOM: Judge, I object to the
4 form of the question -- "this man" seems to be
5 saying ---

6 THE COURT: Yes.

7 SOLICITOR WILSON: Put a defendant.

8 THE COURT: Sustained. Rephrase
9 your question.

10 EXAMINATION CONTINUED.

11 BY SOLICITOR WILSON:

12 Q. Just generally speaking to put a man to
13 death?

14 A. (Pause) -- yes.

15 Q. You would do that?

16 A. I would.

17 Q. And in thinking about the death penalty,
18 can you think of some situations where you
19 think the death penalty would be appropriate?

20 A. (No verbal response).

21 Q. Assuming life without parole is available
22 also, that you would have that option too?

23 A. (Pause) -- killing an innocent child and
24 putting her in a suitcase is what I would
25 think, (affirmative nod).

1 Q. Again, the question would be if the option
2 were life without parole or the death penalty,
3 could you sometimes find in favor of the death
4 penalty even if ---

5 MR. BLOOM: Objection.

6 THE COURT: She's answered that
7 question. She said she could.

8 EXAMINATION CONTINUED

9 BY SOLICITOR WILSON:

10 Q. The example that you've volunteered, that
11 you gave, is that the only example that you can
12 think of?

13 MR. BLOOM: Objection.

14 THE COURT: I will sustain that
15 objection. I am not going to allow you to go
16 any further. She volunteered it, you didn't
17 ask it but I'm not going to allow you to go any
18 further.

19 EXAMINATION CONTINUED

20 BY SOLICITOR WILSON:

21 Q. On your questionnaire, you mentioned or you
22 put in the area about crime victims, whether or
23 not you had been a crime victim, that you did
24 not know. Have you ever been the victim of a
25 violent crime?

1 A. No, I have not.

2 Q. You think you just misread that question?

3 A. Yeah.

4 Q. Do you know anyone who has been the victim
5 of a violent crime?

6 A. Personally? In my family?

7 Q. Or friends?

8 A. Friends, no.

9 Q. Acquaintances?

10 A. (Negative gesture).

11 Q. And no one in your family either?

12 A. No.

13 SOLICITOR WILSON: Beg the court's
14 indulgence?

15 THE COURT: Certainly. Take your
16 time.

17 SOLICITOR WILSON: That's all that I
18 have, Your Honor.

19 THE COURT: Any questions?

20 MR. BLOOM: May it please the court,
21 Your Honor, if Your Honor doesn't need any
22 further response from this juror -- ma'am,
23 thank you. Ma'am, my name is Jeff Bloom.
24 Along with Andrew Carroll, we represent William
25 Dickerson. I want to thank you for being here

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

656

1 today. We have no questions.

2 JUROR NUMBER 101: Thank you.

3 THE COURT: Thank you, Ms. Gadsden.

4 If you will step out, we will be with you in
5 such a few moments.

6 (JUROR NUMBER 101 EXITS COURTROOM)

7 THE COURT: State?

8 SOLICITOR WILSON: Your Honor, I am
9 concerned about her inconsistent answers
10 throughout, depending on basically how it was
11 phrased.

12 THE COURT: Thank you. I think this
13 lady obviously has -- no question that she
14 probably would prefer life imprisonment without
15 the possibility of parole, I have no quarrel
16 with that. But I don't think that disqualifies
17 her because, as the court notes, and the record
18 can in no way take the place of the observation
19 of the very deliberate thought that went into
20 answering that question and the pause that was
21 there. I don't think -- I think that pause was
22 very significant. She was wanting to be
23 truthful and she answered the question 'yes,
24 there were circumstances' where she could. I
25 think that makes her qualified. She certainly

1 stated more than the ability to merely consider
2 it. She said 'yes, I could and I could sign
3 the death warrant.' So, given that, and I
4 realize that she said it both ways, was
5 inconsistent to the questions that I asked of
6 her but I think she clarified it and corrected
7 it, so I think that she is qualified.

8 I assume you believe that she is
9 qualified, as well?

10 MR. BLOOM: Yes, sir, Your Honor.

11 THE COURT: Very well, ask her to
12 come in.

13 (JUROR NUMBER 101 ENTERS COURTROOM)

14 THE COURT: Thank you very much, Ms.
15 Gadsden. I appreciate your patience. You've
16 been found to be qualified to be a member of
17 the panel from which we will select our jury.

18 We hope to do that on Wednesday
19 afternoon. We are not certain yet as to what
20 time. If you will, call the number after 6:00
21 tomorrow night, there will be a message for the
22 Dickerson jury panel and that will be you.
23 That's the panel of jurors who are -- who need
24 to do something. It may be to call back the
25 next day. Just follow that instruction until

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

658

1 it says to report here. When it says to
2 report, then at the time given you need to come
3 to this courtroom. Okay?

4 JUROR NUMBER 101: Okay.

5 THE COURT: That will not be --
6 obviously, you can work tonight and you can
7 work tomorrow night, too, if you want to.
8 Obviously if you're selected, and you'll know
9 that hopefully by Wednesday or Thursday, I
10 would think, then you need to tell your
11 employer that if you're selected that you are
12 going to be calling in because you'll be on the
13 jury panel. Okay?

14 JUROR NUMBER 101: Yes, sir.

15 THE COURT: As I understand, you can
16 make those arrangements if necessary.

17 JUROR NUMBER 101: Yes, sir.

18 THE COURT: Very well. Please
19 remember that you are not at liberty to discuss
20 this case with anyone, you are not permitted to
21 let anybody talk with you about the case or
22 talk with you or in your presence about the
23 case, or to talk about it in your presence.
24 You also are not at liberty to read anything
25 about it or watch any news programs until you

1 have been excused. Please continue to follow
2 that instruction, that restriction. Thank you,
3 have a good day.

4 (JUROR NUMBER 101 EXITS COURTROOM)

5 THE COURT: Mr. Jones, Juror Number
6 160.

7 (JUROR NUMBER 160 ENTERS COURTROOM)

8 THE COURT: Good afternoon, Mr.
9 Jones.

10 JUROR NUMBER 160: Good afternoon.

11 THE COURT: How are you, sir?

12 JUROR NUMBER 160: Fine.

13 THE COURT: If you will sit and pull
14 yourself up so that you can speak into that mic
15 comfortably. Please state your full name for
16 the record, please.

17 JUROR NUMBER 160: Robert Edwin Jones,
18 the fourth.

19 THE COURT: Thank you, Mr. Jones.
20 Mr. Jones, we appreciate your patience. We've
21 taken a little longer with some of the panels
22 and I'm sorry to have kept you waiting. We
23 will not detain you too much longer.

24 There are some questions that I need
25 now to ask of you and the attorneys may ask you

1 some questions, pretty much along the lines of
2 what we were talking about on Friday. They are
3 really questions just to assist us and to
4 assist you in determining whether or not you
5 can be a fair and impartial judge in this case
6 with me. Do you understand that?

7 JUROR NUMBER 160: Yes.

8 THE COURT: There really are not
9 correct answers to any of these questions. All
10 that we ask is that you respond truthfully to
11 them and that you give complete responses. Are
12 you willing to do that?

13 JUROR NUMBER 160: Yes.

14 THE COURT: I would remind you in
15 that regard that you are still under oath in
16 this matter. Okay?

17 JUROR NUMBER 160: Okay.

18 ROBERT E. JONES, IV, being duly sworn
19 to tell the truth, the whole truth and nothing
20 but the truth, testified, as follows:

21 VOIR DIRE EXAMINATION

22 BY THE COURT:

23 Q. Since we were last together, have you
24 talked with anyone or allowed anybody to talk
25 with you about this case?

1 A. I have not.

2 Q. Have you read anything about it or watched
3 any news programs about it?

4 A. No.

5 Q. When we were together, I mentioned to you a
6 number of persons and asked you if you were
7 related to those persons and so on. I failed
8 to mention two names that I need to ask you
9 about. Are you related by blood or marriage,
10 have any business dealings with or socially or
11 casually acquainted with or have any dealings
12 with Jeff Osborne or Matt Casey?

13 A. No.

14 Q. You were given a sheet when you came in
15 that sets forth three types of jurors, have you
16 had a opportunity to review that sheet?

17 A. Yes.

18 Q. Which type most accurately describes you?

19 A. Juror number three.

20 Q. Is that the juror that basically says 'I
21 could impose a death sentence if circumstances
22 warranted it but there would be some
23 circumstances that warrant my voting for life
24 imprisonment without the possibility of
25 parole?'

1 A. Yes, that's the one.

2 Q. That it just depends on the circumstances
3 in each case. Is that correct?

4 A. That's correct.

5 Q. And you understand that would be, if you
6 were sitting on a jury where the jury was
7 empaneled to decide a case involving murder and
8 further had the responsibility of imposing or
9 determining the appropriate sentence. Do you
10 understand that?

11 A. Yes.

12 Q. So in other words, in order to get to that
13 point you would have already convicted a person
14 of the offense of murder, do you understand
15 that?

16 A. Yes.

17 Q. And it is my understanding that after
18 convicting that person, being a type three
19 juror, you still would not know what the
20 appropriate sentence was until you had
21 completed the second portion where you would
22 receive evidence concerning the appropriate
23 sentence to be imposed?

24 A. Yes.

25 Q. You would have to hear all that evidence

1 and consider the law before making that
2 determination; is that correct?

3 A. That's correct.

4 Q. You understand and realize that in this
5 process of dispute resolution that we have two
6 judges. One is the judge of the facts, which
7 is the jury, and one that is the judge of the
8 law, which is me. Do you understand that?

9 A. Yes, I do.

10 Q. And do you understand that there really is
11 no overlap in our responsibilities? In other
12 words, I have nothing to do with the factual
13 determination. Nothing that I say or do during
14 this proceeding today, Friday or any time that
15 we would be together can be considered by you
16 as a suggestion of how you're to resolve a
17 fact. Do you understand that?

18 A. Yes, I do.

19 Q. Because that would be your sole
20 responsibility as a juror. Do you understand
21 that?

22 A. Yes.

23 Q. Also while you would be one of the judges
24 of the facts of the case it is my
25 responsibility to be the judge of the law.

1 That means that you would have to take the law
2 as I gave it to you and apply that law fairly
3 and impartially to the facts that you
4 ultimately determine. Do you understand that?

5 A. Yes, sir.

6 Q. You have no problem with maintaining that
7 separation?

8 A. No.

9 Q. And that would apply even though during the
10 trial you may hear some laws that may differ
11 from what your understanding of the law was or
12 you thought it was or what you thought the law
13 should be. Do you understand that?

14 A. Yes.

15 Q. You would be capable of setting aside your
16 own personal opinions about the law and apply
17 the law as I gave it to you, notwithstanding
18 your personal feelings -- no matter how strong
19 they may be?

20 A. Yes.

21 Q. And you would do that?

22 A. I would do that.

23 Q. Okay. You understand that in criminal
24 disputes such as this, as I mentioned to you
25 that Mr. Dickerson has been accused of several

1 crimes.

2 A. (Affirmative nod).

3 Q. As I told you on Friday he, as every person
4 who is accused of committing a criminal offense
5 in this state or this country, is entitled to
6 presumption of innocence. You understand that?

7 A. Yes.

8 Q. And you indicated by not responding to my
9 question, saying that you didn't have any
10 problem honoring that presumption of innocence,
11 is that correct?

12 A. That's correct.

13 Q. So today as he sits here, you don't believe
14 that he is innocent -- that he is guilty of any
15 criminal offenses, do you?

16 A. No.

17 Q. In fact, he is innocent, as far as you're
18 concerned?

19 A. Yes, sir.

20 Q. Do you understand that the proceeding that
21 we have, that the first phase would be when you
22 would -- if you were on the jury -- hear the
23 evidence concerning the charges. Do you
24 understand that?

25 A. Yes, I do.

1 Q. And the only party that has any burden of
2 proof in this process, the entire process, is
3 the State.

4 A. Yes.

5 Q. Mr. Dickerson has nothing to prove or
6 disprove, do you understand that?

7 A. Yes, I do.

8 Q. He's not expected -- he has no obligation
9 to explain anything, to establish anything, he
10 certainly does not have to prove his innocence.
11 Would you have any problem honoring that, as
12 well?

13 A. No.

14 Q. In fact, persons accused of criminal
15 offenses, such as Mr. Dickerson, don't even
16 have to say a word. Do you understand that?

17 A. Yes, I do.

18 Q. And I would instruct the jury that if that
19 happened that you can't use that in any way
20 against him. Would you have any problem
21 honoring that, as well?

22 A. No.

23 Q. If at the conclusion of the evidence of the
24 first phrase and after receiving the charge on
25 the law, where I would define for you the

1 various charges -- that is the elements
2 required, -- the jury would retire and make a
3 determination of whether or not the State had
4 met its burden of proof and established each
5 element beyond a reasonable doubt. Do you
6 understand that?

7 A. Yes.

8 Q. If the jury, only if the jury returns a
9 verdict of guilty on the charge of murder would
10 there be a second phase. Do you understand
11 that?

12 A. Yes.

13 Q. Because if the jury found that the State
14 has not convinced that jury beyond a reasonable
15 doubt of that offense that would end the
16 proceeding. Do you realize that?

17 A. Yes.

18 Q. Please understand and remember that what
19 we're talking about doesn't suggest anything of
20 what should happen or what could happen or what
21 may happen. I am just -- I need to ask you
22 some questions and the only way to do that is
23 to just go through the process.

24 Assuming that the jury concluded that the
25 State had met its burden, it is at that point

1 that you would then hear evidence concerning
2 the appropriate sentence. Do you understand
3 that?

4 A. Yes, I do.

5 Q. That is the purpose of that second phase?

6 A. (Affirmative nod).

7 Q. Am I to understand that because you are,
8 and being, a type three juror that you would
9 still would not have made any decision as to
10 what the appropriate sentence would be at that
11 point?

12 A. Yes.

13 Q. Because you hadn't heard any evidence?

14 A. Right.

15 Q. And you would have an open mind as to what
16 that sentence should be?

17 A. Yes, I would.

18 Q. At that sentencing phase, the State -- part
19 of the instruction that I would give you is
20 that for the jury to even consider a death
21 sentence the jury has to first conclude beyond
22 a reasonable doubt that the State has
23 established an aggravating circumstance, at
24 least one. There may be others but they must
25 establish at least one aggravating circumstance

1 beyond a reasonable doubt. Do you understand
2 that?

3 A. Yes.

4 Q. The reason for that is quite simple.

5 Murders in this state are not always subject
6 to the jury's consideration, involvement in
7 sentencing. Typically that is done, the jury
8 may find that the crime (sic) has been met,
9 that is the State has established the person
10 guilty of the crime but the sentence is left to
11 a judge such as myself. Do you understand?

12 A. Yes.

13 Q. In this setting, it would be only
14 appropriate if the jury concluded that the
15 aggravating circumstance had been established.
16 Do you understand that?

17 A. Yes.

18 Q. Then the jury -- if the jury concluded that
19 beyond a reasonable doubt then the jury may
20 consider the death sentence but I would further
21 instruct you that by finding an aggravating
22 circumstance that you're not required to impose
23 a death sentence, but that you may consider it.
24 Do you understand that?

25 A. Yes, I understand.

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

670

1 Q. You would still have the opinion -- you
2 would have the opinion to consider whether life
3 imprisonment without the possibility of parole
4 or the death sentence. Do you understand that?

5 A. Yes.

6 Q. It is my understanding that you could at
7 that time, as a member of that panel, consider
8 all the evidence and decide what you believe to
9 be the appropriate sentence?

10 A. Yes.

11 Q. And if you believe that the circumstances
12 warranted it, you could impose a death
13 sentence?

14 A. Uh -- yes.

15 Q. But you also could impose a life
16 imprisonment without the possibility of parole
17 sentence if you believed the circumstance were
18 such that warranted that sentence?

19 A. Yes, I could.

20 Q. And you understand that just because you
21 had the option to consider and impose the death
22 sentence that it doesn't require you to do so?

23 A. Yes, I understand.

24 Q. In fact, you would have the right to impose
25 a life imprisonment without the possibility of

1 parole without any reason, do you understand
2 that? Notwithstanding that you found
3 aggravating circumstances. Do you understand
4 that?

5 A. Yes, I understand

6 Q. Good. But some of the evidence that you
7 may hear, one aspect we call mitigating
8 circumstances. Those are circumstances that
9 typically deal with background questions, maybe
10 questions about the person's -- maybe they had
11 some addiction, they were suffering from some
12 mental impairments that would affect and could
13 affect the sentence. You would give due
14 consideration to that evidence, as well?

15 A. Yes.

16 Q. You understand also -- again, I would tell
17 you and remind you at the second phase, as I
18 did in the first phase, that Mr. Dickerson, the
19 Defendant, doesn't have to prove anything at
20 that phase either. He doesn't have to prove
21 any mitigating circumstances. You understand
22 that?

23 A. Yes.

24 Q. But you would not hold that against him
25 either, would you?

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

672

1 A. No, sir.

2 Q. You would again consider all the evidence
3 and evaluate it at the appropriate time. Is
4 that correct?

5 A. That's correct.

6 Q. It is my understanding that you believe
7 that at the end, after hearing it, after
8 receiving the charge that you could honor the
9 commitment that you made to evaluate this case
10 and determine what you believe to be the
11 appropriate sentence?

12 A. That's correct.

13 THE COURT: Answer any questions
14 that the attorneys may have, please, sir.

15 MR. BLOOM: May it please the court?

16 THE COURT: Yes, sir.

17 VOIR DIRE EXAMINATION

18 BY MR. BLOOM:

19 Q. How you doing this afternoon, Mr. Jones?

20 A. Doing fine.

21 Q. My name is Jeff Bloom and along with Andrew
22 Carroll, we represent William Dickerson. I
23 just have a few followup questions from what
24 Judge Dennis asked you. Okay?

25 A. Okay.

1 Q. I know it's been a long day, we've been
2 here all day. So if there is something that I
3 ask you and I don't make any sense, you just
4 tell me to rephrase it or tell me to ask it a
5 different way. Okay, sir?

6 A. Okay.

7 Q. I first want to start with a few questions
8 that I have for you from your questionnaire.
9 You work at MUSC?

10 A. Yes.

11 Q. I want to ask you, one of the potential
12 witnesses in the case also worked at MUSC for a
13 number of years and I just want to make sure --
14 I believe that she's worked in maintenance in
15 years past and also clerical and other ward
16 duties and she's had several different last
17 names. Do you know a Sandra Fokes at all?

18 A. No.

19 Q. How about a Sandra Jenkins?

20 A. No.

21 Q. Or a Sandra Dickerson?

22 A. No.

23 Q. She has gone by those different names?

24 A. No.

25 Q. Okay. MUSC is a pretty big place?

1 A. Yes.

2 Q. And next, one other person on the witness
3 list, and I know that you didn't stand Friday
4 but I just want to make sure, is a Dr. Cynthia
5 Schandl in Pathology, does autopsies. Does
6 that name ---

7 A. I don't know her.

8 Q. You work in a research, medical research
9 lab?

10 A. Yes.

11 Q. I appreciate that. Next I would like to
12 just kind of follow up on what some of Judge
13 Dennis was asking you. If we were at MUSC and
14 we had a Diet Pepsi together or a Diet Coke,
15 whatever your preference and something came on
16 the News that prompted a discussion about the
17 death penalty, and I turned to you and said,
18 'Gee, what is your opinion about the death
19 penalty?' What would that be?

20 A. I agree with the death penalty. I do feel
21 that certain circumstances would require the
22 death penalty and that certain wouldn't, but I
23 don't have any problem with it. I feel that
24 sometimes circumstances do require that the
25 death penalty be used.

1 Q. Is there a reason, other things that you
2 have when you say 'I agree with the death
3 penalty', are there reasons you have for that?

4 A. I just feel that sometimes the whole eye-
5 for-a-eye thing we hear about, I feel sometimes
6 that circumstances should require the same
7 thing be done to the person who committed the
8 act.

9 Q. Okay. So as I understand you, and please
10 don't let me put words in your mouth, I take --
11 I've looked at your background, you wouldn't
12 let me do that.

13 A. No.

14 Q. Did I understand you to say that you
15 believed in the eye-for-an-eye type of ---

16 SOLICITOR WILSON: Your Honor, I
17 object. That's not what he said.

18 THE COURT: That's correct, it is
19 not.

20 MR. BLOOM: That's why -- I am
21 trying to get him to ---

22 THE COURT: That's getting pretty
23 close to something that you can't really ask.
24 You can ask him to explain how he meant the
25 statement he made.

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

676

1 MR. BLOOM: Sure.

2 EXAMINATION CONTINUED

3 BY MR. BLOOM:

4 Q. Can you explain to me what you mean by
5 that?

6 A. Well, I guess if somebody commits a murder
7 and it's a proven fact that they did commit the
8 murder, I feel that they should -- that the
9 death penalty should be enacted against them.

10 Q. Let's talk about that. Let's talk about
11 murder because sometimes people have different
12 understanding of what that is, so let's define
13 that term.

14 Let me tell you first what murder is
15 not. Murder is not accident, it's not self-
16 defense, it is not manslaughter where you catch
17 somebody in bed with someone else, and it's not
18 insanity.

19 Murder is where the person did it,
20 meant to do, intentionally with malice -- is a
21 dark or evil heart, -- and they've got the
22 right person and they've proved all that beyond
23 a reasonable doubt.

24 Some folks are in that category where
25 they just say, 'Look, once you've proved to me

1 -- malice murder, did it, meant to do it, got
2 the right person -- Judge Dennis, I understand
3 that you may be instructing me to keep an open
4 mind about the rest of this stuff but I'm in
5 the group where once you prove that type of
6 malice murder to me, I've got my mind made up.'
7 I'm just trying to find out where you are in
8 that.

9 A. It is not -- that is not really how I feel,
10 I guess. It's a strong term to say "an eye for
11 an eye", but I wouldn't feel that when I saw
12 that -- when it was proven what they'd done and
13 it seemed harsh enough that I would feel the
14 death penalty is what was warranted. But also
15 I could definitely be swayed to feel that it
16 wasn't warranted.

17 Q. Okay. When you say that you feel that you
18 could be swayed, does that mean that you would
19 need the defense to kind of prove a life
20 sentence to you?

21 A. No. I would want the prosecution to prove
22 why the death penalty should be enacted. I
23 would want them to show me why the death
24 penalty should be used in a case.

25 Q. All right. In that situation then, if

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 someone proved malice murder to you and the
2 prosecution proved what Judge Dennis related
3 about aggravating circumstances, which simply
4 is more evidence to support the death penalty,
5 are you automatically going to vote for death
6 each and every time?

7 A. (Pause) -- yes.

8 Q. All right, sir.

9 MR. BLOOM: Thank you very much,
10 sir.

11 THE COURT: Solicitor?

12 SOLICITOR WILSON: Yes, sir.

13 VOIR DIRE EXAMINATION

14 BY SOLICITOR WILSON:

15 Q. Mr. Jones, I am Scarlet Wilson. I'm the
16 prosecutor in this case. This is Bruce Durant
17 and Rutledge Durant who are also prosecutors in
18 my office. We will be the ones presenting the
19 evidence in this case. I am just going to ask
20 you a few followup questions.

21 I want to ask about one of your answers to
22 a question. I believe when the Judge was
23 asking you questions that you told him that you
24 could follow the instruction?

25 A. Yes.

1 Q. And that you could set aside personal
2 feelings about one thing or another if he told
3 you as a matter of law that you had to. Is
4 that right?

5 A. Yes.

6 Q. Okay. So if the Judge told you that even
7 after finding those aggravating circumstances
8 that you would have to give meaningful
9 consideration to mitigating circumstances,
10 things that make the crime not as bad as maybe
11 what you thought or maybe helps explain why a
12 defendant did what he did, would you give
13 meaningful consideration to those mitigating
14 circumstances?

15 A. Yes. Yes.

16 Q. And even after -- again we're talking about
17 a malicious murder here, because that's the
18 only time that we get into a second phase in a
19 trial.

20 A. Right.

21 Q. And we're talking about after somebody --
22 after the State has proven aggravating
23 circumstances, you would still keep an open
24 mind if the Judge told you that was your
25 obligation as to a juror ---

1 A. Yes.

2 Q. --- to keep an open mind?

3 A. Yes.

4 Q. So you wouldn't just shut them out and say,
5 'Heard enough, I'm not listening to any more.'

6 A. No.

7 Q. And you understand, though, that the Judge
8 will also tell you that you can't hold the fact
9 that the defendant doesn't testify or doesn't
10 put up mitigating circumstances against them.
11 You can't hold that against them?

12 A. Yes.

13 Q. You could just decide to give life without
14 parole for mercy, that would be a valid reason?
15 Could you do that? Could you give mercy?

16 A. Uh -- yes.

17 Q. And that would just depend on all the
18 circumstances?

19 A. Yes.

20 SOLICITOR WILSON: That's all that I
21 have.

22 THE COURT: Any additional
23 questions?

24 MR. BLOOM: Just very briefly, Your
25 Honor.

1 THE COURT: Yes, sir.

2 EXAMINATION CONTINUED

3 BY MR. BLOOM:

4 Q. Mr. Jones, is this the first time you've
5 ever been in this kind of situation?

6 A. Yes.

7 Q. Have you ever served on jury duty before?

8 A. No.

9 Q. So a lot of these terms and words that
10 we're using are fairly new to you?

11 A. Yes, sir.

12 Q. That's fair. I just want to make sure that
13 I understand you, again. You told me that if
14 you found someone guilty of malice murder and
15 the State prove that extra evidence supporting
16 death, that aggravating circumstances, you
17 would automatically vote for the death penalty
18 but then you told the solicitor something a
19 little different.

20 I am not trying to trick you, I'm just
21 trying to make sure that we understand because
22 some jurors genuinely feel like that.

23 Judge Dennis just needs you, if you
24 genuinely feel like that just needs you to tell
25 him. 'Hey, look, I understand that you're

1 going to instruct me on that and I'd like to
2 follow the law but I have some really strong
3 opinions and this is how I feel.' Do you
4 understand kind of where -- what we're talking
5 about?

6 A. Yes.

7 Q. So we just kind of need to know if you're
8 in that group of folks. There's nothing wrong
9 with that opinion. 'Judge, look, I'd like to
10 follow the law but I have some pretty strong
11 opinions...' -- an eye-for-an-eye or whatever
12 opinions you have -- '...and I don't think I
13 could ever vote for life once malice murder and
14 those things are proven.'

15 A. I would have an open mind and would, based
16 on what was presented to me, make an educated
17 decision on how I felt -- if it was life
18 imprisonment or the death penalty. I don't
19 think that I would predetermine or make a
20 judgment before I heard all the evidence.

21 Q. Okay. I've just got a couple of more, a
22 few more followups to that. Some folks are of
23 the view that the only thing that they are to
24 consider is the facts of the crime and that
25 evidence of aggravating and the other stuff

1 that has nothing to do with the crime, such as
2 the defendant's upbringing, childhood, drug
3 abuse, that just has nothing to do with it,
4 where do you fall in that camp?

5 A. To me, I feel like it'd be a case by case
6 situation. I couldn't say that there --
7 (pause) -- I mean, the upbringing and
8 everything wouldn't, I don't think -- I guess
9 you need to repeat that again, I want to make
10 sure that I understand the question.

11 Q. Sure.

12 THE COURT: Let's rephrase that,
13 too, because you didn't add that the judge
14 would be instructing him to consider that.

15 MR. BLOOM: Yes, Your Honor, I was
16 just trying to lay the foundation.

17 THE COURT: I understand and I
18 appreciate that, but you left out a very
19 important thing with whole colloquy.

20 MR. BLOOM: Yes, sir.

21 EXAMINATION CONTINUED

22 BY MR. BLOOM:

23 Q. If Judge Dennis instructed you that you had
24 to give meaningful consideration to the
25 mitigating circumstances, and that's kind of

1 that long list that Judge Dennis talked about,
2 a person's upbringing, their childhood, drug
3 addiction, mental health, that you have to give
4 meaningful consideration to that, is that
5 something that you could listen to Judge Dennis
6 and follow that? Or some people just say,
7 'You know what, Judge Dennis? I understand
8 that you're going to tell me that but I can't
9 do that.'

10 A. No, I would follow his instruction.

11 Q. He mentioned that the law requires one more
12 thing in his instruction, that is that you have
13 to give meaningful consideration to it. Is
14 that something that you could do to those
15 things that had nothing to do with the crime?
16 Could you follow that instruction or is your
17 opinion so strong that ---

18 A. I would give -- I would give thought about
19 -- I would give thought about it.

20 Q. Fair enough. Lastly, I just have a few
21 others questions for you. You understand that
22 Judge Dennis or the law would never require a
23 juror to vote for death?

24 A. Yes.

25 Q. It's always an individual moral,

1 individualized choice. You understand that?

2 A. Yes.

3 Q. And if you are on the jury, I take it that
4 you could make your own moral, individualized
5 choice after you'd heard all the evidence and
6 discussed it with the other jurors?

7 A. Yes.

8 Q. And if eleven jurors were voting one way,
9 you would have made your own moral,
10 individualized choice you wouldn't just give up
11 your vote to say, 'Look, it's late. I'm ready
12 to go home to dinner.'

13 A. No.

14 Q. I didn't think you were that kind of person
15 but I wanted to ask. You would respect their
16 vote?

17 A. Yes.

18 Q. And you would ask them to respect yours?

19 A. Yeah, I would expect them to.

20 Q. And the flip side of that, if you were in
21 the eleven and one other juror made their
22 moral, individualized choice, you could respect
23 their individual vote?

24 A. Yes, I would.

25 Q. And ask them to respect yours?

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 A. Yes.

2 Q. All right. Thank you, sir.

3 A. Yes, sir.

4 THE COURT: Anything further?

5 SOLICITOR WILSON: (Negative gesture).

6 THE COURT: Thank you very much, Mr.
7 Jones. If you will step out for just a second,
8 we will be with you momentarily.

9 (JUROR NUMBER 160 EXITS COURTROOM)

10 THE COURT: State?

11 SOLICITOR WILSON: He's qualified.

12 MR. BLOOM: We acknowledge that he
13 is qualified.

14 THE COURT: Very well. Bring him in
15 please.

16 (JUROR NUMBER 160 ENTERS COURTROOM)

17 THE COURT: Thank you, Mr. Jones.

18 Thank you very much, and I appreciate your
19 patience. You've been found to be qualified to
20 be a part of or a member of the panel from
21 which we will select our jury.

22 That will occur, we hope, by Wednesday
23 afternoon. We need for you to call the number
24 that you have been given with that card
25 tomorrow night after 6:00. Follow the

1 instruction that appears on that message that
2 deals with the Dickerson jury panel. That
3 would be you, because you're part of that
4 panel. Hopefully it's going to tell you to
5 report about 3:00 o'clock on Wednesday but
6 whatever it is, just follow that instruction.
7 When you are instructed to report, you need to
8 come to this courtroom and then we will select
9 our jury.

10 Please understand that until you are
11 excused from further participation in this
12 dispute that you're not at liberty to talk with
13 anyone about this case or allow them to talk
14 about it in your presence, and certainly you
15 must continue to read any newspaper articles
16 about it or watch any news programs about it.

17 Have a good day and we will probably,
18 hopefully, see you Wednesday.

19 (JUROR NUMBER 160 EXITS COURTROOM)

20 THE COURT: Please send in Mr. Mead.

21 (JUROR NUMBER 207 ENTERS COURTROOM)

22 THE COURT: Good afternoon, Mr.
23 Mead.

24 JUROR NUMBER 207: Hello.

25 THE COURT: How are you, sir?

State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

688

1 JUROR NUMBER 207: I'm fine.

2 THE COURT: Thank you for your
3 patience. I know we've run a little over.
4 That sometimes happens and I hope you
5 understand. Sorry to detain you. If you will
6 sit in that chair and pull yourself up so that
7 you can speak into that mic comfortably.

8 We are going to continue the process
9 that we started on Friday. There are some
10 questions that we need to ask of you along the
11 same lines. There are no correct answers to
12 any of these questions. All that we ask is
13 that you respond truthfully to the question and
14 completely to them. They are designed to
15 assist us all in determining whether you can be
16 a fair and impartial judge with me in this
17 case. Okay?

18 JUROR NUMBER 207: All right.

19 THE COURT: I would remind you in
20 that regard that you are still under oath in
21 this matter. Okay?

22 JUROR NUMBER 207: All right.

23 GUY MEAD, being duly sworn to tell the
24 truth, the whole truth and nothing but the
25 truth, testified, as follows:

1 VOIR DIRE EXAMINATION

2 BY THE COURT:

3 Q. Have you talked with anyone or permitted
4 anyone to talk about this case in your
5 presence?

6 A. No.

7 Q. Have you read any newspaper articles about
8 it or watched any news programs about it?

9 A. No.

10 Q. On Friday we identified a number of
11 persons, went through a list of persons and
12 asked if anybody knew any of these persons or
13 was related to them. I failed to mention two
14 names that I need to ask you about. Are you
15 related by blood or marriage, have any business
16 dealings with or socially or casually
17 acquainted with or do you have any dealings
18 with a Jeff Osborne or Matt Casey?

19 A. No.

20 Q. When you came this afternoon you were given
21 a list or a sheet when you came in that sets
22 forth three types of jurors, have you had a
23 opportunity to review that sheet?

24 A. Yes.

25 Q. Of those three types of jurors appearing on

1 that sheet, which one most accurately describes
2 you?

3 A. Type two.

4 Q. Type two?

5 A. (Affirmative nod).

6 Q. Now, let me tell you what I understand type
7 two to be. Type two is the juror that says,
8 'If I am on a jury and I am empaneled to
9 determine the punishment, there are no
10 circumstances that I can think of where I would
11 at any time impose a death sentence. My vote
12 would always be life imprisonment without the
13 possibility of parole.'

14 A. That's right.

15 Q. So there are no circumstances that you can
16 think of in which you could vote to impose a
17 death sentence?

18 A. (No verbal response).

19 Q. I am not asking you to tell me what it is,
20 I am just asking you whether it exists.

21 A. It exists.

22 Q. So there is a circumstance where you could
23 do that, if necessary?

24 A. Well, maybe that circumstance doesn't
25 exist.

1 Q. All right. I'm just asking you. I am not
2 asking you to tell me what it is, I'm just if
3 in your mind you can think of any circumstance
4 where is you had the responsibility of
5 determining the appropriate sentence, that that
6 circumstance would warrant you considering and
7 signing a death sentence?

8 A. Okay, I guess I could vote for a death
9 sentence.

10 Q. If the circumstances warranted it?

11 A. I guess I could.

12 Q. You could do that?

13 A. If an individual was -- (affirmative nod).

14 Q. In other words, that would be part of the
15 instruction because, as you understand, you and
16 I have very well-defined roles if you were on
17 the jury. The jury has the job and the
18 responsibility of determining the true facts of
19 the dispute. So they are the judges of the
20 facts. You understand that?

21 A. Yes.

22 Q. You realize that?

23 A. Yes.

24 Q. My responsibility is to be the judge of the
25 law and that means to give you the law which

1 you would have an obligation to consider and
2 apply fairly and impartially to the facts as
3 you determined them. Is that correct?

4 A. Right.

5 Q. That means even if you should hear a
6 principle of law with which you differed, you
7 would have to set aside those feelings and
8 apply the law as I gave it to you and you would
9 have to make a commitment to the court and to
10 the parties that you would do that.

11 A. All right.

12 Q. Am I understanding then that if -- and we
13 will talk about that in just a moment. If the
14 jury gets to the point of considering the
15 appropriate sentence, and I will talk about how
16 you get there in just a second, and certain
17 circumstances are established beyond a
18 reasonable doubt, then part of my instruction
19 would be that the jury may consider a death
20 sentence. They don't have to return a death
21 sentence. They could consider the death
22 sentence as opposed to life imprisonment
23 without the possibility of parole. Those are
24 the two options.

25 It is my understanding from your answer

1 that, if the circumstances were such, you could
2 impose a death sentence, if it warranted it in
3 your opinion?

4 A. Yes.

5 Q And you would consider both of them if
6 given that instruction?

7 A. Yes.

8 Q. Let's talk about that. There's a lot that
9 has to happen, obviously, before because this
10 is all somewhat tremendously premature, because
11 as I mentioned to you on Friday, persons such
12 as Mr. Dickerson who are accused of committing
13 criminal offenses in this state and in this
14 country of presumed innocent until the State
15 proves them guilty beyond a reasonable doubt.
16 As I understand, you have no problem with that
17 principle of law, the presumption of innocence?

18 A. Right.

19 Q. That is an active presumption. It means
20 that you have to actively presume that. So as
21 Mr. Dickerson sit here today, as far as you're
22 concerned, he's innocent of these charges. Is
23 that correct?

24 A. Yes.

25 Q. And that's no problem, you have no problem

1 with that?

2 A. (Negative gesture), it's a good idea.

3 Q. I don't disagree with you, it's a wonderful
4 principle of law.

5 A. Yes, sir.

6 Q. We all know that there are places in the
7 world where that is not the case.

8 A. Right.

9 Q. But in this country that is the case and
10 you have no problem with that, is that correct?

11 A. (Affirmative nod), no problem.

12 Q. Also it says that the party that makes this
13 claim or brings this complaint has the burden
14 of proving it. That means that the only party
15 that has to prove anything at all is the State
16 of South Carolina. Do you understand that?

17 A. Right.

18 Q. That means that they have to prove the
19 elements of each of the offenses to the jury's
20 satisfaction beyond a reasonable doubt before a
21 jury could bring back a verdict of guilty. Do
22 you understand that?

23 A. Right. Yes.

24 Q. Also part of the law says that since the
25 defendant is proved innocent and because the

1 only burden of proof rests on the state,
2 persons accused of committing criminal offenses
3 have absolutely nothing to prove or disprove.
4 They don't have to respond to anything, they
5 certainly don't have to prove their innocence.
6 Do you understand that?

7 A. Yes.

8 Q. You'd have no problem following that
9 principle of law if you were on the jury, is
10 that correct?

11 A. No, I wouldn't have any problem with that.

12 Q. In fact, if they chose not to offer any
13 evidence, if the defendant chose not to
14 testify, that would be his right and the jury
15 would be instructed not to consider that at
16 all. Do you understand that?

17 A. Yes.

18 Q. Because they'd have to look to the State to
19 prove his guilty?

20 A. Right.

21 Q. And you wouldn't hold that against him
22 if he offered no evidence or decided not to
23 testify?

24 A. (No verbal response).

25 Q. Is that correct?

1 A. (No verbal response).

2 Q. Your body language is telling me one thing.

3 A. Yeah.

4 Q. I am telling you that's a principle of law
5 that I would instruct you, that you cannot hold
6 that against him.

7 A. Okay.

8 Q. My question is, my -- the body language
9 seemed to imply, 'Well, I may have a problem
10 with that.'

11 A. Well, as a human, I'd ---

12 Q. I understand that.

13 A. --- kind of think he'd ---

14 Q. That's precisely why we ask the question
15 about would you set aside your own personal
16 beliefs or feelings about what the law is or
17 should be and follow the law as I gave it to
18 you?

19 A. I guess I could follow the law. I could
20 follow the law, yes.

21 Q. So you could make a commitment to the
22 parties that you would follow the law? Is that
23 correct?

24 A. Yes.

25 Q. And that would be that you can't hold that